

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

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Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email [Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca](mailto:Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca).

20 February 2014

### CHN104783.E

China: Whether authorities seize the passports of persons who are the subject of criminal summons or a police investigation, or are facing criminal charges (2013-February 2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Legislation

##### 1.1 Criminal Suspects under Residential Surveillance

The 2012 amendments to the Criminal Procedure Law of the People's Republic of China, which entered into effect 1 January 2013, stipulate that a [translation] "suspect or a defendant under residential surveillance should comply with ... provisions which require him ... to surrender his passport or other border crossing documents, and identification documents and driver certificates, to the enforcement authority," among other obligations (China 2012, Art. 25).

The Ministry of Public Security's 2012 revision of its Procedural Regulations on the Handling of Criminal Cases by Public Security Organs, unofficially translated into English by the US-Asia Law Institute at the New York University (NYU) School of Law in collaboration with the Danish Institute for Human Rights, states that a [translation] "public security organ, when announcing the decision regarding residential surveillance, shall inform the person placed under residential surveillance that he or she must obey" several rules, including the obligation "to surrender travel documents, such as passport, personal identification documents, and driver's licence to the enforcement agency" (ibid. 13 Dec. 2012, Art. 111).

##### 1.2 Criminal Suspects on Bail

Regulations on criminal procedures published by the Supreme People's Procuratorate in November 2012, unofficially translated into English by the Geneva-based NGO International Bridges to Justice, provides the following information regarding criminal suspects who are released on bail by the authorities:

[translation]

When producing a bail decision, the People's Procuratorate may instruct the criminal suspect to abide by one or more of the following provisions as appropriate according to the nature, dangerous consequences, and social influence of their crime and the specific circumstances of the criminal suspect and the victim:

1. Do not enter a particular area.
2. Do not meet or communicate with a particular person.
3. Do not engage in a particular activity.
4. Turn over one's passport and driver's license to be stored at the implementing institution. (ibid. 22 Nov. 2012, Art. 92)

The Ministry of Public Security's revised regulations on the handling of criminal cases provide similar information relating to criminal suspects released on bail by public security officials (ibid. 13 Dec. 2012). Article 86 of the revised regulations stipulates that, [translation] "[w]hen deciding to release a criminal suspect on guarantee, a public security organ may also, according to the circumstances of a case, order the [person] released on guarantee to abide by" certain rules, including the obligation "to surrender exit-entry documents, such as the passport, as well as the driver's licence to the enforcement agency" (ibid.).

### 1.3 Criminal Suspects in Cases Involving Foreign Jurisdictions

The Interpretation of the Supreme People's Court Concerning the Implementation of the Criminal Procedure Law, published in December 2012 and unofficially translated into English by the US-Asia Law Institute at the New York University School of Law, provides the following guidelines for the adjudication of criminal cases involving foreign jurisdictional issues:

[translation]

Article 404. Defendants in a criminal case involving foreign jurisdictional issues may be restricted from leaving the country; witnesses who must appear in court for a trial open to the public may be required to leaving the country. ...

A people's court that decides to limit the departure of a foreigner or a Chinese citizen shall notify the person subject to departure restriction in writing that he or she may not leave the country prior to termination of the trial and may seize the person's passport or other border exit and entry certificates to restrict his or her departure; [seizure] of documents shall follow the necessary formalities, and proof must be given to show [seizure] of certificate[s]. (ibid. 20 Dec. 2012)

## 2. Application of Legislation

Information on the application of legislation concerning the seizure of passports belonging to individuals who are suspected or accused of committing a crime was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

In 10 February 2014 correspondence with the Research Directorate, the Executive Director of the Dui Hua Foundation, an organization based in San Francisco and Hong Kong that works to "bring clemency and better treatment to at-risk detainees through mutually respectful dialogue with China" (Dui Hua Foundation n.d.), stated that Chinese citizens who are under criminal detention have their ID and travel documents confiscated by the authorities (ibid. 10 Feb. 2014). The Executive Director indicated that it is unclear whether ID and travel documents are seized when a citizen is under investigation but has not been formally detained (ibid.). He provided an example, which he described as "recent," of a labour activist who was brought in for questioning by the authorities and did not have his passport confiscated; the activist left the country immediately thereafter (ibid.). Corroborating information for this statement could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report that, in July 2013, a Chinese student of Uyghur ethnicity who worked for the website Uyghur Online [described by Radio Free Asia (RFA) as a website that is hosted overseas and that "discusses Uyghur social issues" (RFA 21 Nov. 2013)], was apprehended at the Beijing International Airport where he was planning to fly to Turkey to resume his university studies (RFA 21 Nov. 2013; PEN International 31 Jan. 2014). The student was reportedly held without charge for 79 days and his passport was confiscated upon his release (ibid.; RFA 21 Nov. 2013).

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 for refugee protection. Please find below the list of sources consulted in researching this Information Request.

## References

China. 20 December 2012. Supreme People's Court. Interpretation of the Supreme People's Court Concerning the Implementation of the Criminal Procedure Law of People's Republic of China. <<http://usali.org/wp-content/uploads/2013/09/20130523-SPC-JI-Column-Format.pdf>> [Accessed 18 Feb. 2014]

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Radio Free Asia (RFA). 21 November 2013. "Uyghur Student Slapped with Travel Ban After Nearly Three-Month Detention." <[www.ecoi.net/local\\_link/264588/378366\\_en.html](http://www.ecoi.net/local_link/264588/378366_en.html)> [Accessed 18 Feb. 2014]

## Additional Sources Consulted

**Oral sources:** Attempts to contact a professor specializing in Chinese policing at Xavier University and representatives of the following organizations were unsuccessful: Embassy of Canada in Beijing, Embassy of China in Ottawa, Laogai Research Foundation. The NGO Human Rights in China was unable to provide information for this Response.

**Internet sites, including:** Amnesty International; Asia Catalyst; Center for Strategic and International Studies; China – Embassy of China in the United States, Ministry of Public Security; *China Daily*; *China Perspectives*; ecoi.net; Factiva; Freedom House; Hong Kong Human Rights Monitor; Human Rights Watch; *New York Times*; Open Net Initiative; Norway – Country of Origin Information Centre; *People's Daily*; Reporters sans frontières; *South China Morning Post*; United States – Congressional-Executive Commission on China, Congressional Research Service, Department of State, Library of Congress; US-Asia Law Institute; Xinhua News Agency.

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