



What Criminal Liabilities You Face During the NCP Epidemic

On February 10, 2020, the Supreme People’s Court, the Supreme People’s Procuratorate, Ministry of Public Security, and Ministry of Justice released the Opinions of Punishing the Crimes Impairing the Prevention and Control the Epidemic of Novel Coronavirus Pneumonia (the “Opinions”).¹

In general, the Opinions, based on the PRC Criminal Law, list ten opinions on dealing with the recent eye-catching crimes, which severely undermine the prevention and control of Novel Coronavirus Pneumonia (“NCP”) epidemic. The goal of the Opinions is to provide PRC judicial authorities with a guidance on adjudicating the recent epidemic-related crimes so as to apply laws accurately. We hereby highlight the following points for you.

1. Endangering public safety

Deliberately concealing infections and refusing to be quarantined may be charged with **the crime of endangering public safety by dangerous means**, which is stipulated in article 114 and 115 of the PRC Criminal Law and offenders could face a minimum of 3 years in prison. If causing serious injury, death or other bad results, the offenders could also be jailed for life sentence or even sentenced to death.

The Opinions further clarify that only under the following two circumstances, the offenders can be charged with this crime:

- (1) Individuals who have been confirmed to be NCP patients, refuse to be quarantined or leave without permission, and enter public places or take public transportation.
- (2) Individuals who are suspected to be NCP patients, refuse to be quarantined or leave without permission, enter public places or take public transportation, and result in the spread of novel coronavirus.

Currently, some individuals have been put under criminal investigation on the crime of endangering public safety by dangerous means:²

Date	City	Fact
February 4, 2020	Shenzhen City, Guangdong Province	Mr Ruan returned from Hubei Province. He was quarantined as he was suspected to be carrying novel coronavirus. However, he did not abide by the local quarantined rules and fled away without permission. He was later been confirmed to be NCP patient, causing many individuals to be quarantined.
February 4, 2020	Jinghong City, Yunnan Province	Mr Li coughed after returned from Wuhan. He was sent to designated medical center for quarantine. However, he fled away without permission. When police came, he refused to be quarantined, and once returned, he attacked the medical workers. He was later been confirmed to be NCP patient.

2. Obstructing the prevention and treatment of NCP epidemic

According to the Opinions, other individuals who refuse to execute the prevention and control measures and thus lead to the spread of novel coronavirus or a danger of the spread of novel coronavirus shall be charged with **the crime of obstructing the prevention and treatment of epidemic** which is stipulated in article 330 of PRC Criminal Law and offenders could face an imprisonment of not more than 3 years or criminal detention. If the consequences are serious, the offenders could also be sentenced to an imprisonment of not less than 3 years but not more than 7 years.

Currently, some individuals have been arrested on the crime of obstructing the prevention and treatment of epidemic:³

Date	City	Fact
February 11, 2020	Xuchang City, Henan Province	Mr Liu’s daughter went to the wedding of Mr. Liu’s son and later his daughter has been confirmed to be carrying novel coronavirus. However, Mr Liu refused to cooperate with governmental authority and hide the history that his daughter went to the wedding. Later, he also refused to provide with the name list of the individuals who participated the wedding.
February 11, 2020	Wenzhou City, Zhejiang Province	Mr Lin has been confirmed to be carrying novel coronavirus. However, Mr Liu deliberately hide many individuals he has contacted closely which lead the governmental authority failed to take relevant preventive measures in time.

As mentioned in our previous legal update⁴, it is worthy to pay attention that Article 330 of the PRC Criminal Law also applies to enterprises when they fail to perform the obligations stipulated under the PRC Prevention and Treatment of Infectious Diseases Law.⁵ To be specific, the PRC Prevention and Treatment of Infectious Diseases Law provides that enterprises have the following obligations during the NCP epidemic:

- An enterprise shall promptly report to the nearby institution of disease prevention and control or medical institution when it finds NCP cases or suspected cases.⁶
- An enterprise shall take the initiative to collect, analyze, investigate and verify information on NCP cases and suspected cases.⁷
- An enterprise shall take effective sanitary and protective measures and medical care and health measures to employees who are in contact with NCP patients/ novel coronavirus during the production or work, further the enterprise shall offer such employees reasonable allowance.⁸

In practice, when an enterprise fails to take proper protective measures, monitor the NCP situation among its employees, and report the information to authority after or even before resuming work, the enterprise and its high management officers may face the risk of criminal liability.

3. Obstructing public service

Obstructing the governmental officials to control the NCP outbreak by means of violence or threat may be charged with **the crime of obstructing public service**, which is stipulated in article 277 of the PRC Criminal Law and offenders could face an imprisonment of less than 3 years or criminal detention. If attacking police on duty, harsher punishment will be granted for the same charge.

Recently two cases have been adjudicated under the crime of obstructing public service:⁹

Date of trial	City	Fact	Sanctions
February 9, 2020	Huzhou City, Zhejiang Province	Mr. Wang did not follow the rules to self-quarantine at home (went out without permission) and physically attacked the police.	9 months’ imprisonment
February 10, 2020	Jinan City, Shandong province.	Mr. Deng refused to wear masks to enter into the building and physically attacked the police.	10 months’ imprisonment

4. Sales of counterfeit goods

During the period of NCP epidemic prevention and control, producing or knowingly selling medical equipment, such as surgical masks, goggles, protective clothing which do not meet the standard of safeguarding the people’s health, may be charged with **the crime of producing and selling medical equipment not complying with the standard**, which is stipulated in Article 145 of the PRC Criminal Law and offenders may face an imprisonment of less than 3 years and a fine of not less than 50% but not more than twice the amount of sales. If causing serious injury or other serious consequences, harsher punishment may be imposed. In addition, Article 145 also applies to enterprise—a violating enterprise may be imposed fine and persons in supervision or directly responsible may be punished accordingly.¹⁰

Recently two cases have been under criminal investigation on the crime of producing and selling medical equipment not complying with the standard:¹¹

Date of Notification	City	Fact
February 1, 2020	Shenzhen City, Guangdong Province	A pharmacy sold fake masks without factory name, factory site, qualification certificate, and Chinese label, and the sales amount was more than 1800.
February 7, 2020	Changle City, Fuzhou Province	Mr. Li sold fake masks without the function of protection, and the sales amount was more than 40000.

5. Price gouging

Hoarding materials urgently needed for NCP epidemic prevention and control, such as masks, goggles, protective clothing, and disinfectant, in large quantities, raising prices to obtain high profits, and the illegal amount is large or other serious circumstances exist, may be charged with **the crime of illegal business operations**, which is stipulated under Article 225 of the PRC Criminal Law and offenders may face an imprisonment of less than 5 years and a fine of less than one time but not more than five times of the illegal income. If the circumstances are extremely serious, harsher punishment will be granted. This crime also applies enterprises—a violating enterprise may be imposed fine and persons in supervision or directly responsible may be punished accordingly.¹² For example, in Tianjin, a large pharmacy is under the criminal investigation on the crime of illegal business operations for raising the price of masks and disinfectant.¹³

Price gouging may also cause administrative penalty. For example, in Shanghai, Carrefour Supermarket dramatically raised the sale price of 15 varieties of vegetables without obvious fluctuation of purchase price, and it was imposed a fine of 2 million RMB.¹⁴

6. False advertising

During the period of NCP epidemic prevention and control, using advertisements to give false publicity to the commodities or services under the guise of NCP epidemic prevention and control, therefore cheating many people and the illegal amount is large, may be charged with **the crime of false advertising**, which is stipulated in Article 222 of the PRC Criminal Law and offenders may face an imprisonment of less than 2 years and fines.

This crime also applies enterprises—a violating enterprise may be imposed fine and persons in supervision and directly responsible may be punished accordingly.¹⁵ For example, in Tianjin, a large pharmacy falsely publicized that the ordinary drugs "antiviral pills" and "heat-clearing and detoxifying capsule" are able to prevent NCP and the pharmacy had sold 3584 boxes. The pharmacy is under the criminal investigation.¹⁶

7. Spreading false information

Falsely fabricating and spreading NCP epidemic information on the network or other medias, or knowingly spreading the false information on the network or other media, seriously disrupting social order, may be charged with **the crime of fabricating and intentionally spreading false information** which is stipulated in Article 291 of the PRC Criminal Law and offenders may face an imprisonment of less than 3 years. If causing serious consequence, the longer imprisonment may be imposed. Lesser degree fabricating and spreading may result in administrative penalty.

For example, in Tianjin, a man fabricated the false information in Wechat’s friends circle, causing social panic. Therefore, he was arrested by police bureau.¹⁷

8. Harm to medical workers/police officers

During the period of NCP epidemic prevention and control, tearing up protective equipment of medical staff or spitting medical staff and causing NCP infection of medical staff may be charged with **the crime of intentional injury**, which is stipulated in Article 234 of the PRC Criminal Law and offenders may face an imprisonment of 3 to 10 years. If causing peoples’ death or serious injury, the imprisonment may go up to death penalty. By now, we have not found any case adjudicated under this charge.

1. See: http://www.moj.gov.cn/government_public/content/2020-02/10/tzjw_3241048.html (last visited by Feb.12, 2020).

2. See: http://www.lg.gov.cn/xxgk/xwzx/qyww/202002/t20200205_18999104.htm
https://www.jhs.gov.cn/162_news_detail.dhtml?news_id=84298

3. See: http://news.hangzhou.com.cn/zjnews/content/2020-02/13/content_7675028.htm?open_source=weibo_search
<http://news.sina.com.cn/s/2020-02-12/doc-ijmxxqzv2326978.shtml>

4. See: <http://asiallians.com/china-legal-update-coronavirus-outbreak-china-shall-enterprises-pay-attention/>

5. Under Article 330 of the PRC Criminal Law, an enterprise that violates the obligations under the PRC Prevention and Treatment of Infectious Diseases Law, refuse to execute the preventive and control measures, and thus causes the spread or great danger of the spread of A Class infectious disease shall be fined. Furthermore, the persons directly in charge or being responsible shall be punished accordingly.

6. Article 31 of the PRC Law on Prevention and Treatment of Infectious Diseases

7. Article 33 of the PRC Law on Prevention and Treatment of Infectious Diseases

8. Article 64 of the PRC Law on Prevention and Treatment of Infectious Diseases

9. See: <https://mp.weixin.qq.com/s/2VPo825VrThWYeiwT8cBHg>
<https://news.sina.com.cn/gn/2020-02-09/detail-ijmxxstf060542.d.html>

10. Article 150 of the PRC Criminal Law

11. See: http://www.xinhuanet.com/legal/2020-02/01/c_1125520345.htm
<http://news.sina.com.cn/g/2020-02-08/doc-ijmxxste9732129.shtml>

12. Article 231 of the PRC Criminal Law

13. See: https://www.guancha.cn/politics/2020_01_28_533506.shtml

14. See: http://www.cqn.com.cn/zj/content/2020-01/31/content_8095308.htm

15. Article 231 of the PRC Criminal Law

16. See: <http://news.cctv.com/2020/02/02/ARTIQo9Nzmlj5r6JloJVCg9200202.shtml>

17. See: <https://baijiahao.baidu.com/s?id=1657039944245099432&wfr=spider&for=pc>

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