

<p>全国人民代表大会关于修改《中华人民共和国刑事诉讼法》的决定</p>	<p><b>Decision of the National People's Congress on the Amendment of the Criminal Procedure Law of the People's Republic of China</b></p>
<p>中华人民共和国主席令</p>	<p><b>Order of the President of the People's Republic of China</b></p>
<p>第五十五号</p>	<p>No.55</p>
<p>《全国人民代表大会关于修改〈中华人民共和国刑事诉讼法〉的决定》已由中华人民共和国第十一届全国人民代表大会第五次会议于2012年3月14日通过,现予公布,自2013年1月1日起施行。</p>	<p>I hereby promulgate <i>Decision of the National People's Congress on the Amendment of the Criminal Procedure Law of the People's Republic of China</i>, adopted at the fifth meeting of the 11th National People's Congress on March 14, 2012. The <i>Decision</i> will come into force on January 1, 2013.</p>
<p>中华人民共和国主席 胡锦涛</p>	<p style="text-align: right;">Hu Jintao President of the People's Republic of China</p>
<p>2012年3月14日</p>	<p style="text-align: right;">March 14, 2012</p>
<p>第十一届全国人民代表大会第五次会议决定对《中华人民共和国刑事诉讼法》作如下修改:</p>	<p>The fifth meeting of the 11th National People's Congress has decided to amend the Criminal Procedure Law of the People's Republic of China as follows:</p>
<p>一、将第二条修改为:“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</p>	<p>1. Article 2 is amended to read: "The tasks of the Criminal Procedure Law of the People's Republic of China are to ensure the accurate and prompt discovery of criminal facts, the correct application of law, the punishment of crimes, and the protection of the innocent from criminal prosecution; to educate citizens to comply with the law and to fight crimes; to maintain the socialist law and order, to ensure respect for and safeguard human rights, and to protect citizens' rights to person, rights to property, democratic rights and other rights;</p>

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。”	and to ensure socialist development is uninterrupted.”
二、将第十四条第一款修改为：“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。”	2. Article 14 Paragraph 1 is amended to read: "The people's courts, the people's prosecutor's offices and public security authorities should safeguard the rights to defence and other procedural rights that criminal suspects, defendants, and other participants in legal action are entitled to according to law."
删去第二款。	Paragraph 2 is deleted.
三、将第二十条修改为：“中级人民法院管辖下列第一审刑事案件：	3. Article 20 is amended to read: "The intermediate people's courts 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 state security or involving terrorist activities;
“（二）可能判处无期徒刑、死刑的案件。”	"(2) cases punishable by life imprisonment or death.”
四、将第三十一条修改为：“本章关于回避的规定适用于书记员、翻译人员和鉴定人。	4. Article 31 is amended to read: "Provisions of this Chapter on recusal apply to court clerks, interpreters, and forensic examiners.
“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。”	"The defender or agent <i>ad litem</i> may request recusal and apply for reconsideration in accordance with provisions of this chapter.”
五、将第三十三条修改为：“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。	5. Article 33 is amended to read: “The criminal suspect has the right to appoint a defender as of the date on which the suspect is first interrogated by the investigating authority or is subject to compulsory measures; during the investigation period, only an attorney-at-law may be appointed as the defender. A defendant has the right to appoint 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	“When the investigating authority first interrogate the criminal suspect or subject a criminal suspect to compulsory measures, the criminal suspect should be informed of the right to

<p>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。</p>	<p>appoint a defender. The people's prosecutor's office should notify the criminal suspect of the right to appoint a defender within three days of receiving case materials transferred for review and prosecution. The people's court should notify the defendant of the right to appoint a defender within three days of admitting a case. If a criminal suspect or defendant requests the appointment of a defender, the people's court, the people's prosecutor's office, or the public security authority should convey the message promptly.</p>
<p>“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。”</p>	<p>"Where a criminal suspect or defendant is in detention, a defender may also be appointed by his custodian or close relative on his behalf.</p>
<p>“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。”</p>	<p>"Upon accepting appointment by the criminal suspect or defendant, the defender should promptly notify the authority handling the case."</p>
<p>六、将第三十四条修改为：“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。”</p>	<p>6. Article 34 is amended to read: "Where a criminal suspect or defendant has not appointed a defender due to financial difficulties or other reasons, he or his close relatives may apply to a legal aid agency for assistance. The legal aid agency should assign an attorney as his defender if conditions for legal aid are satisfied.</p>
<p>“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。”</p>	<p>"Where the criminal suspect or defendant is blind, deaf or mute, or is a mentally ill person who has not completely lost his capacity to comprehend or to control his behavior, and such person has not appointed a defender, the people's court, the people's prosecutor's office or the public security authority should notify the legal aid agency to assign an attorney as his defender.</p>
<p>“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</p>	<p>"If a criminal suspect or defendant may be sentenced to life imprisonment or death, and such person has not appointed a defender, the people's court, the people's prosecutor's office, or the public security authority should notify the legal aid agency to assign an</p>

为其提供辩护。”	attorney as his defender."
七、将第三十五条修改为：“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。”	7. Article 35 is amended to read:"The responsibility of a defender is to present, according to the facts and law, materials and opinions relevant to the innocence of the criminal suspect or defendant, to the pettiness of his crime, and to the need for mitigated punishment or exemption from criminal liability, and to safeguard the procedural rights and other legitimate rights and interests of the criminal suspect or defendant."
八、增加一条，作为第三十六条：“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。”	8. A new article is inserted as Article 36: "During the investigation phase, the defence attorney may provide legal assistance to the criminal suspect; make a complaint or accusations on his behalf; apply for the alteration of compulsory measures; and find out from the investigating authority about the crimes suspected of and relevant information about the case and provide opinions."
九、将第三十六条改为二条，作为第三十七条、第三十八条，修改为：	9. Article 36 is changed into two articles, Articles 37 and 38, and is amended to read:
“第三十七条 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 37 A defence attorney may interview and correspond with the criminal suspect or defendant held in detention. Other defenders, with the permission of the people's court or the people's prosecutor's office, may also interview or correspond with the criminal suspect or defendant held in detention.
“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 a defence attorney holds a practicing license, law firm certificate and letter of attorney or an official legal aid letter and requests to meet with a detained criminal suspect or defendant, the detention facility should arrange such a meeting promptly and no later than within 48 hours.
“危害国家安全犯罪、恐怖活动犯罪、特别重大贿赂犯罪案件，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	"Where a defence attorney wishes to meet, during the investigation phase, with a suspect of an offence that involves a crime endangering state security, a crime of terrorism or a particularly serious crime of bribery, he should seek permission from the investigating

<p>件，侦查机关应当事先通知看守所。</p>	<p>authority. The investigating authority should let the detention facility know the existence of such cases in advance.</p>
<p>“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。</p>	<p>"When a defence attorney meets with a detained criminal suspect or defendant, he may inquire about the case and offer legal advice, etc. The defence attorney may, as of the date on which the case is delivered for review and prosecution, verify the evidence with the suspect or the defendant. The meeting between the defence attorney and the suspect or the defendant is not to be monitored.</p>
<p>“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。</p>	<p>"Where a defence attorney meets or corresponds with a suspect or a defendant under residential surveillance, the provisions of Paragraphs 1, 3 and 4 apply.</p>
<p>“第三十八条 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。”</p>	<p>"Article 38 Starting from the date of the review by the people's prosecutor's office, a defence attorney may access, excerpt and copy filed materials of the case. Other defenders may also access, excerpt and copy such materials with the permission of the people's court or the people's prosecutor's office."</p>
<p>十、增加二条，作为第三十九条、第四十条：</p>	<p>10. Two articles are inserted as Articles 39 and 40:</p>
<p>“第三十九条 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。</p>	<p>"Article 39 Where a defender is of the opinion that during the investigation or prosecutor review periods evidence has been collected but not submitted by the public security authority or the people's prosecutor's office that proves the innocence of the suspect or defendant or the pettiness of a crime, the defender may apply to the people's prosecutor's office or the people's court for such evidence to be subpoenaed.</p>
<p>“第四十条 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。”</p>	<p>"Article 40 Evidence collected by a defender in support of the criminal suspect having an alibi, being under the age of criminal liability, or being mentally ill and excluded from criminal liability, should be made known to the public security authority or the people's prosecutor's office."</p>

<p>十一、将第三十八条改为第四十二条，修改为：“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。”</p>	<p>11. Article 38 is changed to Article 42 and amended to read: “A defender or any other person should not assist a suspect or a defendant in concealing, destroying and falsifying evidence or in giving a colluded statement; nor should a defender or any other person threaten or induce a witness to commit perjury and perform other acts that interfere with the procedures of the judicial authorities.</p>
<p>“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。”</p>	<p>"Violation of the previous paragraph should be sanctioned in accordance with law; where a defender is suspected of committing a crime, the case should be handled by an investigating authority other than the one that handles the case represented by the defender. Where a defender is an attorney-at-law, the law firm where he works or the lawyers association he belongs to should be notified."</p>
<p>十二、增加二条，作为第四十六条、第四十七条：</p>	<p>12. Two articles are inserted as Articles 46 and 47:</p>
<p>“第四十六条 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员，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。”</p>	<p>"Article 46 An attorney has the right to maintain confidentiality about information that he obtains about a client while performing his professional duty. Nevertheless, where an attorney comes to know while performing his professional duty that a client or any other person is preparing for or committing a crime that endangers state security or public security or gravely threatens the personal safety of other persons, he should promptly notify the judicial authorities of such crime.</p>
<p>“第四十七条 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。”</p>	<p>"Article 47 Where the defender or the agent <i>ad litem</i> considers that the public security authority, the people's prosecutor's office, the people's court, or the staff thereof, are interfering with his exercise of procedural rights, he has the right to make a complaint or accusation with the people's prosecutor's office at the same level or the next higher level. The people's prosecutor's office should promptly review the complaint or accusation; if the allegations are verified, the people's prosecutor's office should notify relevant authorities to make correction."</p>

十三、将第四十二条改为第四十八条，修改为：“可以用于证明案件事实的材料，都是证据。”	13. Article 42 is changed to Article 48 and amended to read: "Any material that may be used to prove the facts of a case is considered evidence.
“证据包括：	Evidence includes:
“（一）物证；	"(1) physical evidence;
“（二）书证；	"(2) documentary evidence;
“（三）证人证言；	"(3) testimonies by witnesses;
“（四）被害人陈述；	"(4) statements by the victim;
“（五）犯罪嫌疑人、被告人供述和辩解；	"(5) statements and justifications by the criminal suspect or defendant;
“（六）鉴定意见；	"(6) forensic examiner's opinions
“（七）勘验、检查、辨认、侦查实验等笔录；	"(7) documentation of observations, inspections, identifications, investigative experiments, etc.; and
“（八）视听资料、电子数据。”	"(8) audiovisual 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 to be used as a basis for deciding a case."
十四、增加一条，作为第四十九条：“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。”	14. A new article is inserted as Article 49: "The onus of proof that a defendant is guilty is on the public prosecutor in a public prosecution case and on the private prosecutor in a private prosecution case."
十五、将第四十三条改为第五十条，修改为：“审判人员、检察人员、侦查人员必须依照法定程	15. Article 43 is changed to Article 50 and amended to read: "Adjudicators, prosecutors and investigators must, pursuant to legal procedures, collect all kinds of evidence, including

<p>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。”</p>	<p>those proving the guilt or innocence of a suspect or a defendant as well as mitigating and aggravating evidence. The use of torture or extortion to obtain a confession and the use of threats, inducement, and deception and other illegal means to collect evidence is strictly prohibited; no person may be forced to prove his own guilt. It must be ensured that all persons relevant to or with knowledge about a case are given the conditions necessary to provide objective and sufficient evidence; except in special circumstances, such persons may be enlisted to assist in the investigation.”</p>
<p>十六、将第四十五条改为第五十二条，增加一款，作为第二款：“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。”</p>	<p>16. Article 45 is changed to Article 52, and a new paragraph is inserted as Paragraph 2 to read: “Evidence such as physical and documentary evidence, audiovisual materials and electronic data collected by administrative authorities during administrative law enforcement or during investigation of a case may be used as evidence in the criminal procedure.”</p>
<p>将第二款改为第三款，修改为：“对涉及国家秘密、商业秘密、个人隐私的证据，应当保密。”</p>	<p>Paragraph 2 is changed to Paragraph 3, and is amended to read: "Evidence involving state secrets, trade secrets and privacy should be kept confidential."</p>
<p>十七、将第四十六条改为第五十三条，修改为：“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。”</p>	<p>17. Article 46 is changed to Article 53, and is amended to read: “Decisions for any and all cases should be based on evidence and investigations, and confessions should not be overemphasized. Where there is only a confession by the defendant and no other evidence, the defendant may not be found guilty and no punishment may be imposed; where there is no confession by the defendant but the evidence is reliable and sufficient, the defendant may be found guilty and a punishment be imposed.</p>
<p>“证据确实、充分，应当符合以下条件：</p>	<p>"Evidence should meet the following requirements to be reliable and sufficient:</p>
<p>“（一）定罪量刑的事实都有证据证明；</p>	<p>“(1) Evidence exists for each fact needed to determine guilt and a sentence;</p>
<p>“（二）据以定案的证据均经法定程序查证属实；</p>	<p>“(2) All evidence needed to decide a case is verified through legal procedures; and</p>



<p>“（三）综合全案证据，对所认定事实已排除合理怀疑。”</p>	<p>“(3) Based on overall evaluation of the evidence, all facts are proved beyond reasonable doubt.”</p>
<p>十八、增加五条，作为第五十四条、第五十五条、第五十六条、第五十七条、第五十八条：</p>	<p>18. Five new articles are inserted as Articles 54, 55, 56, 57 and 58:</p>
<p>“第五十四条 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。</p>	<p>"Article 54 Confessions by a suspect or a defendant obtained through torture and extortion and other illegal means and witness testimonies and victim statements obtained through the use of violence, threats and other illegal means should be excluded. Where physical or documentary evidence is collected in ways violating legal procedures and severely affecting judicial justice, corrections should be made or justifications provided. Where no correction or justification is provided, such evidence should be excluded.</p>
<p>“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。</p>	<p>"Where evidence that should be excluded is found during the investigation, prosecutor review or trial, such evidence should be excluded in accordance with the law and should not be used as a basis for recommendation on prosecution, prosecutor decisions, and adjudication.</p>
<p>“第五十五条 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。</p>	<p>“Article 55 Where the people’s prosecutor’s office receives reporting, accusation or tips or discovers that the investigators collected evidence illegally, it should investigate and verify the accusation. Where the prosecutor’s office confirms that evidence has been collected through illegal means, it should issue a recommendation on the correction of such situation. Where such illegal collection of evidence constitutes a crime, criminal prosecution should be conducted in accordance with the law.</p>
<p>“第五十六条 法庭审理过程中，审判人员认为可能存在本法第五十四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</p>	<p>"Article 56 Where, in a court hearing, an adjudicator is of the opinion that illegally obtained evidence under Article 54 may exist, a court enquiry should be conducted into the legality of such evidence.</p>

法庭调查。	
“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 and his defender or an agent <i>ad litem</i> has the right to apply to the people's court to exclude evidence obtained illegally. Where exclusion of illegally obtained evidence is applied for, relevant information or materials about the illegal practice should be furnished.
“第五十七条 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 57 During a court enquiry into the legality of the evidence collection process, the people's prosecutor's office should prove the legality of the collection process."
“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。”	"Where available evidentiary materials are not able to prove the legality of evidence collection, the people's prosecutor's office may request the people's court to notify relevant investigators or other persons to make an explanation before the court; the people's court may also, at its own initiative, notify relevant investigators or other persons to make an explanation before the court. The relevant investigators or other persons may themselves request to appear to make an explanation. Relevant persons should appear upon the court's notification."
“第五十八条 对于经过法庭审理，确认或者不能排除存在本法第五十四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 58 Where by means of a court hearing, evidence is determined to have been obtained illegally or where situations of collecting evidence using illegal means provided under Article 54 cannot be excluded, such evidence should be excluded."
十九、将第四十七条改为第五十九条，修改为：“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。”	19. Article 47 is changed to Article 59 to read: "A testimony by a witness may serve as a basis for deciding a case only after it has been contested and verified in court by the public prosecutor and the victim, as well as the defendant and the defender. Where the court finds that the witness has wilfully given a false testimony or concealed incriminating evidence, it should handle the situation in accordance with the law."
二十、增加二条，作为第六十二条、第六十三	20. Two articles are inserted as Articles 62 and 63:

条:	
“第六十二条 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 62 Where, in cases involving crimes endangering state security, crimes of terrorism, organized crimes with characters of the underworld and drug-related crimes, etc., the personal safety of a witness or victim or their close relatives is at risk because of his testimony in a trial, the people's court, people's prosecutor's office and public security authority should take any or several of the following protection measures:
“（一）不公开真实姓名、住址和工作单位等个人信息；	“(1) withholding their real name, address, place of work and other personal particulars;
“（二）采取不暴露外貌、真实声音等出庭作证措施；	“(2) withholding the appearance and real voice in testimony before the court or taking other measures of testimony;
“（三）禁止特定的人员接触证人、鉴定人、被害人及其近亲属；	“(3) prohibiting certain persons to be in contact with the witness or the victim and his close relatives;
“（四）对人身和住宅采取专门性保护措施；	“(4) offering special personal and residential protection; and
“（五）其他必要的保护措施。	“(5) offering any other necessary protection 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。	"Where a witness, forensic examiner, or victim believes that his personal safety or the personal safety of his close relatives is at risk because of his testimony in a proceeding, he may apply to the people's court, people's prosecutor's office, or the public security authority for protection.
“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。	"Where the people's court, the people's prosecutor's office, or the public security authority takes protection measures according to law, relevant entities and individuals should provide cooperation.

<p>“第六十三条 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。”</p>	<p>"Article 63 A witness should be compensated for transportation, accommodation and meal expenses related to his performing a testimonial obligation. The testimonial compensation for a witness is to be included in the operating expenses of the judicial authority and be provided by the financial department of the government at the same level.</p>
<p>“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。”</p>	<p>“In respect of witnesses working for an employer, the employer must not reduce or covertly reduce the witness’s remuneration, bonuses and other social benefits for the time lost in providing testimony.”</p>
<p>二十一、将第五十一条改为第六十五条，修改为：“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：</p>	<p>21. Article 51 is changed to Article 65 to read: “The people’s court, people’s prosecutor’s office and public security authority may release on bail a suspect or a defendant falling into one of the following circumstances:</p>
<p>“（一）可能判处管制、拘役或者独立适用附加刑的；</p>	<p>“(1) Persons punishable by surveillance (<i>guanzhi</i>) , criminal detention (<i>juyi</i>) or an independently imposed secondary penalty;</p>
<p>“（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；</p>	<p>“(2) Persons punishable by imprisonment but in respect of whom release on bail does not pose a risk to the public;</p>
<p>“（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；</p>	<p>“(3) persons having serious illness and not able to take care of themselves and pregnant women or women breastfeeding their own infants, but in respect of whom a release on bail does not pose a risk to the public;</p>
<p>“（四）羁押期限届满，案件尚未办结，需要采取取保候审的。</p>	<p>“(4) Persons whose cases have not been closed at the end of the detention period and for whom release on bail needs to be granted.</p>
<p>“取保候审由公安机关执行。”</p>	<p>“Releases on bail are to be executed by the public security authorities.”</p>
<p>二十二、将第五十五条改为第六十八条，修改</p>	<p>22. Article 55 is changed to Article 68, and is amended to read: “A guarantor should perform</p>

为：“保证人应当履行以下义务：	the following obligations:
“（一）监督被保证人遵守本法第六十九条的规定；	“(1) supervising the person guaranteed to comply with the provisions of Article 69 of this law; and
“（二）发现被保证人可能发生或者已经发生违反本法第六十九条规定的行为的，应当及时向执行机关报告。	“(2) promptly reporting to the enforcement authority where it is found that the person guaranteed is likely to or has violated the provisions of Article 69 of this law.
“被保证人有违反本法第六十九条规定的行为，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 person guaranteed violates the provisions of Article 69 of this law, and if the guarantor has failed to perform his obligation, the guarantor is to be fined; or, where such non-performance constitutes a crime, the guarantor is to be subject to criminal prosecution.”
二十三、将第五十六条改为三条，作为第六十九条、第七十条、第七十一条，修改为：	23. Article 56 is changed into three Articles as Articles 69, 70 and 71, and is amended to read:
“第六十九条 被取保候审的犯罪嫌疑人、被告人应当遵守以下规定：	"Article 69 A suspect or defendant released on bail:
“（一）未经执行机关批准不得离开所居住的市、县；	“(1) may not leave his residential city or county without prior approval of the enforcement authority;
“（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) should give 24 hours notice to the enforcement authority in the event of a change of address, place of work or contact details;
“（三）在传讯的时候及时到案；	"(3) should appear before court in good time when subpoenaed;
“（四）不得以任何形式干扰证人作证；	"(4) may not in any form interfere with a witness; and
“（五）不得毁灭、伪造证据或者串供。	"(5) may not destroy or falsify evidence or give a colluded statement.

<p>“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：</p>	<p>“The people’s court, people’s prosecutor’s office and public security authority may, based on the circumstances of the case, order a criminal suspect or a defendant released on bail to comply with one or more of the following provisions:</p>
<p>“（一）不得进入特定的场所；</p>	<p>“(1) not to enter designated venues;</p>
<p>“（二）不得与特定的人员会见或者通信；</p>	<p>“(2) not to meet or correspond with designated persons;</p>
<p>“（三）不得从事特定的活动；</p>	<p>“(3) not to engage in designated activities; and</p>
<p>“（四）将护照等出入境证件、驾驶证交执行机关保存。</p>	<p>“(4) to surrender his passport or other border crossing documents, and driver certificates, to the enforcement authority for safekeeping.</p>
<p>“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。</p>	<p>“Where the suspect or defendant released on bail violates the provisions in the preceding two paragraphs and the bail has been paid, the bail is to be partially or wholly forfeited and the suspect or the defendant will be, depending on the individual circumstances, ordered to enter into a recognizance, pay a new bail, name a new guarantor, or to be held in residential surveillance or be arrested (<i>daibu</i>).</p>
<p>“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。</p>	<p>“Where the suspect or defendant violates the provisions for release on bail and an arrest is necessary, the suspect or the defendant may be held in custody (<i>juliu</i>) first.</p>
<p>“第七十条 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。</p>	<p>"Article 70 An authority deciding on bail should, in order to set the bail amount, balance the need to ensure normal operation of legal proceedings, the risk the person to be released on bail poses to the public, the nature and circumstances of the case, the gravity of the potential punishment and the financial situation of the person to be released on bail.</p>
<p>“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。</p>	<p>"The person providing the bail should deposit the bail in the bank account designated by the enforcement authority.</p>

<p>“第七十一条 犯罪嫌疑人、被告人在取保候审期间未违反本法第六十九条规定的，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。”</p>	<p>“Article 71 Where the suspect or defendant has not violated the provisions in Article 69 of this law while on bail, the bail may be collected from the bank at the end of the bail period, on presentation of a notice rescinding the bail or relevant legal documents.”</p>
<p>二十四、增加三条，作为第七十二条、第七十三条、第七十四条：</p>	<p>24. Three articles are inserted as Articles 72, 73 and 74:</p>
<p>“第七十二条 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：</p>	<p>“Article 72 The people’s court, people’s prosecutor’s office or public security authority may place under residential surveillance suspects or defendants that meet the conditions for arrest and fall into one of the following circumstances:</p>
<p>“（一）患有严重疾病、生活不能自理的；</p>	<p>“(1) seriously ill persons unable to take care of themselves;</p>
<p>“（二）怀孕或者正在哺乳自己婴儿的妇女；</p>	<p>“(2) pregnant women or women currently breastfeeding their own infants;</p>
<p>“（三）系生活不能自理的人的唯一扶养人；</p>	<p>“(3) the only caregiver of a person who cannot take care of himself;</p>
<p>“（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；</p>	<p>“(4) persons in respect of whom residential surveillance is more appropriate due to the special circumstances of the case or requirements of the investigation; or</p>
<p>“（五）羁押期限届满，案件尚未办结，需要采取监视居住措施的。</p>	<p>“(5) persons whose detention period has ended but whose case has not been concluded, and residential surveillance is necessary.</p>
<p>“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。</p>	<p>"Where the suspect or defendant meets the conditions for release on bail but is unable to name a guarantor or pay the bail, residential surveillance may be imposed.</p>
<p>“监视居住由公安机关执行。”</p>	<p>“Residential surveillance is to be enforced by the public security authority.”</p>
<p>“第七十三条 监视居住应当在犯罪嫌疑人、被</p>	<p>"Article 73 Residential surveillance should be enforced at the domicile of the suspect or</p>

<p>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、特别重大贿赂犯罪，在住处执行可能有碍侦查的，经上一级人民检察院或者公安机关批准，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。</p>	<p>defendant. Where there is no permanent domicile, surveillance may be enforced at a designated place of residence. Where there is suspicion of crimes of endangering state security, crimes of terrorism and particularly serious crimes of bribery, and residential surveillance at the domicile may impede the investigation, it may, upon approval by the next higher people's prosecutor's office or public security authority, be enforced at a designated place of residence. However, residential surveillance may not be enforced at a detention facility or an investigation facility.</p>
<p>“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。</p>	<p>"Where residential surveillance is enforced at a designated place of residence, the family members of the person under surveillance should be informed within 24 hours upon enforcement, save where it is impossible to furnish a notice.</p>
<p>“被监视居住的犯罪嫌疑人、被告人委托辩护人，适用本法第三十三条的规定。</p>	<p>"If a suspect or a defendant held in residential surveillance wishes to appoint a defender, the provisions of Article 33 of this law apply.</p>
<p>“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。</p>	<p>"The people's prosecutor's office oversees whether or not the decision and enforcement of residential surveillance at a designated place of residence is in keeping with the law.</p>
<p>“第七十四条 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。”</p>	<p>"Article 74 The period of surveillance at a designated place of residence should be deducted from the sentence term. For offenders sentenced to surveillance (<i>guanzhi</i>), the sentence term should be reduced by one day for each day of residential surveillance; for criminal detention (<i>juyi</i>) and imprisonment sentences, the sentence term should be reduced by one day for two days of residential surveillance."</p>
<p>二十五、将第五十七条改为第七十五条，修改为：“被监视居住的犯罪嫌疑人、被告人应当遵守以下规定：</p>	<p>25. Article 57 is changed to Article 75, and is amended to read: "A suspect or a defendant under residential surveillance should comply with the following provisions which require him:</p>
<p>“（一）未经执行机关批准不得离开执行监视居住的处所；</p>	<p>"(1) not to leave the place of surveillance without prior approval by the enforcement authority;</p>



“（二）未经执行机关批准不得会见他人或者通信；	“(2) not to meet or correspond with anyone without the prior approval of the enforcement authority;
“（三）在传讯的时候及时到案；	“(3) to appear before court in good time when subpoenaed;
“（四）不得以任何形式干扰证人作证；	“(4) not to interfere in any form with a witness;
“（五）不得毁灭、伪造证据或者串供；	“(5) not to destroy or falsify evidence or collude in giving a statement; 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。	“(6) to surrender his passport or other border crossing documents, and identification documents and driver certificates, to the enforcement authority.
“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。”	“Where a suspect or a defendant under residential surveillance violates provisions in the preceding paragraph, the suspect or the defendant may be arrested where the circumstances are grave; if arrest is necessary, the suspect or the defendant may be held in custody first.”
二十六、增加一条，作为第七十六条：“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。”	26. A new article is inserted as Article 76: "The enforcement authority may impose on a suspect or a defendant under residential surveillance electronic monitoring, irregular inspections and other surveillance measures to oversee the compliance of the suspect or defendant with the surveillance provisions. During the investigation, the enforcement authority may monitor the correspondence of the suspect or defendant under residential surveillance."
二十七、将第六十条改为第七十九条，修改为：“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：	27. Article 60 is changed to Article 79, and is amended to read: "Where evidence exists that proves there are facts for a crime, and the suspect or defendant is punishable by imprisonment or by a more severe sentence, and where bail, residential surveillance or other measures are inadequate to prevent any of the following risks to the public, the suspect or defendant should be arrested:

“（一）可能实施新的犯罪的；	“(1) The person 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) The person poses an imminent risk to state security, public security or social order;
“（三）可能毁灭、伪造证据，干扰证人作证或者串供的；	“(3) The person may destroy, falsify or conceal evidence or interfere with the witness or collude in giving a statement;
“（四）可能对被害人、举报人、控告人实施打击报复的；	“(4) The person may retaliate on the victim, tipster or the person making accusations against him; or
“（五）企图自杀或者逃跑的。	“(5) The person attempts to commit suicide or abscond.
“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 evidence exists that proves there are facts for a crime, and the crime is punishable by imprisonment of more than ten years; or where evidence exists that proves there are facts for a crime, and the crime is punishable by imprisonment or a more serious sentence, but the suspect has intentionally committed a prior crime or his identity is unknown, such person should 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 suspect or a defendant released on bail or under residential surveillance breaches the provisions for release on bail or residential surveillance and the circumstances are grave, the suspect or the defendant should be arrested.”
二十八、将第六十四条改为第八十三条，第二款修改为：“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	28. Article 64 is changed to Article 83, and Paragraph 2 thereof is amended to read: "After being taken into custody, the person in custody should promptly and no later than within 24 hours be delivered into a detention facility for custody. The family members of the person in custody should be informed within 24 hours after the person is taken into custody, save where it is impossible to furnish a notice or where crimes endangering state security or crimes of terrorism are suspected and a notice may impede the investigation. When circumstances impeding investigation disappear, family members of the person in custody

人的家属。”	should be notified immediately.”
二十九、将第六十五条改为第八十四条，修改为：“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。”	29. Article 65 is changed to Article 84, and is amended to read: "The public security authority should interrogate a person within 24 hours after the person is taken into custody. Where it is found that custody should not be used, the person must be released immediately and given proof of release.”
三十、增加一条，作为第八十六条：“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：	30. A new article is inserted as Article 86 to read: "When a people's prosecutor's office reviews and approves an arrest application, it may question the suspect; questioning the suspect is mandatory in any of the following circumstances:
“（一）对是否符合逮捕条件有疑问的；	“(1) Doubts exist about whether or not the conditions for arrest are met;
“（二）犯罪嫌疑人要求向检察人员当面陈述的；	“(2) The suspect requests to give a statement to the prosecutor face-to-face; or
“（三）侦查活动可能有重大违法行为的。	“(3) The investigation may be in serious violation of the law.
“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。”	“When reviewing and approving an arrest application, the people's prosecutor's office may question witnesses and other participants in the legal proceedings, and consider the opinion of the defence attorney; if the defence attorney requests to express his opinion, the opinion should be heard.”
三十一、将第七十一条改为第九十一条，第二款修改为：“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。”	31. Article 71 is changed to Article 91, and Paragraph 2 thereof is amended to read: "Upon arrest, an arrested person should be promptly delivered into a detention ( <i>kanshou</i> ) facility for custody. The family members of the arrested person should be informed within 24 hours of the arrest, except where it is impossible to furnish a notice.”
三十二、增加一条，作为第九十三条：“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	32. A new article is inserted as Article 93 to read: "After the arrest of a suspect or a defendant, the people's prosecutor's office should continue to check the necessity for detention. Where detention is no longer necessary, the people's prosecutor's office should give advice to release of the suspect or defendant or alter the compulsory measures.

<p>关应当在十日以内将处理情况通知人民检察院。”</p>	<p>Relevant authorities should notify, within 10 days, the people's prosecutor's office as to how the advice is handled.”</p>
<p>三十三、将第五十二条改为第九十五条，修改为：“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。”</p>	<p>33. Article 52 is changed to article 95, and is amended to read: "The suspect or defendant and his statutory representative, close relatives or defender are entitled to request the people's court, people's prosecutor's office or public security authority to alter the compulsory measures. The people's court, the people's prosecutor's office, and the public security authority should make a decision within three days upon receiving the application. If the application is rejected, the applicant should be notified and the reasons for rejection be explained.”</p>
<p>三十四、将第七十四条改为第九十六条，修改为：“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。”</p>	<p>34. Article 74 is changed to Article 96, and is amended to read: "In a case involving a suspect or a defendant that has been committed to detention, if the case is not closed within the periods prescribed in this law for investigative custody, for prosecutor review, for first instance decisions or for second instance decisions, the suspect or defendant should be released. Where further investigations or hearings are necessary, the suspect or defendant may be released on bail or held in residential surveillance.”</p>
<p>三十五、将第七十五条改为第九十七条，修改为：“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。”</p>	<p>35. Article 75 is changed to Article 97, and is amended to read: “The people's court, people's prosecutor's office or public security authority should, upon expiration of the statutory period for compulsory measures imposed on a suspect or a defendant, release the suspect or the defendant or rescind the bail or residential surveillance, or alter the compulsory measures. The suspect or defendant and his statutory representative, close relatives or defender are entitled to request the people's court, people's prosecutor's office or security authority to rescind the compulsory measures upon expiration of such statutory period.”</p>
<p>三十六、将第七十七条改为二条，作为第九十九条、第一百条，修改为：</p>	<p>36. Article 77 is changed into two articles as Articles 99 and 100, and is amended to read:</p>

<p>“第九十九条 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。</p>	<p>"Article 99 Where the victim suffers from property loss as a result of the defendant's crime, he is entitled to an adjoining civil proceeding during the criminal proceeding. Where the victim is dead or loses the capacity to act, the statutory representative and the close relatives are entitled to initiate the adjoining procedure.</p>
<p>“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。</p>	<p>"If it is the state or collective that suffers from loss, the people's prosecutor's office may initiate an adjoining civil action when initiating the public prosecution.</p>
<p>“第一百条 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。”</p>	<p>“Article 100 Where necessary, the people's court may take preservation measures to seal, seize or freeze the defendant's property. The plaintiff of the adjoining civil action or the people's prosecutor's office may apply to the people's court for adoption of such measures. Provisions of the civil procedure law apply when the people's court adopts preservation measures.”</p>
<p>三十七、增加一条，作为第一百零一条：“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。”</p>	<p>37. A new article is inserted as Article 101: "Where the people's court hears an adjoining civil case, it may use mediation, or make a judgment or order on the basis of property losses."</p>
<p>三十八、将第七十九条改为第一百零三条，增加一款，作为第四款：“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。”</p>	<p>38. Article 79 is changed to Article 103, and a new paragraph is inserted as Paragraph 4: "Where the last day of a period is a public holiday, the expiration date is to be the first day after the holiday. However, where a suspect or a defendant is in detention, the expiration date should be the last day of the period and may not be postponed due to a public holiday."</p>
<p>三十九、增加一条，作为第一百一十五条：“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</p>	<p>39. A new article is inserted as Article 115 to read: "A party, defender, agent <i>ad litem</i> or person with an interest has the right to submit a complaint or accusation to a judicial authority if he believes a judicial authority or its personnel to have committed any of the</p>

权向该机关申诉或者控告：	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) No release, rescission or alteration is effected when the statutory period of the compulsory measure has ended;
“（二）应当退还取保候审保证金不退还的；	“(2) Bail is not returned when it should be returned;
“（三）对与案件无关的财物采取查封、扣押、冻结措施的；	“(3) Assets irrelevant to the case are sealed, seized, or frozen;
“（四）应当解除查封、扣押、冻结不解除的；	“(4) Sealing, seizure or freezing should be rescinded but is not; 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) Assets sealed, seized or frozen are embezzled, diverted for other use, divided up without authorization, swapped, or used in violation of regulations.
“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 admitting the complaint or accusation should process it promptly. If the disposition is not satisfactory, a complaint may be submitted to a people's prosecutor's office at the same level; where a prosecutor's office directly admits a case for investigation, a complaint may be submitted to a people's prosecutor's office at the next higher level. The people's prosecutor's office should review the complaint promptly; if the complaint is verified, it should notify relevant authorities to make corrections.”
四十、将第九十一条改为第一百一十六条，增加一款，作为第二款：“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。”	40. Article 91 is changed to Article 116, and a new paragraph is inserted as Paragraph 2: "Where investigators interrogate a criminal suspect after he has been delivered into a detention facility, they should do so within the detention facility."
四十一、将第九十二条改为第一百一十七条，修改为：“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	41. Article 92 is changed to Article 117, and is amended to read: “Where a criminal suspect need not be arrested or held in custody, the suspect may be summonsed to a designated place within the city or county where the suspect is located, or to his domicile, for interrogation, subject to the presentation of a certificate issued by people's prosecutor's

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。	office or the public security authorities. Where a criminal suspect is identified on the spot, the suspect may be summonsed orally, upon presentation of the investigator's ID, but this should be noted in the documentation of the interrogation.
“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。	“Summonsing or compelled appearance ( <i>juchuan</i> ) may last no longer than 12 hours; where a case is particularly serious and complicated and custody or arrest is required, summonsing or compelled appearance may last no 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。”	“No criminal suspect should be subjected to <i>de facto</i> detention in the form of successive summonsing or compelled appearance. Where a criminal suspect is summonsed or compelled to appear before the investigator, he should be guaranteed food and drink and necessary time to rest.”
四十二、将第九十三条改为第一百一十八条，增加一款，作为第二款：“侦查人员在讯问犯罪嫌疑人的时候，应当告知犯罪嫌疑人如实供述自己罪行可以从宽处理的法律规定。”	42. Article 93 is changed to Article 118, and a new paragraph is inserted as Paragraph 2 to read: "When interrogating a criminal suspect, an investigator should inform the suspect of the legal provisions on leniency for honest confessions of a crime.”
四十三、增加一条，作为第一百二十一条：“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。	43. A new article is inserted as Article 121: "When the criminal suspect is being interrogated, the investigator may record the interrogation process in audio or visual forms; for crimes punishable by life imprisonment or death and other serious crimes, audio or video recording of the interrogation process is mandatory.
“录音或者录像应当全程进行，保持完整性。”	“The audio or video recording should cover the entire process of interrogation and should be complete.”
四十四、删去第九十六条。	44. Article 96 is deleted.

<p>四十五、将第九十七条改为第一百二十二条，第一款修改为：“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。”</p>	<p>45. Article 97 is changed to Article 122, and Paragraph 1 thereof is amended to read: "An investigator may question a witness on the spot, or at the workplace or domicile of the witness, or at a place suggested by the witness; where necessary, the investigator may notify a witness to provide testimony at the people's prosecutor's office or the public security authority. Where a witness is questioned on the spot, identification certificates should be presented; where a witness is questioned at the workplace, domicile or place suggested by the witness, a certificate of proof issued by the people's prosecutor's office or the public security authority should be presented."</p>
<p>四十六、删去第九十八条第二款。</p>	<p>46. Article 98 Paragraph 2 is deleted.</p>
<p>四十七、将第一百零五条改为第一百三十条，第一款修改为：“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。”</p>	<p>47. Article 105 is changed to Article 130, and Paragraph 1 thereof is amended to read: "In order to determine certain characteristics, or the state of injury or physical condition, of a victim or a criminal suspect, physical examinations may be conducted, fingerprints taken, and blood, urine or other biological samples collected."</p>
<p>四十八、将第一百零八条改为第一百三十三条，第一款修改为：“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。”</p>	<p>48. Article 108 is changed to Article 133, and Paragraph 1 thereof is amended to read: "In order to find out the facts, investigative experiments may be conducted when necessary, subject to approval by the responsible person of the public security authority."</p>
<p>增加一款，作为第二款：“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。”</p>	<p>A new paragraph is inserted as Paragraph 2 to read: "The investigative experiments should be documented, and participants in the experiments should sign their names or attach their seals on the documentation."</p>
<p>四十九、将第一百一十条改为第一百三十五条，修改为：“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</p>	<p>49. Article 110 is changed to Article 135, and is amended to read: "Any entity or individual, at the request of the people's prosecutor's office or public security authority, has the obligation to surrender physical evidence, documentary evidence, and audiovisual</p>



<p>疑人有罪或者无罪的物证、书证、视听资料等证据。”</p>	<p>materials, etc., that prove the guilt or innocence of a criminal suspect.”</p>
<p>五十、将第二编第二章第六节的节名、第一百五十八条中的“扣押”修改为“查封、扣押”。</p>	<p>50. The word "seizure" in Part 2 Chapter 2 Section 6, and in Article 158, is amended to read "sealing and seizure".</p>
<p>五十一、将第一百一十四条改为第一百三十九条，修改为：“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。</p>	<p>51. Article 114 is changed to Article 139, and is amended to read: "Assets or documents discovered during an investigation that may be used to prove the guilt or innocence of a criminal suspect should be sealed or seized; assets or documents irrelevant to a case may not be sealed or seized.</p>
<p>“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。”</p>	<p>“Sealed or seized assets or documents should be preserved or closed up appropriately and may not be used, swapped or destroyed.”</p>
<p>五十二、将第一百一十五条改为第一百四十条，修改为：“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。”</p>	<p>52. Article 115 is changed to Article 140, and is amended to read: "Where assets or documents are to be sealed or seized, such assets or documents should be checked together with witnesses on the spot and holders of such assets or documents; a list of the assets or documents should be made in duplicate on the spot, and should be signed or sealed by the investigators, the witnesses and the holders. One copy of the list should be given to the holder, and the other copy should be kept on file for reference.”</p>
<p>五十三、将第一百一十七条改为第一百四十二条，修改为：“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。</p>	<p>53. Article 117 is changed to Article 142, and is amended to read: "The people's prosecutor's office or the public security authority, based on the needs of the investigation and in compliance with regulations, may access or freeze assets of the criminal suspect, such as deposits, remittances, bonds, stocks and shares of funds. Relevant entities and individuals should give cooperation.</p>
<p>“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。”</p>	<p>“If the deposits, remittances, bonds, stocks or shares of funds of the criminal suspect have been frozen, they should not be frozen for a second time.”</p>

<p>五十四、将第一百一十八条改为第一百四十三条，修改为：“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。”</p>	<p>54. Article 118 is changed to Article 143, and is amended to read: "If any assets, documents, mails, or telegraphs sealed or seized, or any frozen property, such as deposits, remittances, bounds, stocks and shares of funds, are proved through investigation to be irrelevant to the case, they should be freed from the seal, seizure and freeze within three days and returned."</p>
<p>五十五、将第一百二十条改为第一百四十五条，修改为：“鉴定人进行鉴定后，应当写出鉴定意见，并且签名。</p>	<p>55. Article 120 is changed to Article 145 and amended to read: "A forensic examiner should, after giving an evaluation, write and sign a forensic examiner's opinion.</p>
<p>“鉴定人故意作虚假鉴定的，应当承担法律责任。”</p>	<p>"A forensic examiner intentionally making a false evaluation should assume legal liability."</p>
<p>五十六、将第一百二十一条、第一百五十七条中的“鉴定结论”修改为“鉴定意见”。</p>	<p>56. The phrase "forensic examiner's conclusion" in Articles 121 and 157 is amended to read "forensic examiner's opinion."</p>
<p>五十七、在第二编第二章第七节后增加一节，作为第八节：</p>	<p>57. A new section is inserted after Part 2 Chapter 2 Section 7 as Section 8 to read:</p>
<p>“第八节 技术侦查措施 ”</p>	<p>"Section 8 Technical Investigation Measures"</p>
<p>“第一百四十八条 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。</p>	<p>"Article 148 After the public security authority has registered a case, it may, insofar as required for investigating a crime and after passing strict approval requirements, take measures of technical investigation for cases involving crimes endangering state security, crimes of terrorism, organized crimes with characters of the underworld, major drug-related crimes or other crimes that pose a serious threat to society.</p>
<p>“人民检察院在立案后，对于重大的贪污、贿赂犯罪案件以及利用职权实施的严重侵犯公民人</p>	<p>"After a people's prosecutor's office has registered a case, where the case is a serious case involving crimes of corruption and bribery or serious crimes where the use of power</p>

<p>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。</p>	<p>seriously violates the personal rights of a citizen, the people's prosecutor's office may, as far as required for investigating a crime and after passing strict approval requirements, adopt technical investigation measures and have such measures carried out by relevant authorities.</p>
<p>“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。</p>	<p>“In the pursuit of a fugitive suspect or defendant that is wanted or whose arrest has been approved or decided, technical investigation measures necessary for the pursuit may be taken upon approval.</p>
<p>“第一百四十九条 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。</p>	<p>"Article 149 An approval or decision should determine, based on the need for the criminal investigation, the types of technical investigation measures to be applied and intended targets. The approval or decision is effective for three months from the date of its issue. Where technical investigation measures are no longer necessary, they should be rescinded promptly. Where the effective period in a complicated or difficult case expires but further technical investigation measures are necessary, the effective period may be extended upon approval, but each extension may not be longer than three months.</p>
<p>“第一百五十条 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。</p>	<p>“Article 150 Where a technical investigation measure is taken, it must be executed strictly in keeping with the types of measures, intended targets and duration approved.</p>
<p>“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。</p>	<p>"Where an investigator becomes aware of a state or trade secret and the privacy of a person during the technical investigation, he should maintain confidentiality. Any information obtained through a technical investigation measure that is unrelated to the case must be destroyed promptly.</p>
<p>“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。</p>	<p>“Materials obtained through technical investigation measures may be used only for the investigation, prosecution and trial of a crime, and may not be used for other purposes.</p>
<p>“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。</p>	<p>“A relevant entity or individual should be cooperative where a public security authority undertakes technical investigation measures in accordance with the law and should maintain</p>

	confidentiality about any relevant circumstances.
“第一百五十一条 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 151 In order to find out the facts of a case, where necessary and subject to decision of the responsible officer of the public security authority, relevant personnel may implement a secret investigation. The secret investigator, however, may not entice other persons to commit a crime, or use methods that may endanger public security or pose a serious risk 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。”	“In the event of a criminal activity involving delivery of drugs and other contraband items or assets, the public security authority may, insofar as necessary for the criminal investigation, implement controlled delivery of such items and assets in accordance with regulations.
“第一百五十二条 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 152 Materials obtained through investigative measures pursuant to this section may be used as evidence in criminal proceedings. Where the use of evidence obtained through secret investigations may pose a risk to the personal safety of relevant personnel or may lead to other serious consequences, measures should be taken to withhold the real identity of the relevant personnel, and, where necessary, such evidence may be verified by the adjudicators outside the court.”
五十八、将第一百二十八条改为第一百五十八条，修改为：“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一百五十四条的规定重新计算侦查羁押期限。”	58. Article 128 is changed to Article 158 and is amended to read: “Where it is found during an investigation that the criminal suspect has committed another serious crime, the investigative detention period will start anew pursuant to Article 154 of this law.
“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、	“If a criminal suspect has not disclosed his real name or address, and his identity is not clear, the identity should be investigated. The period of investigative detention will start on the date on which his identity is ascertained; but the investigation of his criminal acts may not be suspended. Where the criminal facts are clear, the evidence is verified and sufficient,

<p>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。”</p>	<p>and the identity cannot be ascertained after genuine efforts, the suspect may be prosecuted and tried in the name stated by the suspect himself.”</p>
<p>五十九、增加一条，作为第一百五十九条：“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。”</p>	<p>59. A new article is inserted as Article 159 to read: “Prior to closure of an investigation, where the defence attorney requests, the investigating authority should hear and document the opinion of the defence attorney. Where the defence attorney submits a written opinion, such opinion should be kept on file.”</p>
<p>六十、将第一百二十九条改为第一百六十条，修改为：“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，并且写出起诉书意见书，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。”</p>	<p>60. Article 129 is changed to Article 160, and is amended to read: "When a public security authority has concluded its investigation of a case, the facts of a crime should be made clear and the evidence should be reliable and sufficient. The public security authority should make a recommendation on prosecution, which should be transferred, together with the filed materials and evidence, to the people's prosecutor's office at the same level for review and decision; meanwhile, the criminal suspect and the defence attorney should be notified of the transfer."</p>
<p>六十一、将第一百三十三条改为第一百六十四条，修改为：“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。”</p>	<p>61. Article 133 is changed to Article 164 and is amended to read: “Where the people's prosecutor's office directly admits a case for investigation, it should interrogate the person within 24 hours after the person is taken into custody. Where it finds that custody should not be used, the person must be released immediately and given proof of such release.”</p>
<p>六十二、将第一百三十四条改为第一百六十五条，修改为：“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</p>	<p>62. Article 134 is changed to Article 165 and amended to read: “Where the people's prosecutor's office is of the opinion that a person in custody in a case directly admitted by itself needs to be arrested, it should make a decision on such arrest within 14 days. The period to make a decision on arrest may, in special circumstances, be extended by one to three days. Where arrest is not necessary, release is to be granted promptly. Where further investigation is required and the conditions for bail or residential surveillance are met, the person in custody is to be granted such bail or held in such surveillance in accordance with</p>

视居住。”	the law.”
六十三、将第一百三十九条改为第一百七十条，修改为：“人民检察院审查案件，应当讯问犯罪嫌疑人，听取辩护人、被害人及其诉讼代理人的意见，并记录在案。辩护人、被害人及其诉讼代理人提出书面意见的，应当附卷。”	63. Article 139 is changed to Article 170 and amended to read: “When a people’s prosecutor’s office reviews a case, it should question the suspect of the crime and hear the opinion of the defender, the victim and his agent <i>ad litem</i> , and document such communications. Where the defender, or the victim or his agent <i>ad litem</i> submit a written opinion, such opinion should be kept on file.”
六十四、将第一百四十条改为第一百七十一条，第一款修改为：“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五十四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。”	64. Article 140 is changed to Article 171, and Paragraph 1 thereof is amended to read: "In reviewing a case, the people’s prosecutor’s office may request the public security authority to provide evidentiary materials necessary for a trial; where the people’s prosecutor’s office suspects there might be circumstances under Article 54 in which evidence is collected using illegal means, it may request the public security authority to provide explanations on the legality of the evidence collection process.”
第四款修改为：“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，应当作出不予起诉的决定。”	Paragraph 4 is amended to read: "Where the people’s prosecutor’s office believes the evidence is still insufficient after the case is remanded for further investigation a second time, and conditions for prosecution are not met, it should decide not to prosecute a case.”
六十五、将第一百四十一条改为第一百七十二条，修改为：“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。”	65. Article 141 is changed to Article 172 and amended to read: “Where the people’s prosecutor’s office is of the opinion that the facts for a crime have been made clear, the evidence is reliable and sufficient, and criminal prosecution should be conducted in according with the law, it should decide to proceed with a prosecution and initiate, pursuant to the provisions on courts’ jurisdiction, public prosecution before the people’s court and furnish to it the filed materials and evidence.”
六十六、将第一百四十二条改为第一百七十三条，第一款修改为：“犯罪嫌疑人没有犯罪事实，或者有本法第十五条规定的情形之一的，人民	66. Article 142 is changed to Article 173, and Paragraph 1 thereof is amended to read: "Where the criminal suspect is found to have committed no crime, or to be under one of the circumstances provided in Article 15 of this law, the people’s prosecutor’s office should

<p>检察院应当作出不起诉决定。”</p>	<p>decide not to prosecute."</p>
<p>第三款修改为：“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、行政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。”</p>	<p>Paragraph 3 is amended to read: "Where a people's prosecutor's office decides not to prosecute a case, it should, at the same time, rescind the sealing, seizure or freezing of the assets sealed, seized, and frozen during investigation. If the person not to be prosecuted needs to be given an administrative penalty or administrative sanction or his illegal gains need to be confiscated, the people's prosecutor's office should make suggestions to such an effect and transfer the case to the competent authority for disposition. The competent authority should promptly notify the people's prosecutor's office of the result of disposition."</p>
<p>六十七、将第一百五十五条改为第一百八十一条，修改为：“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。”</p>	<p>67. "Article 150 is changed to Article 181 and amended to read: "After the people's court has reviewed a case for which public prosecution has been initiated, where the indictment shows clear facts for a charged crime, it should decide to hold a trial."</p>
<p>六十八、将第一百五十一条改为第一百八十二条，修改为：“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。</p>	<p>68. Article 151 is changed to Article 182 and amended to read: "After the people's court has decided to hold a trial, it should determine the members of the judicial panel and deliver a copy of the indictment by the people's prosecutor's office to the defendant no later than ten days prior to the hearing.</p>
<p>“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。</p>	<p>"Prior to the hearing, the adjudicators may convene the public prosecutor, the defendant and the defender, and the agent <i>ad litem</i>, to find out about issues related to the trial, such as recusal, witness lists and exclusion of illegally obtained evidence, and to hear their opinions.</p>
<p>“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</p>	<p>"After the people's court has set the court date, it should notify the people's prosecutor's office of the date and venue of hearing, summons the defendant, notify the defender, the</p>

<p>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。</p>	<p>agents <i>ad litem</i>, the witnesses, the forensic examiners, and the interpreters. The summons and notification should be served at least three days prior to the court date. In respect to open trial cases, the people's court should announce a summary of the case, the name of the defendant, the court time and the venue three days prior to the hearing.</p>
<p>“上述活动情形应当写入笔录，由审判人员和书记员签名。”</p>	<p>“The above activities should be documented, and the documentation signed by the adjudicators and court clerk.”</p>
<p>六十九、将第一百五十二条改为第一百八十三条，修改为：“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。</p>	<p>69. Article 152 is changed to Article 183 and amended to read: "Cases of first instance in a people's court should be heard in public. However, cases involving state secrets or privacy are not to be heard in public. Where the party applies for closed hearing in a case involving trade secrets, a closed hearing may be conducted.</p>
<p>“不公开审理的案件，应当当庭宣布不公开审理的理由。”</p>	<p>“The reason for not hearing a case in public should be announced in court.”</p>
<p>七十、将第一百五十三条改为第一百八十四条，修改为：“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。”</p>	<p>70. Article 153 is changed to Article 184 and amended to read: “When a people's court tries a public prosecution case, a people's prosecutor's office should send a member to be present before the court to support the prosecution.”</p>
<p>七十一、增加二条，作为第一百八十七条、第一百八十八条：</p>	<p>71. Two new articles are inserted as Articles 187 and 188:</p>
<p>“第一百八十七条 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。</p>	<p>“Article 187 Where a written testimony by a witness has material influence on the determination of conviction or a sentence and where the public prosecutor, the party or the defender, or the agent <i>ad litem</i> objects to such testimony, and the people's court believes it to be necessary for a witness to appear before court to testify, the witness should do so.</p>
<p>“人民警察就其执行职务时目击的犯罪情况作</p>	<p>“Where a member of the people's police appears before court to give a testimony about a</p>



<p>为证人出庭作证，适用前款规定。</p>	<p>crime that he was an eye-witness to while on duty, the provisions of the above paragraph are to be applied.</p>
<p>“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。</p>	<p>“Where the public prosecutor, the party or the defender, or the agent <i>ad litem</i> objects to the opinion of a forensic examiner, and the people's court believes it to be necessary for a forensic examiner to appear before court, the forensic examiner should appear to give testimony. Where a forensic examiner has been notified by the people's court but has not appeared for the testimony, the opinion of such forensic examiner may not be used as a basis for a decision.</p>
<p>“第一百八十八条 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。</p>	<p>“Article 188 Where a people's court notifies a witness to appear before court for testimony, and the witness has not appeared before court for no good reason, the people's court may compel the witness to appear, unless the witness is a spouse, parent or child of the defendant.</p>
<p>“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。”</p>	<p>“Where the witness refuses to appear before court without good reason or refuses to testify during his appearance, the witness is to be admonished; if the circumstances are grave, the witness is to be committed to detention of not more than ten days upon approval by the president of the court. Where a witness committed to detention is not satisfied with the detention decision, he may appeal to the next higher people's court for reconsideration. During the review, the detention is not to be suspended.”</p>
<p>七十二、将第一百五十九条改为第一百九十二条，增加一款，作为第二款：“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。”</p>	<p>72. Article 159 is changed to Article 192 and a new paragraph is inserted as Paragraph 2 to read: “The prosecutor, the defendant and the defender, and the agent <i>ad litem</i> may apply to the court for persons with specific expertise to appear before court to present their opinion on the opinion provided by a forensic examiner.”</p>
<p>增加一款，作为第四款：“第二款规定的有专门</p>	<p>A new paragraph is inserted as Paragraph 4: “Where persons with specific expertise appear</p>

知识的人出庭，适用鉴定人的有关规定。”	before court as provided under Paragraph 2, the provisions on forensic examiners apply."
七十三、将第一百六十条改为第一百九十三条，修改为：“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。”	73. Article 160 is changed to Article 193 and amended to read: "During the court hearing, all facts relevant to conviction and sentencing should be examined 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。”	“Upon the presiding judge’s permission, the public prosecutor, the defendant and the defender, and the agent <i>ad litem</i> may state and argue about their opinions on the evidence and the circumstances of the case.
“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 the debates to be over, the defendant has the right to present a final statement.”
七十四、将第一百六十三条改为第一百九十六条，第二款修改为：“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。”	74. Article 163 is changed to Article 196 and Paragraph 2 is amended to read: "If the judgment on a case is pronounced in court immediately following the trial, the written judgment should be served on the party and the people’s prosecutor’s office initiating the public prosecution within five days. If the judgment is to be pronounced later on a designated date, the written judgment should be served on the party and the people’s prosecutor’s office initiating the case immediately after the pronouncement. The written judgment should be simultaneously served on the defender and the agent <i>ad litem</i> .”
七十五、将第一百六十四条改为第一百九十七条，修改为：“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。”	75. Article 164 is changed to Article 197 and amended to read: "The written judgment should be signed by members of the judicial panel and by the court clerk, and clearly indicate the deadline for appeal and the name of the appellate court.”
七十六、将第一百六十五条改为第一百九十八条，第三项修改为：“由于申请回避而不能进行审判的。”	76. Article 165 is changed to Article 198, and Paragraph 3 thereof is amended to read: "If the trial cannot proceed because recusal is applied for.”
七十七、增加一条，作为第二百条：“在审判过	77. A new Article is inserted as Article 200: "During a trial, a hearing may be suspended if a

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：	case cannot be heard further for a relatively long period of time due to any of the following circumstances:
“（一）被告人患有严重疾病，无法出庭的；	“(1) The defendant falls seriously ill and are unable to attend court;
“（二）被告人脱逃的；	“(2) The defendant escapes;
“（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 falls seriously ill and is unable to attend court, and an agent <i>ad litem</i> is not appointed; or
“（四）由于不能抗拒的原因。	“(4) A force majeure event occurs.
“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。”	“The hearing should be resumed after the reason for the suspension has lapsed. The duration of suspension is not to be included in the trial period.”
七十八、将第一百六十八条改为第二百零二条，第一款修改为：“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，以及有本法第一百五十六条规定情形之一的，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。”	78. Article 168 is changed to Article 202 and Paragraph 1 thereof is amended to read: “When a people’s court hears a public prosecution case, it should pronounce its judgment within two months, and no later than three months, after admission of such case. In cases punishable by death and cases with adjoining civil action, and in cases falling under one of the circumstances provided in Article 156 of this law, subject to approval by the people’s court of the next higher level, the trial period may be extended by three months. Where the trial period needs to be extended further due to exceptional circumstances, application should be made to the Supreme People’s Court for approval.”
七十九、将第一百七十二条改为第二百零六条，修改为：“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。本法第二百零四条第三项规定的案件不适用调解。	79. Article 172 is changed to Article 206, and amended to read: “The people's court may conduct mediation in a case of private prosecution; the private prosecutor may settle the case with the defendant or withdraw the case anytime before judgment is pronounced. Mediation does not apply to cases provided for under Article 204.
“人民法院审理自诉案件的期限，被告人被羁押	“Where the people’s court hears a private prosecution case, the trial period is subject to

的，适用本法第二百零二条第一款、第二款的规定；未被羁押的，应当在受理后六个月以内宣判。”	Article 202 Paragraphs 1 and 2 of this law if the defendant is in detention; and six months if the defendant is not in detention.”
八十、将第一百七十四条改为第二百零八条，修改为：“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：	80. Article 174 is changed to Article 208 and amended to read: “For cases that fall within the jurisdiction of a basic-level people’s court, a summary procedure may be applied if the following conditions are met:
“（一）案件事实清楚、证据充分的；	“(1) The facts of a case are clear and sufficient evidence exists;
“（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 confesses to the crimes he committed and does not object to the criminal facts charged; and
“（三）被告人对适用简易程序没有异议的。	“(3) The defendant agrees to the use of a 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 a people’s prosecutor’s office initiates public prosecution, it may suggest to the people’s court to apply a summary procedure.”
八十一、增加一条，作为第二百零九条：“有下列情形之一的，不适用简易程序：	81. A new article is inserted as Article 209 to read: “No summary procedure is to be used under any of the following circumstances:
“（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, mute or deaf; or is a mentally ill person who has not completely lost his capacity to comprehend or control his behavior;
“（二）有重大社会影响的；	“(2) The case has a big impact on the public;
“（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；	“(3) Some defendants in a jointly committed crime have not pleaded guilty or object to the use of summary procedure; or
“（四）其他不宜适用简易程序审理的。”	“(4) Other reasons exist against the use of summary procedure.”

<p>八十二、将第一百七十五条改为第二百一十条，修改为：“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。”</p>	<p>82. Article 175 is changed to Article 210 and amended to read: “In cases where a summary procedure is applied and where imprisonment of less than three years may be imposed, the trial may be conducted by a judicial panel or a single adjudicator; where imprisonment of more than three years may be imposed, a judicial panel should be formed to hear the case.</p>
<p>“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。”</p>	<p>“The people’s prosecutor’s office should assign members to attend court in public prosecution cases where summary trial procedure is applied.”</p>
<p>八十三、增加一条，作为第二百一十一条：“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。”</p>	<p>83. A new article is inserted as Article 211 to read: “Where summary procedure is applied, the adjudicators should ask the defendant about his opinion on the criminal facts charged, advise the defendant of the legal provisions on the summary procedure and find out whether the defendant agrees to the use of summary procedure.”</p>
<p>八十四、将第一百七十六条改为第二百一十二条，修改为：“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与公诉人、自诉人及其诉讼代理人互相辩论。”</p>	<p>84. Article 176 is changed to Article 212 and amended to read: “In cases where a summary procedure is applied, upon the adjudicator’s permission, the defendant and his defender may engage in arguments with the public or private prosecutor and his agent <i>ad litem</i>.”</p>
<p>八十五、将第一百七十七条改为第二百一十三条，修改为：“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。”</p>	<p>85. Article 177 is changed to Article 213 and amended to read: “Cases where a summary procedure is applied are not subject to the procedural provisions in Section 1 of this chapter on service periods, interrogation of defendants, questioning of witnesses and forensic examiners, presentation of evidence and court arguments. The above notwithstanding, the final statement of the defendant should be heard prior to the pronouncement of the judgment.”</p>
<p>八十六、将第一百七十八条改为第二百一十四</p>	<p>86. Article 178 is changed to Article 214 and amended to read: “In cases where a summary</p>

<p>条，修改为：“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。”</p>	<p>procedure is applied, the people's court should conclude the case within 20 days after admitting the case; where imprisonment of more than three years may be imposed, the period may be extended up to one and a half months.”</p>
<p>八十七、将第一百八十七条改为第二百二十三条，第一款修改为：“第二审人民法院对于下列案件，应当组成合议庭，开庭审理：</p>	<p>87. Article 187 is changed to Article 223 and Paragraph 1 thereof is amended to read: “The people's court of second instance should form a judicial panel to hold a court hearing for any of the following cases:</p>
<p>“（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；</p>	<p>“(1) Appeal cases where the defendant or private prosecutor and his statutory representative object to the facts found or evidence admitted in the first instance and where the conviction or sentence might be changed by such facts and evidence;</p>
<p>“（二）被告人被判处死刑的上诉案件；</p>	<p>“(2) Appeal cases where the defendant has been sentenced to death;</p>
<p>“（三）人民检察院抗诉的案件；</p>	<p>“(3) Cases appealed by a people's prosecutor's office; and</p>
<p>“（四）其他应当开庭审理的案件。</p>	<p>“(4) Other cases for which a court hearing should be held.</p>
<p>“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。”</p>	<p>“When the people's court of second instance decides not to hold a hearing, it should hear the opinion of the defendant and other parties, the defender and the agent <i>ad litem</i>.”</p>
<p>八十八、将第一百八十八条改为第二百二十四条，修改为：“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</p>	<p>88. Article 188 is changed to Article 224 and amended to read: “In cases appealed by a people's prosecutor's office and in public prosecution cases where the people's court of second instance holds a hearing, the people's prosecutor's office at the same level should assign members to attend the hearing. The people's court of second instance should, after it has decided to hold a court hearing, promptly notify the people's prosecutor's office to review the case file and the people's prosecutor's office should finish such review within one month. The duration of review is not to be included in the trial period.”</p>

<p>期限。”</p>	
<p>八十九、将第一百八十九条改为第二百二十五条，增加一款，作为第二款：“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。”</p>	<p>89. Article 189 is changed to Article 225 and a new paragraph is inserted as Paragraph 2 to read: “Where the original people’s court has made a decision on a case remanded to it for a new trial (<i>chongshen</i>) pursuant to Subparagraph 3 of the preceding paragraph and the defendant or the people’s prosecutor’s office files an appeal, the people’s court of second instance should make a judgment or order in accordance with the law and may not remand the case to the original people’s court for further trial.”</p>
<p>九十、将第一百九十条改为第二百二十六条，第一款修改为：“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。”</p>	<p>90. Article 190 is changed to Article 226, and Paragraph 1 thereof is amended to read: “Where a people’s court of second instance hears a case appealed by the defendant or his statutory representative, defender, or close relative, the punishment of the defendant may not be increased. Where a people’s court of second instance remands a case to the original people’s court for a new trial, the original people’s court also may not increase the punishment of the defendant, except where new criminal facts are found and the people’s prosecutor’s office initiates supplementary prosecution.”</p>
<p>九十一、将第一百九十六条改为第二百三十二条，修改为：“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，以及有本法第一百五十六条规定情形之一的，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。</p>	<p>91. Article 196 is changed to Article 232 and amended to read: “Where a people’s court of second instance admits an appeal by the defendant or prosecutor, it should conclude the case within two months. In cases punishable by death and cases with adjoining civil action, and in cases falling under one of the circumstances provided in Article 156 of this law, subject to approval or decision by the high people’s court of a province, autonomous region or municipality, the period may be extended by two months. Where the period needs to be further extended due to exceptional circumstances, application should be made to the Supreme People’s Court for approval.</p>
<p>“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。”</p>	<p>“Where the Supreme People’s Court admits cases appealed by the defendant or the prosecutor, the time period to conclude the case is to be decided by the Supreme People’s</p>

	Court.”
九十二、将第一百九十八条改为第二百三十四条，修改为：“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。”	92. Article 198 is changed to Article 234 and amended to read: “The public security authority, the people’s prosecutor’s office and the people’s court should appropriately keep the criminal suspect’s and the defendant’s assets sealed, seized and frozen and the fruits accruing from them for inspection, and should make a list of the assets to be transferred with the case file. No entity or individual may misappropriate the assets or dispose of them without authorization. The lawful property of the victims should be returned to them promptly. Contraband items and articles not suitable for long-term storage should be disposed of according to 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。”	“Physical items to be used as evidence should be transferred with the case; for items unsuitable for transfer, their inventory and photos and other documents of certification should 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 of the people's court should include parts that deal with the assets sealed, seized and frozen and fruits accruing from them.
“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, relevant authorities should handle the assets sealed, seized, and frozen as well as fruits arising from them in accordance with the judgment. The illicit assets sealed, seized or frozen as well as the fruits accruing from them should be turned over to the state treasury, with the exception of those to be returned to the victim.
“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, misappropriates or without authorization disposes of the seized, sealed or frozen assets and the fruits accruing from them is to be prosecuted for criminal liability; if the offence does not constitute a crime, administrative sanctions are to be imposed.”
九十三、增加二条，作为第二百三十九条、第	93. Two new articles are inserted as Articles 239 and 240:



二百四十条：	
“第二百三十九条 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 239 When the Supreme People’s Court reviews a death penalty case, it should decide whether or not it approves the death sentence. Where it disapproves, it may remand the case for a new trial or change the sentence.
“第二百四十条 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 240 When the Supreme People’s Court reviews a death case, it should examine the defendant; if the defence attorney requests, it should hear the opinion of the defence attorney.
“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 death cases, the Supreme People’s Prosecutor’s Office may advise the Supreme People’s Court of its opinion. The Supreme People’s Court should report the result of the review to the Supreme People’s Prosecutor’s Office.”
九十四、将第二百零四条改为第二百四十二条，修改为：“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：	94. Article 204 is changed to Article 242 and amended to read: "If the complaint presented by a party and his statutory representative or close relatives falls into to any of the following circumstances, the people’s court should 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 to prove that the facts found in the original judgment or order are wrong, to the extent that the conviction and sentencing might be affected;
“（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 used to convict and sentence the defendant was not reliable or sufficient and should be have been excluded according to law; or the major pieces of evidence supporting the facts of the case contradict each other;
“（三）原判决、裁定适用法律确有错误的；	“(3) The application of law in making the original judgment or order was incorrect;
“（四）违反法律规定的诉讼程序，可能影响公正审判的；	“(4) There was a violation of legal procedure that might have affected the fairness of the trial;

<p>“（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。”</p>	<p>“(5) The adjudicators in trying the case committed acts of embezzlement, bribery, malpractices for personal gain, or bent the law in making judgment.”</p>
<p>九十五、增加一条，作为第二百四十四条：“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。”</p>	<p>95. A new article is inserted as Article 244 to read: "Where a higher people's court directs a lower people's court to retry (<i>zaishen</i>) a case, the higher people's court should direct a court other than the original people's court; where it is more appropriate for the original people's court to retry the case, the higher people's court may also direct this court to do so."</p>
<p>九十六、将第二百零六条改为第二百四十五条，修改为：“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。”</p>	<p>96. Article 206 is changed to Article 245 and amended to read: “Where a court tries a case <i>de novo</i> in accordance with the trial supervision procedure, if the original court holds the trial, a new judicial panel should be formed for this purpose. If the case was originally one of first instance, the trial should be held in accordance with the procedure for first instance cases, and the judgment or order may be appealed by both the defendant and the prosecutor; if the case was originally one of second instance, or a case brought up for trial (<i>tishen</i>) by a people's court at a higher level, the procedure for second instance cases should be followed, and the judgment or order rendered are final.</p>
<p>“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。”</p>	<p>“Where the people's court retries a case, the people's prosecutor's office at the same level should assign a prosecutor to attend the court.”</p>
<p>九十七、增加一条，作为第二百四十六条：“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。”</p>	<p>97. A new article is inserted as Article 246: “Where the people's court decides to retry a case, the people's court is to decide, according to law, whether the defendant is to be subject to compulsory measures; where the people's prosecutor's office initiates the retrial through appeal, the people's prosecutor's office is to decide, according to law, whether the defendant is to be subject to compulsory measures.</p>
<p>“人民法院按照审判监督程序审判的案件，可以</p>	<p>“Where the people's court hears a case under the trial supervision procedure, it may decide</p>

决定中止原判决、裁定的执行。”	to suspend the execution of the original judgment or order.”
九十八、将第二百一十三条改为第二百五十三条，第一款修改为：“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。”	98. Article 213 is changed to Article 253 and Paragraph 1 is amended to read: “When an offender is committed for enforcement of his punishment, the people’s court that commits the offender for enforcement should serve all relevant legal documents on the public security authority, prison or other enforcement authorities within 10 days upon the effectiveness of the judgment.”
第二款修改为：“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。”	Paragraph 2 is amended to read: “Offenders sentenced to death with a two-year reprieve, life imprisonment or fixed-term imprisonment should be committed to prison by the public security authority to enforce the punishment. For offenders sentenced to fixed-term imprisonment in respect of which the remaining term prior to commitment is less than three months, the sentence should be enforced by a detention facility instead. For offenders sentenced to criminal detention ( <i>ju yi</i> ), the sentence should be enforced by a public security authority.”
九十九、将第二百一十四条改为第二百五十四条，修改为：“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：	99. Article 214 is changed to Article 254 and amended to read: “A sentence may be temporarily enforced outside prison for any offender sentenced to fixed-term imprisonment or criminal detention who is:
“（一）有严重疾病需要保外就医的；	“(1) 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) a pregnant woman or a woman currently breastfeeding her own infant; or
“（三）生活不能自理，适用暂予监外执行不致危害社会的。	“(3) unable to take care of himself and where temporary enforcement outside prison does not pose a risk to the public.
“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。	“In respect of offenders sentenced to life imprisonment, the sentence may be temporarily enforced outside prison where circumstances under Subparagraph 2 of the preceding paragraph exist.

<p>“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。”</p>	<p>“Where an offender to be released on bail for medical treatment may pose a risk to the public or harm or mutilate himself, the offender should not be granted bail for medical treatment.</p>
<p>“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。”</p>	<p>“Where an offender is seriously ill and must be released on bail for medical treatment, a hospital designated by the provincial people's government should provide a diagnosis and issue documents of proof.</p>
<p>“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。”</p>	<p>“Any temporary enforcement of a sentence outside prison prior to commitment of the offender is to be decided by the people's court committing the offender for the enforcement of punishment. Any temporary enforcement of a sentence outside prison after the offender is committed to prison requires, upon suggestion by the prison or detention facility, approval of the authority for prison administration at the provincial level or above, or the public security authority of a municipality divided into precincts or above.”</p>
<p>一百、增加一条，作为第二百五十五条：“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。”</p>	<p>100. A new article is inserted as Article 252: “Where a prison or detention facility provides a written suggestion on temporary enforcement of a sentence outside prison, it should serve a copy of such suggestion on the people's prosecutor's office. The people's prosecutor's office may furnish a written suggestion to the deciding or approving authority.”</p>
<p>一百零一、将第二百一十五条改为第二百五十六条，修改为：“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。”</p>	<p>101. Article 215 is changed to Article 256 and amended to read: “The authority deciding or approving temporary enforcement of a sentence outside prison should send a copy of such decision to the people's prosecutor's office. Where the people's prosecutor's office considers the decision inappropriate, it should, within one month upon receiving the notice, submit its opinions in writing to the authority that has decided or approved temporary enforcement of sentence outside prison. The deciding or approving authority, upon receiving the written opinions, should immediately reconsider such decision.”</p>

<p>一百零二、将第二百一十六条改为第二百五十七条，修改为：“对暂予监外执行的罪犯，有下列情形之一的，应当及时收监：</p>	<p>102. Article 216 is changed to Article 257 and amended to read: “Offenders whose sentence is temporarily enforced outside prison should promptly be taken back to prison in any of the following circumstances:</p>
<p>“（一）发现不符合暂予监外执行条件的；</p>	<p>“(1) It is discovered that the conditions for temporary enforcement of punishment outside prison are not met;</p>
<p>“（二）严重违反有关暂予监外执行监督管理规定的；</p>	<p>“(2) The provisions on the supervision and administration of temporary enforcement of punishment outside prison are violated materially; or</p>
<p>“（三）暂予监外执行的情形消失后，罪犯刑期未届满的。</p>	<p>“(3) The reason for temporary enforcement of punishment outside prison has lapsed and the term of punishment has not expired.</p>
<p>“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。</p>	<p>“Where offenders that are granted by a people’s court temporary enforcement of punishment outside prison should be taken back to prison, the decision on such committal should be made by the people’s court. The court should serve any relevant legal documents on the public security authority, prison or other enforcement authorities.</p>
<p>“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。</p>	<p>“Where offenders do not meet the conditions of temporary enforcement outside prison and are granted such enforcement by means of bribery and other illegal means, the duration of enforcement outside prison will not be included in the term of punishment. Where an offender escapes during temporary enforcement outside prison, the duration of escape will not be included in the term of punishment.</p>
<p>“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。”</p>	<p>“Where an offender dies during temporary enforcement outside prison, the enforcement authority should notify the prison or detention facility promptly.”</p>
<p>一百零三、将第二百一十七条改为第二百五十八条，修改为：“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</p>	<p>103. Article 217 is changed to Article 258 and amended to read: “Where an offender in respect of whom surveillance is imposed, or suspended sentence, parole or temporary enforcement outside prison has been pronounced, the offender is to be subject to</p>

正，由社区矫正机构负责执行。”	community correction; a community correction authority is to be responsible for enforcing such sentence.”
一百零四、将第二百一十八条改为第二百五十九条，修改为：“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。”	104. Article 218 is changed to Article 259 and amended to read: “Where an offender has been sentenced to be deprived of his political rights, the sentence will be enforced by a public security authority. Upon expiration of the sentence, the enforcing authority should notify the convict in person, as well as his workplace and the basic-level organizations of his place of residence.”
一百零五、将第二百二十一条改为第二百六十二条，第二款修改为：“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。”	105. Article 221 is changed to Article 262 and Paragraph 2 thereof is amended to read: “Where an offender sentenced to surveillance, criminal detention, fixed-term imprisonment or life imprisonment shows genuine remorse or exhibits good behavior during the enforcement period, and where the sentence should be commuted or parole awarded according to law, the enforcing authority should submit a written suggestion to the people’s court for decision and serve a copy of the suggestion on the people’s prosecutor’s office. The people’s prosecutor’s office may furnish a written opinion to the people’s court.”
一百零六、增加一编，作为第五编：“特别程序”。	106. A new part is inserted as Part 5 to read: “Special Procedures”.
一百零七、增加一章，作为第五编第一章：	107.A new chapter is inserted as Chapter 1 of Part 5:
“第一章 未成年人刑事案件诉讼程序	“Chapter 1 Procedures for Cases of Juvenile Crime
“第二百六十六条 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 266 Juveniles committing a crime are to be educated, reformed and rehabilitated on the basis of ‘applying primarily educational measures and regarding punitive sanctions as ancillary means’.
“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	“In handling juvenile crime cases, the people’s courts, the people’s prosecutor’s offices and the public security authorities should ensure that the juvenile exercises his procedural rights and receives legal support, and that such cases are handled by adjudicators, prosecutors and

<p>成年人身心特点的审判人员、检察人员、侦查人员承办。</p>	<p>investigators that understand the physical and psychological characteristics of juveniles.</p>
<p>“第二百六十七条 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。</p>	<p>“Article 267 Where a juvenile suspect or defendant has not appointed a defender, the people's court, the people's prosecutor's office and the public security authority should notify a legal aid organization to assign an attorney to defend the suspect or defendant.</p>
<p>“第二百六十八条 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。</p>	<p>“Article 268 When the public security authority, the people's prosecutor's office and the people's court handle juvenile criminal cases, they may, as appropriate, investigate the juvenile suspect or defendant with respect to, inter alia, their life experience, the reasons for criminal offences, and their guardianship and educational background.</p>
<p>“第二百六十九条 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。</p>	<p>“Article 269 Measures of arrest imposed on a juvenile suspect or defendant should be taken in a strictly restrictive manner. When a people's prosecutor's office reviews and approves the arrest application and a people's court decides on an arrest, they should question the juvenile suspect or defendant and hear the defence attorney's opinion.</p>
<p>“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。</p>	<p>“Juveniles that have been held in custody, arrested or are serving their punishment should be detained, administered and educated separately from adults.</p>
<p>“第二百七十条 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</p>	<p>“Article 270 In cases of juvenile crime, the statutory representative of the suspect or defendant should be notified to be present during the interrogation and trial. Where a notice cannot be served, the statutory representative is unable to attend or the statutory representative is a co-offender, other close adult relatives of the suspect or the defendant, the representative of his school, of his place of work, or of the basic-level organizations at his place of residence, or of a juvenile protection organization, may be notified to be present, and such circumstances should be documented. The statutory representative</p>

<p>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。</p>	<p>present may exercise the procedural rights on behalf of the suspect or defendant.</p>
<p>“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。</p>	<p>“Where the statutory representative or another person present believes that the legitimate rights and interests of the juvenile have been infringed during the interrogation or trial, he may express his opinion thereon. The interrogation or court records should be given on the spot to the statutory representative or other persons present to read or should be read out to them.</p>
<p>“讯问女性未成年犯罪嫌疑人，应当有女工作人员在场。</p>	<p>“Where female juvenile suspects of a crime are interrogated, a female officer should be present.</p>
<p>“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。</p>	<p>“In the trial of a juvenile crime, after the juvenile defendant makes the final statement, the statutory representative may add a statement.</p>
<p>“询问未成年被害人、证人，适用第一款、第二款、第三款的规定。</p>	<p>“Where a juvenile victim or witness is questioned, the provisions in Paragraphs 1, 2 and 2 apply.</p>
<p>“第二百七十一条 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。</p>	<p>“Article 271 The people's prosecutor's office may grant conditional non-prosecution to juveniles if they are suspected of any of the crimes set forth in Chapters 4, 5 and 6 of the Special Provisions of the Criminal Law, punishable by imprisonment of less than one year and eligible for prosecution, but show remorse. The people's prosecutor's office should, prior to granting conditional non-prosecution, hear the opinion of the public security authority and the victim.</p>
<p>“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，适用本法第一百七十五条、第一百七十六条的规定。</p>	<p>“Where a decision is made to grant conditional non-prosecution, if the public security authority requests reconsideration or applies for review of such decision; or if the victim complains about the decision, the provisions of Articles 175 and 176 of this law apply.</p>



<p>“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。</p>	<p>“Where the juvenile suspect and his statutory representative object to the decision by a people’s prosecutor’s office to grant conditional non-prosecution, the people’s prosecutor’s office should decide to prosecute.</p>
<p>“第二百七十二条 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。</p>	<p>“Article 272 During the probation period for conditional non-prosecution, a people’s prosecutor’s office should oversee and observe the suspect conditionally exempt from prosecution. The guardian of the suspect should strictly discipline the suspect and assist the people’s prosecutor’s office in it’s oversight and observation.</p>
<p>“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。</p>	<p>“The probation period for conditional non-prosecution is six to twelve months and commences on the day of the decision by a people’s prosecutor’s office to grant conditional non-prosecution.</p>
<p>“被附条件不起诉的未成年犯罪嫌疑人，应当遵守下列规定：</p>	<p>“Juvenile criminal suspects that are conditionally exempt from prosecution should:</p>
<p>“（一）遵守法律法规，服从监督；</p>	<p>“(1) comply with the law and regulations, and obey the supervision;</p>
<p>“（二）按照考察机关的规定报告自己的活动情况；</p>	<p>“(2) report their activities in accordance with the regulations of the probation authority;</p>
<p>“（三）离开所居住的市、县或者迁居，应当报经考察机关批准；</p>	<p>“(3) apply for approval of the probation authority when they wish to leave their residential city or county or move; and</p>
<p>“（四）按照考察机关的要求接受矫治和教育。</p>	<p>“(4) receive correction or education as required by the probation authority.</p>
<p>“第二百七十三条 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</p>	<p>“Article 273 A people’s prosecutor’s office should rescind its decision to conditionally exempt a criminal suspect from prosecution and initiate public prosecution if the suspect is, during the probation period, found to:</p>

公诉:	
“(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) have committed a new crime or have committed another prosecutable crime prior to being granted conditional non-prosecution; or
“(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。	“(2) have broken administrative provisions on public order or the provisions by the observing authority on the supervision and management of suspects conditionally exempt from prosecution, and the circumstances are grave.
“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予起诉的决定。	“Where none of the circumstances above applies to the suspect conditionally exempt from prosecution during the probation period, the people's prosecutor's office should, upon expiration of the probation period, decide not to prosecute.
“第二百七十四条 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 274 No public hearing is to be held in cases where the defendant is under the age of 18 at the time of the trial. If, however, the juvenile defendant and his statutory representative agree, the defendant's school or a child protection organization may send a representative to attend the trial.
“第二百七十五条 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 275 Where an offender was under the age of 18 at the time of a crime and is sentenced to imprisonment of less than five years, relevant records of the crime should be sealed.
“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。	“Where the records of a crime are sealed, they may not be disclosed to any organization or individual, save where they are required by a judicial authority for handling a case or by a relevant organization that is conducting an inquiry in accordance with the regulations of the state. Organizations conducting a lawful inquiry should maintain confidentiality of the information in the records sealed.
“第二百七十六条 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	“Article 276 Cases involving juvenile crimes should, unless provided for in this chapter, be handled in accordance with the other provisions set forth in this law.”

行。”	
一百零八、增加一章,作为第五编第二章:	108. A new chapter is inserted as Chapter 2 of Part 5 to read:
“第二章 当事人和解的公诉案件诉讼程序	“Chapter 2 Procedures for Reconciliation between Parties in Public Prosecution Cases
“第二百七十七条 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 277 Where the suspect or defendant sincerely expresses his remorse and obtains the forgiveness of the victim by means of compensation or apology to the victim, and the victim voluntarily agrees to reconcile, the two parties may reconcile in any of the following public prosecution cases:
“(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) cases of a crime caused by a civil dispute and falling under Chapters 4 and 5 of the Special Provisions of the Criminal Law, and for which imprisonment of less than three years may be passed; and
“(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) cases of a crime of negligence for which imprisonment of less than seven years may be passed, except for crimes of breach of official 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 the suspect or defendant has committed an intentional crime within the past five years, the procedures provided in this chapter do not apply.
“第二百七十八条 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 278 Where both parties agree to reconcile, the public security authority, the people's prosecutor's office and the people's court should hear the opinions of the parties and other relevant persons, review the voluntariness and legality of reconciliation, and direct the formulation of a reconciliation agreement.
“第二百七十九条 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,可以作出不起起诉的决定。人民法院可以依法对	“Article 279 In cases for which a reconciliation agreement is reached, the public security authority may suggest to the people's prosecutor's office to treat the defendant with leniency. The people's prosecutor's office may suggest to the people's court to pass a lenient punishment; for minor offences that do not require a punishment, the people's prosecutor's office may decide not to prosecute. The people's court may treat the

被告人从宽处罚。”	defendant with leniency in accordance with the law.”
一百零九、增加一章,作为第五编第三章:	109. A new chapter is inserted as Part 5 of Chapter 3 to read:
“第三章 犯罪嫌疑人、被告人逃匿、死亡案件违法所得的没收程序	“Chapter 3 Procedures for the Confiscation of Illegal Earnings in Cases Where the Suspect or Defendant Has Absconded or Died
“第二百八十条 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 280 In cases of crimes of corruption and bribery, terrorism and other serious crimes, where the suspect or defendant has absconded and fails to appear before court one year after an arrest warrant has been issued, or where the suspect or defendant is dead, and the illegal earnings or other assets of the suspect or the defendant related to the case should be recovered pursuant to the provisions of the criminal law, the people's prosecutor's office may apply to a people's court for confiscation of such illegal earnings.
“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。	“Where the public security authority believes the circumstances provided for in the previous paragraph exist, it should make a written suggestion for confiscation and submit that to the people's prosecutor's office.
“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 suggestion for confiscation of illegal earnings should provide evidentiary materials related to the criminal facts and illegal earnings, and show the type, quantity, and location of the assets and their state of seizure, sealing or freezing.
“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, the people's court may seize, seal or freeze the assets for which confiscation has been applied for.
“第二百八十一条 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 281 An application for confiscation of illegal earnings should be heard by a judicial panel formed by the intermediate people's court of the place where the crime was committed or where the residence of the suspect or defendant is located.
“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	“The people's court should, after admitting an application for confiscation of illegal earnings, issue a public notice. The duration of the public notice is six months. The close

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。	relatives of the suspect or defendant and other interested parties may apply to participate in the proceedings or appoint an agent <i>ad litem</i> to participate in the proceedings.
“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。”	“The people’s court should, after expiration of the public notice, conduct a hearing on the application for confiscation of illegal earnings. If the interested parties participate in the proceedings, the people’s court should hold a hearing.
“第二百八十二条 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 282 A people’s court should, after a hearing, order the confiscation of assets found to be illegal earnings or to be other assets associated with the case, save the portion that should be returned to the victim in accordance with the law; if assets are found not to be illegal earnings, the application should be rejected and measures of seizure, sealing or freezing rescinded.
“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。”	“The close relatives of the criminal suspect or the defendant, other interested parties, and the people’s prosecutor’s office may submit an appeal against orders made by the people’s court pursuant to the preceding paragraph.
“第二百八十三条 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 283 During a court hearing, where an absconded suspect or defendant surrenders voluntarily or is captured, the people’s court should terminate the hearing.
“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 assets of the suspect or defendant are wrongly confiscated, the assets should be returned and compensations made.”
一百一十、增加一章,作为第五编第四章:	110. A new chapter is inserted as Chapter 4 of Part 5:
“第四章 依法不负刑事责任的精神病人的强制医疗程序	“Chapter 4 Compulsory Medical Procedures for Mentally Ill Persons Excluded from Criminal Liability according to Law
“第二百八十四条 实施暴力行为,危害公共安	“Article 284 Where a mentally ill person carries out violent acts that endanger public

<p>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。</p>	<p>security or seriously endanger the personal safety of citizens, and such person has been determined through legal procedures to be excluded from criminal liability under the law, if he may pose a further risk to the public, he may be subject to compulsory medical treatment.</p>
<p>“第二百八十五条 根据本章规定对精神病人强制医疗的,由人民法院决定。</p>	<p>“Article 285 Where a mentally ill person is to be subject to compulsory medical treatment according to this chapter, such decision should be made by the people's court.</p>
<p>“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。</p>	<p>“If the Public Security authority discovers that a mentally ill person meets conditions for compulsory medical treatment, it should make a suggestion for such treatment and submit it to the people's prosecutor's office. Where the people's prosecutor's office considers that the mentally ill person suggested by the public security authority or identified during its own review process meets conditions for compulsory medical treatment, it should apply to the people's court for an order for such treatment. Where the people's court finds during the hearing of a case that the defendant meets the conditions for compulsory medical treatment, it may decide to impose such treatment.</p>
<p>“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。</p>	<p>“Where a mentally ill person has committed an act of violence, prior to a decision on compulsory medical treatment by a people's court, the public security authority may impose temporary restrictive measures for protection.</p>
<p>“第二百八十六条 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。</p>	<p>“Article 286 When the people's court admits an application for compulsory medical treatment, it should form a judicial panel for the hearing.</p>
<p>“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,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。</p>	<p>“When a people's court hears a case on compulsory medical treatment, it should notify the statutory representative of the person subject to the application or the defendant to appear before court. If the person subject to the application or the defendant has not appointed an agent <i>ad litem</i>, the people's court should notify the legal aid agency to assign an attorney for legal assistance.</p>

<p>“第二百八十七条 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。</p>	<p>“Article 287 Where the people’s court finds after hearing that the person subject to application or the defendant meets conditions for compulsory medical treatment, it should make a decision for such treatment within one month.</p>
<p>“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。</p>	<p>“Where the person subject to compulsory medical treatment, the victim or his statutory representative, or his close relatives are not satisfied with the decision for compulsory medical treatment, they may apply for reconsideration to the people’s court at the next higher level.</p>
<p>“第二百八十八条 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。</p>	<p>“Article 288 A facility for compulsory medical treatment should regularly diagnose and evaluate the condition of a person under such treatment. Where risks to personal safety no longer exist and compulsory medical treatment no longer needs to be imposed, the facility should promptly recommend the person’s discharge and report to the people’s court imposing compulsory medical treatment to approve the discharge.</p>
<p>“被强制医疗的人及其近亲属有权申请解除强制医疗。</p>	<p>“A person receiving compulsory medical treatment and his close relatives have the right to apply for rescission of such treatment.</p>
<p>“第二百八十九条 人民检察院对强制医疗的决定和执行实行监督。”</p>	<p>“Article 289 The people’s prosecutor’s office is to oversee the decision on and the enforcement of compulsory medical treatment.”</p>
<p>一百一十一、第九十九条、第一百二十六条、第一百二十七条、第一百三十二条、第一百四十六条、第一百六十六条、第一百七十一条、第一百九十二条、第一百九十三条中引用的条文序号根据本决定作相应调整。</p>	<p>111. The numbering of articles cited in Articles 99, 126, 127, 132, 146, 166, 171, 192 and 193 are to be adjusted based on this decision.</p>
<p>刑事诉讼法的有关章节及条文序号根据本决定作相应调整。</p>	<p>The numbering of the chapters, sections and articles in the Criminal Procedure Law are to be adjusted accordingly based on this decision.</p>

本决定自 2013 年 1 月 1 日起施行。	This decision is to take effect on January 1, 2013
《中华人民共和国刑事诉讼法》根据本决定作相应修改,重新公布。	The Criminal Procedure Law of the People's Republic Of China is to be amended in accordance with this decision and re-promulgated.

### Translator's Notes:

1. I have not used the word "shall" due to its abuse in English. I have translated the weaker form of obligation *yingdang* (should/ought to), into "should" and the stronger form of obligation *bixu* into "must". In particular, I have not, as far as possible, added either *should* or *must* when the source text uses a simple statement (i.e., without using *yingdang* or *bixu*) to impose an obligation.
2. The concept of "arrest" (*daibu*) should be understood in the Chinese legal context. A person may be arrested many days after he was taken into custody.
3. Under Chinese law, appeal by the prosecution is called "protest" (*kangsu*). In China, the prosecutor has the right to oversee if other departments (including the police and the court) have complied with the law. "Appeal" (*shangsu*) implies pleading a *higher authority* to do something. Since the prosecutor's office is legally higher than the court, it should not *appeal* to the court; but *protest against* the court's decision. Nevertheless, I have translated both *shangsu* and *kangsu* into appeal for easy understanding.
4. Under Chinese criminal procedure law, the questioning of a suspect/defendant is called *xunwen* (讯问 interrogation), and the questioning of other people (including the witness) is called *xunwen* (询问, questioning) (same pronunciation, different characters and tones). I have tried to follow the Chinese usage as closely as possible. But when the court or prosecutors office seeks more information from the accused to help them, using *interrogation* is obviously inappropriate. In such places, I have used *questioning* or other forms of expression.
5. I have not used the conventional *procuratorate* and *procurator* to translate *jianchayuan* and *jianchaguan*; instead I have used the more accessible terms *prosecutor's office* and *prosecutors*.
6. I have used the term *adhesive civil action* to translate *fudai minshi susong*, which is often translated into *incidental civil action*.



7. *Compulsory measures* means measures restricting a person's liberty.
8. The word *trial* is used for all instances of court hearing as they all involve determination of facts, and the Chinese term is the same *shenli*.
9. A retrial (new trial, trial de novo) may happen either before or after the judgment becomes final. In the former case, it is called *chongshen* ("repeat trial"), where by a superior remands a case to a lower court for a new hearing. In the latter case, it is called *zaishen* ("once-more trial"), and is initiated through the "trial supervision procedure"; very few cases are accepted for *zaishen*.
10. *Tishen* is similar to an action of *certiorari*.

*Translated by Li Changshuan, March 20, 2012.*