

**REPORT**

**Chinese ‘Police Stations’ in the United States –  
Designing an Effective Response**

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TABLE OF CONTENTS

<b>ABSTRACT .....</b>	<b>2</b>
<b>FACTUAL BACKGROUND .....</b>	<b>3</b>
I. Introduction to the Secret Chinese ‘Police Stations’ .....	3
II. Europe.....	5
III. The United States .....	11
<b>THE LEGAL ANALYSIS .....</b>	<b>14</b>
I. The Vienna Convention on Diplomatic Relations: Diplomatic Missions. ....	14
II. The Vienna Convention on Diplomatic Relations: <i>Persona Non Grata</i> . ....	16
III. Domestic Prosecution of Non-Diplomatic Foreign Nationals. ....	17
IV. Prosecution of U.S. Citizens.....	18
<b>CREATING A LEGAL FRAMEWORK.....</b>	<b>21</b>

ABSTRACT

Safeguard Defenders, a Spanish NGO, released a report in late 2022 that brought attention to the growing existence of secret Chinese “police stations” across the world.

The following report starts by looking at the issue itself, then moves to a study that delves into how this issue has grown and been dealt with in Europe and the United States, so far. The legal analysis that follows discusses the international laws, United States’ federal laws, and United States’ state laws that are implicated by this issue, which is a discussion necessary to understand the Legal Framework that has been developed and included in the last section. This framework is in its preliminary stages, and will likely evolve alongside the issue, as and when more information becomes available.

If you are living in the United States and you are aware of suspicious activity or a suspicious location that could be a secret Chinese “police station,” do not take the matter into your own hands. Contact local law enforcement and your local FBI field office, and they will handle the issue appropriately. Please also note that the Legal Framework only discusses potential avenues of relief in the United States, and this issue may look different and may be handled differently in other countries/jurisdictions. Finally, the legal framework is not intended to be legal advice; it is simply meant to offer a template through which the actions of these stations, and individuals involved in these stations, may be handled from a legal standpoint, until the country is able to legislate against this issue.

## FACTUAL BACKGROUND

### **I. Introduction to the Secret Chinese ‘Police Stations’**

In September 2022, the Spanish NGO and human rights group Safeguard Defenders released a report, *110 Overseas: Transnational Policing Gone Wild*, that alleged the existence of at least 54 secret Chinese ‘police stations’ overseas, across five continents and 21 countries.

Chinese authorities have responded in one of two ways to these allegations, without consistency. In some instances, they claimed this as an initiative to prosecute Chinese nationals who were committing telecommunications fraud abroad, later codified as the Anti-Telecom and Online Fraud Law (ATOFL): “[ATOFL] includes extra territoriality provisions for Chinese citizens...The Law shall apply to fighting the telecom and online fraud in China’s territory, or telecom and online fraud overseas committed by Chinese citizens.” The Anti-Telecom and Online Fraud Law; *Id.* at art. 3. Under the Act, violators of this law are “persuaded” to return to China, where they are prosecuted for their crimes. See Safeguard Defenders, *110 Overseas: Transnational Policing Gone Wild* at 6, 7 (September 2022), <https://safeguarddefenders.com/en/110-overseas> (“...with 230,000 telecom fraud suspects being educated and persuaded to return to China from overseas to confess crimes...”). See also Shane Harrison, *Chinese ‘police station’ in Dublin ordered to shut*, BBC News (October 27, 2022), <https://www.bbc.com/news/articles/crgndy37n16o> (“They say the stations were put in place to persuade emigrants to return home, sometimes to face criminal charges.”).

Alternatively, Chinese authorities claimed that these stations were ‘service’ stations that assist Chinese nationals abroad with administrative tasks, such as driver’s license and passport renewals; the latter being a task that is generally left to consulates or embassies. The authorities claim that the need for these stations was created by the COVID-19 pandemic, as numerous

Chinese nationals were stranded abroad and were unable to receive the help they desired. See Namita Singh, *MPs say China's 'secret police stations' in the UK must be investigated*, The Independent (October 27, 2022), <https://www.independent.co.uk/news/uk/home-news/china-secret-police-stations-uk-mp-b2211663.html> (“China has denied running ‘illegal’ overseas police stations, saying they are ‘Chinese service centres’ aimed at helping people stuck abroad due to [Covid] travel restrictions.” See also Agence France-Presse, *2 Chinese ‘Police Stations’ Uncovered in Germany*, NDTV World News (December 9, 2022), <https://www.ndtv.com/world-news/2-chinese-police-stations-uncovered-in-germany-3593080> (“China has previously denied conducting policing operations on foreign soil, say its overseas “service stations” are to help Chinese citizens with such tasks as renewing drivers’ licenses.”). If the ‘police station’ is not a ‘service’ station, it often is a ‘police station’ “[hiding] behind nonprofits and community associations, according to Safeguard Defenders’ reports.” Isabel Vincent, *After FBI busts Chinese ‘police station’ in NYC, six more exposed in US*, New York Post (April 18, 2023), <https://nypost.com/2023/04/18/chinese-police-stations-allegedly-spying-on-nyc-la-more/>.

The reality is these stations serve as overseas ‘police stations’ that harass, intimidate, and threaten Chinese dissidents and Chinese individuals that openly oppose the Chinese Communist Party, all as a part of China’s *Fox Hunt / Sky Net* operations. Safeguard Defenders released another report, *Involuntary Returns*, that classifies the methods used by China in tracking down and “persuading” dissidents to return to mainland China into two separate types: IR Types 1 and 2. See Safeguard Defenders, *Involuntary Returns* (2022), <https://safeguarddefenders.com/en/involuntary-returns>.

IR Type 1 involves “the tracking down of the target’s family in China in order to pressure them through means of intimidation, harassment, detention, or imprisonment into persuading their

family members to return voluntarily.” Safeguard Defenders, *110 Overseas* at 4. IR Type 2 involves a “direct approach of the target through online means or the deployment of - often undercover – agents and/or proxies abroad to threaten and harass the target into returning ‘voluntarily.’” Id. There a third type of Involuntary Return, which is the kidnapping of targets, but that method “has not been used in the operation described in this investigation,” which was true at least at the time *110 Overseas* was released. Id.

As it currently stands, a number of these ‘police stations’ exist in the United States, but the majority of these stations exist in Europe. Section II (below) is a detailed analysis of the situation in each European country, and the responses of their respective governments, as it is important to understand what other countries have done in response to this issue before the United States forms its own response.

## **II. Europe**

Since the release of Safeguard Defender’s *110 Overseas*, there has been an onslaught of news articles and media that have brought attention to the increasingly large number of ‘police stations’ that exist across the world. The first and most immediate response in Europe was seen in Dublin, Ireland. In October 2022, the Irish government closed a Chinese ‘police station’ that had opened earlier in the year. The Chinese authorities made no effort to conceal the station: the front sign read “Fuzhou Police Overseas Service Station, Dublin, Ireland,” and the Chinese authorities stated that it was a center for administrative tasks, such as license renewals. See Conor Gallagher, *Why is there a Chinese police outpost on Dublin’s Capel Street?*, *The Irish Times* (Sept. 25, 2022), <https://www.irishtimes.com/ireland/2022/09/25/why-is-there-a-chinese-police-outpost-on-dublins-capel-street/> (photo of the sign). The Irish Department of Foreign Affairs asked the Chinese authorities to “close and cease operations,” after finding that the Chinese authorities had

no permission to open such a station, and the Chinese government promptly did so. Shane Harrison, *Chinese 'police station' in Dublin ordered to shut*, BBC News (October 27, 2022), <https://www.bbc.com/news/articles/crgndy37n16o>.

The events in Dublin prompted several European governments to investigate and act against these 'police stations.' In London, England, there were two known locations, and a reporter detailed their experiences visiting the Hendon location in Northwest London:

“The only staff member present was unsurprised by media interest. The man...said Richard Huang was his boss, and often had Chinese visitors in his back office in the property...He knew nothing about any secret Chinese police service station operating on the site, but said that since the report was released, the business had been visited by a string of reporters, and has also been targeted by activists protesting the Chinese government’s abuses.” Tim Hume, *We Visited a 'Secret Chinese Police Station in London*, Vice World News (October 28, 2022), <https://www.vice.com/en/article/5d3qbb/china-secret-police-station-london>.

The stations in London were found to be more concealed than that of Dublin, with one location sharing its space with a realty office and the other sharing its space with a food delivery business. *Id.* See also InsideCroydon, *MP 'alarmed' to discover Chinese 'police station' on High Street*, Inside Croydon (November 1, 2022), <https://insidecroydon.com/2022/11/01/mp-alarmed-to-discover-chinese-police-station-on-high-street/> (detailing the second location in a London Suburb, Croydon). The Chinese authorities, once again, stated that these were overseas service centers, but “Spanish newspaper El Correo, quoted an unnamed Chinese diplomat as acknowledging the “persuasion operations,’ saying that bilateral extradition treaties with European countries were ‘very cumbersome and Europe is reluctant to extradite to China.’” Tim Hume, *We Visited a 'Secret Chinese Police Station in London*, Vice World News (October 28, 2022). The implications of this statement are concerning in that it seems, because treaties and extradition are difficult and time-consuming, Chinese authorities may have taken matters into their own hands and have developed these “persuasion operations” as a response. The British government has responded to the

existence of these stations, with Security Minister Tom Tugendhat stating that “such activities must be stopped,” InsideCroydon, *MP ‘alarmed’ to discover Chinese ‘police station’ on High Street*, Inside Croydon (November 1, 2022), and a Spokesperson for the British Government stating that “any foreign country operating on UK soil must abide by UK law.” Namita Singh, *MPs say China’s ‘secret police stations’ in UK must be investigated*, The Independent (October 27, 2022), <https://www.independent.co.uk/news/uk/home-news/china-secret-police-stations-uk-mp-b2211663.html>.

Another location exists in Glasgow, Scotland, and the location shares its space with a Chinese/Cantonese restaurant, but staff and the restaurant itself have “denied any involvement.” Judith Duffy, *Experts say China’s use of ‘secret police stations’ no surprise after Glasgow intrigue*, The National (October 30, 2022), <https://www.thenational.scot/news/23088026.experts-say-chinas-use-secret-police-stations-no-surprise-glasgow-intrigue/>. From the confusion and denial of staff that are associated with these potential locations, it is clear that Chinese government’s level of involvement and the information provided is not always known. Author Ian Williams, former Channel 4 Asia correspondent, has said: “The restaurants and the real estate shops and the takeaways named have all seemed pretty surprised to be told they have been listed in a Chinese police document as a part of their overseas network. Are they front organisations, are they places perhaps where people meet and documents and information exchanged – either with or without knowledge of the owners of the organizations?” *Id.* Nonetheless, Assistant Chief Constable Andy Freeburn has said that the Scottish government is “currently reviewing these reports [of the alleged station] to assess any criminality in conjunction with local and national partners.” *Nicola Sturgeon in police talks over ‘secret Chinese base,’* BBC News (October 27, 2022), <https://www.bbc.com/news/uk-scotland-glasgow-west-63417175>. The Chinese



government continued to deny the existence of illegal activity, but also responded and threatened that “providing shelter to Hong Kong protestors will bring disaster to Britain,” as the UK “relies on China as its third-largest trading partner.” Judith Duffy, *Experts say China’s use of ‘secret police stations’ no surprise after Glasgow intrigue*, *The National* (October 30, 2022).

The vigilance of Continental Europe has been similar to that of Dublin, with the Netherlands and Czech Republic closing any alleged stations in late 2022. There were two known locations in the Netherlands: one in Amsterdam and one in Rotterdam. The Dutch government were assured by the Chinese authorities that the stations were meant to provide diplomatic services, but the stations were made to “silence dissidents and political opponents” in the Netherlands, with the help of “former military and intelligence officers.” Anna Holligan, *China accused of illegal police stations in the Netherlands*, *BBC News* (October 26, 2022), <https://www.bbc.com/news/world-europe-63395617>; Euronews with AFP, *Netherlands orders closure of “illegal Chinese police stations” in Amsterdam and Rotterdam*, *Euronews* (November 2, 2022), <https://www.euronews.com/2022/11/02/netherlands-orders-closure-of-illegal-chinese-police-stations-in-amsterdam-and-rotterdam>. This was confirmed by the story of Wang Jingyu, a Chinese dissident who fell victim to the Chinese ‘police station’ practices in the Netherlands, and came forward to tell his story:

“Wang told Dutch journalists he received a phone call earlier this year from someone claiming to be from one such station. During the conversation, he said he was urged to return to China to ‘sort out my problems. And to think about my parents.’ Since then, he described a systematic campaign of harassment and intimidation, which he believes is being orchestrated by Chinese government agents.” Anna Holligan, *China accused of illegal police stations in the Netherlands*, *BBC News* (October 26, 2022).

Dutch Foreign Ministry spokeswoman Maxime Hovencamp commented on the situation, stating that the Dutch government “would have to investigate and decide the appropriate response...Police are looking into options to offer [Wang Jingyu] protection.” *Id.* Foreign Affairs Minister, Wopke

Hoekstra confirmed, on December 20, 2022, that the “illegal and secret police stations operated by China [in the Netherlands]...have [been] shut down,” and the “Chinese Embassy has confirmed this closure to the Dutch government. Sofia Stuart Leeson, *Dutch FM says secret Chinese police stations have shut down*, EURACTIV.com (December 21, 2022), <https://www.euractiv.com/section/politics/news/dutch-fm-says-secret-chinese-police-stations-have-shut-down/>. Foreign Affairs Minister Hoekstra confirmed that the Chinese authorities’ failure to obtain permission for the station was enough of a reason to order such closure, and an oral Order to close the stations was issued, followed by the Order being confirmed in writing. *Id.* See also ANP, *Chinese police stations in the Netherlands ordered to close immediately*, NL Times (November 1, 2022), <https://nltimes.nl/2022/11/01/chinese-police-stations-netherlands-ordered-close-immediately>.

The Czech Republic followed suit, shortly after. Two stations were reported in Prague, and one was led by Ms. Chen Jinmei, an individual connected to the United Frontwork Department, under the Chinese Communist Party. Ms. Jinmei put this statement forward in the Prague Chinese Times: “Since its formal opening on September 28, 2018, the Qingtian Public Security Service Center for Overseas Chinese has achieved many working successes...The main one is the strict adherence to the Communist Party’s policy directives on laws, regulations, and policies, related to foreign Chinese citizens.” Simona Fantova, *Beijing sets up police stations in the Czech Republic*, Synopsis: China in Context and Perspective (November 10, 2022), <https://sinopsis.cz/en/beijing-sets-up-police-stations-in-the-czech-republic/#:~:text=The%20same%20article%20also%20informs,the%20Czech%20Republic%20hail%20from>. The Czech Foreign Minister Jan Lipavsky first demanded more information and an explanation for these stations in Prague, after the above news agency, Synopsis, brought the station

allegations forward and the Netherlands ordered closure of “similar places.” Ian Willoughby, *Lipavsky demands Chinese explanation for “police stations” in Prague*, Radio Prague International (December 11, 2022), <https://english.radio.cz/lipavsky-demands-chinese-explanation-police-stations-prague-8766825>. After raising and addressing the issue of these ‘police stations,’ several times, with Chinese authorities, both Foreign Minister Lipavsky and the Chinese ambassador assured the public that the stations in the Czech Republic were closed. See Matthew Holroyd, *China closes two ‘secret police stations’ in Prague, says Czech foreign minister*, Euronews (December 12, 2022), <https://www.euronews.com/2022/12/08/china-closes-two-secret-police-stations-in-prague-says-czech-foreign-minister> (a slightly more detailed account of the story).

The last country left to be discussed, Germany, presents a more novel situation. The German government found two unofficial Chinese ‘police stations,’ however, only one was recognized by the Safeguard Defenders report. The government “believes that the two stations are ‘organized on a person-by-person basis’ and are ‘mobile.’ No permanent offices have been set up...The facilities are believed to be ‘run by private individuals from the Chinese diaspora.’ Five ‘area officers’ – one of them in Berlin – offer legal advice to Chinese and Germans with Chinese roots, as well as assistance with paperwork.” Gabriel Rinaldi, *China runs two shadow ‘police stations’ in Germany, says Berlin*, Politico (December 9, 2022), <https://www.politico.eu/article/china-shadow-police-stations-germany/>. The impermanence of these ‘shadow’ locations makes them difficult to track and find, but the German government is “vigorously pursuing all leads” and is in “contact with the Chinese embassy on this matter.” *Id.*

Germany-based Radio Free Asia reporter, Su Yutong, has provided more insight into the magnitude of the issue in Germany. This contact is a reporter that has published articles on the

Chinese ‘police stations.’<sup>1</sup> Through her research, she has discovered the existence of at least five more unreported stations in Germany alone. She also described the continuous harassment that she has experienced, as a result of her numerous reports on these Chinese ‘police stations’ and her participation in the Hong Kong protest in Germany. The harassment has entailed:

- Numerous anonymous threats, including threats of death and rape.
- Her private information published on pornographic websites and underground sex trafficking groups, which has led to several unknown men ringing her doorbell and asking for sex.
- Fake hotel reservations that were made in her name, accompanied by bomb threats at those hotels.
- Fake taxi reservations for long trips, that she was required to pay for when the driver could not find her.

She has changed her phone number, but these individuals are still pursuing her. Recently, they offered her 100,000 euros for her silence, in an attempt to stop her reporting on these ‘police stations.’ After informing the Germany police of her situation, they are investigating the case and have given her security. The Germany Foreign Ministry also issued a diplomatic note to the Chinese Embassy in Germany last year, requesting China to shut down these stations. That said, there is no special law that can be implemented, and the Chinese government refuses to close these stations. This contact believes that the only practical and permanent solution is legislation against the issue, but no such action has been taken by Western democracies.

### **III. The United States**

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<sup>1</sup> A transcript of the interview with Reporter Su Yutong is available, upon request.

In late 2022, Newsweek published a list of all known locations of China’s ‘police stations,’ and four were reported in the United States. See John Feng, *Full List of China’s Unofficial Police Stations Around the World*, Newsweek (December 5, 2022), <https://www.newsweek.com/china-overseas-police-service-center-public-security-bureau-safeguard-defenders-transnational-crime-1764531>. In April 2023, the media reported seven total stations in the United States: two in New York City, two in California, one in Minnesota, one in Nebraska, and one in Texas. See Isabel Vincent, *After FBI busts Chinese ‘police station’ in NYC, six more exposed in the US*, New York Post (April 18, 2023), <https://nypost.com/2023/04/18/chinese-police-stations-allegedly-spying-on-nyc-la-more/>. A Newsweek correspondent, Didi Kirsten Tatlow, “found evidence of nine police stations or courts in addition to nine more ‘Chinese Support Centers’ that are part of the Chinese Communist Party’s ‘United Front’ influence system.” Jimmy Quinn, *FBI Counterintelligence Raided Chinese Police Station in New York: Report*, National Review (January 12, 2023), <https://www.nationalreview.com/2023/01/fbi-counterintelligence-raided-chinese-police-station-in-new-york-report/>.

In response to Safeguard Defenders’s report and the discovery of U.S. locations, the FBI raided the Manhattan station, which is one of two known in New York City. The FBI did not immediately close the station, but it “seized several documents... [as part of a] criminal investigation into China’s overseas presence in the U.S.” *Id.* The location was in “an office suite in Manhattan’s Chinatown,” which was “owned by the America Chang Le Association” and claimed to be a “non-profit” organization. Jimmy Quinn, *Chinese Police Stations Identified in U.S.*, National Review (December 5, 2022), <https://www.nationalreview.com/2022/12/chinese-police-stations-identified-in-u-s/>. In April 2023, the FBI confirmed that this ‘police station’ had shut down and “announced the arrests of 61-year-old Lu Jian Wang and 59-year-old Chen Jin Ping,

two Chinese nationals accused of operating this nondescript facility in New York on behalf of the Chinese government.” Natalie Hee, *6 more illegal Chinese police stations allegedly operating US including Houston*, Fox 26 Houston (April 19, 2023), <https://www.fox26houston.com/news/6-more-illegal-chinese-police-stations-allegedly-operating-in-us-including-houston>. See also Office of Public Affairs, *Two Arrested for Operating Illegal Overseas Police Station of the Chinese Government*, Department of Justice News (April 17, 2023), <https://www.justice.gov/opa/pr/two-arrested-operating-illegal-overseas-police-station-chinese-government>. The Justice Department also “charged 34 officers from China’s national police force for allegedly creating fake online personas to harass dissidents abroad.” *Id.* While the existence of the individuals and these stations seems to be known, no new information on other stations in the United States has surfaced. In light of the recent New York prosecutions, further action may be in the works, but the FBI and the Justice Department are not publicly addressing the matter further.

As will be discussed in the next section, i.e., the Legal Analysis, these stations existed without the permission of the U.S. government, which poses issues under the concept of “sovereignty,” established by the Vienna Convention on Diplomatic Relations, under federal law, namely the Foreign Agents Registration Act, and under state criminal and tort law.

## THE LEGAL ANALYSIS

### **I. The Vienna Convention on Diplomatic Relations: Diplomatic Missions.**

The first step in determining the appropriate legal response is finding an applicable treaty or agreement that may exist to govern one State's diplomatic or consular activities in another, host State. This can exist in the form of an international treaty, to which multiple States are parties, or in the form of a specific bilateral agreement between China and the United States.

The Vienna Convention on Diplomatic Relations of 1961 (hereafter, the "Vienna Convention" or "the Convention") is an international treaty effectuated by the United Nations and is a treaty to which both the United States and China are parties. The treaty establishes the member States' individual sovereignty and regulates member States' consular and diplomatic activities in other sovereign territories. The treaty consists of 53 articles, and at least six of these articles (Articles 2, 9, 12, 29, 31, and 41) apply to the instant case, as detailed below.

Consular activities and administrative tasks are generally left to Embassies and regional Consulates. Both establishments are considered "diplomatic missions," and are formed upon agreement between involved States, under Article 2 of the Vienna Convention: "The establishment of...permanent diplomatic missions takes place by mutual consent." Vienna Convention on Diplomatic Relations art. 2, UN, Apr. 18, 1961, 500 U.N.T.S. 95.

The Chinese 'Police Stations' established in the United States, and across the world, are neither official diplomatic missions, nor were they mutually consented to. The Irish Department of Foreign Affairs claims that the Chinese government did not seek permission to open the 'police station' in Dublin. See Shane Harrison, *Chinese 'police station' in Dublin ordered to shut*, BBC News (October 27, 2022), <https://www.bbc.com/news/articles/crgndy37n16o>. Maxime Hovenkamp, a spokeswoman for the Dutch foreign ministry, similarly stated that the Chinese

government failed to seek permission from the Dutch government before carrying out these operations. See Anna Holligan, *China accused of illegal police stations in the Netherlands*, BBC News (October 26, 2022), <https://www.bbc.com/news/world-europe-63395617>. In the United States, FBI Director Christopher Wray has expressed concern regarding these “unauthorized” ‘police stations’ that have been found across the country. See Michael Martina and Ted Hesson, *FBI director ‘very concerned’ by Chinese ‘police stations’ in U.S.*, Reuters (November 17, 2022), <https://www.reuters.com/world/us/fbi-director-very-concerned-by-chinese-police-stations-us-2022-11-17/>. The existence of these ‘police stations,’ without prior consent from the host (or receiving) State violates Article 2 of the Vienna Convention, and the Chinese government is liable for this violation if these stations are a part of a larger “diplomatic mission.” Under the Vienna Convention on the Law of Treaties, “a material breach of a multilateral treaty by one of the parties entitles...the other parties by unanimous agreement to terminate it...between themselves and the defaulting State.” Vienna Convention on the Law of Treaties art. 60, UN, May 23, 1969, 1155 U.N.T.S. 331. So, if China’s actions have breached the Vienna Convention on Diplomatic Relations, the United States and other States party to the Convention may decide to terminate their obligations to China.

Similarly, the United States, and any other member State of the United Nations, has the right to know about and consent to each location of a diplomatic mission. Under Article 12 of the Vienna Convention, “the sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.” Vienna Convention on Diplomatic Relations art. 12, UN, Apr. 18, 1961, 500 U.N.T.S. 95. If the Chinese government were to establish their purported administrative activities as a “diplomatic mission,” they would be required to name every location in which the



mission's offices would exist. If the United States were to refuse consent to any of the locations, the existence of those locations would become illegal and would be prohibited under the Vienna Convention.

## **II. The Vienna Convention on Diplomatic Relations: *Persona Non Grata*.**

The Vienna Convention also aims to protect “diplomatic agents” and “diplomatically recognized” individuals that are appointed by the sending State and are in pursuit of a diplomatic mission. A “diplomatic agent” is defined as the “head of the mission or a member of the diplomatic staff of the mission.” Vienna Convention on Diplomatic Relations art. 1, UN, Apr. 18, 1961, 500 U.N.T.S. 95. Diplomatic agents enjoy several privileges, including “immunity from the criminal, civil, and administrative jurisdiction of the receiving State [subject to a few exceptions],” *Id.* at art. 31, and freedom from arrest, detention, or disrespectful conduct. See *Id.* at art. 29.

Because of the volume and breadth of these privileges, Article 41 establishes that “it is the duty of all persons enjoying [diplomatic] privileges and immunities to respect the laws and regulations of the receiving State.” *Id.* at art. 41. If the diplomatic agent were to violate the Convention policies or the laws of the receiving State, they would be declared *persona non grata* under Article 9 of the Convention. “In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission.” *Id.* at art. 9.

Applied to the instant case, if the Chinese government assigned a diplomatic agent to execute this mission in the United States, the United States government has the burden of proving that the diplomatic agent violated either the Convention or a federal/state law. If the US government were to prove this successfully, the US government can then notify China that the diplomatic agent is *persona non grata* and the Chinese government would have to act accordingly.

This remedy is only available if the individual in question is either a diplomatic agent or a “diplomatically recognized” individual.

### **III. Domestic Prosecution of Non-Diplomatic Foreign Nationals.**

As aforementioned, remedies under the Vienna Convention are only available if the Chinese government has established its work as a “diplomatic mission,” and remedies recoverable against an individual are only available if the individual is a designated “diplomatic agent” or they are “diplomatically recognized.”

Foreign nationals that *are not diplomatically recognized* are likely present, in the receiving State, on a visa. The visa, by nature, dictates the reason for the individual’s presence in the State, and the individual must act in accordance with that reason. If the individual wishes to act as a foreign agent for their native State, they must register under the Foreign Agents Registration Act, or FARA. “FARA requires certain agents of foreign principals who are engaged in political activities or other activities specific under the statute to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts, and disbursements in support of those activities.” Foreign Agents Registration Act, 22 U.S.C. § 611. If the individual is acting outside the scope of their visa and FARA, they can be prosecuted in the United States under state or federal law, depending on the crime committed and the parties involved.

An example of such prosecution is a series of cases filed by the United States Justice Department against five Chinese nationals who worked with these secret ‘police stations’ in the United States. “Prosecutors unsealed three separate criminal complaints in federal court alleging the defendants stalked, harassed, and spied on Chinese nationals living in New York and throughout the U.S.” Robert Legare, Jeff Pegues, *Five people accused of working in U.S. for Chinese secret police*, CBS News (March 16, 2022), <https://www.cbsnews.com/news/chinese->

[secret-police-indictments-justice-department/](#). The following information has been excerpted from the cited CBS News Article:

The first complaint was filed against Qiming Lin, for “conspiracy to commit interstate harassment,” among other charges. Lin attempted to intimidate a dissident who intended to run for Congress and remains active, as of May 2022. The second complaint was filed against Shujun Wang, who was “using his leadership position in the New York diaspora organizations to spy on members of his community.” The Justice Department found that Wang possessed a list of names and contact information for Hong Kong democracy activists in 2019. Wang was released on bond but will be monitored electronically and will not be able to contact the People’s Republic of China (PRC) or its consulate. Finally, the third complaint was filed against Qiang “Jason” Sun, for “directing individuals to spy on dissidents and spread negative information about them as an attempt to blackmail them.” Two individuals who worked for Sun were arrested, but Sun remains active, as for May 2022. Id.

The FBI and the Justice Department’s charges against the two Chinese nationals and the 34 police officers from China’s police force (discussed in the Factual Background section above) are another example of foreign nationals being prosecuted for their unregistered and illegal work on behalf of the Chinese Communist Party.

#### **IV. Prosecution of U.S. Citizens.**

U.S. citizens can face similar prosecution for illegally representing a foreign government and committing crimes on behalf of that government. An example of this prosecution is the arrest and case of Officer Baimadajie Angwang, a U.S. citizen who was arrested as a part of the U.S. Department of Justice’s China Initiative. The details of this case are as follows:

Officer Angwang, as a teenager, was targeted and abused by the Chinese authorities for being outwardly against China’s oppression of Taiwan. He obtained a cultural exchange visa and traveled to the United States, where he was later granted political asylum. Eventually, the Officer joined the New York Police Department, but was later charged with “providing Chinese consular officials with intelligence about Tibetans living in the United States” and “being an unregistered foreign agent.” The charges were dropped by the prosecutors because they discovered further information that would affect those charges. See Ed Shanahan, *U.S. Asks to Drop Case Accusing N.Y.P.D. Officer of Spying for China*, *The New York Times* (Jan. 16, 2023), <https://www.nytimes.com/2023/01/16/nyregion/nypd-officer-china-spy-angwang.html>. See also Jennifer McLogan, *Exclusive: Baimadajie Angwang, NYPD officer oaccused of*

*spying for China, wants to set the record straight after the charges were dropped*, CBS News New York (Feb. 2, 2023), <https://www.cbsnews.com/newyork/news/baimadajie-angwang-nypd-officer-china-spy-exclusive-interview/>.

State and local law may also provide solutions. In a civil context, remedies may be available under state tort law, namely under theories of trespass, invasion of privacy, and harassment/intentional infliction of emotional distress. In many jurisdictions, unauthorized spying, surveillance, and tracking, by U.S. citizens could be considered trespass and an invasion of the victim's privacy, and the magnitude of these torts would be determined by the degree to which the spying occurred. Similarly, if these individuals harass Chinese dissidents excessively on U.S. soil, and "if it can be proved that the harassment was done on purpose to inflict physical and/or emotional distress, it is certainly considered an intentional tort," and relief that is proportionate to the act and emotional distress caused could be available. Yuriy Moshes, *What is an Intentional Tort?*, Moshes Law, P.C. (March 29, 2023), <https://mosheslaw.com/intentional-torts-meaning/#:~:text=If%20it%20can%20be%20proved,certainly%20considered%20an%20intentional%20tort.>

Criminal prosecution of U.S. citizens operating illegally in their jurisdiction is another alternative, if a victim or target of local stations were to come forward and file a complaint. One available theory is felonious assault, which arises when a victim or target is reasonably apprehensive of imminent, significant bodily harm, owing to the offender's words and conduct. As aforementioned, the individuals at these "police stations" have used forms of harassment, intimidation, or the imprisonment of loved ones to persuade Chinese dissidents to return to China, categorized as IR Type 1 or 2 by Safeguard Defenders. If these individuals are U.S. citizens threatening significant bodily harm to the Chinese dissident or their loved ones, or if they are U.S. citizens threatening the use of a weapon, they may be prosecuted under theories of felonious and

aggravated assault, as neither require actual contact with or harm to the victim. In the recent prosecution of two U.S. citizens operating a station in New York City (mentioned in Section III of the Factual Background), “[these] agents...posted videos and articles targeting Chinese pro-democracy advocates in the US, the Justice Department alleged, some of which included explicit death threats.” Hannah Rabinowitz, Evan Perez, and Lauren Valle, *FBI arrests two alleged Chinese agents and charges dozens with working inside US to silence dissidents*, CNN Politics (April 18, 2023), <https://www.cnn.com/2023/04/17/politics/fbi-chinese-agents/index.html>. If the targets of these death threats were to come forward individually and file complaints, the offending U.S. citizens may be charged with felonious and/or aggravated assault.

The above theories are only examples of what an individual may seek against U.S. citizens that participate in these ‘police stations.’ The availability of such claims is dependent on the jurisdiction in which the claimant resides, and the success of the claim will depend on the facts and circumstances of the situation before the court.

### CREATING A LEGAL FRAMEWORK

From the above legal analysis, three questions arise, from which a legal framework can be designed and through which each ‘police station’ may be addressed:

1. Does the Chinese ‘police station’ qualify as a diplomatic mission that is being executed by and on behalf of the Chinese government?
  - a. If YES: The ‘police station’ must have been mutually consented to, by China and the United States. Otherwise, the ‘station’ violates the Vienna Convention.
  - b. If NO: The Vienna Convention does not apply.
2. Is the individual in charge of the ‘police station’ a diplomatic agent, along with the individuals employed by the ‘police station?’
  - a. If YES: The individuals are protected by the Vienna Convention and can only be removed after being declared *persona non grata*.
  - b. If NO: Move to question 3.
3. If the answer to question number 2 is NO, are these individuals foreign nationals, present in the United States on a visa and registered under FARA?
  - a. If YES: Is the individual acting beyond the scope of their visa/FARA?
  - b. If NO: Move to question 4.
4. If the answer to question number 3 is NO, are these individuals U.S. Citizens?
  - a. If YES: Claims against these individuals may exist on a local, state, or national level, depending on the torts/crimes committed by these individuals, against the claimant.

Under questions 3 and 4, victims of these ‘police stations,’ and those oppressed by the ‘stations,’ may be able to file state or federal criminal complaints, or tort claims, against the

individuals involved in the ‘stations,’ so long as the individuals are not diplomatic agents that are protected by the Vienna Convention. That said, the ‘stations’ themselves bring about questions of sovereignty and diplomacy, and such questions must be left to the Executive Branch of the U.S. Government.

As aforementioned, the above Framework is not designed to be legal advice, nor is it meant to provide a definitive solution to the issue at hand. This Framework is simply meant to offer a template through which the actions of these stations, and individuals involved in these stations, may be handled from a legal standpoint, until the country is able to legislate against this issue. If you are living in the United States and you are aware of suspicious activity or a suspicious location that could be a secret Chinese “police station,” do not take the matter into your own hands. Contact local law enforcement and your local FBI field office, and they will handle the issue appropriately. If you are a U.S. citizen and you are a victim or target of one of these “stations,” you can contact an attorney in your area to file a tort claim or the local police to file a criminal complaint, citing this report as a source of information, but no more. Please also note that the Legal Framework only discusses potential avenues of relief in the United States, and this issue may look different and may be handled differently in other countries/jurisdictions.