

GUANGDONG PROVINCE REGULATION TO REWARD AND PROTECT PERSONS OF COURAGEOUS BEHAVIOR

广东省见义勇为人员奖励和保障条例

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Translator's Note: The Guangdong Province Regulation to Reward and Protect Persons of Courageous Behavior (广东省见义勇为人员奖励和保障条例) emerged after the Foshan hit-and-run incident in 2011. This translation serves as a source of reference on the newly enacted legislation. The regulation was enacted on November 29, 2012 and is now in effect as of January 1, 2013.¹ This translation is based on Bulletin No. 89 issued December 20, 2012 by the 11th Standing Committee of the People's Congress of Guangdong Province (广东省人民代表大会常务委员会).²

GUANGDONG PROVINCE'S REGULATION TO REWARD AND PROTECT PERSONS OF COURAGEOUS BEHAVIOR

(November 29, 2012, the 38th Session for Guangdong Province's 11th
Standing Committee People's Congress)

CHAPTER 1: GENERAL RULES

Article 1: This regulation was established in order to develop a social spirit of upright behavior, to encourage helping others in danger, and to protect the lawful rights and interests of courageous persons³ in accordance with relevant laws and regulations, based on the realities of this province.

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¹ Xinwen Zhongxin (新闻中心), *Guangdong Sheng Jian Yi Yongwei Renyuan Jiangli He Baozhang Tiaoli Queren Yiju You Shixiao* (广东省见义勇为人员奖励和保障条例 确认义举有时效), CHINA.ORG.CN (Dec. 12, 2012), http://news.china.com.cn/live/2012-12/12/content_17634486.htm.

² Guangdong Sheng Jianyi Yongwei Renyuan Jiangli He Baozhang Tiaoli (广东省见义勇为人员奖励和保障条例) [Guangdong Regulation to Reward and Protect Persons of Courageous Behavior] (promulgated by the 11th Standing Comm. People's Cong. of Guangdong Province, Nov. 29, 2012, effective Jan. 1, 2013) (China), available at http://law.lawtime.cn/d693207698301_2_p1.html.

³ *Jian yi yong wei ren yuan* (见义勇为人员) can mean a number of things, but is essentially the Western equivalent of a "Good Samaritan." Given that the term comes from the Analects of Confucius, the translators decided to translate this phrase as "person of courageous behavior" instead of Good Samaritan, which has a more Biblical connotation. The concept of *Jian yi yong wei* (见义勇为) refers to courageous or righteous behavior, brave deeds for a just cause, and other similar concepts of coming to the aid of another. It is a unique term and the translators elected to use "courageous behavior" to distinguish it from Good Samaritan laws in other parts of the world. The term has sometimes been translated as

Article 2: This regulation implements rewards and guarantees for persons of courageous behavior in this province's administrative region.

Article 3: In order to protect national interests, public interests, or the safety of other persons or property, this regulation defines "persons of courageous behavior" as persons who, without legal responsibility or obligation, take actions to stop criminal activity from occurring, or who rescue persons, render emergency aid, deliver disaster relief, etcetera.

Article 4: The rewards and guarantees for courageous persons are a combination of government-led and social participation efforts, integrating the spiritual, material, and social aspects of encouragement; and they adhere to principles of fairness, transparency, and timeliness.

Article 5: The People's Government at the county level or above is responsible for the tasks of rewarding and protecting persons of courageous behavior, and establishing and strengthening the working mechanisms for coordination of all relevant departments.

Public security, civil affairs, human resources and social security, financial, educational, health, housing and municipal construction, auditing, judicial administration, and all other related departments, in accordance with their respective duties, shall assist in the tasks of rewarding and protecting persons of courageous behavior, while the routine tasks shall be fulfilled by the public security organs.

Trade unions, Communist Youth League of China, Women's Federation, Disabled Persons Federation, etcetera,⁴ shall assist in the tasks of rewarding and protecting persons of courageous behavior.

Article 6: The People's Government at the county level or above shall establish a Courageous Behavior Evaluation⁵ Committee, which will be responsible for the verification of courageous behavior.

"righteous behavior" in other literature. See generally CONFUCIUS, THE ANALECTS (LUN YU) (D.C. Lau trans., Penguin Books 1979). See also HANDIAN (汉典) [A Dictionary of Han Chinese], *Ciyu jieshi: jianyi yongwei* (词语解释：见义勇为 (见义勇爲)) [Explanation of the Expression "Jianyi Yongwei"], <http://www.zdic.net/cd/ci/4/ZdicE8ZdicA7Zdic81339096.htm> (last visited Mar. 21, 2013) (citing to the origin of the term *jian yi yong wei* (见义勇为) in Chapter 24 of THE ANALECTS, which states "*jianyi buwei, wuyong ye*" ("见义不为, 无勇也")).

⁴ In this context, "etcetera" refers to other similar organizations.

⁵ An alternative translation may be "assessment."

The Evaluation Committee shall consist of departmental staff from the departments of civil administration, public security, human resources and social security, finance, education, health, housing and municipal construction, judicial administration, and all other professional personnel. The People's Government at the same level will determine the establishment of the Evaluation Committee Office.

The Evaluation Committee shall establish an evaluation procedure and shall make it known to the public.

Article 7: The People's Government at county level or above shall arrange special funds for courageous behavior in the annual budget to be used towards subsidies for courageous persons and their families' emergency treatment, pension, recognition, reward, hardship assistance, and rehabilitation, and other financial compensation, and shall establish the management and use of such funds.

The People's Government at the provincial or prefecture level or above shall increase special funds to support courageous behavior in less developed areas.

Article 8: The Courageous Behavior Foundation established in this Province's administrative region shall implement this law in accordance with the laws, regulations, and the constitution.

The source of funding for the Courageous Behavior Foundation primarily includes fiscal allocations, fundraising, donations and other lawful revenue.

This Province's administrative region shall encourage social forces to donate to the Courageous Behavior Foundation.

Article 9: This regulation encourages citizens to behave courageously in the following proper and effective ways:

Subsection (1): Stop⁶ criminal behavior that threatens national security and public safety, or disturbs the social order;

Subsection (2): Stop criminal behavior that threatens⁷ national or public property, or other persons' bodily safety, or other person's property;

⁶ The word *zhizhi* (制止) can also mean "to prevent".

⁷ The word *qinhai* (侵害) also bears connotations of violating and invading, or something that harms or endangers.

Subsection (3): Emergency aid, disaster relief, rescue, or protection of national, collective property or other persons' bodily safety;

Subsection (4): Other acts of courageous behavior.

Article 10: This regulation encourages the whole society to support courageous behavior—to respect and protect persons of courageous behavior.

This regulation encourages state organs, social organizations, enterprises and institutions, or other organizations and individuals to support this regulation. This regulation encourages social forces and courageous persons' *danwei*,⁸ residential committees, and village committees to financially support and reward persons of courageous behavior.

Article 11: The People's Government at the county level and above and all other relevant departments, trade unions, Communist Youth League, Women's Federation, Disabled Persons Federation, etcetera, shall strengthen the publicity of courageous behavior, encouraging citizens to behave courageously.

News media shall promptly publicize courageous deeds, and report activities that give courageous persons' rewards, protections, and aid.

CHAPTER 2: VERIFICATION

Article 12: As provided in Article 3 of this regulation, persons of courageous behavior and their close relatives may apply for verification of the courageous acts with the Evaluation Committee of the People's Government at the county level where the act occurred or, if the area is not divided into districts, at the prefecture-level city where the act occurred, and they must present evidence. Relevant *danwei* and individuals can also recommend persons of courageous behavior.

Applications and recommendations to verify courageous behavior must occur within six months from the date of occurrence.

If the person of courageous behavior does not have an applicant or recommendation, the Courageous Behavior Evaluation Committee of the

⁸ *Danwei* (單位) is a term without an equivalent English translation, but it means a work unit that a person is assigned to on the basis of his or her occupational position. The traditional *danwei* looked after its workers for their entire lives and was a source of social stability.

People's Government at the county level or above may, in accordance with their authority, verify such acts.

Article 13: The Courageous Behavior Evaluation Committee shall investigate and obtain evidence within three working days of receiving written applications and recommendations. All concerned *danwei* and individuals shall cooperate with the investigation.

Article 14: The Courageous Behavior Evaluation Committee shall publicize verified deeds of persons of courageous behavior for public comment. The public announcement shall last for no less than seven days, unless otherwise specified in Article 28, Subsection 1 of this regulation.

Article 15: The Courageous Behavior Evaluation Committees at the county level People's Governments shall render written decisions within thirty days of receiving verification applications or recommendations. If the situation is complicated and requires extended consideration, the officer in charge of the Evaluation Committee may extend this time by ten business days and must notify the applicant or recommender. The public notice period does not include the work done during the verification period.

If the behavior is verified as a courageous behavior, the county government shall issue a Certificate of Courageous Behavior to the courageous person or his close family members. If the behavior is not verified as a courageous behavior, the county government shall notify the applicant or recommender in writing and explain the reasons for denial.

The county government shall list the names and acts of persons verified as persons of courageous behavior and shall make them public, unless otherwise specified in Article 28, Subsection 1.

CHAPTER 3: REWARD AND PROTECTION

Article 16: The People's Government at the county level or above may grant persons of courageous behavior honors and awards from the following list for their outstanding acts:

Subsection (1): Commendation announcement;

Subsection (2): Issuance of monetary award;

Subsection (3): Honorary title for courageous behavior.

Article 17: In addition to enjoying preferential treatment provided for in relevant provisions regarding national and provincial pension⁹ subsidies, the provincial People's Government shall issue a one-time compensation award to persons of courageous behavior who suffered casualties verified by the Evaluation Committee:

Subsection (1): For those who sacrifice their lives, the Provincial People's Government shall issue a pension award of RMB 1,000,000 [USD 160,506].¹⁰

Subsection (2): For those who are completely disabled, the Provincial People's Government shall issue a pension award of RMB 800,000 [USD 128,404.80].

Subsection (3): For those who are severely disabled, the Provincial People's Government shall issue a pension award of RMB 600,000 [USD 96,303.60].

Subsection (4): For those who are partially disabled, the Provincial People's Government shall issue a one-time award of RMB 400,000 [USD 64,202.40].

The Provincial People's Government shall establish specific implementation provisions.

Article 18: Any *danwei* or individual who sees an injured person of courageous behavior shall promptly notify a public security organ and medical institution, and take measures to assist in treatment, emergency aid, etcetera. The medical institution and medical personnel shall promptly treat him and shall not refuse or delay emergency treatment measures.¹¹

Article 19: If a person of courageous behavior suffers personal injuries, the public security organ shall notify the Special Fund Management Organization for Persons of Courageous Behavior (Organization) to advance

⁹ *Fuxu* (抚恤) can also mean comfort to the bereaved, a compensation of sorts.

¹⁰ Conversion rates are current as of January 2, 2013.

¹¹ This provision is necessary because hospitals in the People's Republic of China often will not treat patients unless they are paid in advance for their services.

the medical fees, nursing fees, and other reasonable fees for treatment incurred during his treatment period. If such a person is left disabled, the Organization shall advance the disabled person's expenses for living assistive devices. If such person dies, the Organization shall pay for funeral expenses.

If a person of courageous behavior is injured by a tortfeasor, the tortfeasor or the tortfeasor's guardian shall bear legal responsibility. The tortfeasor or tortfeasor's guardian shall reimburse the aforementioned advance on medical fees.

If a person of courageous behavior is injured by a beneficiary [of the rescue], the beneficiary or beneficiary's guardian may bear the relevant fees.

Article 20: If a person of courageous behavior has employment injury insurance, he or she shall be entitled to benefits which equal to an employment injury according to law.¹²

Article 21: If persons of courageous behavior miss work, their *danwei* shall consider their absence as attendance, and shall not reduce their benefits or illegally cancel their labor contract.

Article 22: For persons of courageous behavior who are partially disabled, their local *danwei* shall arrange suitable work for them.

For persons of courageous behavior who are completely disabled, who have contributed to a worker's basic pension insurance,¹³ they shall receive basic pension treatment according to law.

Persons of courageous behavior who do not fulfill the conditional treatment of paragraphs one and two above and who are partially disabled shall receive job placement through the public employment services organization or the disabled workers employment services organization of the county level and above; those who are completely disabled but cannot enjoy preferential treatment equal to work-related injury shall receive a monthly payment not less than the local monthly average cost of living on an annual per capita basis from the special fund of the People's Government at the county level.

Article 23: For persons of courageous behavior who have difficulty finding employment, the People's Government at the county level or above

¹² Contextually, the term refers to compensation similar to workman's compensation.

¹³ *Yanglao baoxian* (养老保险) can also be translated as endowment insurance. Given the context, the translators elected to use "pension" as it seems to refer to a form of a retirement fund.

shall provide priority employment support and give them priority for public posts.

Article 24: Persons of courageous behavior and their families who qualify as urban and rural low-income residents shall, in accordance with relevant provisions, be included in the welfare system. The People's Government at every level shall give priority to persons of courageous behavior and their families who, in compliance with relevant provisions, apply for special assistance and temporary relief.

Article 25: The People's Government at the county level and above shall give priority placements to orphans of persons of courageous behavior who fall within the scope of city social welfare agencies or qualify for the Five Rural Guarantees.¹⁴

The People's Government at the county level and above shall prioritize placement of minor orphaned children of persons of courageous behavior in the orphan security system, and in accordance to relevant standards issue money for basic living expenses.

The People's Government at the county level and above shall place orphans of persons of courageous behavior into the basic medical insurance program for urban and rural residents, the urban and rural medical assistance system, and other such systems. The costs to participate in the basic urban and rural medical insurance may be resolved through the urban and rural medical assistance system.

Article 26: For city-dweller people of courageous behavior and their families, the People's Government at the county level and above shall give them priority for low-income housing if they qualify for such housing, including preference in rental assignment and sale of low-income housing or issuance of housing subsidies. People of courageous behavior and their families who live in rural dilapidated housing shall receive priority placement for rural reconstruction if they qualify for such housing.

Article 27: If a person performs extraordinarily courageous acts, the People's Government at the municipal level or above shall give priority to

¹⁴ The Five Rural Guarantees is a special program in China designed to protect farmer's material subsistence and livelihood. The Five Rural Guarantees include a farmer's right to food, clothes, shelter, medicine, and a funeral. See generally *China's Social Security and Its Policy (2004)*, GOV.CN, http://english.gov.cn/official/2005-07/28/content_18024.htm (last visited Jan. 23, 2013). See also *II. Old-age Security System*, CHINA.ORG.CN, <http://www.china.org.cn/english/aged/192046.htm> (last visited Mar. 21, 2013).

this person and his spouse and children if they apply for permanent *hukou*¹⁵ in the place where the event occurred.

Article 28: If it is not suitable for public disclosure, public security organs and all relevant departments shall keep confidential the information about the person of courageous behavior and their deed.

The public security organ shall take effective measures to protect persons of courageous behavior and their close relatives whose personal safety and property are threatened; the public security organ and other related departments shall promptly deal with anyone who retaliates against a person of courageous behavior.

Article 29: If in the course of rescue the person of courageous behavior causes damage to the property of others, and in accordance with the law he should be liable for compensation, the special fund shall provide appropriate financial aid.

A person or close family members who, because of his or her courageous behavior, is involved in civil litigation may request legal aid, and the legal aid organization shall promptly provide assistance.

CHAPTER 4: LEGAL RESPONSIBILITY

Article 30: Each level of the People's Government, relevant departments in charge, and employees who violate these provisions through one of the following actions shall be ordered to make corrections by a higher authority or supervisory organ. If the act is serious, the executive and other personnel directly liable shall be punished according to law; if the act constitutes a crime, they will be held criminally liable:

Subsection (1): Embezzlement,¹⁶ misappropriation, or conversion of the special funds for persons of courageous behavior;

¹⁵ *Hukou* (户口) is "a system of residency permits, [and] was used by the Communist Party beginning in 1958 to minimize the movement of people between rural and urban areas. Chinese citizens were classified as urban and rural based on their hukou; urban residents received state-allocated jobs and access to an array of social services while rural residents were expected to be more self-reliant." *Despite China's Modernization, the Inequitable Hukou System Remains*, A&S PERSP. (Feb. 2010), available at <http://www.artsci.washington.edu/newsletter/Feb10/Hukou.asp>; see also Jessica Montgomery, *The Inheritance of Inequality: Hukuo and Related Barriers to Compulsory Education for China's Migrant Children*, 21 PAC. RIM L. & POL'Y J. 590, 592-93 (2012).

¹⁶ In the original text, the regulation lists four verbs, "tanwu, nuoyong, jieliu, sifen" (贪污、挪用、截留、私分). Tanwu (贪污) can also be translated as corruption, though contextually it does not make

Subsection (2): Prohibited issuance of an award, financial compensation, or implementation of treatment for persons of courageous behavior;

Subsection (3): Other conduct involving abuse of authority, dereliction of duty, favoritism, or illegalities.

Article 31: Medical institutions or medical personnel who violate Article 18 of this regulation, who refuse, put off, or delay treatment for persons of courageous behavior, will be held legally responsible.

Article 32: Anyone who falsely claims the honor or award as a person of courageous behavior, or conceals the truth, will cause the original institution to revoke such honorary title, recover any money awarded, financial compensation, or other grants, and cancel related preferential treatment; if the party is a public employee, a separate department or supervisory organ shall give sanctions in accordance with law; if the conduct violates public security management regulations, the public security organ shall punish according to the law; if the conduct constitutes a crime, the party shall be investigated for criminal responsibility in accordance with law.

Article 33: The local *danwei* or supervisory organ shall reprimand any retaliation or false accusations against persons of courageous behavior and their relatives, and order violators to repent in accordance with law; if the conduct violates public security management regulations, the public security organ shall punish according to law; if the conduct constitutes a crime, the party shall be investigated for criminal responsibility according to law.

CHAPTER 5: SUPPLEMENTARY PROVISIONS

Article 34: Citizens domiciled in this province who perform courageous acts outside the administrative area of this province shall be given recognition and award by the People's Government at the county level or above. The People's Government of this province shall establish specific measures regarding this recognition and award.

Article 35: This regulation shall be effective on January 1, 2013.

sense in English. Sifen (私分) can also be translated as corruption and embezzlement, so to avoid confusion, embezzlement was only mentioned once, though there are slight distinctions between the two.