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Help for American Victims of Crime in China

[Please click on this link to read the Department of State's brochure for victims of crime.](#)

Being the victim of a crime in a foreign country can be a devastating and traumatic experience. While no one can undo the emotional trauma, physical injury, or financial loss you may have experienced, the U.S. Embassy in Beijing, China and the consulates in Shanghai, Guangzhou, Chengdu and Shenyang are ready to help. We are very concerned about violent crimes committed against U.S. citizens in China. We will assist you in managing the practical consequences of being a crime victim and provide you with information about accessing the local criminal justice system, as well as other resources for crime victims abroad and in the United States. This office can assist you to find appropriate medical care, can contact family or friends on your behalf, and can explain how funds can be transferred. We can also help you to better understand the criminal justice system in China, which is very different from the system in the United States.

The information included in this guide relating to the legal requirements in China is provided for general information purposes only. The information may not be accurate or relevant to a particular case. Questions involving interpretation of China's laws should be addressed to legal counsel licensed to practice law in China. The investigation and prosecution of the crime is solely the responsibility of local authorities. The Federal Bureau of Investigation (FBI) may assist local authorities in certain cases of kidnapping, hostage-taking and terrorism.

REPORTING CRIMES: The Criminal Law and Criminal Procedure Law of the People's Republic of China applies to anyone accused of committing a crime within China—including American citizens. This means that while in China, Americans do not enjoy many of the rights and presumptions to which they have grown accustomed under the American justice system, such as the presumption of innocence, the right to remain silent, or the right to an attorney. An individual can be detained—held against his/her will—without being arrested or being allowed to consult an attorney.

Victims of crime should file police reports at the nearest Public Security Bureau (PSB) in the jurisdiction where the crime occurred. While some large cities in China have experience handling foreigners who are victims of crimes, most cities in China do not. This may lengthen the amount of time spent accepting and investigating cases. Each city, county, and province has an Exit and Entry bureau. When crimes are reported to local police stations, the police officers often contact the Exit and Entry bureau in their district to have one of those officers take the case over. Victims of crime can call the Chinese "911" system by dialing 110 to ask where the nearest PSB is. In most cases, they will speak only Chinese, and not English. Police reports should be filed as early as possible. There is no rule limiting the amount of time that can pass between when a crime occurs and when it is reported by the victim, but the police may refuse to accept a case if they deem too much time has passed and the likelihood of finding and prosecuting the perpetrator is too low. While others can contact the PSB to report a crime on behalf of a victim, the report is not filed until the police have contacted the victim to confirm the facts of the case. Victims are then given a receipt saying the police are working on the case, but they are not given a copy of the report. In larger cities like Beijing, interpreters may be provided by the police, but smaller cities will not have interpreters available for foreign victims of crimes.

Serious crimes can be reported after a victim has left the country with the assistance of the U.S. Embassy or Consulate in the district where the crime occurred. Victims should prepare a very detailed account of the crime and send it to U.S. Embassy Beijing or the district's Consulate and request that it be transmitted to the appropriate authorities in China. Alternatively victims may send their detailed account to the American Citizen Services desk officer for China in Washington, DC . These cases often take longer than had the crime been reported in China and may not necessarily result in a prosecution of the perpetrator.

If you have difficulties filing your police report with an official, please contact the U.S. Embassy or Consulate immediately. You may need a police report to file for crime victim compensation or insurance reimbursement. If you do decide to file a report, please send a copy to us, along with your address, phone number, and e-mail address, in the event that we need to communicate with you. While we are not authorized to act as your legal representative, prosecutor, or investigator, our office can help you track the progress of your case and advise you of any developments.

INVESTIGATIONS: Many crime investigations never result in the arrest of a suspect. When the authorities believe a crime has or may have been committed, the Public Security Bureau (PSB)—analogous to the police—will conduct an investigation, during which they have broad search and seizure and examination powers. The PSB may interrogate anyone suspected of involvement in the crime. Interrogation may be conducted “on the spot” or individuals may be advised to appear at the PSB, or police station, for interrogation. The PSB may allow a suspect to remain out of custody, either with a guarantor (a person who guarantees that the suspect will remain in the area) or under surveillance, but the PSB also has the power to detain a suspect. In general, the PSB does not gather forensic evidence other than taking pictures of crime scenes. Rape victims do receive medical exams, but not to the same level as would be done in the United States. Victims should stay in close contact with the PSB officer handling their case to get information about the progress of the investigation and to report harassment or intimidation by the accused or their family or friends.

When a U.S. citizen who does not speak Chinese is brought in for interrogation, the PSB usually informs its Foreign Affairs Office or Exit and Entry Bureau, which will provide an English-speaking officer to translate during the interrogation. However, if an individual speaks some Chinese, they will expect him/her to speak in Chinese rather than English.

ARRESTS: During the investigation stage, the PSB has considerable discretion on whether or not to refer the case to the Procuracy. The Procuracy is the government body that is responsible for the issuance of arrest warrants and any supplementary pre-trial investigation during which victims are sometimes asked to identify perpetrators in-person or via photographs. These arrest warrants are required to start an official prosecution, and are different from the police's overall plenary power to arrest individuals. The PSB may decide not to refer a case for further investigation and arrest to the Procuracy if the PSB determines that there is inadequate evidence of guilt or that the circumstances of the crime do not warrant prosecution. If the PSB believes that it can prosecute a case, it has approximately 30 days to present the evidence to the Procuracy. The Procuracy then decides whether to bring the case to trial or give the PSB an additional 30 days to continue its investigation. Once the Procuracy decides to take a case to trial, the accused is arrested and held until the end of the trial. Victims must work through the Procuracy to keep informed of the case's progress, usually through the assistance of lawyers.

PRETRIAL PERIOD: Cases involving foreigners typically go straight to the local Intermediate People's Court, which handles both civil and criminal cases. Many cases that would be considered civil suits in the United States are tried as criminal cases in China. In these cases, victims are represented by their lawyers and work closely with the PSB and the Procuracy as the case develops. Victims are advised to hire lawyers if their cases reach a civil or criminal court. Unlike the United States, there are few or no victim advocates in China to advocate for the victim's interests. There is no distinction between misdemeanors and felonies in China. While the Chinese do not necessarily differentiate between

misdemeanors and felonies, they certainly take into account the monetary value of stolen goods; if the value exceeds a certain threshold, the penalties are much more severe. For "lesser" crimes, punishment is often at the discretion of the PSB, who have three options ranging from a warning to a fine to a few days in jail. The PSB also has the apparent authority to negotiate financial settlements for victims based upon the type of crime. For example, they can mandate that the guilty party pay for the victim's medical bills or replace property. There is an informal system of plea bargaining which depends on how cooperative the accused is in the investigation. The Procuracy and the judge determine how lenient or severe to be with the accused based on his/her level of cooperation.

TRIAL: If the Procuracy refers the case to the Intermediate People's Court, the Court will again review the case. If the Court decides to proceed to trial, conviction is virtually certain. It is only at this point of the prosecution that the defendant enjoys the right to counsel, often shortly before the trial itself. Defense attorneys are usually more concerned with showing mitigating circumstances in an effort to obtain a favorable sentence for their clients, rather than putting on a strong case in an attempt to contest guilt.

The People's Court is presided over by a judge and two "citizen assessors" or three judges in an important case. The structure of the trial is similar to that of an American trial: the Court hears the charges and evidence, including the examination of witnesses (although in reality few witnesses come or are permitted to come to court to testify). However, the Court is primarily focused on verifying the veracity of the evidence gathered by the PSB and the Procuracy.

The length of trials depends entirely on the severity of the crime and the complexity of the case. Some cases require one trial session while others can last for years. Victims work with the PSB and the Procuracy to determine their level of involvement in the trial. In the past, victims have given official statements to the Procuracy before departing China and work through the Chinese Embassy or Consulates in the United States to provide additional information for the Procuracy. Victims can also send written statements through the U.S. Embassy if it is agreed upon in advance with the Procuracy. Other people allowed in the courtroom depends on if the case is open or closed. In open cases, anyone with a valid ID can attend, except for the media who need a special permit from the court. In closed cases, the court has discretion to allow people in, but often opts to not let anyone witness the trial. Consular officers from the U.S. Embassy and its Consulates have attended trials in China in the past and may continue to do so, depending upon each individual situation. The court provides translation for witnesses who do not speak Chinese. There are no set rules or special protocol requirements in the courtroom, but people attending trials are expected to dress professionally and treat the court with respect.

SENTENCING: The defendant has an opportunity to make a public final statement at the end of the trial, during which he/she usually asks for leniency from the court. The victim is also given the right to speak to the court and ask for the court's assistance in prosecuting the defendant. Sentences are given at the end of the trial. The perpetrator's sentence can range from paying a fine to life imprisonment to the death penalty. Once sentenced, it can take up to a month to transfer a person found guilty from the local detention center to prison. The victim will have to work with the PSB and the detention officials to be notified when the perpetrator is transferred. Victims are not notified when perpetrators are released.

APPEALS: The accused can appeal, but appeals must be made within 10 days of sentencing. The court usually decides whether to approve the appeal within two weeks. If an appeal is approved, victims may be expected to answer additional questions or return to the court to testify anew. Each case is handled individually and the victim should continue to work with the Procuracy to assist in the new trial.

ATTORNEYS: You may want to consider hiring a local attorney to secure appropriate legal guidance. Local legal procedures differ from those in the United States. Although the Procuracy is responsible for prosecuting your case, an attorney who you hire can promote your interests with the police and the court. While the U.S. Embassy and U.S. consulates can not provide specific legal advice nor recommend specific attorneys, we can provide interested parties with a list of attorneys who have expressed interest in representing U.S. citizens in China. This list is available on the Internet at http://beijing.usembassy-china.org.cn/acs_legal.html.

VICTIM COMPENSATION IN CHINA: The Chinese government does not provide monetary compensation to crime victims, nor does China have a national crime victim assistance office. In some criminal cases, the perpetrator may be ordered to pay for various costs incurred by the victim due to the crime. The civil courts can order the perpetrator to pay restitution if the victim files a civil suit for damages. Perpetrators found innocent in the criminal branch of the courts may still be ordered to pay restitution in the civil courts.

EMBASSY LOCATION: Americans living or traveling in China are encouraged to register with the nearest U.S. Embassy or Consulate through the [State Department's travel registration website](#) so that they can obtain updated information on travel and security within China. Americans without internet access may register directly with the nearest U.S. Embassy or Consulate. By registering, American citizens make it easier for the Embassy or Consulate to contact them in case of emergency. The U.S. Embassy is located at No. 55 An Jia Lou Road, Chaoyang District, Beijing. The phone number is (8610) 8531-4000 and the fax number is (8610) 8531-3300. The email address is amcitbeijing@state.gov. The Consular section's website is <http://beijing.usembassy-china.org.cn/service.html>.

SPECIAL INFORMATION FOR CASES OF SEXUAL ASSAULT AND RAPE: Physical evidence is very important in sexual assault cases, and can deteriorate as time passes. As such, victims should not change clothes, avoid bathing if possible, and have a physical exam at the first opportunity. You should take these steps even if you are unsure about whether to report the crime to police. If you decide to pursue a prosecution at a later time, these steps preserve evidence that will assist the prosecutor. A consular officer or after-hours duty officer from the U.S. Embassy may be able to accompany victims of sexual assault for the medical exam.

Sexual assault and rape are both considered crimes in China. The legal definition of rape does not vary from region to region, but the severity of a rape is determined by the Public Security Bureau and can affect how aggressively the PSB responds to cases of rape or sexual assault.

Sexual assault exams are conducted in China, usually through the PSB, who would request the exam in order to gather evidence for a trial. Victims are usually sent to the local forensic medical examination center or to a local hospital for the exam. Victims may be asked to pay for the exams themselves, depending on the PSB in the region. Doctors conduct the exams at the forensic medical examination center or local hospital. Victims are usually allowed to bring a support person during the exam, which is recommended if possible. Forensic sexual assault exams generally involve a pelvic exam, vaginal/penile/anal swabs, fingernail scrapings, and blood samples. The PSB may also order the perpetrator to be examined to find evidence of having been scratched by the victim and to collect DNA samples.

In rape cases where the victim decides not to have a medical exam, the PSB may choose not to refer the case to the Procuracy for trial because they would lack key evidence to prosecute the perpetrator. Victims can file charges without the exam, but cases may not be brought to trial. Some Western hospitals have the capability to collect rape kits, but the PSB may have doubts about the veracity of results if presented significantly after the crime occurred.

The PSB interviews victims. There are usually at least two officers assigned to these types of cases. Support people can be present during PSB interviews. Acquaintance rape (date rape) is taken seriously in China, but spousal rape is not considered a crime.

Even if you decide not to press charges with the PSB, you should get medical attention to determine if you have been injured in any way and to discuss treatment and prevention options for pregnancy and sexually transmitted diseases. Emergency contraception (the morning-after pill; in Mandarin, yu ting-jin ji bi yun pian) is available in China through local pharmacies. The HIV prophylaxis is not available in China. The U.S. Embassy can provide you with a list of local doctors.

Unlike in the United States, there are no laws that protect the identity of sexual assault survivors. The media is generally not interested in rape/sexual assault cases.

Rape and sexual assaults are serious physical and emotional events. You may experience any of the following: grief, depression, fear, anxiety, anger, vulnerability or increased arousal (jumpy), isolation, loss of control over your life, avoidance, disassociation or numbness, guilt, shame, fear of intimacy, sexual dysfunction, loss of self-esteem, and even concern for the assailant or his/her family. You may suffer from post-traumatic stress disorder, re-experience the assault in flashbacks, suffer intrusive thoughts or panic attacks, feel physically ill in different ways, or even have thoughts of suicide.

Emotional support can help a survivor through the healing process after this traumatic event. You may want to confide in someone you trust, and follow up with professional counseling. Professional counseling is available in some hospitals. Contact the Embassy for a list of hospitals that may be able to provide this service. While there is no rape crisis hotline available in China, you can access anonymous online crisis counseling provided by the Rape, Abuse, and Incest National Network in the United States at <http://www.rainn.org/>.

SPECIAL INFORMATION FOR CASES OF DOMESTIC VIOLENCE: Domestic violence is considered a crime in China only when one party is seriously injured. In general, the PSB only takes action when an assault occurs and causes significant injury; for example, there have been some cases when they have not gotten involved because the victim did not suffer any broken bones.

China does not have a system of giving victims restraining orders and enforcing such orders. The PSB is more likely to suggest that victims find a safe place where the perpetrators cannot find them. There are no domestic violence shelters in China. Some universities have centers for women, but these tend to provide consultation services and legal advice rather than a safe place to stay. There is no domestic violence hotline, but victims can call the Chinese "911" hotline by dialing "110." In general, it is difficult to find operators who speak English. Please contact the Embassy for assistance in finding resources available to you.

Stalking is generally not a crime in China unless the person feels imminently threatened or the victim can prove that the stalking is in preparation for a crime against the victim. Victims should call the PSB to inform them of threats made against them.

SPECIAL INFORMATION FOR CASES OF CHILD ABUSE: The Public Security Bureau and the local courts are responsible for the protection of children under the law to protect women and children. The PSB and the courts have the authority to investigate allegations of child abuse. Suspected child abuse is reported directly to the PSB. Doctors are generally encouraged to report suspected child abuse, but no one else is mandated to do so. Children are generally not removed from homes if child abuse is suspected since there is no system to place children in safe environments such as foster homes or orphanages. The government runs a women's association that can help victims and their families with legal advice. However, this organization has no legal authority. Medical examinations are conducted at the request of the PSB through the forensic medical examination center or local hospital. Family members are often allowed to be present for these exams. Children are sometimes expected to testify

if the abuser is charged with a crime. However, the courts often accept written statements and presentation of photographs and other evidence in lieu of a personal appearance by the child. The PSB often works with victims to determine what is most appropriate and helps to prepare the child for the trial.

SPECIAL INFORMATION FOR CASES OF HOMICIDE: When a person is suspected to have died due to homicide, there is a mandatory forensic examination which is an external examination of the body. The Public Security Bureau may also decide to order an autopsy to get more information on the manner of death. Family members can request that an autopsy be performed. Family member statements are very important during the investigative phase, but family members are generally not active players during the prosecution of the perpetrator.

Estates are handled according to the will of the victim. If no will exists, the PSB generally takes custody of the estate until it can be given to the family.