

In the wake of recent investigations into business activities in China, companies and their investors have asked how to respond to a “dawn raid” by authorities in China. PRC law provides for the rights and protections listed below. Your ability to implement and enforce these rights will depend, naturally, upon the circumstances and the willingness of the authorities to comply, but the starting point is to know your position under applicable law.

### 1. Inform senior management and seek legal advice

Notify the most senior management person on-site and establish a response team immediately. Contact your company's legal department or outside counsel to arrange legal assistance if needed.

### 2. Provide the investigators with a meeting room

Make one or more empty meeting rooms available for the investigators, ideally away from where employees gather – material and personnel may be brought to them as needed. Do not allow the investigators to wander. Arrange for a trusted employee to “shadow” any investigator who leaves the conference room and record any information relating to the activities of the investigator.

### 3. Identify and meet with the lead investigator to discuss the scope of the search

Meet the lead investigator, review the badges or other authorizations of each person participating in the investigation. If possible, make a copy of each; if not, record the name and organization of each investigator.

### 4. Request a copy of the search warrant before allowing the search to begin

Review the search warrant immediately and ensure that the search is limited to the scope and the items specified in the warrant. In the event of any question concerning the warrant's coverage, the investigators may seek your permission to proceed. **Do not give it.** As a general rule, you should not consent to the search of any area or seizure of any property that is not described in the warrant.

### 5. Preserve evidence

Instruct employees to remain calm. Ensure that no one destroys documents or deletes emails, and instruct employees not to discuss the investigation with anyone outside the office. The search will likely disturb work, so consider sending home persons who are not essential and have not been requested by investigators for interviews.

### 6. Give notice regarding confidentiality

Confidential documents are not exempt from search and seizure, but the lead investigator should be informed in writing if any of the requested documents are confidential or otherwise classified.

### 7. Do not volunteer information or documents; if you do not know the answer, say “no”

You are not required under PRC law to answer any questions posed by the investigators if you do not know the answer.

### 8. Keep an inventory of property taken by the authorities

Keep your own record of information provided to the authorities. You are entitled to be given an inventory of property to be seized signed or chopped by the investigators before they leave, but having your own record will help in preparing any defense.

### 9. Prepare a report and interview targeted personnel

On the day of the raid, prepare a precise and complete record of what happened, note any questions asked by the investigators and whether any documents were shown to employees.

### 10. Manage internal and external communications regarding the investigation

If you have PR/communications personnel, alert them so that they may effectively communicate the situation within the company and externally, when and if appropriate. Be aware that a statement that asserts no wrongdoing may result in a lawsuit, if wrongdoing by a company officer is later discovered.

For additional information on any of the points raised in this article, or for more specific advice on PRC rights and protections relating to your business, please contact one of the Squire Sanders lawyers listed below.

## Contacts

### Daniel F. Roules

Partner

T +86 21 6103 6309

E [daniel.roules@squiresanders.com](mailto:daniel.roules@squiresanders.com)

### Olivia Zhan

Consultant

T +86 21 6103 6356

E [olivia.zhan@squiresanders.com](mailto:olivia.zhan@squiresanders.com)

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Sanders.