

中华人民共和国治安管理处罚法

中华人民共和国主席令 第38号

《中华人民共和国出境入境管理法》已由中华人民共和国第十届全国人民代表大会常务委员会第十七次会议于2005年8月28日通过，现予公布，自2006年3月1日起施行。

中华人民共和国主席 胡锦涛

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第一条 为维护社会治安秩序，保障公共安全，保护公民、法人和其他组织的合法权益，规范和保障公安机关及其人民警察依法履行治安管理职责，制定本法。

第二条 扰乱公共秩序，妨害公共安全，侵犯人身权利、财产权利，妨害社会管理，具有社会危害性，依照《中华人民共和国刑法》的规定构成犯罪的，依法追究刑事责任；尚不够刑事处罚的，由公安机关依照本法给予治安管理处罚。

第三条 治安管理处罚的程序，适用本法的规定；本法没有规定的，

适用《中华人民共和国行政处罚法》的有关规定。

第四条 在中华人民共和国领域内发生的违反治安管理行为，除法律有特别规定的以外，适用本法。

在中华人民共和国船舶和航空器内发生的违反治安管理行为，除法律有特别规定的以外，适用本法。

第五条 治安管理处罚必须以事实为依据，与违反治安管理行为的性质、情节以及社会危害程度相当。

实施治安管理处罚，应当公开、公正，尊重和保障人权，保护公民的人格尊严。

办理治安案件应当坚持教育与处罚相结合的原则。

第六条 各级人民政府应当加强社会治安综合治理，采取有效措施，化解社会矛盾，增进社会和谐，维护社会稳定。

第七条 国务院公安部门负责全国的治安管理工作。县级以上地方各级人民政府公安机关负责本行政区域内的治安管理工作。

治安案件的管辖由国务院公安部门规定。

第八条 违反治安管理的行为对他人造成损害的，行为人或者其监护人应当依法承担民事责任。

第九条 对于因民间纠纷引起的打架斗殴或者损毁他人财物等违反治安管理行为，情节较轻的，公安机关可以调解处理。经公安机关调解，当事人达成协议的，不予处罚。经调解未达成协议或者达成协议后不履行的，公安机关应当依照本法的规定对违反治安管理行为人给予处罚，并告知当事人可以就民事争议依法向人民法院提起民事诉讼。

第二章 处罚的种类和适用

第十条 治安管理处罚的种类分为：

- (一) 警告；
- (二) 罚款；
- (三) 行政拘留；
- (四) 吊销公安机关发放的许可证。

对违反治安管理的外国人，可以附加适用限期出境或者驱逐出境。

第十一条 办理治安案件所查获的毒品、淫秽物品等违禁品，赌具、

赌资，吸食、注射毒品的用具以及直接用于实施违反治安管理行为的本人所有的工具，应当收缴，按照规定处理。

违反治安管理所得的财物，追缴退还被侵害人；没有被侵害人的，登记造册，公开拍卖或者按照国家有关规定处理，所得款项上缴国库。

第十二条 已满十四周岁不满十八周岁的人违反治安管理的，从轻或者减轻处罚；不满十四周岁的人违反治安管理的，不予处罚，但是应当责令其监护人严加管教。

第十三条 精神病人在不能辨认或者不能控制自己行为的时候违反治安管理的，不予处罚，但是应当责令其监护人严加看管和治疗。间歇性的精神病人在精神正常的时候违反治安管理的，应当给予处罚。

第十四条 盲人或者又聋又哑的人违反治安管理的，可以从轻、减轻或者不予处罚。

第十五条 醉酒的人违反治安管理的，应当给予处罚。

醉酒的人在醉酒状态中，对本人有危险或者对他人的人身、财产或者公共安全有威胁的，应当对其采取保护性措施约束至酒醒。

第十六条 有两种以上违反治安管理行为的，分别决定，合并执行。行政拘留处罚合并执行的，最长不超过二十日。

第十七条 共同违反治安管理的，根据违反治安管理行为人在违反治安管理行为中所起的作用，分别处罚。

教唆、胁迫、诱骗他人违反治安管理的，按照其教唆、胁迫、诱骗的行为处罚。

第十八条 单位违反治安管理的，对其直接负责的主管人员和其他直接责任人员依照本法的规定处罚。其他法律、行政法规对同一行为规定给予单位处罚的，依照其规定处罚。

第十九条 违反治安管理有下列情形之一的，减轻处罚或者不予处罚：

- （一）情节特别轻微的；
- （二）主动消除或者减轻违法后果，并取得被侵害人谅解的；
- （三）出于他人胁迫或者诱骗的；
- （四）主动投案，向公安机关如实陈述自己的违法行为的；
- （五）有立功表现的。

第二十条 违反治安管理有下列情形之一的，从重处罚：

- （一）有较严重后果的；
- （二）教唆、胁迫、诱骗他人违反治安管理的；
- （三）对报案人、控告人、举报人、证人打击报复的；
- （四）六个月内曾受过治安管理处罚的。

第二十一条 违反治安管理行为人有下列情形之一的，依照本法应当给予行政拘留处罚的，不执行行政拘留处罚：

- （一）已满十四周岁不满十六周岁的；
- （二）已满十六周岁不满十八周岁，初次违反治安管理的；
- （三）七十周岁以上的；
- （四）怀孕或者哺乳自己不满一周岁婴儿的。

第二十二条 违反治安管理行为在六个月内没有被公安机关发现的，不再处罚。

前款规定的期限，从违反治安管理行为发生之日起计算；违反治安管理行为有连续或者继续状态的，从行为终了之日起计算。

第三章 违反治安管理的行为和处罚

第一节 扰乱公共秩序的行为和处罚

第二十三条 有下列行为之一的，处警告或者二百元以下罚款；情节较重的，处五日以上十日以下拘留，可以并处五百元以下罚款：

- （一）扰乱机关、团体、企业、事业单位秩序，致使工作、生产、营业、医疗、教学、科研不能正常进行，尚未造成严重损失的；
- （二）扰乱车站、港口、码头、机场、商场、公园、展览馆或者其他公共场所秩序的；
- （三）扰乱公共汽车、电车、火车、船舶、航空器或者其他公共交通工具上的秩序的；
- （四）非法拦截或者强登、扒乘机动车、船舶、航空器以及其他交通工具，影响交通工具正常行驶的；
- （五）破坏依法进行的选举秩序的。

聚众实施前款行为的，对首要分子处十日以上十五日以下拘留，可以并处一千元以下罚款。

第二十四条 有下列行为之一，扰乱文化、体育等大型群众性活动秩序的，处警告或者二百元以下罚款；情节严重的，处五日以上十日以下拘留，可以并处五百元以下罚款：

- （一）强行进入场内的；
- （二）违反规定，在场内燃放烟花爆竹或者其他物品的；
- （三）展示侮辱性标语、条幅等物品的；
- （四）围攻裁判员、运动员或者其他工作人员的；
- （五）向场内投掷杂物，不听制止的；
- （六）扰乱大型群众性活动秩序的其他行为。

因扰乱体育比赛秩序被处以拘留处罚的，可以同时责令其十二个月内不得进入体育场馆观看同类比赛；违反规定进入体育场馆的，强行带离现场。

第二十五条 有下列行为之一的，处五日以上十日以下拘留，可以并处五百元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款：

（一）散布谣言，谎报险情、疫情、警情或者以其他方法故意扰乱公共秩序的；

（二）投放虚假的爆炸性、毒害性、放射性、腐蚀性物质或者传染病病原体等危险物质扰乱公共秩序的；

（三）扬言实施放火、爆炸、投放危险物质扰乱公共秩序的。

第二十六条 有下列行为之一的，处五日以上十日以下的拘留，可以并处五百元以下罚款；情节较重的，处十日以上十五日以下拘留，可以并处一千元以下罚款：

- （一）结伙斗殴的；
- （二）追逐、拦截他人的；
- （三）强拿硬要或者任意损毁、占用公私财物的；
- （四）其他寻衅滋事行为。

第二十七条 有下列行为之一的，处十日以上十五日以下拘留，可以并处一千元以下罚款；情节较轻的，处五日以上十日以下拘留，可以并处五百元以下罚款：

- （一）组织、教唆、胁迫、诱骗、煽动他人从事邪教、会道门活动或

者利用邪教、会道门、迷信活动，扰乱社会秩序、损害他人身体健康的；

（二）冒用宗教、气功名义进行扰乱社会秩序、损害他人身体健康活动的。

第二十八条 违反国家规定，故意干扰无线电业务正常进行的，或者对正常运行的无线电台（站）产生有害干扰，经有关主管部门指出后，拒不采取有效措施消除的，处五日以上十日以下拘留；情节严重的，处十日以上十五日以下拘留。

第二十九条 有下列行为之一的，处五日以下拘留；情节较重的，处五日以上十日以下拘留：

（一）违反国家规定，侵入计算机信息系统，造成危害的；

（二）违反国家规定，对计算机信息系统功能进行删除、修改、增加、干扰，造成计算机信息系统不能正常运行的；

（三）违反国家规定，对计算机信息系统中存储、处理、传输的数据和应用程序进行删除、修改、增加的；

（四）故意制作、传播计算机病毒等破坏性程序，影响计算机信息系统正常运行的。

第二节 妨害公共安全的行为和处罚

第三十条 违反国家规定，制造、买卖、储存、运输、邮寄、携带、使用、提供、处置爆炸性、毒害性、放射性、腐蚀性物质或者传染病病原体等危险物质的，处十日以上十五日以下拘留；情节较轻的，处五日以上十日以下拘留。

第三十一条 爆炸性、毒害性、放射性、腐蚀性物质或者传染病病原体等危险物质被盗、被抢或者丢失，未按规定报告的，处五日以下拘留；故意隐瞒不报的，处五日以上十日以下拘留。

第三十二条 非法携带枪支、弹药或者弩、匕首等国家规定的管制器具的，处五日以下拘留，可以并处五百元以下罚款；情节较轻的，处警告或者二百元以下罚款。

非法携带枪支、弹药或者弩、匕首等国家规定的管制器具进入公共场所或者公共交通工具的，处五日以上十日以下拘留，可以并处五百元以下罚款。

第三十三条 有下列行为之一的，处十日以上十五日以下拘留：

（一）盗窃、损毁油气管道设施、电力电信设施、广播电视设施、水利防汛工程设施或者水文监测、测量、气象测报、环境监测、地质监测、地震监测等公共设施的；

（二）移动、损毁国家边境的界碑、界桩以及其他边境标志、边境设施或者领土、领海标志设施的；

（三）非法进行影响国（边）界线走向的活动或者修建有碍国（边）境管理的设施的。

第三十四条 盗窃、损坏、擅自移动使用中的航空设施，或者强行进入航空器驾驶舱的，处十日以上十五日以下拘留。

在使用中的航空器上使用可能影响导航系统正常功能的器具、工具，不听劝阻的，处五日以下拘留或者五百元以下罚款。

第三十五条 有下列行为之一的，处五日以上十日以下拘留，可以并处五百元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款：

（一）盗窃、损毁或者擅自移动铁路设施、设备、机车车辆配件或者安全标志的；

（二）在铁路线路上放置障碍物，或者故意向列车投掷物品的；

（三）在铁路线路、桥梁、涵洞处挖掘坑穴、采石取沙的；

（四）在铁路线路上私设道口或者平交过道的。

第三十六条 擅自进入铁路防护网或者火车来临时在铁路线路上行走坐卧、抢越铁路，影响行车安全的，处警告或者二百元以下罚款。

第三十七条 有下列行为之一的，处五日以下拘留或者五百元以下罚款；情节严重的，处五日以上十日以下拘留，可以并处五百元以下罚款：

（一）未经批准，安装、使用电网的，或者安装、使用电网不符合安全规定的；

（二）在车辆、行人通行的地方施工，对沟井坎穴不设覆盖物、防围和警示标志的，或者故意损毁、移动覆盖物、防围和警示标志的；

（三）盗窃、损毁路面井盖、照明等公共设施的。

第三十八条 举办文化、体育等大型群众性活动，违反有关规定，有发生安全事故危险的，责令停止活动，立即疏散；对组织者处五日以上十

日以下拘留，并处二百元以上五百元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

第三十九条 旅馆、饭店、影剧院、娱乐场、运动场、展览馆或者其他供社会公众活动的场所的经营管理人员，违反安全规定，致使该场所有发生安全事故危险，经公安机关责令改正，拒不改正的，处五日以下拘留。

第三节 侵犯人身权利、财产权利的行为和处罚

第四十条 有下列行为之一的，处十日以上十五日以下拘留，并处五百元以上一千元以下罚款；情节较轻的，处五日以上十日以下拘留，并处二百元以上五百元以下罚款：

（一）组织、胁迫、诱骗不满十六周岁的人或者残疾人进行恐怖、残忍表演的；

（二）以暴力、威胁或者其他手段强迫他人劳动的；

（三）非法限制他人人身自由、非法侵入他人住宅或者非法搜查他人身体的。

第四十一条 胁迫、诱骗或者利用他人乞讨的，处十日以上十五日以下拘留，可以并处一千元以下罚款。

反复纠缠、强行讨要或者以其他滋扰他人的方式乞讨的，处五日以下拘留或者警告。

第四十二条 有下列行为之一的，处五日以下拘留或者五百元以下罚款；情节较重的，处五日以上十日以下拘留，可以并处五百元以下罚款：

（一）写恐吓信或者以其他方法威胁他人人身安全的；

（二）公然侮辱他人或者捏造事实诽谤他人的；

（三）捏造事实诬告陷害他人，企图使他人受到刑事追究或者受到治安管理处罚的；

（四）对证人及其近亲属进行威胁、侮辱、殴打或者打击报复的；

（五）多次发送淫秽、侮辱、恐吓或者其他信息，干扰他人正常生活的；

（六）偷窥、偷拍、窃听、散布他人隐私的。

第四十三条 殴打他人的，或者故意伤害他人身体的，处五日以上十日以下拘留，并处二百元以上五百元以下罚款；情节较轻的，处五日以下

拘留或者五百元以下罚款。

有下列情形之一的，处十日以上十五日以下拘留，并处五百元以上一千元以下罚款：

（一）结伙殴打、伤害他人的；

（二）殴打、伤害残疾人、孕妇、不满十四周岁的人或者六十周岁以上的人的；

（三）多次殴打、伤害他人或者一次殴打、伤害多人的。

第四十四条 猥亵他人的，或者在公共场所故意裸露身体，情节恶劣的，处五日以上十日以下拘留；猥亵智力残疾人、精神病人、不满十四周岁的人或者有其他严重情节的，处十日以上十五日以下拘留。

第四十五条 有下列行为之一的，处五日以下拘留或者警告：

（一）虐待家庭成员，被虐待人要求处理的；

（二）遗弃没有独立生活能力的被扶养人的。

第四十六条 强买强卖商品，强迫他人提供服务或者强迫他人接受服务的，处五日以上十日以下拘留，并处二百元以上五百元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

第四十七条 煽动民族仇恨、民族歧视，或者在出版物、计算机信息网络中刊载民族歧视、侮辱内容的，处十日以上十五日以下拘留，可以并处一千元以下罚款。

第四十八条 冒领、隐匿、毁弃、私自开拆或者非法检查他人邮件的，处五日以下拘留或者五百元以下罚款。

第四十九条 盗窃、诈骗、哄抢、抢夺、敲诈勒索或者故意损毁公私财物的，处五日以上十日以下拘留，可以并处五百元以下罚款；情节较重的，处十日以上十五日以下拘留，可以并处一千元以下罚款。

第四节 妨害社会管理的行为和处罚

第五十条 有下列行为之一的，处警告或者二百元以下罚款；情节严重的，处五日以上十日以下拘留，可以并处五百元以下罚款：

（一）拒不执行人民政府在紧急状态情况下依法发布的决定、命令的；

（二）阻碍国家机关工作人员依法执行职务的；

（三）阻碍执行紧急任务的消防车、救护车、工程抢险车、警车等车

辆通行的；

（四）强行冲闯公安机关设置的警戒带、警戒区的。

阻碍人民警察依法执行职务的，从重处罚。

第五十一条 冒充国家机关工作人员或者以其他虚假身份招摇撞骗的，处五日以上十日以下拘留，可以并处五百元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

冒充军警人员招摇撞骗的，从重处罚。

第五十二条 有下列行为之一的，处十日以上十五日以下拘留，可以并处一千元以下罚款；情节较轻的，处五日以上十日以下拘留，可以并处五百元以下罚款：

（一）伪造、变造或者买卖国家机关、人民团体、企业、事业单位或者其他组织的公文、证件、证明文件、印章的；

（二）买卖或者使用伪造、变造的国家机关、人民团体、企业、事业单位或者其他组织的公文、证件、证明文件的；

（三）伪造、变造、倒卖车票、船票、航空客票、文艺演出票、体育比赛入场券或者其他有价票证、凭证的；

（四）伪造、变造船舶户牌，买卖或者使用伪造、变造的船舶户牌，或者涂改船舶发动机号码的。

第五十三条 船舶擅自进入、停靠国家禁止、限制进入的水域或者岛屿的，对船舶负责人及有关责任人员处五百元以上一千元以下罚款；情节严重的，处五日以下拘留，并处五百元以上一千元以下罚款。

第五十四条 有下列行为之一的，处十日以上十五日以下拘留，并处五百元以上一千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款：

（一）违反国家规定，未经注册登记，以社会团体名义进行活动，被取缔后，仍进行活动的；

（二）被依法撤销登记的社会团体，仍以社会团体名义进行活动的；

（三）未经许可，擅自经营按照国家规定需要由公安机关许可的行业的。

有前款第三项行为的，予以取缔。

取得公安机关许可的经营者，违反国家有关管理规定，情节严重的，公安机关可以吊销许可证。

第五十五条 煽动、策划非法集会、游行、示威，不听劝阻的，处十日以上十五日以下拘留。

第五十六条 旅馆业的工作人员对住宿的旅客不按规定登记姓名、身份证件种类和号码的，或者明知住宿的旅客将危险物质带入旅馆，不予制止的，处二百元以上五百元以下罚款。

旅馆业的工作人员明知住宿的旅客是犯罪嫌疑人员或者被公安机关通缉的人员，不向公安机关报告的，处二百元以上五百元以下罚款；情节严重的，处五日以下拘留，可以并处五百元以下罚款。

第五十七条 房屋出租人将房屋出租给无身份证件的人居住的，或者不按规定登记承租人姓名、身份证件种类和号码的，处二百元以上五百元以下罚款。

房屋出租人明知承租人利用出租房屋进行犯罪活动，不向公安机关报告的，处二百元以上五百元以下罚款；情节严重的，处五日以下拘留，可以并处五百元以下罚款。

第五十八条 违反关于社会生活噪声污染防治的法律规定，制造噪声干扰他人正常生活的，处警告；警告后不改正的，处二百元以上五百元以下罚款。

第五十九条 有下列行为之一的，处五百元以上一千元以下罚款；情节严重的，处五日以上十日以下拘留，并处五百元以上一千元以下罚款：

（一）典当业工作人员承接典当的物品，不查验有关证明、不履行登记手续，或者明知是违法犯罪嫌疑人、赃物，不向公安机关报告的；

（二）违反国家规定，收购铁路、油田、供电、电信、矿山、水利、测量和城市公用设施等废旧专用器材的；

（三）收购公安机关通报寻查的赃物或者有赃物嫌疑的物品的；

（四）收购国家禁止收购的其他物品的。

第六十条 有下列行为之一的，处五日以上十日以下拘留，并处二百元以上五百元以下罚款：

（一）隐藏、转移、变卖或者损毁行政执法机关依法扣押、查封、冻

结的财物的；

（二）伪造、隐匿、毁灭证据或者提供虚假证言、谎报案情，影响行政执法机关依法办案的；

（三）明知是赃物而窝藏、转移或者代为销售的；

（四）被依法执行管制、剥夺政治权利或者在缓刑、暂予监外执行中的罪犯或者被依法采取刑事强制措施的人，有违反法律、行政法规或者国务院有关部门的监督管理规定的行为。

第六十一条 协助组织或者运送他人偷越国（边）境的，处十日以上十五日以下拘留，并处一千元以上五千元以下罚款。

第六十二条 为偷越国（边）境人员提供条件的，处五日以上十日以下拘留，并处五百元以上二千元以下罚款。

偷越国（边）境的，处五日以下拘留或者五百元以下罚款。

第六十三条 有下列行为之一的，处警告或者二百元以下罚款；情节较重的，处五日以上十日以下拘留，并处二百元以上五百元以下罚款：

（一）刻划、涂污或者以其他方式故意损坏国家保护的文物、名胜古迹的；

（二）违反国家规定，在文物保护单位附近进行爆破、挖掘等活动，危及文物安全的。

第六十四条 有下列行为之一的，处五百元以上一千元以下罚款；情节严重的，处十日以上十五日以下拘留，并处五百元以上一千元以下罚款：

（一）偷开他人机动车的；

（二）未取得驾驶证驾驶或者偷开他人航空器、机动船舶的。

第六十五条 有下列行为之一的，处五日以上十日以下拘留；情节严重的，处十日以上十五日以下拘留，可以并处一千元以下罚款：

（一）故意破坏、污损他人坟墓或者毁坏、丢弃他人尸骨、骨灰的；

（二）在公共场所停放尸体或者因停放尸体影响他人正常生活、工作秩序，不听劝阻的。

第六十六条 卖淫、嫖娼的，处十日以上十五日以下拘留，可以并处五千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

在公共场所拉客招嫖的，处五日以下拘留或者五百元以下罚款。

第六十七条 引诱、容留、介绍他人卖淫的，处十日以上十五日以下拘留，可以并处五千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

第六十八条 制作、运输、复制、出售、出租淫秽的书刊、图片、影片、音像制品等淫秽物品或者利用计算机信息网络、电话以及其他通讯工具传播淫秽信息的，处十日以上十五日以下拘留，可以并处三千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款。

第六十九条 有下列行为之一的，处十日以上十五日以下拘留，并处五百元以上一千元以下罚款：

- （一）组织播放淫秽音像的；
- （二）组织或者进行淫秽表演的；
- （三）参与聚众淫乱活动的。

明知他人从事前款活动，为其提供条件的，依照前款的规定处罚。

第七十条 以营利为目的，为赌博提供条件的，或者参与赌博赌资较大的，处五日以下拘留或者五百元以下罚款；情节严重的，处十日以上十五日以下拘留，并处五百元以上三千元以下罚款。

第七十一条 有下列行为之一的，处十日以上十五日以下拘留，可以并处三千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款：

- （一）非法种植罂粟不满五百株或者其他少量毒品原植物的；
- （二）非法买卖、运输、携带、持有少量未经灭活的罂粟等毒品原植物种子或者幼苗的；
- （三）非法运输、买卖、储存、使用少量罂粟壳的。

有前款第一项行为，在成熟前自行铲除的，不予处罚。

第七十二条 有下列行为之一的，处十日以上十五日以下拘留，可以并处二千元以下罚款；情节较轻的，处五日以下拘留或者五百元以下罚款：

- （一）非法持有鸦片不满二百克、海洛因或者甲基苯丙胺不满十克或者其他少量毒品的；
- （二）向他人提供毒品的；
- （三）吸食、注射毒品的；
- （四）胁迫、欺骗医务人员开具麻醉药品、精神药品的。

第七十三条 教唆、引诱、欺骗他人吸食、注射毒品的，处十日以上十五日以下拘留，并处五百元以上二千元以下罚款。

第七十四条 旅馆业、饮食服务业、文化娱乐业、出租汽车业等单位的人员，在公安机关查处吸毒、赌博、卖淫、嫖娼活动时，为违法犯罪行为通风报信的，处十日以上十五日以下拘留。

第七十五条 饲养动物，干扰他人正常生活的，处警告；警告后不改正的，或者放任动物恐吓他人的，处二百元以上五百元以下罚款。

驱使动物伤害他人的，依照本法第四十三条第一款的规定处罚。

第七十六条 有本法第六十七条、第六十八条、第七十条的行为，屡教不改的，可以按照国家规定采取强制性教育措施。

第四章 处罚程序

第一节 调查

第七十七条 公安机关对报案、控告、举报或者违反治安管理行为人主动投案，以及其他行政主管部门、司法机关移送的违反治安管理案件，应当及时受理，并进行登记。

第七十八条 公安机关受理报案、控告、举报、投案后，认为属于违反治安管理行为的，应当立即进行调查；认为不属于违反治安管理行为的，应当告知报案人、控告人、举报人、投案人，并说明理由。

第七十九条 公安机关及其人民警察对治安案件的调查，应当依法进行。严禁刑讯逼供或者采用威胁、引诱、欺骗等非法手段收集证据。

以非法手段收集的证据不得作为处罚的根据。

第八十条 公安机关及其人民警察在办理治安案件时，对涉及的国家秘密、商业秘密或者个人隐私，应当予以保密。

第八十一条 人民警察在办理治安案件过程中，遇有下列情形之一的，应当回避；违反治安管理行为人、被侵害人或者其法定代理人也有权要求他们回避：

- （一）是本案当事人或者当事人的近亲属的；
- （二）本人或者其近亲属与本案有利害关系的；
- （三）与本案当事人有其他关系，可能影响案件公正处理的。

人民警察的回避，由其所属的公安机关决定；公安机关负责人的回避，

由上一级的公安机关决定。

第八十二条 需要传唤违反治安管理行为人接受调查的，经公安机关办案部门负责人批准，使用传唤证传唤。对现场发现的违反治安管理行为人，人民警察经出示工作证件，可以口头传唤，但应当在询问笔录中注明。

公安机关应当将传唤的原因和依据告知被传唤人。对无正当理由不接受传唤或者逃避传唤的人，可以强制传唤。

第八十三条 对违反治安管理行为人，公安机关传唤后应当及时询问查证，询问查证的时间不得超过八小时；情况复杂，依照本法规定可能适用行政拘留处罚的，询问查证的时间不得超过二十四小时。

公安机关应当及时将传唤的原因和处所通知被传唤人家属。

第八十四条 询问笔录应当交被询问人核对；对没有阅读能力的，应当向其宣读。记载有遗漏或者差错的，被询问人可以提出补充或者更正。被询问人确认笔录无误后，应当签名或者盖章，询问的人民警察也应当在笔录上签名。

被询问人要求就被询问事项自行提供书面材料的，应当准许；必要时，人民警察也可以要求被询问人自行书写。

询问不满十六周岁的违反治安管理行为人，应当通知其父母或者其他监护人到场。

第八十五条 人民警察询问被侵害人或者其他证人，可以到其所在单位或者住处进行；必要时，也可以通知其到公安机关提供证言。

人民警察在公安机关以外询问被侵害人或者其他证人，应当出示工作证件。

询问被侵害人或者其他证人，同时适用本法第八十四条的规定。

第八十六条 询问聋哑的违反治安管理行为人、被侵害人或者其他证人，应当有通晓手语的人提供帮助，并在笔录上注明。

询问不通晓当地通用的语言文字的违反治安管理行为人、被侵害人或者其他证人，应当配备翻译人员，并在笔录上注明。

第八十七条 公安机关对与违反治安管理行为有关的场所、物品、人身可以进行检查。检查时，人民警察不得少于二人，并应当出示工作证件和县级以上人民政府公安机关开具的检查证明文件。对确有必要立即进行

检查的，人民警察经出示工作证件，可以当场检查，但检查公民住所应当出示县级以上人民政府公安机关开具的检查证明文件。

检查妇女的身体，应当由女性工作人员进行。

第八十八条 检查的情况应当制作检查笔录，由检查人、被检查人和见证人签名或者盖章；被检查人拒绝签名的，人民警察应当在笔录上注明。

第八十九条 公安机关办理治安案件，对与案件有关的需要作为证据的物品，可以扣押；对被侵害人或者善意第三人合法占有的财产，不得扣押，应当予以登记。对与案件无关的物品，不得扣押。

对扣押的物品，应当会同在场见证人和被扣押物品持有人查点清楚，当场开列清单一式二份，由调查人员、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。

对扣押的物品，应当妥善保管，不得挪作他用；对不宜长期保存的物品，按照有关规定处理。经查明与案件无关的，应当及时退还；经核实属于他人合法财产的，应当登记后立即退还；满六个月无人对该财产主张权利或者无法查清权利人的，应当公开拍卖或者按照国家有关规定处理，所得款项上缴国库。

第九十条 为了查明案情，需要解决案件中有争议的专门性问题的，应当指派或者聘请具有专门知识的人员进行鉴定；鉴定人鉴定后，应当写出鉴定意见，并且签名。

第二节 决定

第九十一条 治安管理处罚由县级以上人民政府公安机关决定；其中警告、五百元以下的罚款可以由公安派出所决定。

第九十二条 对决定给予行政拘留处罚的人，在处罚前已经采取强制措施限制人身自由的时间，应当折抵。限制人身自由一日，折抵行政拘留一日。

第九十三条 公安机关查处治安案件，对没有本人陈述，但其他证据能够证明案件事实的，可以作出治安管理处罚决定。但是，只有本人陈述，没有其他证据证明的，不能作出治安管理处罚决定。

第九十四条 公安机关作出治安管理处罚决定前，应当告知违反治安管理行为人作出治安管理处罚的事实、理由及依据，并告知违反治安管理

行为人依法享有的权利。

违反治安管理行为人有权陈述和申辩。公安机关必须充分听取违反治安管理行为人的意见，对违反治安管理行为人提出的事实、理由和证据，应当进行复核；违反治安管理行为人提出的事实、理由或者证据成立的，公安机关应当采纳。

公安机关不得因违反治安管理行为人的陈述、申辩而加重处罚。

第九十五条 治安案件调查结束后，公安机关应当根据不同情况，分别作出以下处理：

（一）确有依法应当给予治安管理处罚的违法行为的，根据情节轻重及具体情况，作出处罚决定；

（二）依法不予处罚的，或者违法事实不能成立的，作出不予处罚决定；

（三）违法行为已涉嫌犯罪的，移送主管机关依法追究刑事责任；

（四）发现违反治安管理行为人有其他违法行为的，在对违反治安管理行为作出处罚决定的同时，通知有关行政主管部门处理。

第九十六条 公安机关作出治安管理处罚决定的，应当制作治安管理处罚决定书。决定书应当载明下列内容：

（一）被处罚人的姓名、性别、年龄、身份证件的名称和号码、住址；

（二）违法事实和证据；

（三）处罚的种类和依据；

（四）处罚的执行方式和期限；

（五）对处罚决定不服，申请行政复议、提起行政诉讼的途径和期限；

（六）作出处罚决定的公安机关的名称和作出决定的日期。

决定书应当由作出处罚决定的公安机关加盖印章。

第九十七条 公安机关应当向被处罚人宣告治安管理处罚决定书，并当场交付被处罚人；无法当场向被处罚人宣告的，应当在二日内送达被处罚人。决定给予行政拘留处罚的，应当及时通知被处罚人的家属。

有被侵害人的，公安机关应当将决定书副本抄送被侵害人。

第九十八条 公安机关作出吊销许可证以及处二千元以上罚款的治安管理处罚决定前，应当告知违反治安管理行为人有权要求举行听证；违反

治安管理行为人要求听证的，公安机关应当及时依法举行听证。

第九十九条 公安机关办理治安案件的期限，自受理之日起不得超过三十日；案情重大、复杂的，经上一级公安机关批准，可以延长三十日。

为了查明案情进行鉴定的期间，不计入办理治安案件的期限。

第一百条 违反治安管理行为事实清楚，证据确凿，处警告或者二百元以下罚款的，可以当场作出治安管理处罚决定。

第一百零一条 当场作出治安管理处罚决定的，人民警察应当向违反治安管理行为人出示工作证件，并填写处罚决定书。处罚决定书应当当场交付被处罚人；有被侵害人的，并将决定书副本抄送被侵害人。

前款规定的处罚决定书，应当载明被处罚人的姓名、违法行为、处罚依据、罚款数额、时间、地点以及公安机关名称，并由经办的人民警察签名或者盖章。

当场作出治安管理处罚决定的，经办的人民警察应当在二十四小时内报所属公安机关备案。

第一百零二条 被处罚人对治安管理处罚决定不服的，可以依法申请行政复议或者提起行政诉讼。

第三节 执行

第一百零三条 对被决定给予行政拘留处罚的人，由作出决定的公安机关送达拘留所执行。

第一百零四条 受到罚款处罚的人应当自收到处罚决定书之日起十五日内，到指定的银行缴纳罚款。但是，有下列情形之一的，人民警察可以当场收缴罚款：

（一）被处五十元以下罚款，被处罚人对罚款无异议的；

（二）在边远、水上、交通不便地区，公安机关及其人民警察依照本法的规定作出罚款决定后，被处罚人向指定的银行缴纳罚款确有困难，经被处罚人提出的；

（三）被处罚人在当地没有固定住所，不当场收缴事后难以执行的。

第一百零五条 人民警察当场收缴的罚款，应当自收缴罚款之日起二日内，交至所属的公安机关；在水上、旅客列车上当场收缴的罚款，应当自抵岸或者到站之日起二日内，交至所属的公安机关；公安机关应当自收

到罚款之日起二日内将罚款缴付指定的银行。

第一百零六条 人民警察当场收缴罚款的，应当向被处罚人出具省、自治区、直辖市人民政府财政部门统一制发的罚款收据；不出具统一制发的罚款收据的，被处罚人有权拒绝缴纳罚款。

第一百零七条 被处罚人不服行政拘留处罚决定，申请行政复议、提起行政诉讼的，可以向公安机关提出暂缓执行行政拘留的申请。公安机关认为暂缓执行行政拘留不致发生社会危险的，由被处罚人或者其近亲属提出符合本法第一百零八条规定条件的担保人，或者按每日行政拘留二百元的标准交纳保证金，行政拘留的处罚决定暂缓执行。

第一百零八条 担保人应当符合下列条件：

- （一）与本案无牵连；
- （二）享有政治权利，人身自由未受到限制；
- （三）在当地有常住户口和固定住所；
- （四）有能力履行担保义务。

第一百零九条 担保人应当保证被担保人不逃避行政拘留处罚的执行。

担保人不履行担保义务，致使被担保人逃避行政拘留处罚的执行的，由公安机关对其处三千元以下罚款。

第一百一十条 被决定给予行政拘留处罚的人交纳保证金，暂缓行政拘留后，逃避行政拘留处罚的执行的，保证金予以没收并上缴国库，已经作出的行政拘留决定仍应执行。

第一百一十一条 行政拘留的处罚决定被撤销，或者行政拘留处罚开始执行的，公安机关收取的保证金应当及时退还交纳人。

第五章 执法监督

第一百一十二条 公安机关及其人民警察应当依法、公正、严格、高效办理治安案件，文明执法，不得徇私舞弊。

第一百一十三条 公安机关及其人民警察办理治安案件，禁止对违反治安管理行为人打骂、虐待或者侮辱。

第一百一十四条 公安机关及其人民警察办理治安案件，应当自觉接受社会和公民的监督。

公安机关及其人民警察办理治安案件，不严格执法或者有违法违纪行为的，任何单位和个人都有权向公安机关或者人民检察院、行政监察机关检举、控告；收到检举、控告的机关，应当依据职责及时处理。

第一百一十五条 公安机关依法实施罚款处罚，应当依照有关法律、行政法规的规定，实行罚款决定与罚款收缴分离；收缴的罚款应当全部上缴国库。

第一百一十六条 人民警察办理治安案件，有下列行为之一的，依法给予行政处分；构成犯罪的，依法追究刑事责任：

- （一）刑讯逼供、体罚、虐待、侮辱他人的；
- （二）超过询问查证的时间限制人身自由的；
- （三）不执行罚款决定与罚款收缴分离制度或者不按规定将罚没的财物上缴国库或者依法处理的；
- （四）私分、侵占、挪用、故意损毁收缴、扣押的财物的；
- （五）违反规定使用或者不及时返还被侵害人财物的；
- （六）违反规定不及时退还保证金的；
- （七）利用职务上的便利收受他人财物或者谋取其他利益的；
- （八）当场收缴罚款不出具罚款收据或者不如实填写罚款数额的；
- （九）接到要求制止违反治安管理行为的报警后，不及时出警的；
- （十）在查处违反治安管理活动时，为违法犯罪行为人通风报信的；
- （十一）有徇私舞弊、滥用职权，不依法履行法定职责的其他情形的。

办理治安案件的公安机关有前款所列行为的，对直接负责的主管人员和其他直接责任人员给予相应的行政处分。

第一百一十七条 公安机关及其人民警察违法行使职权，侵犯公民、法人和其他组织合法权益的，应当赔礼道歉；造成损害的，应当依法承担赔偿责任。

第六章 附则

第一百一十八条 本法所称以上、以下、以内，包括本数。

第一百一十九条 本法自 2006 年 3 月 1 日起施行。1986 年 9 月 5 日公布、1994 年 5 月 12 日修订公布的《中华人民共和国治安管理处罚条例》同时废止。

Order of the President of the People's Republic of China

No. 38

The Law of the People's Republic of China on Penalties for Administration of Public Security, adopted at the 17th Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on August 28, 2005, is hereby promulgated and shall go into effect as of March 1, 2006.

Hu Jintao

President of the People's Republic of China

August 28, 2005

Law of the People's Republic of China

on Penalties for Administration of Public Security

(Adopted at the 17th Meeting of the Standing Committee of the Tenth National People's Congress on August 28, 2005)

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Chapter I General Provisions

Article 1 This Law is formulated in order to maintain the order of public security, safeguard public safety, protect the lawful rights and interests of citizens, legal persons and other organizations, and regularize and guarantee performance of the duties for administration of public security by public security organs and people's police according to law.

Article 2 A person who disturbs public order, endangers public safety, infringes on the rights of person and property or hampers social administration, which is harmful to the society and which, according to the provisions of the Criminal Law of the People's Republic of China, constitutes a crime, shall be investigated for criminal responsibility according to law; and if such an act is not serious enough for criminal punishment, the public security organ shall impose on him a penalty for administration of public security according to this Law.

Article 3 The provisions of this Law are applicable to the procedure of penalties for administration of public security; and to cases for which no such provisions are stipulated in this Law, the relevant provisions of the Law of the People's Republic of China on Administrative Penalty shall be applicable.

Article 4 This Law shall be applicable to acts committed against the administration of public security within the territory of the People's Republic of China, except where specially provided for by other laws.

This Law shall be applicable to acts against the administration of public security committed aboard ships or aircrafts of the People's Republic of China, except where specially provided for by other laws.

Article 5 A penalty for administration of public security shall be based on facts and fit the nature and circumstances of the act committed against the administration of public security and the extent of harm done to the society.

Penalties for administration of public security shall be imposed openly

and impartially, human rights shall be respected and safeguarded, and the dignity of citizens shall be protected.

The principle of combining education with penalty shall be upheld in dealing with cases of public security.

Article 6 People's governments at various levels shall make comprehensive improvement of public security and take effective measures to dissolve social contradictions, enhance social harmony and maintain social stability.

Article 7 The department of public security under the State Council shall be responsible for administration of public security throughout the country. The public security organs of the local people's governments at or above the county level shall be responsible for administration of public security within their respective administrative areas.

Jurisdiction over the cases of public security shall be determined by the department of public security under the State Council.

Article 8 Where an act against the administration of public security causes harm to another person, the person committing such act or his guardian shall bear civil liability according to law.

Article 9 In respect of acts against the administration of public security, such as brawling and damaging or destroying another person's property, which are caused by civil disputes, if the circumstances are relatively minor, the public security organ may dispose of them through mediation. Where the parties concerned reach an agreement through mediation by the public security organ, no penalties shall be imposed. Where no agreement is reached through mediation or the agreement, although reached, is not executed, the public security organ shall, in accordance with the provisions of this Law, impose penalties upon the persons committing the acts against the administration of public security and notify the parties concerned that they may, according to law, bring a civil action before a people's court in respect of the civil disputes.

Chapter II Types of Penalties and Their Application

Article 10 Penalties for acts against the administration of public security are divided into the following types:

- (1) warning;
- (2) fine;
- (3) administrative detention; and
- (4) revocation of licenses issued by public security organs.

To a foreigner who acts against the administration of public security, leaving the country within a time limit or deportation attached to a penalty may be applicable.

Article 11 Contraband seized in dealing with cases of public security such as drugs and pornographic objects, gambling devices, money for gambling, devices used for ingesting or injecting drugs, and the instruments owned and directly used by the persons in their acts against the administration of public security shall be taken over, and shall be disposed of according to relevant regulations.

The money and things of value obtained through acts against the administration of public security shall be recovered and returned to the victim; and where there is no victim involved, they shall be registered and sold by auction or disposed of according to the relevant regulations of the State, and all the proceeds therefrom shall be handed over to the State Treasury.

Article 12 If a person who has attained to the age of 14 but not to the age of 18 commits an act against the administration of public security, he shall be given a relatively light or mitigated penalty; and if a person who has not attained to the age of 14 commits such an act, he shall not be penalized, but his guardian shall be instructed to subject him to strict discipline.

Article 13 Where a mentally disordered person commits an act against the administration of public security at the time when he is unable to recognize or control his own conduct, he shall not be penalized, but his guardian shall be instructed to keep a strict guard on him and to subject him to medical

treatment. Where an intermittently insane person commits an act against the administration of public security while in normal mental condition, he shall be penalized.

Article 14 Where a blind or deaf-mute person commits an act against the administration of public security, he may be give a relatively light or mitigated penalty, or shall not be penalized.

Article 15 Where an intoxicated person commits an act against the administration of public security, he shall be penalized.

Where an intoxicated person in a drunken state may cause danger to himself or threatens another person's personal safety or property or public safety, protective measures shall be taken to restrain him until he sobers up.

Article 16 Where a person commits two or more acts against the administration of public security, decisions shall be made separately but executed concurrently. Where penalties of administrative detention are concurrently executed, the maximum term of such detention shall not exceed 20 days.

Article 17 Where an act is committed jointly against the administration of public security, the persons committing such act shall be penalized separately, depending on the role played by each of them in the act.

Where a person instigates or coerces another person to act against the administration of public security, or lures the person into such act, he shall be penalized according to the seriousness of the act committed as a result of his instigation, coercion or luring.

Article 18 Where a unit commits an act against the administration of public security, the persons directly in charge and the other persons directly responsible shall be penalized in accordance with the provisions of this Law. Where other laws or administrative regulations provide that penalty shall be imposed on a unit for the same act, the unit shall be penalized in accordance with the provisions there.

Article 19 The penalty to be imposed on a person who commits an act

against the administration of public security shall be mitigated, or no penalty shall be imposed on him, under one of the following circumstances:

- (1) The adverse effects are extremely minor;
- (2) The person takes the initiative to remove or lessen the adverse effects, and gains the victim's forgiveness;
- (3) The act is committed under the coercion or luring by another person;
- (4) The person surrenders himself to the police and truthfully states his illegal act to the public security organ; or
- (5) The person has performed meritorious service.

Article 20 Under one of the following circumstances, a heavier penalty shall be imposed on a person who commits an act against the administration of public security:

- (1) The adverse effects relatively serious;
- (2) The person instigates or coerces another person to commit an act against the administration of public security, or lures the person into such act;
- (3) The person retaliates against the reporter, accuser, informant or witness; or
- (4) The person has been subjected to penalty for his act against the administration of public security within the past six months.

Article 21 Under one of the following circumstances, the penalty of administrative detention shall not be executed against the person who has committed an act against the administration of public security, although such a penalty should be imposed on him/ her according to the provisions of this Law:

- (1) The person has attained to the age of 14 but not to the age of 16;
- (2) The person has attained to the age of 16 but not to the age of 18, and such act is committed for the first time;
- (3) The person is over 70 years old; or
- (4) The person is pregnant or breast-feeds her own baby who is not one year old.

Article 22 Where an act committed against the administration of public security is not discovered by the public security organ within six months, the person committing such act shall no longer be penalized.

The period of time specified in the preceding paragraph shall be counted from the date the act is committed against the administration of public security; and if such act is continual or continuing, the period of time shall be counted from the date the act ends.

Chapter III Acts Against the Administration of Public Security and Penalties

Section 1 Acts Disturbing Public Order and Penalties

Article 23 A person who commits one of the following acts shall be given a warning or be fined not more than RMB 200 yuan; and if the circumstances are relatively serious, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

(1) disturbing the order of government departments, public organizations, enterprises or institutions, thus making it impossible for work, production, business operation, medical care, teaching or scientific research to go on normally but not having caused serious losses;

(2) disturbing the public order at stations, ports, wharves, airports, department stores, parks, exhibition halls or other public places;

(3) disturbing the public order on board of buses, trolleybuses, trains, ships, aircrafts and other means of public transportation;

(4) illegally intercepting or forcibly boarding or holding on to motor vehicles, ships, aircrafts and other means of public transportation, thus hampering the normal operation of the means of public transportation; or

(5) disrupting the order of elections conducted according to law.

Where the acts mentioned in the preceding paragraphs are committed by a crowd, the ringleader shall be detained for not less than 10 days but not more

than 15 days and may, in addition, be fined not more than 1,000 yuan.

Article 24 A person who commits one of the following acts, thus disturbing the order of such large-scale activities of a mass character as cultural and sports activities, shall be given a warning or be fined not more than 200 yuan; and if the circumstances are serious, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

- (1) forcibly entering the arena;
- (2) setting off fireworks, firecrackers or other **Articles** in the arena in violation of regulations;
- (3) displaying such **Articles** as humiliating slogans and streamers;
- (4) joining with other persons in attacking a referee, player or any other worker;
- (5) throwing odds and ends into the arena and turning a deaf ear to the order to stop; or
- (6) other acts disturbing the order of large-scale mass activities.

A person on whom the penalty of detention is imposed because he disturbs the order of a sports competition may, at the same time, be ordered not to enter a stadium or gymnasium to watch a competition of the same sport within 12 months; if he enters a stadium or gymnasium in violation of the order, he shall be forcibly brought out of the spot.

Article 25 A person who commits one of the following acts shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than 5 days or be fined not more than 500 yuan:

- (1) intentionally disturbing public order by spreading rumors, making false reports of dangerous situations and epidemic situations or raising false alarms or by other means;
- (2) disturbing public order by putting in fake hazardous substances such

as explosive, toxic, radioactive and corrosive substances or pathogens of infectious diseases; or

(3) disturbing public order by threatening to set fire, set off explosions, or put in hazardous substances.

Article 26 A person who commits one of the following acts shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively serious, he shall be detained for not less 10 than days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan:

(1) gang-fighting;

(2) chasing or intercepting another person;

(3) forcibly taking and obstinately seizing, or willfully damaging and occupying public or private property; or

(4) other provocative acts.

Article 27 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan; and if the circumstances are relatively minor, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

(1) organizing, instigating, coercing, inducing or inciting another person to engage in activities of cults, superstitious sects, or secret societies, or making use of cults, superstitious sects, secret societies, or superstitious activities to disturb social order and harm the health of another people; or

(2) disturbing social order and harming the health of another person by masquerading under the name of religion or qigong.

Article 28 A person who, in violation of State regulations, intentionally interferes with the normal operation of the radio business, or brings about harmful interference with the normal operation of radio stations and refuses to take effective measures to eliminate such interference after the competent department points out the fact, shall be detained for not less than 5 days but

not more than 10 days; and if the circumstances are serious, he shall be detained for not less than 10 days but not more than 15 days.

Article 29 A person who commits one of the following acts shall be detained for not more than five days; and if the circumstances are relatively serious, he shall be detained for not less than 5 days but not more than 10 days:

(1) in violation of State regulations, invading a computer information system, which causes harm to the system;

(2) in violation of State regulations, deleting, changing, increasing or interfering with the functions of a computer information system, which makes it impossible for the system to operate normally;

(3) in violation of State regulations, deleting, changing or increasing the stored, processed or transmitted data and the application program of a computer information system; or

(4) intentionally making up or transmitting such destructive programs as computer virus, which adversely affects the normal operation of a computer information system.

Section 2 Acts Impairing Public Security and Penalties

Article 30 A person who, in violation of State regulations, manufactures, buys, sells, stores, transports, mails, carries, uses, provides or disposes of hazardous substances such as explosive, toxic, radioactive and corrosive substances or pathogens of infectious diseases shall be detained for not less than 10 days but not more than 15 days; and if the circumstances are relatively minor, he shall be detained for not less than 5 days but not more than 10 days.

Article 31 A person who fails to report, as required by relevant regulations, when such hazardous substances as explosive, toxic, radioactive and corrosive substances or pathogens of infectious diseases are stolen, robbed or lost shall be detained for not more than five days; and if he intentionally conceals the fact, he shall be detained for not less than 5 days but not more than 10 days.

Article 32 A person who illegally carries such implements under control according to State regulations as firearms and ammunition, or crossbows and daggers shall be detained for not more than five days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively minor, he shall be given a warning or be fined not more than 200 yuan.

A person who illegally carries such implements under control according to State regulations as firearms and ammunition, or crossbows and daggers to a public place or aboard a public transportation means shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan.

Article 33 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days:

(1) stealing or destroying oil or gas pipe-line installations, electric power and telecommunications facilities, radio and TV facilities, and water-conservancy and flood-control engineering facilities, or such public utilities as ones for hydrological monitoring, hydrographic survey, meteorological monitoring and weather forecast, environmental monitoring, geological monitoring and seismologic monitoring;

(2) moving to another place or destroying boundary tablets and markers of the national border and other boundary markers and installations, or marking installations of territorial land and waters; or

(3) conducting illegal activities affecting the alignment of the national border (frontier) line, or constructing installations which hampers national border (frontier) administration.

Article 34 A person who steals, damages or moves to another place without permission aviation facilities in use, or forcibly enters the control cabin of an aircraft shall be detained for not less than 10 days but not more than 15 days.

A person who uses implements or tools aboard an aircraft in use, which may impair the normal function of the navigation system, and turns a deaf ear

to dissuasions shall be detained for not more than 5 days or be fined not more than 500 yuan.

Article 35 A person who commits one of the following acts shall be detained for not less than five days but not more than 10 days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than 5 days or be fined not more than 500 yuan:

(1) stealing, destroying or moving to another place without permission railway facilities, equipment, rolling stock appendages or safety markers;

(2) placing obstacles on railway lines, or intentionally throwing things to trains;

(3) digging holes or quarrying and taking sand along railway lines, on bridges or in culverts; or

(4) privately setting up road junctions or level crossings on railway lines.

Article 36 A person who enters railway shelter networks without permission or walks, sits or lies down on railway lines, or rushes across railway lines when a train is approaching, which endangers traffic safety, shall be given a warning or be fined not more than 200 yuan.

Article 37 A person who commits one of the following acts shall be detained for not more than five days or be fined not more than 500 yuan; and if the circumstances are serious, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

(1) installing or using electrified wire-nettings without permission, or installing or using them at variance with the regulations on safety;

(2) failing to place covers, fences or warning signs for ditches, wells, ridges and holes when engaging in construction at places where vehicles and pedestrians pass, or intentionally destroying or moving to another place the covers, fences or warning signs; or

(3) stealing or destroying such public utilities as well covers on road

surfaces and lighting facilities.

Article 38 Where an accident endangering safety may occur during such large-scale mass activities as cultural and sports activities held in violation of relevant regulations, such activities shall be ordered to stop, and the participants shall be immediately evacuated; the organizer shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 200 yuan but not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

Article 39 Where the manager of a hotel, restaurant, cinema, theater, entertainment center, sports ground, exhibition hall or other places for public activities violates regulations on safety, so that an accident endangering safety may occur at such a place, and refuses to rectify after a public security organ orders him to do so, he shall be detained for not more than five days.

Section 3 Acts Infringing upon Rights of the Person and of Property and Penalties

Article 40 If a person commits one of the following acts, he shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan; and if the circumstances are relatively minor, he shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 200 yuan but not more than 500 yuan:

(1) organizing or coercing persons who have not attained to the age of 16 or who are disabled to give terrifying or inhumane performances, or luring such persons into giving such performances;

(2) forcing another person to work by means of violence or threat or other means; or

(3) illegally restricting another person's freedom of the person, illegally breaking into another person's house or illegally making a body search of another person.

Article 41 A person who coerces another person to go begging, lures such person into begging or uses the person in begging shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan.

A person who continually pesters or forcibly begs from another person or begs by other irritating means shall be detained for not more than five days or be given a warning.

Article 42 A person who commits one of the following acts shall be detained for not more than five days or be fined not more than 500 yuan; and if the circumstances are relatively serious, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

(1) writing letters of intimidation or threatening the personal safety of another person by other means;

(2) openly humiliating another person or slandering another person by fabricating stories;

(3) framing-up another person by fabricating stories in an attempt to make the person subject to criminal investigation or to penalty for administration of public security;

(4) threatening, humiliating or beating up a witness or his close relative or retaliating against either of them;

(5) repeatedly dispatching pornographic, humiliating, intimidating or other information to disturb the normal life of another person; or

(6) peeping, secretly taking photos, eavesdropping, or spreading the privacy of another person.

Article 43 A person who beats up another person, or intentionally hurts the body of another person shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 200 yuan but not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan:

- (1) gang-fighting and hurting another person;
- (2) beating up and hurting a disabled person, pregnant woman, or a person who has not attained to the age of 14 or who is over 60 years old; or
- (3) beating up and hurting another person for more than two times, or beating up and hurting more than two persons once.

Article 44 A person who molests another person or intentionally exposes his/her body in a public place, if the circumstances are abominable, shall be detained for not less than 5 days but not more than 10 days; if a person molests a mentally disabled person, or a person suffering mental disorder, or a person who has not attained to the age of 14, or commits such act with other serious circumstances, he shall be detained for not less than 10 days but not more than 15 days.

Article 45 A person who commits one of the following acts shall be detained for not more than five days or be given a warning:

- (1) maltreating a family member, who demands handling of the matter; or
- (2) abandoning a supported person who can not look after himself.

Article 46 A person who forcibly buys or sells commodities, forces another person to provide services or to accept services shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 200 yuan but not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

Article 47 A person who incites national hatred or national discrimination, or publishes contents about national discrimination or humiliation in publications or computer information networks shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan.

Article 48 A person who claims under false pretences, hides, destroys, discards, stealthily opens or illegally examines the mail of another person shall be detained for not more than five days or be fined not more than 500 yuan.

Article 49 A person who steals, defrauds, forcibly seizes, openly robs, racketeers or intentionally destroys public or private property shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively serious, he shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan.

Section 4 Acts Impeding Social Administration and Penalties

Article 50 A person who commits one of the following acts shall be given a warning or be fined not more than 200 yuan; and if the circumstances are serious, he shall be detained for not less than 5 days but not more than 10 days, and may, in addition, be fined not more than 500 yuan:

(1) refusing to carry out the decision or order issued according to law by the people's government in a state of emergency;

(2) obstructing the staff member of a government department from performing his duties according to law;

(3) obstructing the passage of such vehicles as fire engines, ambulances, engineering emergency trucks and patrol wagons on emergency duties; or

(4) forcibly breaking through a warning belt or area set up by a public security organ.

A person who obstructs the people's police from performing their duties according to law shall be given a heavier penalty.

Article 51 A person who pretends to be a staff member of a government department or uses another false identity to practice fraud shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

If a person cheats people by passing himself off as a member of the army

or the police, he shall be given a heavier penalty.

Article 52 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan; and if the circumstances are relatively minor, he shall be detained for not less than 5 days but not more than 10 days and may, in addition, be fined not more than 500 yuan:

(1) forging, altering, buying or selling official documents, certificates, testimonial papers or seals of a government department, people's organization, enterprise, institution or other organization;

(2) buying, selling or using forged or altered official documents, certificates or testimonial papers of a government department, people's organization, enterprise, institution or other organization;

(3) forging, altering, reselling train or bus tickets, ship tickets, air tickets, admission tickets for theatrical performances or sports competitions, or other negotiable bills or vouchers; or

(4) forging or altering a certificate of vessel registration, buying, selling or using a forged or altered certificate of vessel registration, or altering the number of a vessel engine.

Article 53 Where a vessel, without permission, enters or berths at the waters or islands, which the State forbids or restricts, the leading person of the vessel and the person to be held responsible shall each be fined not less than 500 yuan but not more than 1,000 yuan; and if the circumstances are serious, they shall each be detained for not more than five days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan.

Article 54 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan:

(1) continuing to engage in activities in the name of a public organization

after it is banned because, in violation of State regulations, it engages in activities without registration;

(2) continuing to engage in activities in the name of a public organization after its registration is cancelled according to law; or

(3) without a license, operating a business for which, according to State regulations, a license issued by a public security organ is required.

The act mentioned in Subparagraph (3) of the preceding paragraph shall be banned.

If a business operator who has obtained a license from a public security organ violates the relevant administrative regulations of the State and the circumstances are serious, the public security organ may revoke its license.

Article 55 A person who incites or engineers an illegal gathering, parade or demonstration and refuses to listen to dissuasions shall be detained for not less than 10 days but not more than 15 days.

Article 56 If a worker of the hotel industry fails to register the name or the type and number of the identification certificate of a lodging guest in accordance with relevant regulations, or knowingly fails to stop a lodging guest from bringing hazardous substances into the hotel, he shall be fined not less than 200 yuan but not more than 500 yuan.

If a worker of the hotel industry fails to report to the public security organ when he clearly knows that a lodging guest is a criminal suspect or is wanted by the public security organ, he shall be fined not less than 200 yuan but not more than 500 yuan; and if the circumstances are serious, he shall be detained for not more than five days and may, in addition, be fined not more than 500 yuan.

Article 57 Where a house lessor leases out his house to a person without an identification certificate, or fails to register the name or type and number of the identification certificate of the lessee in accordance with relevant regulations, he shall be fined not less than 200 yuan but not more than 500 yuan.

If a house lessor fails to report to the public security organ when he clearly knows that the lessee is making use of the house for criminal activities, he shall be fined not less than 200 yuan but not more than 500 yuan; and if the circumstances are serious, he shall be detained for not more than five days and may, in addition, be fined not more than 500 yuan.

Article 58 A person who, in violation of the provisions of the law on prevention and control of pollution by the noise emitted in the course of social activities, makes noise to impair the daily life of another person shall be given a warning; and if he fails to make amends after the warning, he shall be fined not less than 200 yuan but not more than 500 yuan.

Article 59 If a person commits one of the following acts, he shall be fined not less than 500 yuan but not more than 1,000 yuan; and if the circumstances are serious, he shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan:

(1) where the worker of a pawnshop is concerned, failing to examine the relevant certificates or to go through the formalities of registration in dealing with the **Article** pawned, or failing to report to the public security organ when he clearly knows that the pawner is criminal suspect who violates the law and the **Article** is something stolen;

(2) in violation of State regulations, purchasing waste and old equipment specially used for railways, oilfields, power supply, telecommunications, mineral mines, water conservancy and survey as well as urban public utilities;

(3) purchasing stolen goods searched for in the circular of a public security organ, or suspected stolen goods; or

(4) purchasing of other **Articles**, which is prohibited by the State.

Article 60 A person who commits one of the following acts shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less 200 yuan but not more than 500 yuan:

(1) hiding, transferring, selling off or destroying the property or thing of

value distrained, sealed up or frozen by an administrative law-enforcement organs according to law;

(2) forging, concealing or destroying evidence, or providing false testimony or giving false information about a case, which affects the administrative law-enforcement organ in dealing with the case according to law;

(3) knowingly harboring, transferring or selling stolen goods for another person; or

(4) where a criminal being put under surveillance or deprived of political rights according to law, serving a sentence outside the prison under surveillance, such as being under suspended execution of a sentence and being released on medical parole, or a person being subjected to compulsory criminal measures according to law is concerned, committing an act in violation of laws, administrative regulations or of the regulations of the public security department under the State Council on supervision and control.

Article 61 A person who assists in making arrangements for another person illegally to cross, or transports another person across, the national border (frontier) shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 1,000 yuan but not more than 5,000 yuan.

Article 62 A person who provides conditions to another person for illegally crossing the national border (frontier) shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 500 yuan but not more than 2,000 yuan.

A person who illegally crosses the national border (frontier) shall be detained for not more than five days or be fined not more than 500 yuan.

Article 63 A person who commits one of the following acts shall be given a warning or be fined not more than 200 yuan; and if the circumstances are relatively serious, he shall be detained for not less than 5 days but not more than 10 days and shall, in addition, be fined not less than 200 yuan but

not more than 500 yuan:

(1) cutting, smearing or deliberately damaging by other means cultural relics, scenic spots or historic sites protected by the State; or

(2) in violation of State regulations, conducting such activities as blasting and excavation in the vicinity of historic and cultural sites under State protection, which threatens the safety of cultural relics.

Article 64 A person who commits one of the following acts shall be fined not less than 500 yuan but not more than 1,000 yuan; and if the circumstances are serious, he shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan:

(1) driving another person's motor vehicle without permission; or

(2) driving without obtaining a driver's license or without permission another person's aircraft or motor vessel.

Article 65 A person who commits one of the following acts shall be detained for not less than 5 days but not more than 10 days; and if the circumstances are serious, he shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 1,000 yuan:

(1) intentionally destroying or defacing the grave of another person's, or damaging or discarding the remains or ashes of another person's; or

(2) placing a corpse at a public place, or disturbing another person's normal life or work order due to the placing of a corpse and refusing to listen to dissuasion.

Article 66 A prostitute or a person who goes whoring shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 5,000 yuan; and if the circumstances are relatively minor, she or he shall be detained for not more than five days or be fined not more than 500 yuan.

A person who, at a public place, touts for prostitution or invites another

person for whoring shall be detained for not more than five days or be fined not more than 500 yuan.

Article 67 A person who seduces, shelters or introduces another person to engage in prostitution shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 5,000 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

Article 68 A person who produces, transports, duplicates, sells or lends pornographic materials including books, periodicals, pictures, movies and audio-video products, or disseminates pornographic information by making use of computer information networks, telephones or other means of communications shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 3,000 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan.

Article 69 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 1,000 yuan:

- (1) arranging for broadcasting pornographic audio or video tapes;
- (2) arranging for or giving obscene performances; or
- (3) joining a crowd in licentious activities.

A person who provides conditions to people while clearly knowing that they are engaged in the activities specified in the preceding paragraph shall be penalized in accordance with the provisions of the preceding paragraph.

Article 70 A person who provides conditions for gambling for the purpose of making profits, or participates in gambling with a relatively big amount of money, shall be detained for not more than five days or be fined not more than 500 yuan; and if the circumstances are serious, he shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan but not more than 3,000 yuan.

Article 71 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 3,000 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan:

(1) illegally cultivating opium poppies of less than 500 plants or a small number of mother plants of other narcotic drugs;

(2) illegally buying, selling, transporting, carrying or possessing a small quantity of the seeds or seedlings of the mother plants of narcotic drugs, such as the opium poppy, which have not been inactivated; or

(3) illegally transporting, buying, selling, storing or using a small quantity of opium poppy shells.

A person who commits the act specified in Subparagraph (1) of the preceding paragraph uproots the plants, of his own accord, before they are ripe shall not be penalized.

Article 72 A person who commits one of the following acts shall be detained for not less than 10 days but not more than 15 days and may, in addition, be fined not more than 2,000 yuan; and if the circumstances are relatively minor, he shall be detained for not more than five days or be fined not more than 500 yuan:

(1) illegally possessing opium of less than 200 grams, heroin or methamphetamine of less than 10 grams or a small amount of other narcotic drugs;

(2) providing another person with narcotic drugs;

(3) ingesting or injecting narcotic drugs; or

(4) coercing a medical worker to prescribe narcotic drugs or psychotropic substances or cheating the worker into doing the same.

Article 73 A person who instigates, lures or cheats another person to or into drug ingestion or injection shall be detained for not less than 10 days but not more than 15 days and shall, in addition, be fined not less than 500 yuan

but not more than 2,000 yuan.

Article 74 When the public security organ investigates and deals with drug ingestion or injection, gambling, prostitution or whoring activities, a worker of the hotel industry, catering trade, cultural and recreational industry, taxi trade, etc. providing the information to a person who commits a crime in violation of law shall be detained for not less than 10 days but not more than 15 days.

Article 75 A person who raises animals, which disturbs the daily life of another person, shall be given a warning; if he fails to make amends after the warning is given, or connives at his animals, scaring another person, he shall be fined not less than 200 yuan but not more than 500 yuan.

A person who unleashes his animal to hurt another person shall be penalized in accordance with the provisions of the first paragraph of **Article 43** of this Law.

Article 76 Where a person who commits an act specified in **Articles 67, 68 and 70** refuses to make amends despite repeated admonition, compulsory educational measures may be adopted in accordance with State regulations.

Chapter IV Procedure of Penalties

Section 1 Investigation

Article 77 A public security organ shall, in a timely manner, accept a case reported, an accusation or a case informed of, or the voluntary surrender of a person who acts against the administration of public security, as well as cases of acts against the administration of public security transferred by another administrative department or judicial organ, and have the case registered.

Article 78 After accepting a case reported, an accusation or a case informed of, or a voluntary surrender, which the public security organ considers to be an act against the administration of public security, it shall immediately conduct investigation; otherwise, it shall notify the reporter, accuser or informant, or the person who surrenders himself to the police of the

fact and explain the reasons.

Article 79 Public security organs and the people's police shall investigate cases of public security according to law. Extorting confessions by torture or collecting evidence by such illegal means as intimidation, enticement or deception is strictly prohibited.

Evidence collected by illegal means shall not be taken as the basis of penalty.

Article 80 When public security organs and the people's police deal with cases of public security, which involve State secret, commercial secret or individual privacy, they shall keep the secret.

Article 81 Where a people's policeman comes under one of the following circumstances when dealing with a case of public security, he shall withdraw; and the person who commits an act against the administration of public security, the victim, their statutory representative shall have the right to demand the policeman's withdrawal:

- (1) being a party or a close relative of the party to the case;
- (2) he or a close relative of his has an interest in the case; or
- (3) having other relations with a party to the case, which may affect the impartial handling of the case.

The withdrawal of a people's policeman shall be decided by the public security organ which he belongs to; and the withdrawal of a leading person of a public security organ shall be decided by the public security organ at the next higher level.

Article 82 Where it is necessary to summon a person who commits an act against the administration of public security for investigation, the matter shall be subject to approval by the leading person of the department that handles the case under a public security organ, and a summons shall be used. Where a person committing an act against the administration of public security is discovered on the spot, he may be summoned orally after the people's policeman shows his work certificate, which shall be noted in the written

record of interrogation.

The public security organ shall notify the person summoned of the reasons for and the basis of the summons. A person who refuses to accept a summons without justifiable reasons or evades a summons may compulsorily be summoned.

Article 83 Immediately after the person who commits an act against the administration of public security answers the summons, the public security organ shall conduct interrogation and investigation, which shall not exceed eight hours; and if the circumstances are complicated and, according to the provisions of this Law, a penalty of administrative detention may be applied, the time for the interrogation and investigation shall not exceed 24 hours.

The public security organ shall, without delay, notify the family members of the person summoned of the reasons for the summons and the place of detention.

Article 84 The written record of interrogation shall be checked by the interrogated; and if the latter does not have the ability to read, the written record shall be read out to him. If there are omissions or errors in the record, the interrogated may request supplements or corrections to be made. When the interrogated confirms that the written record is free of error, he shall sign or affix his seal on it, and the people's policeman who does the interrogation shall sign the record as well.

If the interrogated requests, of his own accord, to provide written materials on the matters interrogated, permission shall be given; and when necessary, the people's policeman may also request the interrogated to write down the materials himself.

When a person who commits an act against the administration of public security and who has not attained to the age of 16 is to be interrogated, his parents or guardian shall be notified of the need to be present.

Article 85 To interrogate a victim or other witness, the people's policeman may do it in the unit which he belongs to or at the place where he

lives; and when necessary, the people's policeman may also notify the victim or witness that he comes to the public security organ to provide testimony.

When a people's policeman interrogate a victim or other witness outside of the public security organ, he shall show his work certificate.

The provisions of **Article 84** of this Law are, at the same time, applicable to the interrogation of a victim or other witness.

Article 86 If the person committing an act against the administration of public security, the victim or other witness who is deaf-mute is interrogated, assistance shall be provided by persons who have a good command of the sign language, which shall be noted clearly in the written record of the interrogation.

If the person committing an act against the administration of public security, the victim or other witness who is not familiar with the spoken or written language common in use in the locality is interrogated, interpreters shall be provided, which shall be noted clearly in the written record of the interrogation.

Article 87 The public security organ may inspect the place, **Articles** and person related to an act against the administration of public security. For such inspection, there shall be two policemen at least, and they shall show their work certificates and the certifying document for inspection issued by public security organ under the people's government at or above the county level. Where it is really necessary to conduct inspection immediately, the policemen may, upon showing their work certificates, conduct inspection on the spot; however, to inspect the domicile of a citizen, they shall show the certifying document for inspection issued by the public security organ under the people's government at or above the county level.

Inspecting the person of a woman shall be done by female workers.

Article 88 A written record of the inspection shall be made, which shall be signed by or affixed with the seals of the inspectors, the inspected and the witnesses; and if the inspected refuses to sign his name, the people's police

shall state the fact clearly in the written record.

Article 89 For handling a case of public security, the public security organ may distrain the **Articles** that are related to the case and need to be taken as evidence; and it shall not distrain the property lawfully possessed by the victim or the bona-fide third party, but shall have such property registered. It shall not distrain **Articles** that are not related to the case.

The number of the **Articles** distrained shall be checked accurately together with the witnesses on the spot and the person who possesses those **Articles**, and a list of such **Articles** shall be prepared in duplicate on the spot, which shall be signed, by or affixed with the seals of, the inspectors, witnesses and the possessor, and of which one copy shall be given to the possessor and the other shall be attached to the file of case for the reference.

The **Articles** distrained shall be preserved properly and not be used for other purposes; and the **Articles** unsuitable to be kept for a long period of time shall be disposed of in accordance with relevant regulations. The **Articles** proved to be unrelated to the case upon investigation shall be returned immediately; the **Articles** that belong to the lawful property of another person upon verification shall be immediately returned after they are registered; and if at the expiration of six months nobody lays claim to such property or there is no way of identifying the obligees, the **Articles** shall be publicly sold by auction or be disposed of in accordance with the relevant regulations of the State, and the proceeds therefrom shall be handed over to the State Treasury.

Article 90 Where it is necessary to solve the special problems in dispute in a case for the purpose of finding out the truth of the case, persons with special knowledge shall be designated or invited to make appraisal; and after appraisal, the experts shall write down their opinions and sign their names.

Section 2 Decision

Article 91 Penalties for administration of public security shall be decided on by public security organs under the people's government at or above the county level, among which, a warning or a fine of not more than 500 yuan

may be decided on by local police stations.

Article 92 With regard to a person, before the decision on a penalty of administrative detention is made, a compulsory measure for restricting his freedom of person has been adopted, the period of time for such measure shall be offset. One day of restricted freedom of person shall be offset against one day of administrative detention.

Article 93 In investigating and handling a case of public security, the public security organ may, in the absence of statements made by the offender, make a decision on a penalty for administration of public security, when the facts of the case can be proved by other evidence. However, where there are only statements made by the offender but no other evidence to prove the facts, the decision on a penalty for administration of public security shall not be made.

Article 94 Before making a decision on a penalty for administration of public security, the public security organ shall notify the person who commits an act against the administration of public security of the facts, reasons and basis for such penalty, as well as of the rights he enjoys according to law.

A person who commits an act against the administration of public security shall have the right to make statements and defend himself. The public security organ must fully listen to the opinions of the said person and shall review the facts, reasons and evidence put forth by the person; and if the facts, reasons or evidence put forth by the person are tenable, the public security organ shall accept them.

The public security organ shall not impose a heavier penalty on the person who commits an act against the administration of public security because the person has made his statements or defended himself.

Article 95 After the investigation into a case of public security is concluded, the public security organ shall make a decision, on the merits of the case, as follows:

(1) if the illegal act has certainly been committed for which a penalty for

administration of public security should be imposed according to law, a decision to such an effect shall be made in light of the seriousness of the circumstances and actual situation;

(2) if no penalty should be imposed according to law, or the fact about the illegal act are untenable, a decision on no penalty shall be made;

(3) if the illegal act is suspected of being a crime, the case shall be transferred to a competent organ which shall investigate the criminal responsibility according to law; or

(4) when finding that the person who commits an act against the administration of public security has committed other illegal acts, it shall, while making a decision on penalty for the said act, notify the relevant administrative department in charge for handling the case.

Article 96 When the public security organ makes a decision on penalty for administration of public security, it shall make a written decision on such penalty. In the written decision the following shall clearly be stated:

(1) the name, sex, age, title and number of identity card, and address of the person penalized;

(2) facts and evidence of the illegal act committed;

(3) type and basis of the penalty;

(4) means for executing the penalty and the period of time of the penalty;

(5) channels and time limit for making an application for administrative reconsideration or for bringing an administrative suit if a person is dissatisfied with the decision on penalty; and

(6) name of the public security organ that makes the decision on penalty and the date on which such a decision is made.

The seal of the public security organ that makes the decision on penalty shall be affixed to the written decision.

Article 97 The public security organ shall read out the written decision on penalty for administration of public security to the person penalized, and hand it over to him on the spot; and where there is no way of reading it out to

such person on the spot, the written decision shall be served on the person within two days. Where a decision on penalty of administrative detention is made, the family members of the person penalized shall be notified without delay.

Where there is a victim in the case, the public security organ shall send a duplicate of the written decision to the victim.

Article 98 Before deciding to revoke the license or to impose a fine of not less than 2,000 yuan as a penalty for the administration of public security, the public security organ shall notify the person who commits an act against the administration of public security that he has the right to demand the holding of a hearing; and where the said person demands a hearing, the public security organ shall, in a timely manner, hold the hearing according to law.

Article 99 The period of time for the public security organ to handle a case of public security shall not exceed 30 days from the date it accepts case; and where it is a major and complicated case, the period of time may be extended for another 30 days upon approval by the public security organ at the next higher level.

The time for making evaluation in order to find out the facts about a case shall not be counted into the period of time for handling a case of public security.

Article 100 Where the facts about the act committed against the administration of public security are clear and the evidence is irrefutable, for which a warning is to be given or a fine of not more than 200 yuan is to be imposed, the decision on such a penalty for administration of public security may be made on the spot.

Article 101 Where a decision on a penalty for administration of public security is made on the spot, the people's policeman shall show his work certificate to the person who commits an act against the administration of public security, and fill out a written decision on the penalty. The written decision on the penalty shall, on the spot, be handed over to the person

penalized; and where there is a victim in the case, the duplicate of the written decision shall be sent to him.

In the written decision on the penalty mentioned in the preceding paragraph shall clearly be stated the name of the person penalized, the illegal act, the basis for the penalty, the amount of the fine, the date, place, and the title of the public security organ, and the written decision shall be signed by, or affixed with the seal of, the people's policeman who handles the case.

Where the decision on a penalty for administration of public security is made on the spot, the people's policeman who handles the case shall, within 24 hours, report the matter for the record to the public security organ which he belongs to.

Article 102 Where the person penalized is not satisfied with the decision on penalty for administration of public security, he may apply for administrative reconsideration or bring an administrative suit according to law.

Section 3 Execution

Article 103 The person on whom the penalty for administrative detention is imposed upon decision shall be delivered by the public security organ to the house of detention for execution of the decision it made.

Article 104 The person on whom a fine is imposed as a penalty shall pay the fine to a designated bank within 15 days from the date he receives the written decision on the penalty. However, under one of the following circumstances, the people's policeman may collect the fine on the spot:

(1) if the amount of the fine imposed is not more than 50 yuan and the person penalized has no objection to the fine;

(2) if in an outlying area, or on water, or in a place not easily accessible where the public security organ or the people's policeman makes a decision on a fine in accordance with the provisions of this Law, the person penalized makes such a proposal because it is really difficult for him to pay the fine to the designated bank; or

(3) if it is difficult to enforce the penalty unless the fine is collected on

the spot, because the person penalized has no permanent dwelling place in the locality.

Article 105 The people's policeman who collects a fine on the spot shall, within two days from the date he collects the fine, hand the fine over to the public security organ which he belongs to; if a fine is collected on the spot on water or aboard a train, he shall, within two days from the date he arrives at the port or railway station, hand the fine over to the public security organ which he belongs to; and the public security organ shall, within two days from the date it receives the fine, hand the fine over to the designated bank.

Article 106 When a people's policeman collects a fine on the spot, he shall produce to the person penalized a voucher for the fine which is uniformly printed and issued by the finance department of the people's government of a province, autonomous region, or municipality directly under the Central Government; and if no such voucher is produced, the person penalized shall have the right to refuse to pay the fine.

Article 107 Where a person penalized who refuses to accept the decision on a penalty of administrative detention applies for administrative reconsideration or bring an administrative suit, he may apply to the public security organ for a deferred enforcement of the administrative detention. If the public security organ believes that such deferment will not create danger to the society, and after the person penalized or his close relative proposes a guarantor who conforms to the conditions provided for in **Article 108** of this Law, or after the bail is paid at the rate of 200 yuan per day for the administrative detention, the decision on the penalty of administrative detention shall be deferred from enforcement.

Article 108 A guarantor shall meet the following conditions:

- (1) being not involved in the case concerned;
- (2) enjoying political rights, and his freedom of person being not restricted;
- (3) having a registered permanent residence and a permanent dwelling

locally; and

(4) having the ability to perform the obligations of a guarantor.

Article 109 A guarantor shall guarantee that the person guaranteed will not escape from the enforcement of the penalty of administrative detention.

Where the guarantor fails to perform his obligations, so that the person guaranteed escapes from the enforcement of the penalty of administrative detention, the public security organ shall impose on him a fine of not more than 3,000 yuan.

Article 110 Where a person on whom the penalty of administrative detention is imposed upon decision escapes from the enforcement of the penalty after payment of the bail for deferred execution of the administrative detention, the bail shall be confiscated and handed over to the State Treasury, and the decision already made on the penalty of administrative detention shall be executed all the same.

Article 111 Where the decision on penalty of administrative detention is withdrawn, or the penalty of administrative detention begins to be executed, the bail collected by the public security organ shall be returned to the payer without delay.

Chapter V Law Enforcement Supervision

Article 112 Public security organs and the people's police shall handle cases of public security according to law and in an impartial, strict and highly efficient manner, and enforce laws with civility, and they shall not engage in malpractices for private gain.

Article 113 In handling cases of public security, public security organs and the people's police are forbidden to beat, abuse, mistreat or humiliate the persons who commit acts against the administration of public security.

Article 114 In handling cases of public security, public security organs and the people's police shall voluntarily accept supervision by the society and citizens.

Where a public security organ and people's policeman fails to strictly enforce laws in handling cases of public security or commits an act in violation of laws or rules of discipline, any unit or individual shall have the right to report to or lodge an accusation before a public security organ or the people's procuratorate or an administrative supervisory organ; and the organ that receives such report or accusation shall, without delay, handle it in compliance with its duties.

Article 115 When executing the penalty of a fine according to law, the public security organ shall, in accordance with the provisions of relevant laws and administrative regulations, separate the decision-making on fines from the collection of fines; and all the fines collected shall be handed over to the State Treasury.

Article 116 If when handling cases of public security, a people's policeman commits one of the following acts, he shall be given an administrative sanction according to law; and if a crime is constituted, he shall be investigated for criminal responsibility according to law:

(1) extorting a confession by torture, or physically punishing, maltreating or humiliating another person;

(2) exceeding the period of time set for interrogation, investigation and verification, thus restricting the freedom of person;

(3) failing to carry out the system of separating the decision on fines from the collection of fines or failing to hand the fines collected or the property confiscated over to the State Treasury in accordance with the provisions or failing to dispose of such property according to law;

(4) privately dividing, seizing, misappropriating or intentionally damaging the money or things of value collected or distrained;

(5) in violation of regulations, using or failing to return the property or things of value to the victim;

(6) in violation of the provisions, failing to return the bails in a timely manner;

(7) taking the advantage of the position to accept or receive the property or things of value from another person or seek other benefits;

(8) failing to produce a voucher for a fine collected on the spot or failing to truthfully fill out the amount of a fine;

(9) failing to dispatch the police to the scene as soon as receiving a request for stopping an act against the administration of public security;

(10) sending secret messages to a person who violates the law or commits a crime, when investigating and handling activities against the administration of public security; or

(11) other acts involving engagement in malpractices for personal gain, abuse of power or failure to perform the statutory duties according to law.

Where in handling cases of public security, a public security organ commits one of the acts mentioned in the preceding paragraph, the persons directly in charge and the other persons directly responsible shall be given appropriate administrative sanctions.

Article 117 Where public security organs and the people's police unlawfully exercise their functions and powers and infringe upon the legitimate rights and interests of citizens, legal persons or other organizations, they shall make apologies; and where damages are caused, they shall bear the responsibility for compensation according to law.

Chapter VI Supplementary Provisions

Article 118 The figures used following the terms of “not less than”, “not more than” or “within” in this Law include these figures themselves.

Article 119 This Law shall go into effect as of March 1, 2006. The Regulations of the People's Republic of China on Administrative Penalties for Public Security promulgated on September 5, 1986, and revised and promulgated on May 12, 1994 shall be nullified at the same time.