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China: Structure of the police force; whether witness protection programs exist, or other forms of police or state protection for individuals who fear members of organized crime groups (2000-2004)

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In a 1998 presentation to the Australian Institute of Criminology, Li Xiancui, Associate Research Fellow at the Institute of Public Security of the Ministry of Public Security (MPS) in the People's Republic of China (PRC), outlined the five sections of the Chinese police system:

The Public Security Police

This is ... the main police force in China (86%). The central agency of this police force is the Ministry of Public Security (hereafter MPS). The headquarters of the MPS is in Beijing. MPS is directly accountable to the State Council.

The State Security Police

This type of police was established in 1983. It has the responsibility to safeguard the state security, to prevent foreign espionage, sabotage and conspiracies. The state security police are under the leadership of the Ministry of State Security, which is also one of the government organs, directly accountable to the State Council.

Prison Police

This part is the correctional arm of the overall police system. Such police are stationed in prisons and correction units and are responsible for supervising convicted offenders who serve their sentences in prisons. However, the supervision of those who serve their sentences in communities falls to the Public Security Police. The Ministry of Justice in China has the function of administering the nation's prison system. Thus, prison police are under the leadership of the Ministry of Justice, another government organ under the State Council.

Judicial Police

...

In China, there are two types of judicial police. One is the judicial police attached to various levels of courts, who are responsible for maintaining the security and order in courts and serving instruments, some also executing death sentences. The other is the judicial police attached to various levels of procuratorates, who are responsible for escorting suspects in the cases filed and investigated by corresponding procuratorates (Lang, 1995). Hence, these two types of police are unlike the other 3 types of police, in that they are not attached to a specific Ministry, which has direct access to the State Council (PRC 7 Sept. 1998).

In addition to these five major police bodies in China, Li Xiancui described other types of police:

Another police force in China that needs to be mentioned is the armed police. The duties of armed police include patrolling borders, maintaining security and order in border areas, guarding VIPs and foreign embassies and consulates stationed in China and important institutions, buildings and facilities as well. The force is under the joint command of the MPS and the Central Military Committee.

Within the MPS, there is another new form of police, the patrol police. Their main function is patrolling the streets, to deter and where possible catch offenders at the scenes of crime. They also deal with minor offences, participate in safeguarding major events, render first aid in large-scale catastrophes and natural disasters. As well as helping victims of various offences, providing help to anyone who needs it on the street like giving directions to tourists, helping children and aged persons who may have lost their way home and so forth (ibid.).

For further information on the characteristics of the public security police, the organization of the MPS, the police rank system, the functions of the police, relevant bureaus and departments and police powers, please consult the attached document. Li Xiancui's complete presentation on policing in China can be found at the following Web address: <<http://www.aic.gov.au/conferences/occasional/china.html>&

A 2002 article entitled "Policing in the People's Republic of China: The Road to Reform in the 1990s," written by an Associate Professor of Criminal Justice who researches police administration and the role of police in society, describes the various divisions and functions of the MPS:

The Ministry of Public Security is now made up of one General Office and ten specialized bureaus, departments and offices; organized along professional specialization and functional lines. The role and function, mission and responsibility, jurisdiction and authority of respective offices are clearly defined. These are: (1) the Economic and Cultural Protection Bureau (*jingji wenhua baoweiju*), which supervises security work in government institutions, enterprises, associations, universities and schools; (2) the Public Order Management Bureau (*zhi'an guanli ju*), which is in charge of social security poll registration and identification cards issuance; (3) the Frontier Guard Bureau (*bianfang guanli ju*), which controls frontier inspection and security management at the border at all points of entry and exit, including airports, railway stations, bus stations and ports; (4) the Criminal Investigation Bureau (*xingshi zhencha ju*), which focuses on crime detection and investigation and administers the China Central Bureau of International Criminal Police Organization; (5) the Exit and Entry Management Bureau (*churujing guanli ju*), which is in charge of manning the exit and entry points into and out of China, and supervises the application and issuance of passports, visas, and resident permits; (6) the Security Guards Bureau (*jingweiju*), which provides security for state officials, VIPs and important state meetings and functions; (7) the Computer Management and Supervision Department (*jisuanji guanli jiancha si*), which supervises telecommunications and computer utilization at the ministry; (8) the Science and Technology Department (*keji si*), which is in charge of planning and developing scientific and technological work at the ministry, such as administering scientific and technological research institutes and factories; monitoring and assessing research findings; gathering technical and scientific information on public security; and supervising overseas academic exchanges; (9) the Preliminary Examination Bureau (*yusheju*), which is in charge of preliminary examination by public security and management of all detention centers; (10) the Traffic Safety Control Bureau (*jiaotong anquan guanli ju*), which is in charge of road traffic safety and control of all roads; (11) the Legal System Bureau (*fazhiju*), which studies public security laws and regulations oversees law reform matters; it also supervises the correct implementation of laws and regulations by public security organs; (12) the Foreign Affairs Bureau (*waishi ju*), which controls all foreign affairs at the ministry, including working with foreign police agencies, friendly exchange and technical cooperation; (13) the security bodies; (14) the Department of Government Offices Administration (*jiguan shiwu guanli si*), which provide administrative support and services to the Ministry; (15) the Political Department (*zhengzhi bu*), which is in charge of ideology, organization discipline, work style, education and training, and sports events for the police; (16) the Audit Office (*shencha shi*), which supervises all revenues and expenditures and the Ministry; (17) the Office of Management of Fire-Fighting and Material Production (*Xiaofang qicai shengchan guanli bangongshi*), which is in charge of managing all fire-fighting equipment and other materials (*British Journal of Criminology* 2002, 294-295).

Attached to this Response are two relevant subsections taken from the above-mentioned article entitled "A Reorganization of Structure and Process" and "The Introduction of the Rule of Law." For the complete

article, please visit: <<http://reo.nii.ac.jp/journal/HtmlIndicate/Contents/SUP0000003000/JOU0003000035/ISS0000019119/ART0000245040/ART0000245040.pdf>>.

Regarding whether witness protection programs exist in the PRC, or other forms of police or state protection, for individuals who fear members of organized crime groups, the Associate Professor and author of the aforementioned article on policing in China, stated that no such programs of protection exist in China (22 Jan. 2004). However, he drew attention to the criminal and procedural law provisions that provide some, albeit limited, protection for witnesses:

3.1. Article 49 of PRC Criminal Procedural Law provides in pertinent parts: "The People's Courts, the People's Procuratorates and the public security organs shall insure the safety of witnesses and their near relatives. ... Anyone who intimidates, humiliates, beats or retaliates against a witness or his near relatives, if his act constitutes a crime, shall be investigated for criminal responsibility according to law; if the case is not serious enough for criminal punishment, he shall be punished for violation of public security in accordance with law."

3.2. PRC Criminal Law Article 306 provides in pertinent parts: "If, in criminal proceedings, a defender or agent ... coerces the witness or entices him into changing his testimony in defiance of the facts or give false testimony, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years."

3.3. PRC Criminal Law Article 307 provides in pertinent parts: "Whoever, by violence, threat, bribery or any other means, obstructs a witness from giving testimony or instigates another person to give false testimony shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years ... Any judicial officer who commits any of the crimes mentioned in the preceding two paragraphs shall be given a heavier punishment."

3.4. PRC Criminal Law Article 308 provides in pertinent parts: "Whoever retaliates against a witness shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years" (Associate Professor 22 Jan. 2004).

Offering his expert legal opinion regarding the effectiveness of these laws, the Associate Professor maintained that

Legal experts in China all agreed that witness protection laws are (3.1 to 3.4) rarely enforced: "In fact, there are many cases of attacking and harming witnesses and their relatives in our country each year, but there were only very few cases that the offenders were actually punished..." [He Jia Hen (ed.) *Zhengjuesue Luntan* Vol. II (Discussion forum on evidentiary studies) (Beijing: Zjongguo Jiancha Chubanshe, 2001) p. 489].

There are reported cases in China where witness protection has been provided. One such case happened in November of 1998. The Guangzhou Intermediate Court was adjudicating a serious abuse of official power case. The key witness in the case, a Hong Kong businessman, asked for personal (witness) protection. The PRC Guangzhou People's Procuratorate office formed an ad hoc witness protection team to protect the Hong Kong witness from the time he crossed over from Hong Kong into China at Lowu border entry point until he was safely returned to Hong Kong after the trial [*Id.* P. 494].

Legal and criminal justice experts in China are agreed that witness compensation and protection should be institutionalized [*Id.* Pp. 168-9, 490-7] (*ibid.*).

For information on the emergence of organized crime in China, please refer to Xiaowei Zhang's article "The Emergence of 'Black Society' Crime in China" which can be found in the *Forum on Crime and Society*, Vol. 1, No. 2 of 2 December 2001, published by the United Nations Office for Drug Control and Crime Prevention and available at: <<http://www.unodc.org/pdf/crime/publications/forum1vol2.pdf>>.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please find below the list of additional sources

consulted in researching this Information Request.

References

Associate Professor, Department of Public Affairs, Criminal Justice, University of Wisconsin, Oshkosh. 22 January 2004. Correspondence.

British Journal of Criminology. 2002. Vol. 42. Kam C. Wong. "Policing in the People's Republic of China." (pp. 281-316) <<http://reo.nii.ac.jp/journal/HtmlIndicate/Contents/SUP0000003000/JOU0003000035/ISS0000019119/ART0000245040/ART0000245040.pdf>> [Accessed 20 Jan. 2004]

People's Republic of China (PRC). 7 September 1998. Li Xiancui. "Crime and Policing in China." Presentation at the Australian Institute of Criminology's Occasional Seminar Series. <<http://www.aic.gov.au/conferences/occasional/china.html>> [Accessed 20 Jan. 2004]

Additional Sources Consulted

Dialog

IRB Databases

Unsuccessful attempts to obtain information from Human Rights in China and the Embassy of the People's Republic of China.

Internet sites, including:

Amnesty International

China.org.cn

ChinaSite.com

Human Rights in China

Human Rights Watch

Immigration and Nationality Directorate

Ingenta

Laogai Research Foundation

Lawyers Committee for Human Rights

United Nations Office on Drugs and Crime

Attachments

British Journal of Criminology. 2002. Vol. 42. Kam C. Wong. "Policing in the People's Republic of China." (6 pages) <<http://reo.nii.ac.jp/journal/HtmlIndicate/Contents/SUP0000003000/JOU0003000035/ISS0000019119/ART0000245040/ART0000245040.pdf>> [Accessed 20 Jan. 2004]

People's Republic of China (PRC). 7 September 1998. Li Xiancui. "Crime and Policing in China." Presentation at the Australian Institute of Criminology's Occasional Seminar Series. (5 pages) <<http://www.aic.gov.au/conferences/occasional/china.html>> [Accessed 20 Jan. 2004]

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