



> Report Series

ACCESS DENIED #3

CHINA'S LEGAL BLOCKADE



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ACCESS DENIED

Access Denied is a three-part report series that looks at the serious deterioration in due process in China. This third volume, ***Access Denied: China's Legal Blockade***, examines the multitude of ways the authorities are increasingly using to deny suspects access to independent legal counsel. These include forcing detainees to fire their own lawyers and accept state-appointed counsel, threatening lawyers with the cancelation or revocation of their licence if they take on sensitive cases, to using illegitimate excuses to prevent lawyer-client meetings at the detention centre doors. The first volume, ***Access Denied: China's Vanishing Suspects***, covers the police practice of registering suspects under fake names at pre-trial detention centres to prevent lawyers seeing their clients or families knowing where their loved ones are being held. The second volume, ***Access Denied: China's False Freedoms***, researches the 'non-release release' phenomenon, as first coined by US professor of law Jerome A. Cohen, in which prisoners, once freed from jail or a detention centre, continue to be arbitrarily detained by the police at their home, at a hotel or in a secret location for weeks, months or even years.

About Safeguard Defenders

Safeguard Defenders is a human rights NGO founded in late 2016. It undertakes and supports local field activities that contribute to the protection of basic rights, promote the rule of law and enhance the ability of local civil society and human rights defenders in some of the most hostile environments in Asia.

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Access Denied: China's False Freedom

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INTRODUCTION

A few hours after dawn in August 2020, 12 young democracy activists from Hong Kong huddled into a speedboat headed for Taiwan. They were fleeing the city after it had imposed a draconian National Security Law a little over a month earlier. This was a law that criminalised anti-government protest. Just two hours into their secret journey, China's coastguard captured their vessel. The 12, who came to be known as the Hong Kong 12, were placed behind bars inside a Shenzhen detention centre. Later, the two minors were returned to Hong Kong, but the other 10 were sentenced to prison terms at a secret trial in December on the mainland. Not a single one of them was able to see the lawyers their family had hired to defend them. Instead, they were forced to accept state-appointed lawyers to complete the illusion that the secret show trial was legitimate.

Just weeks later, on 4 January 2021, two Chinese human rights lawyers who had been hired to represent two of the Hong Kong 12 by their families, received notices that their licences to practice law were going to be revoked. Ren Quanniu and Lu Siwei are both highly-respected in their field and had worked for years on sensitive cases. Neither lawyer had been able to meet with their Hong Kong client and both had made public that the police had illegally and repeatedly denied them access and that they had been warned not to get involved with these cases. Officially, the reasons given for the decisions to disbar them did not mention the Hong Kong 12 case. Ren was told he was being punished for "inappropriate remarks" he had made while he was defending a member of banned spiritual group Falun Gong in 2018. Lu was told he was being punished for making comments online that had a "negative impact on society." Both lawyers reject these as spurious and instead point to the Hong Kong 12 case as the likely reason, especially when the prior threats and

the timing are taken into account. As this report was going to press, yet another mainland lawyer who attempted to represent one of the Hong Kong 12, lost his licence (Lin Qilei).

Article 39 of China's Criminal Procedure Law protects a detainee's right to access legal counsel of their choice (or through a family member's power of attorney) within **48 hours** of such a request being made. Ren and Lu's experience, first in being barred from defending their clients and then punished by losing their profession for trying to do so, is an increasingly common story for lawyers in China. While such attacks on rights defence are nothing new – cases began happening as soon as the human rights lawyers' movement began in the early 2000s¹, under Xi Jinping, who came to power at the end of 2012, there is ample evidence that the Chinese Communist Party (CCP) is determined to bring lawyers completely under their control through whatever means possible and the already small space for lawyers to hold authority to account is rapidly diminishing. These tactics are not only aimed at disempowering existing rights lawyers but also at scaring off the would-be rights lawyers of the future.

The first large-scale concerted attack on lawyers under Xi Jinping was the 709 Crackdown in the summer of 2015, when hundreds of rights lawyers and activists were disappeared, detained, and sentenced to jail time, mostly for national security crimes. In subsequent years, individual lawyers were targeted – they lost licences, they were disappeared and some were even detained and sentenced to jail time. A second watershed moment came in December 2019, when around a dozen lawyers and activists were rounded up by the "13 December Special Task Force" after they attended a meeting in a private home in Xiamen (the Xiamen Gathering) on China's southeast coast to discuss democratic ideals.

Such crackdowns make headlines around the world, and are expensive reputationally for the CCP. Although it is clear that as China grows richer and more powerful, it is less concerned about its international reputation. This can be seen in its explicit anti-foreign policies at home as well as in its more assertive foreign policy overseas (wolf warrior diplomacy, aggressive trade tariffs on nations that criticise or anger China, and hostage diplomacy-based arrests of foreigners, to name just a few). Beijing appears to be beginning to view large-scale crackdowns as unnecessary (and not wholly effective) and instead, focussing on tightening efforts to neutralise rights lawyers through less dramatic means. They are now thwarting efforts to defend clients with less visible tactics – routinely blocking access at detention centres, forcing pliant state-appointed counsel on suspects, and employing administrative punishments, such as suspending or revoking licences, so that independent lawyers can no longer engage in rights defence.

Preventing lawyer-client meetings has become so commonplace that the community has coined a term to describe it - *huijian nan* (会见难), literally difficult to meet.

To this end, regulations governing lawyers and law firms have been quietly revised over the past few years to make it easier for them to control lawyers, directly through the justice bureaus or indirectly through pressure applied to law firms. Any outspoken or ambitious human rights lawyer soon finds themselves pushed out of a job with no licence. These methods are disguised as legitimate, they provide the CCP with a cover, although they are illegal and repressive. Even if the targeted

lawyers do speak out, their stories elicit far less attention, globally or nationally, than stories about mass arrests or the torture of a lawyer who refuses to confess to trumped up national security charges in detention.

The CCP appears now to prefer a “silent crackdown” for rooting out human rights lawyers for good this time. All the while, they aim to maintain a façade of “rule of law”, fostering a legal profession that forgoes independence and complies with the police and the courts, does not challenge authority, existing rules, or policies, but simply helps usher the case through the system and guide it in the direction desired by the authorities.²

Research for this report reveals that under Xi, the CCP has adopted a three-pronged approach to attack rights defence. First, by targeting the defendant, second by targeting their families, and third, by targeting the lawyers. Defendants are coerced into firing their lawyers and accepting state-appointed counsel instead; police hide them in detention centres by registering them under fake names or not informing their families where they are being held so their location is kept secret from their lawyers; or they are slapped with national security crimes, an exception that allows police to bypass the automatic right to legal defence and require advance permission first. Alternatively, they may coerce or threaten the family into not hiring a lawyer or firing the one(s) they have appointed. Finally, they may set their sights on the lawyers themselves by targeting them with a combination of threats, fear and bureaucracy. Tactics range from threatening the lawyer with disbarment, violence, and endless bureaucratic hurdles blocking all efforts to see clients including spurious requirements for extra paperwork, claiming no meeting rooms are available or

that there are insufficient staff on duty, etc. Since the outbreak of Covid in early 2020, the pandemic has become a well-used excuse to block lawyer-client meetings, whether or not there is local transmission. Pandemic safe alternatives, such as video calls, have not, in many cases, been made readily available.

As an example of how egregious this rights violation is, between 2013 and 2018 at least dozens of detainees were barred from seeing a lawyer yet were forced to meet with state media employees and confess on camera in footage that was broadcast nationally and, in some cases, globally. In many cases confessions were scripted by police and extracted through torture and threats.³

In a study by Safeguard Defenders utilising interviews and media research, we found 82 cases of defendants being forced (often through the use of torture and/or threats) to fire their lawyer between 2015 and August 2021. Since this is anecdotally-collected data, the real number is likely many orders of magnitude higher. Using other data, including from the Hong Kong-based NGO China Human Rights Lawyers Concern Group, at least 35 lawyers have had their licences revoked or suspended for taking on sensitive cases between 2016 and November 2021.

Of course, two custodial systems – Residential Surveillance at a Designated Location (RSDL) and the National Supervisory Commission’s Liuzhi – which are both essentially incommunicado detention at a secret location, also permit the police to deny all contact between lawyer and client. In an ongoing longform study on RSDL victims by Safeguard Defenders, as of June 2021, out of **173**

documented individual cases, it was almost unheard of for police to permit lawyer access (just one case recorded).

Even though China’s conviction rate is in the region of 99.9%,⁴ a good defence lawyer may help mitigate the sentence, provide a degree of accountability by making abuses public knowledge, which can then be filed in reports to international mechanisms, and most importantly, provides a lifeline between the detainee and their loved ones. In particular, since the risk of torture is highest in the first few weeks of detention, including in RSDL and Liuzhi, when police are trying to extract confessions, this is when access to legal counsel would be of the most benefit. Of course, this is also the most common period when lawyers are denied access to their clients.

International human rights law and China’s own domestic law provide for timely access to a lawyer of one’s choice. While this report has focussed on human rights cases, online research also points to similar violations to detainees across the board. By abusing this simple protection – the right to consult with a lawyer of one’s choice -- the CCP denies its citizens any sliver of hope for the possibility of a fair trial, making a mockery of China’s so-called justice system.

★★

Access Denied #3: China’s Legal Blockade exposes how the CCP is intensifying its crackdown on the rights defence movement by preventing lawyers from meeting clients through a host of ramped up measures targeting lawyers, defendants and their families. It is the third and final volume in Safeguard Defenders’ *Access Denied* series that charts the serious deterioration in the rule of law in China since Xi Jinping came to power in late 2012.

Access to Legal counsel under Chinese Law

What law covers the right to a legal defence?

A detainee's right to legal counsel and a defender's right to meet with their client in China are covered by Articles 33 to 40 in the **Criminal Procedure Law (CPL)**^{5 6}.

Who can act as legal counsel?

Detainees may entrust up to **two** people to defend them from the moment the police have made their first interrogation or from the date of detention (Article 33).

During the investigation phase, these can **only** be licenced lawyers (Article 34).

After the investigation phase, these can be licenced lawyers, a member of the public, such as a friend, family member or someone recommended by their workplace. Detainees can also opt to defend themselves.

When and how long is the investigation phase?

The investigation phase starts at the moment the suspect is detained, continues past official arrest and until the case is sent to the prosecutor for review.

With a maximum of 37 days detention allowed before official arrest, plus a further maximum of seven months under pre-trial investigation, this allows for the investigation phase to last **more than eight months**. If RSDL is imposed, this extends to a maximum of **13 months**.

Who cannot act as legal counsel?

Anyone who has been sentenced for a crime and is currently serving time or has their freedom restricted as a consequence.

Anyone who has been fired from a public office or have had their licences revoked. In the latter case, an exception is made for a close family member. (Article 33).

How is legal counsel retained?

Suspects have the right to arrange legal counsel themselves and may also give power of attorney to their close relative or guardian, who may then hire legal counsel on their behalf (Article 34).

What if they're unable to hire a lawyer?

If for reasons including economic hardship or disability, neither the detainee nor their family can hire a defender, then the court, prosecutor or police must notify a legal aid institution (法律援助中心) to appoint a legal aid lawyer (法律援助律师) for them (Article 35).

In addition, duty lawyers (值班律师) are stationed in courts and detention centres to provide detainees with legal advice (Article 36) if they have no legal counsel.

When can they see a lawyer?

Police should inform a detainee of their right to hire legal representation from the time of the first interrogation or the date of detention (Article 34).

The detention centre must allow a meeting within **48 hours** of a request being made by a qualified lawyer (Article 39).

However, if the case involves national security crimes or terrorist activities, the investigating organ (usually the police) must first be approached for permission (Article 39) during the investigation phase (see above). Thereafter, irrespective of whether the crime involves national security or not, the police no longer have the legal power to deny lawyer access.

How does a defender meet with a client?

A licenced lawyer must present the "three certificates", namely a valid lawyer's licence, a letter of authorisation from their law firm, and power of attorney from the client, family member or legal aid agency.

Non-licenced lawyer defenders, only need power of attorney, but they must first get permission from the judicial branch to see clients and case files (Articles 39 & 40).

METHOD ONE: TARGET THE DETAINEE

One day, a person from the interrogation team came into my cell. He told me to write a letter rejecting the lawyer my family had hired to represent me. “We know each other now,” he told me. “So let me tell you, if you insist on meeting with this lawyer, we will just take him away.” I knew they could do that, so I said I would write such a letter... Several days later, the interrogation team came and asked me to sign some papers saying that I accepted the state-designated lawyer, a man called Dong Yang. I did what they asked. I only met the lawyer they had forced on me once, after I had been sent to the detention centre. I never heard from him again.⁷

Activist Tang Zhishun

Authorities target detainees with both legal and extra-legal methods to prevent lawyer meetings. For example, during the investigation stage, police can classify the case as one involving national security, which gives them powers to require all lawyer visits to first obtain their permission, which of course is then routinely rejected. Else, as in Tang Zhishun’s (唐志顺) case quoted at the head of this chapter, torture or threats are used to force the suspect to dismiss their own lawyer and accept state-appointed counsel. Tang was held in RSDL and suffered extensive torture that ranged from threats to hurt his wife and child to prolonged and agonizing periods on the dangling stool – a higher-than-normal seat that prevents the victim from supporting the body weight thus placing intense and debilitating pressure on the lower back and buttocks. In some cases, they simply disappear the detainee, cutting them off from all access with the outside world through RSDL, then forcing a fake name at detention and refusing to give family and friends notification of their location.

1: Impose national security crimes

A common method to block lawyer access during the investigation phase of a human rights-related case is to accuse the detainee of national security crimes. These are crimes listed in China’s Criminal Law (revised 2020) (中华人民共和国刑法)(2020修正)⁸ under Articles 101 to 113. These include:

- Subversion of state power (Article 105) – most often applied to human rights defenders (HRDs);
- Incitement of subversion of state power (Article 105) – most often applied to HRDs;
- Splittism (Article 103) – most often applied to ethnic minorities; and,
- Stealing state secrets (Article 111) – most often applied to foreigners.

According to Article 39 of China’s Criminal Procedure Law (中华人民共和国刑事诉讼法)⁹, lawyers must first get the investigating organ’s permission (usually the police or in some

cases, state security) to be able to see their client. Police routinely ignore or deny these requests, behaviour that rights lawyers say violates the spirit of a regulation that is meant as an exception rather than the rule.

Since RSDL can be imposed up to a **legal maximum of six months**, or if the suspect is held in a detention centre, there is a **legal limit**

of 37 days and pre-trial investigation can last up to **seven months**, that is a long time (13 months or more than 8 months, respectively) without any access to legal defence. Once the investigation phase is over and the case moves into the prosecutors' hands, police no longer have this right to deny lawyer meetings. National Security exceptions also limit lawyers in accessing evidence against their clients, for example in copying certain documents because they are regarded as a state secret.¹⁰


珠海市公安局
不准予会见犯罪嫌疑人决定书

珠公不准见字〔2018〕0001号

申请人 任金牛，河南轨道 律师事务所律师，律师执业证编号 14101201010185525。

因 甄江华涉嫌煽动颠覆国家政权 案属于危害国家安全犯罪案件，会见有碍侦查或者可能泄露国家秘密，根据《中华人民共和国刑事诉讼法》第三十七条第三款之规定，决定不准予申请人会见犯罪嫌疑人 甄江华。

二〇一八年一月十一日



此联交申请人

Police denial letters clearly show that they are so routine that they use a template with blanks to fill in the name of the lawyer, lawyer's firm, licence number, and reason. The example on this page is a notice from Zhuhai Public Security Bureau (PSB) to lawyer Ren Quanniu (任金牛) denying his application to meet with his client Zhen Jianghua (甄江华) on national security grounds. Note that at the time it was issued -- January 2018 -- the revised CPL had not yet been passed. The old Article 37 mentioned here, is the current Article 39 (for the October 2018 revision). An English mock-up of this notice is shown on page 11.

A quick google or baidu image search for the phrase : “不准予会见犯罪嫌疑人决定书” (Decision not to grant access to criminal suspect), returns dozens of examples, including empty templates.

Source: Hong Kong Free Press / HRCChina¹¹

Zhuhai Municipal Public Security Bureau
Decision not to grant access
to criminal suspect

Zhuhai PSB access refusal [2018] No. 0001

Applicant Ren Quanniu; Henan Guidao Law Firm ;
lawyer license number 14101201010185525 .

Due to the fact that Zhen Jianghua is suspected of
inciting subversion of state power , his
case is classified as endangering national security.
Any meeting with his lawyer could obstruct the
investigation or lead to a disclosure of state
secrets. To this effect, according to the provisions
of the Criminal Procedure Law of the People's
Republic of China, Article 37, paragraph 3 , a
decision has been made not to allow the applicant to
meet with criminal suspect Zhen Jianghua .



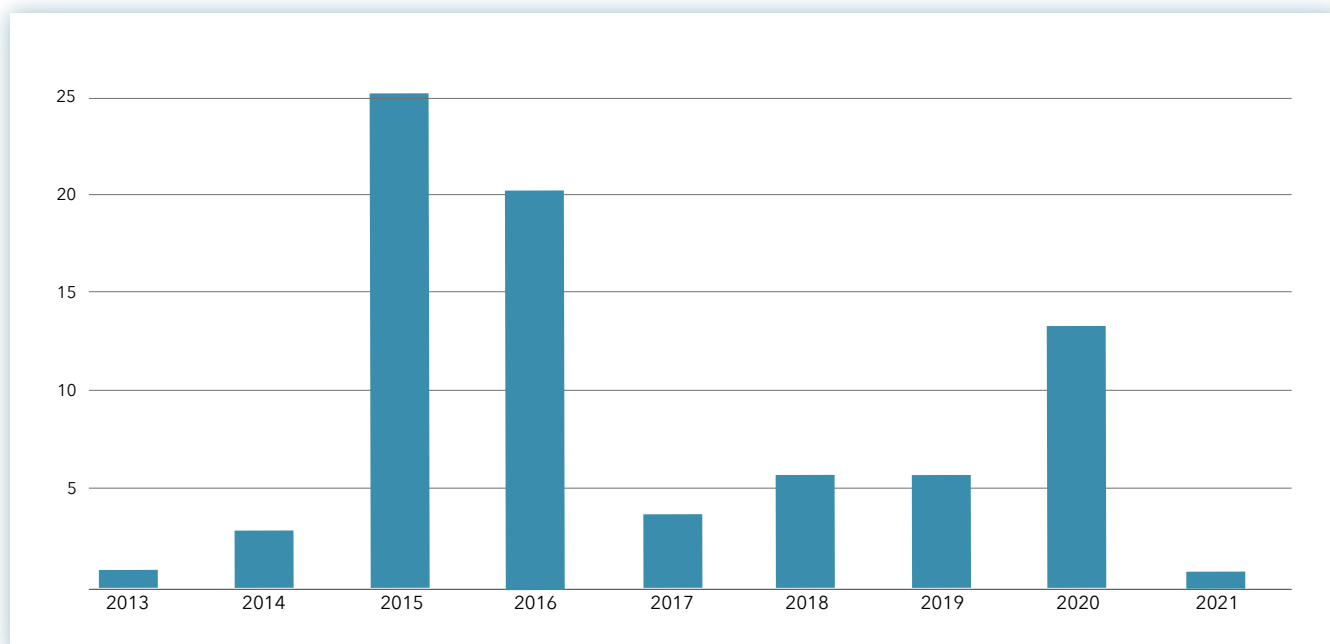
English translation and mock-up of the letter Zhuhai PSB sent to lawyer Ren Quanniu in January 2018 refusing his application to meet with his client, activist Zhen Jianghua, on national security grounds. Chinese original on page 10. Artwork by Sandra Soler Peyton.

How prevalent are national security cases?

[China Judgements Online](#), the official database of court judgements in China, does not list those tried for state security crimes. However, we can at least get a lower estimate for the number by looking at data kept on human rights cases – although this will clearly only show us a fraction of the real picture. From Safeguard Defender’s own database

on RSDL victims, between 2013 and July 2021, **82 victims** out of a total 173 names in the database (or 47%) were accused of a national security crime (since we do not have accurate data on all crimes, this proportion could be higher). Of these 82 cases, **10** were foreigners, of all those we could ask or get the information via a third party, all of them – **44** – said they had no access to a lawyer.

No. of RSDL cases involving state security in China (2013-2021)



Data: Safeguard Defenders

Data collected by [Chinese Human Rights Defenders \(CHRD\)](#) show that between January 2019 and 16 June 2021, out of 1,132 prisoners of conscience (which loosely translates to our human rights defenders), **50** were suspected or found guilty of national security crimes. With another 349 cases unknown, that makes about **6.4%** of known cases. Here the percentage is lower because they are also counting many hundreds of cases that did

not involve RSDL. There is a clear preference by police for using RSDL on national security cases. Extrapolating data obtained from official Chinese sources by Safeguard Defenders indicates that RSDL is being imposed on an escalating number of people. Since its introduction in 2013, by December 2020 it is thought that at least 26,000 people (possibly up to double that) had been placed in RSDL.¹²

National Security Crimes & Human Rights Defenders

When HRDs are accused and found guilty of endangering national security, the kinds of activities used as evidence seem farcical, for example posting critical comments online, attending rights workshops, or talking to foreign media. They hardly warrant the denial of access to legal counsel on the grounds that it would “obstruct the investigation” or lead to exposure of “state secrets”. In fact, it seems extraordinary that it would do so at all. The exception slipped into Article 39 of the CPL seems designed purely to give police the legal cover to deny independent counsel for HRDs, precisely because the charges are so spurious that the authorities do not want any outside scrutiny, especially the kind of scrutiny that comes from an experienced human rights lawyer.

Dui Hua’s [Political Prisoner Database](#), which uses a broader definition of human rights defenders (including petitioners and religious activists) recorded 7,645 people held in prison or a detention centre as of 31 March 2021 (cumulative count from 1980). They classify **824** cases as being connected to national security crimes (including 44 for splittism, 282 for stealing state secrets, and 102 for subversion

of state power or incitement of subversion of state power) making the proportion **11%**.

While it is not possible to determine an accurate total or percentage of human rights defenders accused of state security crimes (our estimates range from 6-11% for all cases, and almost 50% for RSDL), it is clear that it is a not insignificant number.

Legal blockade: national security exceptions

- **Activist Wu Gan (吴淦)** had to wait 19 months after he was detained in 2015 before he could meet with his lawyers. Police refused access multiple times throughout 2015 and 2016, at one point claiming their client was suspected of subversion of state power and a meeting with lawyers would risk leaking state secrets. A visit was eventually granted in December 2016.¹³
- **Human rights lawyer Jiang Tianyong (江天勇)** was unable to meet with his lawyer in December 2016 when Changsha PSB rejected the request on the grounds that Jiang’s case involved national security.¹⁴
- **Canadians Michael Kovrig and Michael Spavor** were not given any access to lawyers until they had been held for over a year –almost six months in RSDL and then another six months in detention from December 2018 to January 2020.¹⁵
- **Civil rights activists Cheng Yuan (程渊), Liu Dazhi (刘大志) and Wu Gejianxiong (吴葛建雄)**, who all worked for NGO Changsha Funeng, were denied lawyer visits for the first six months after they were disappeared in July 2019 on the grounds that they were suspected of subversion of state power.¹⁶
- Police in Yantai, Shandong province issued a letter denying the lawyer of detained activist **Zhang Zhongshun (张忠顺)** a meeting with his client on national security grounds in January 2020.¹⁷

2: Force detainee to accept state-appointed counsel

There have been increasing reports of detainees being forced to sign away their rights to their own lawyer(s) and accept state-appointed counsel instead even though under the CPL, all citizens have the right to see a lawyer of their own choice. State-appointed counsel is generally supposed to only be provided for those who do not have the financial means or lack the capacity through disability to hire their own lawyer.

Police may force a detainee through threats to handwrite a letter stating that they have fired their own lawyer and that they no longer want their family to hire a lawyer for them (see Yu Wensheng (余文生), page 17), which is then passed over to the original lawyer(s) as “proof”.

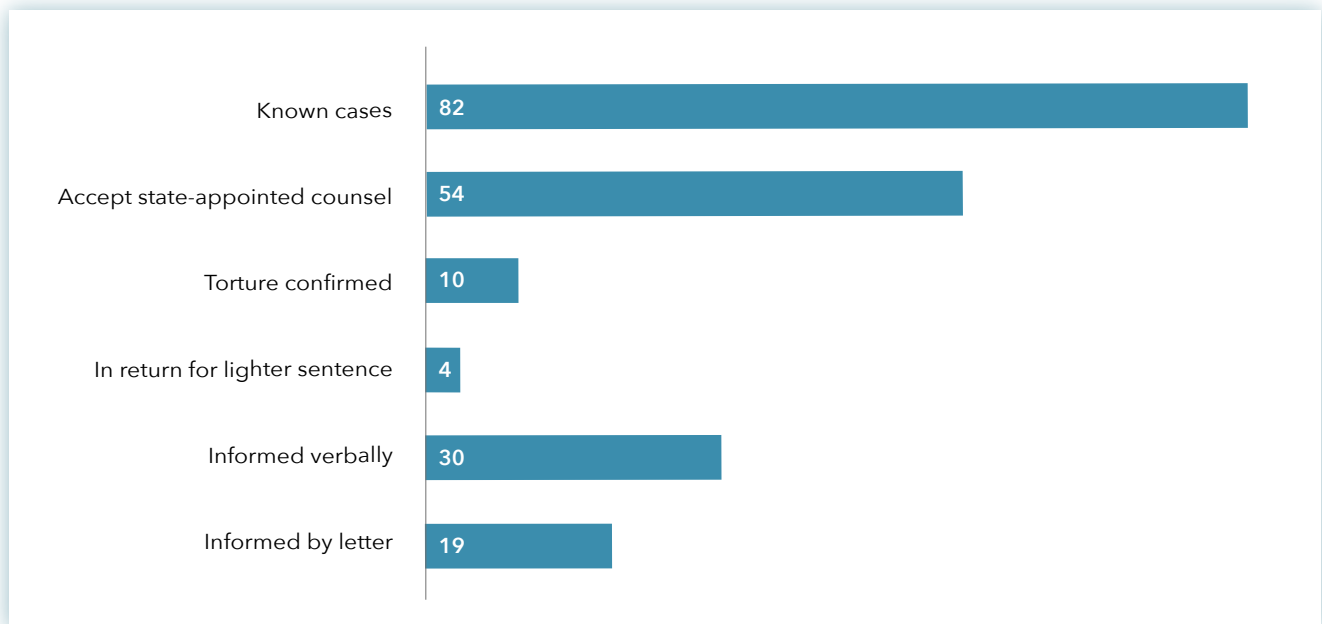
Sometimes, no letter is provided, the dismissal is simply given orally. In either case, the police or detention centre staff refuse access to the detainee to confirm that they really do want to fire their lawyer. Since each detainee may only appoint a maximum of two lawyers, police often assign two state-appointed lawyers to them. By filling both positions they make it impossible for the family or the original lawyers to meet with them.

Through interviews and media research, Safeguard Defenders has documented **82** cases of detainees being made to fire their own lawyers between 2015 and August

2021. In well over half of those cases (**54**), the detainee was forced to accept state-appointed counsel. While it is difficult to ascertain whether torture or threats were used in these cases – most people are too frightened to talk about their experiences in detention and many have also have been warned by police not to do so -- in at least **10** of the cases we documented, torture and threats were involved. In a minority of cases (**4**), the detainee made a deal with the procuratorate for a lighter sentence or release on bail in return for firing their chosen lawyers. In well over half of the cases, the detainees had no access to their family or lawyers when they supposedly fired them. This could be because they were being held incommunicado in RSDL, in solitary confinement or just out of reach in the detention centre. In around **30** of the cases, the lawyer or the families were only told verbally by police, the detention centre, the procuratorate or sometimes the court that the detainee had fired their lawyer. In a few cases, the notification was via a phone call. In **19** of the cases, a typewritten, or more often handwritten letter, was provided.

Of course, because of the limitations of our research – reliant on media reports or willing interviewees and a focus on HRDs – the number forced to fire their own lawyers is likely many orders of magnitude higher than this.

Detainees forced to fire lawyer in China (2015-2021)



Data: Safeguard Defenders

Legal blockade: forced to fire lawyer

- **Hong Kong bookseller Lam Wing-kee** (林榮基) was forced to sign away his rights to a lawyer while in RSDL in Ningbo in 2015-2016.¹⁸
- **All of the Hong Kong 12** (a group of young protesters caught trying to flee to Taiwan in a speedboat at the end of 2020) were forced to take state-appointed counsel.
- **Human rights lawyer Wang Quanzhang** (王全璋) was constantly pressured to accept a state-appointed lawyer between 2015 and 2018 but always resisted. Finally, he met with a lawyer of his choice, but one vetted by the authorities as the least likely to “cause trouble”, in July 2018 – almost three years after he was first disappeared.¹⁹
- Two young programmers, **Chen Mei** (陈玫) and **Cai Wei** (蔡伟), who helped archive online news reports including those on Covid-19 before they were censored in China in a project called **Terminus 2049**, were detained in April 2020. They were not allowed to meet with lawyers their families had arranged for them and instead had to accept state-appointed counsel.²⁰

Pre-emptive declarations

The problem of being forced to fire legal counsel has become so commonplace, at least for HRDs, that a few years ago human rights lawyers and experienced activists began recording videos or penning signed statements to declare that if they fire their lawyer(s) while in detention, it will have been because the police tortured or threatened them to do so.

Safeguard Defenders and other human rights organizations working on China have been collecting a database of video or written declarations to be released in the event the subject is detained and their family is told they have fired their lawyers. To date, they have over a dozen declarations.

Legal blockade: pre-emptive declarations

- Activist **Xie Wenfei** (谢文飞), who was detained in April 2020 and was forced to fire at least three lawyers, had earlier recorded a video saying he would rather defend himself than accept any state-appointed lawyer.²¹
- A few years before he was detained in 2016, human rights lawyer **Jiang Tianyong** (江天勇) publicly stated that he would never fire his lawyer and accept state-appointed counsel.²²
- **Zhen Jianghua** stated in a letter before he was detained in September 2017 that he would never willingly accept state-appointed counsel to defend him (please see below).²³

本人姓名: 甄江华
身份证号码: 44071119[REDACTED]

本人授权委托 河南轨道律师 律师事务所 任峰

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授权人(签字捺印): [REDACTED]

签署时间: 2017年8月18日

Before he was detained, activist Zhen Jianghua wrote this pre-emptive statement. The text in the red box says, in the event he is detained he will refuse all state-appointed lawyers.

Source: Southern Idiot Concern Group Facebook page

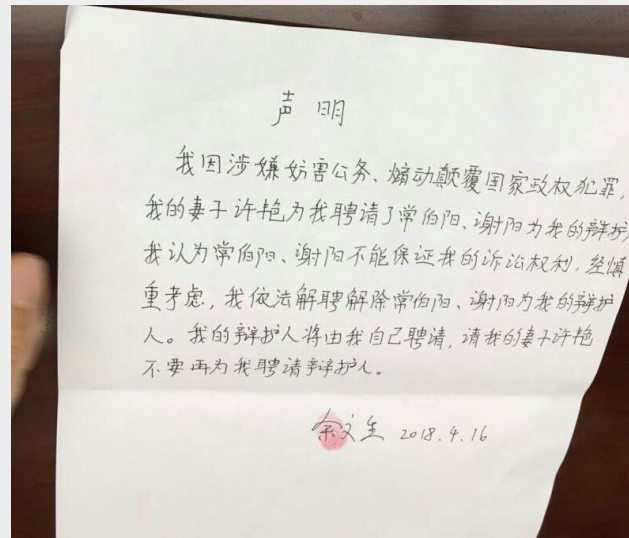
A letter and a video: the case of YU WENSHENG

Lawyer Yu Wensheng was kidnapped by police in January 2018 as he was taking his young son to school. After repeated efforts by his wife and his lawyers to see him, in April police produced a letter purportedly written and signed by Lawyer Yu, saying he was firing the two lawyers his wife had hired and requested that she not hire any more lawyers for him.²⁴

The letter read:

Since I am suspected of obstructing official business and inciting subversion of state power, my wife, Xu Yan, hired Chang Bayang and Xie Yang for my defence. I believe Chang Bayang and Xie Yang cannot guarantee my legal rights. I have reconsidered, and according to the law am dismissing Chang Bayang and Xie Yang as my legal counsel. I will hire my own defence, and request that my wife Xu Yan does not hire a defender for me again.

Signed: Yu Wensheng 16 April 2018.



Source: Radio Free Asia

"I will never give up the right to choose my own lawyer"

His wife exposed this as a lie when she released a video her husband had recorded before he had been abducted saying that if he accepted state-appointed counsel and rejected his own lawyer he must have been tortured. Shortly after police handed over the letter, his wife Xu Yan released this video to the media. In the video, he is recording saying:²⁵



Source: Hong Kong Free Press

I am Yu Wensheng, a Chinese lawyer. Today I would like to make the following statement: I will never give up the right to choose my own lawyer. If I need a lawyer, I have appointed Liang Xiaojun and Zhang Weiyu as my lawyers... I have already given them power of attorney. If by the time they [are needed and] will not be able to represent me, my wife has the right to choose a lawyer. I will never accept a lawyer appointed by the authorities, unless I am tortured.

The problem with state-appointed counsel

State-appointed counsel, or as the authorities prefer to term it, legal-aid lawyer, can be forced upon a detainee at any time before trial, during the investigation phase, after arrest or indictment and even at the trial itself.

State-appointed lawyers called *guanpai lvshi* (官派律师), are qualified lawyers dispatched by legal-aid centres or are lawyers stationed at detention centres or people's courts.

Although state-appointed counsel are licenced lawyers, because they are forced on HRDs and retained by the authorities, many people tend to view them with suspicion. They are seen as being allied with the police, prosecutors and the courts rather than fighting for their client's best interests. The authorities prefer state-appointed lawyers for this very reason. They want to control everything about the case and that means controlling the lawyer too so any illegalities – such as torture or forced confession – will not be leaked to the media. While human rights lawyers are not able to conduct as vigorous a defence for their client as they can in open societies with genuine rule of law -- in China the courts are politically controlled and verdicts are often predetermined -- a good lawyer is able to ensure there is at least the hope of some accountability and transparency in the system. For example, in late 2016, human rights lawyer Xie Yang (谢阳) was finally able to meet with one of his lawyers, Chen Jiangang (陈建刚), after having been refused any lawyer access for months. During their meeting, Chen was able to make detailed notes of how Xie had been brutally tortured while in RSDL and then make these public, sparking an international outcry.²⁶ Furthermore, without access to such

testimony and data from China's brave rights lawyers, it would be much more difficult to provide the evidence to hold China to account via international human rights mechanisms.

Independent lawyers offer crucial support to both the detainee and their family at an extremely stressful and worrying time. They act as a channel for information flow between the two, essential for keeping spirits up on both sides. The lawyer can keep the family informed about the case's progress – such as the trial date – and the health and well-being of the detainee, and also pass on messages of support and news of what's happening in the outside world to the detainee. Without this link, the two sides are completely cut off from each other, making the detention a state-sanctioned disappearance in all but name. State-appointed lawyers are notorious for

Any defence offered by state-appointed counsel is "worse than nothing".

Lawyer Ren Quanniu²⁷

failing to keep the family informed in this way, including – unbelievably – critical information such as trial and sentencing dates. In 2017, the state-appointed lawyer for lawyer Li Heping (李和平) neither told his family of his trial nor attended it himself.²⁸ Sometimes the lawyer even avoids answering the family's phone calls and physically hides from them. In the worst cases, the authorities refuse to give the family the name and contact details of the state-appointed lawyer(s). This is exactly what happened to the families of the three men who were detained in the Changsha Funeng case (please see page 21). In March 2020, the procuratorate told the lawyers hired by the men's families that they had been fired and replaced with state-appointed counsel, but refused to give them their names. It

took almost five months of appealing for information among the legal community for the families to finally find out and when they tried to contact these lawyers, they hung up the phone and went into hiding. The men were tried and sentenced in secret in late summer 2020; the families only finding out through other sources a year later. Since there is no automatic right for a family member to visit their loved one in detention (family prison visits are allowed, however), the lawyer is the only channel of communication between the two sides, and if state-appointed counsel is imposed, then often even this is lost. If the family has already hired a lawyer or lawyers, there is no reason why state-appointed counsel should be imposed because the conditions outlined in the CPL for retention of state-appointed counsel – lack of money or ability to hire one’s own lawyer – are not met. It also creates a serious issue of conflict of interest – the case-handling organ takes over the appointment of the defence lawyer.

The case handling organ wants to control everything, they are pursuing the perfect prosecution.

Lawyer Wang Quanzhang

In the words of a family member who battled to get trusted and independent legal counsel for their brother Chen Mei of the Terminus 2049 case (see page 15): state-appointed lawyers are “basically running dogs for Party authorities, and the reason they are involved in cases is not to protect the rights of their clients, but to cooperate with the Party in putting on a show, cooperate with the prosecution and judiciary to conclude cases without transparency, and to quickly convict and sentence defendants in politically sensitive cases or those involving human rights.”²⁹

Independent lawyers	State-appointed lawyers
<ul style="list-style-type: none"> • Freely hired by the detainee, or through a family or friend’s power of attorney 	<ul style="list-style-type: none"> • Forced on detainee, appointed by the case-handling authority, creating a conflict of interest
<ul style="list-style-type: none"> • Fight for their client’s rights to the best of their abilities and the limits of the politically-controlled justice system 	<ul style="list-style-type: none"> • Cooperate with the authorities
<ul style="list-style-type: none"> • Add a measure of transparency and accountability to how the case is handled. Able to expose torture or other illegalities that can then be reported by media and also used in submissions through international human rights mechanisms holding China to account 	<ul style="list-style-type: none"> • Contribute to the illusion of a fair trial
<ul style="list-style-type: none"> • Readily communicate with the family, informing them of the detainee’s condition, case details, trial date and pass on messages, providing a crucial channel for two-way communication 	<ul style="list-style-type: none"> • Rarely communicate with the family, refusing to answer calls or meet with them; sometimes insulting or threatening them. Their identity may even be concealed. Family left in the dark, not informed about the trial or sentencing. With no channel for communication between the detainee and their family outside, the detainee has been effectively disappeared
<ul style="list-style-type: none"> • A source of important support for the detainee, allowing them to communicate with the outside and receive messages of support 	<ul style="list-style-type: none"> • No support

“Lawyers should be able to act as supervisors, to stop the authorities acting illegally and correcting any mistakes made, so there are fewer miscarriages of justice.”

Lawyer Cheng Hai³⁰

CHENG YUAN: The Changsha Funeng case

The Changsha Funeng case counts as one of the most egregious examples of the authority's use of state-appointed lawyers to suppress HRDs and their families. Changsha Funeng is a small NGO, co-founded by Cheng Yuan in 2016, that advocates for the rights of vulnerable groups, such as the disabled, and makes freedom of information requests in pursuit of government accountability.



In the summer of 2019, police detained three men who worked for the NGO – Cheng, Liu Dashi and Wu Gejianxiong. Over the next two years, the families and all the lawyers they hired were never allowed contact with the three men. Initially, the reason given was the cases involved national security. Later, in March 2020, the lawyers (one of whom was the father of Wu) were told they had been fired and replaced with state-appointed counsel. These new lawyers never communicated with the families, and eventually in the summer of 2021, the families learned that the three men had been tried in secret a year earlier and later sentenced to prison (Cheng received the longest sentence of five years).³¹

Cheng's wife, Shi Minglei (施明磊), who now lives in exile with her young daughter in the US, described her ordeal in an interview for this report. Images provided by Shi.

On the morning of 22 July 2019, more than a dozen state security police from Changsha³² raided our home. Six or seven of them first escorted me to take our three-year-old daughter to kindergarten. When I returned home, both Cheng Yuan and I were handcuffed. Police searched our home and then took Cheng Yuan away. Shortly afterwards, they black hooded me, took me to the sub-district police

station and interrogated me until 3am the next day. They told me that Cheng Yuan had been detained on suspicion of subversion of state power. That afternoon, Changsha state security police came to my home and announced that I am now under residential surveillance for subversion of state power, although I know nothing about Cheng's work.

When I called one [of the state-appointed lawyers] that had been assigned to Cheng, as soon as he knew that it was me, he hurriedly hung up the phone. In September, we went to find these lawyers but they had gone into hiding.

I was told to write a letter of guarantee stating that I will not talk to the media. They threatened to take my daughter away for interrogation if I did not cooperate.

My bank account was frozen and they confiscated my phone, computer, passport and other documents. I was not able to leave my house. My daughter was in shock from the police raid. I had asked a friend to pick her up from kindergarten while I was being interrogated and my friend said my daughter kept shaking and talking in her sleep from fright the whole night.



Later, Cheng's brother found out that he was being held in the State Security Department's Detention Centre in Hunan. But this detention centre is very secret, it doesn't have any sign and there's no reception. It looks like a residential house from the outside. Many lawyers and locals who live nearby don't even know that this is a detention centre.

After Cheng was taken, I immediately hired lawyers Pang Kun and Zhang Qunlin to represent my husband. They went to the State Security Bureau to hand in [all the paperwork]. Lin Shengxin, a receptionist from Changsha state security bureau took their paperwork but denied the lawyers access on the grounds that the case was still under investigation and it involved national security. I was very worried that Cheng might be subjected to torture. Every day, I hoped that his lawyers would be able to meet with him.

On 16 March 2020, one week before the end of the investigation phase, we were told that the six lawyers we had hired ³³ had been fired. We were furious. It was so ridiculous that lawyer Wu Youshui [the father of one of the detainees, Wu Gejianxiong] was "fired" by his son. It was obvious that the case handling organ didn't find any evidence to convict them. Why would the son fire his own father, a practicing lawyer? At the same time, four of the six lawyers were summoned for a meeting by the judicial bureau and all of them were forced to quit.

*Our lawyers went to the procuratorate to submit the defence formalities, but the procuratorate refused to accept them, saying that lawyers had already been arranged. **But they refused to tell us the names of the state-appointed lawyers.** So we issued a statement and a "missing person's notice" to find out who they were. Most lawyers*

in Hunan would have seen this notice, but no lawyers contacted us. It wasn't until July 2020, **more than 160 days later**, that we accidentally discovered four of the state lawyers. When I called one that had been assigned to Cheng, as soon as he knew that it was me, he hurriedly hung up the phone. In September, we went to find these lawyers but they had gone into hiding.



The lawyers who snatched Wu Youshui's right to defend his son turned out to be Chen Hongyi, the vice president of the Changsha Bar Association, and Chen Ruchao. Chen Hongyi answered Wu Youshui's phone once and never answered the phone again.

The lawyers I hired for Cheng Yuan were threatened repeatedly; they were even almost detained themselves. In the end, they were forced to quit. Later I hired Zhang Lei and Xie Yanyi to defend him.

I was threatened all the time, I was not allowed to accept any interviews, nor tell anybody about the detention of my husband. I was not allowed to leave my home, not allowed to call anybody without permission, otherwise they said they would take me.

One Changsha state security police told me that he was 100% sure that if I didn't have such a young daughter, they would have arrested me and put me in a detention centre.

I worry about the mental and physical health of my husband Cheng Yuan very much, I will continue to tell the truth about the case, advocate for the three, until the day they are released.

3: Hide the detainee

A particularly inhumane way the authorities prevent lawyers meeting with their clients is to simply hide the detainee. This is equivalent to an enforced disappearance because even the location of the victim is not known. Under such circumstances, there is absolutely no accountability and if this disappearance is extended then families and loved ones may fear the detainee may even be dead.

The authorities can disappear the suspect through various means, including:

- Failure to issue a formal notification of detention so that the family and lawyers do not know which detention centre the detainee is being held. When queried, police refuse to disclose the location;
- Registering the detainee in the detention centre using a fake name (the subject of

the first report in this Access Denied series, *China's Vanishing Suspects*) so that when the lawyer tries to arrange a meeting, the detention centre simply answers that there is no one there by that name;

- Impose RSDL or Liuzhi, the equivalent for all those connected with the State or Party. Police (or the Supervision Commissions for Liuzhi) are then entitled to use national security exceptions to conceal the location of the secret detention, as well as deny all lawyer visits. The detainee simply disappears for up to a period of six months (sometimes longer). As of August 2021, only **one** out of a recorded **173 RSDL** victims in Safeguard Defenders' RSDL database were known to have had access to a lawyer.³⁵

Legal blockade: hidden detainees

- In 2015, **Yang Zhanqing** (杨占青), co-founder of Changsha Funeng disability rights NGO (see page 21), was detained in a detention centre for his work in producing a rights defence manual for another NGO. Police refused to inform his lawyer at first where he was being kept. "My lawyer took several days to find the detention centre where I was being held, since the police refused to disclose my location," he told media.³⁶

- In 2019, a few months after police had snatched activist **Chen Jianfang** (陈建芳) from her home, Shanghai authorities told her lawyer that Chen had been formally arrested on charges of inciting subversion of state power the previous month but refused to reveal where she was being held.³⁷

- In 2021, lawyers for activist **Xu Zhiyong** (许志永) and lawyer **Ding Jiayi** (丁家喜), who were being held in a Shandong detention centre, were told by detention centre staff that they could not find any record of their two clients, likely because they were registered under fake names.³⁸

- In the first week after Baoji City police took lawyer **Chang Weiping** (常玮平), they refused to tell his wife or his lawyers where he was being held (please see page 29).

- Lawyer **Wang Quanzhang** was disappeared for almost three years before his location was confirmed by a lawyer he was finally permitted to see. From his disappearance in the summer of 2015 until July 2018, police refused to inform his wife, Li Wenzu (李文足), where her husband was being kept so that she genuinely feared he was dead.

METHOD TWO: TARGET THE FAMILY

"Chang is held in such a remote place completely because they wanted to create obstacles to family and lawyers in meeting with him."

Cheng Zijuan, wife of detained human rights lawyer Chang Weiping

Trusted family and friends are a lifeline for detainees. They are the ones who can hire legal defence, press authorities for information, and provide needed supplies such as food, medicine and other necessities for them in the detention centre. According to Article 34 of the CPL, "a criminal suspect or defendant under detention may have his/her guardian or close relative to entrust a defender on his/her behalf." A close relative would normally be a spouse, parent, or child. They can also speak to the media to raise attention about their case. Family members, therefore, are another target for the authorities in their efforts to restrict the suspect's access to independent legal defence.

1: Separate family and detainee

Relocating the detainee to a remote detention centre makes it difficult and costly for the family to offer support. Sometimes detainees are held many hundreds of km away from their home, or the location of their suspected crime. For example, activist Xu Zhiyong and lawyer

Ding Jiayi, who were caught up in the 2019 Xiamen Gathering (please see page 4), were both held in a detention centre in Shandong province, far from the city of Xiamen, and also far from their homes in Beijing. While the precise reasons for the location of the case-handling organ may be complex and involve other factors, by ensuring there is considerable distance between the suspect and their family, the authorities make it more difficult to offer support, including hiring a lawyer. The family needs to find extra time and extra funds for the long trips for them and the lawyers, especially gruelling when many of the lawyers' efforts to meet with their client are rebuffed at the detention centre door. This extra pressure may force the family to give up and accept state-appointed counsel. This separation of suspect and family is also used as a justification for RSDL, since the custodial practice should only be applied when the suspect does not have their own residence, otherwise they should be held in their own homes.

Legal blockade: distant detainees

- Rights lawyer **Chang Weiping** was held in Fengxian Detention Centre in 2020, a dangerous 2 ½ hour drive from Baoji City in a mountainous region. His wife believes this was intentional in order to frustrate her and the lawyers.³⁹
- Rights lawyer **Yu Wensheng** was moved from Beijing, where he was initially detained and also lives, more than 700km away to Xuzhou in 2018.⁴⁰
- Tibetan environmentalist **Anya Sengdra** was relocated 400km away from where he lives in Golog prefecture (Guoluo in Chinese) to Tsoshar prefecture (Haidong in Chinese) in Qinghai province during the investigation phase of his detention in 2018.⁴¹

The 709 wives



Chinese Human Rights Defenders

In the summer of 2015, hundreds of human rights lawyers and rights activists were rounded up by the police in the 709 Crackdown. Many were placed in RSDL and later went on to serve prison sentences. To force the authorities to tell them what was happening to their husbands – held without access to lawyers – Wang Qiaoling (王峭岭), Li Wenzu, Liu Ermin (刘二敏) and Yuan Shanshan (原珊珊)⁵² the wives of a group of disappeared Beijing-based lawyers and activists joined forces and started using novel tactics to raise attention to their husbands' cases. They sued state media outlets for printing lies about their husbands, carried bright red buckets, shaved their hair in public as a form of protest and congregated outside detention centres demanding news of their husbands' fates. They kept the story running in global media and international attention centred on their husbands' plights.

These women were not involved in human rights before the summer of 2015, but the pressure of having their husbands forcibly disappeared by the state turned them into activists. They were harassed, threatened, filmed, followed and subjected to house arrest for their actions, but they were not deterred.

The police played a balancing act: on the one hand using all kinds of illegal tactics to keep these women silent, and on the other, trying not to draw even more attention to the cases by being too heavy handed. It seems likely that in future, more effort will be made to silence partners from the very beginning.⁵³

2: Threaten or intimidate family

Intimidation can range from installing surveillance cameras around a family member's home, hiring thugs to physically intimidate them, limiting their movements, imposing house arrest, and issuing direct threats such as the possibility of them also being arrested. They may even threaten harsher treatment for their loved one in the detention centre or offer to bargain:

a lighter sentence for an agreement to dismiss the lawyers and not talking to the media. In addition, they may even force the family to sign a statement or record a video saying they willingly accept state-appointed lawyers. Sometimes, the promise of a call or a meeting with their loved one is offered in return for cooperation.

Legal blockade: pressure the family

- The father of online activist **Ling Haobo** (凌浩波) was forced to dismiss the lawyer he had hired for his son and in addition record video testimony saying he was willingly dismissing the lawyer in 2019.⁴²
- According to friends, activist **Xie Wenfei's** elderly father was threatened with arrest unless he dismissed Ren Quanniu, the lawyer he had hired to represent his son in 2020.⁴³ Xie's mother signed the dismissal notice. This was the third time police had pressured them to fire their son's lawyers.⁴⁴
- The parents of activist **Chen Jianfang** seemed visibly afraid to get involved with hiring a lawyer for their daughter when a lawyer and several of Chen's friends went to their house in 2019. During the meeting, a young man who said he was a relative threatened to call the police. As they left, they spotted a police car parked nearby the house.⁴⁵
- The sister of political cartoonist **Jiang Yefei** (姜野飞) was pressured to dismiss lawyers they had hired in return for a single video phone call with Jiang in 2017. During that call, she noticed a new scar around his eye. Without notifying the family, Jiang was then tried and sentenced to 6½ years in July 2018.^{46 47}
- Police threatened activist **Zhen Jianghua's** parents that if they did not agree to dismiss the lawyer(s) Zhen had chosen and agree to state-appointed counsel, then their son would be handed down a life sentence; accept state-appointed counsel and he would likely get a much lighter sentence.⁴⁸

CHANG WEIPING: The case of the missing lawyer



Rights lawyer Chang Weiping was known for taking on sensitive cases including those that involved HIV/AIDS and LGBT discrimination, forced demolition and defective vaccines. He was first detained in RSDL in January 2020, following the Xiamen Gathering (please see page 4), and he was detained again in October the same year shortly after posting a video on YouTube exposing how he had been tortured by police in January by being locked into a tiger chair for ten days straight. Not one of the six lawyers his

family hired were allowed to meet with Chang, who was held at a secret location for months in RSDL, until he was formally arrested in April 2021 on charges of subversion of state power. The below is taken from an interview Chang's wife, Dr. Chen Zijuan (陈紫娟), gave to Safeguard Defenders in June 2021 and some extracts from testimony she has published online. Chen lives in Shenzhen; every time she tries to visit her husband or check that he is receiving money to his account to buy basic necessities, she must travel more than 2,000km. Finally, on 14 September 2021, Chang was allowed to see his lawyer for the first time since his detention in October 2020. His lawyer described how he had been tortured and mistreated so badly in RSDL that it was only the thought of his wife and young son that stopped him from trying to kill himself or going insane. Images provided by Chen.⁵⁴

I never knew where Chang was being held. We were never notified of the location. In the beginning, we were not even given an RSDL notice. After our lawyers negotiated with Baoji police, they eventually agreed to issue the notice and I received it on 1 November 2020 [Chang was seized on 22 October].

We don't know anything about his situation since no lawyer has been able to meet with him. Police refused to pass on any of the letters we wrote to him, and we have never received a single letter from him. I worry that he is being tortured, because the same case-handling organ, Gaoxin district branch of Baoji PSB, are responsible this time too. [The same branch that tortured Chang in January 2020].

Shaanxi police have targeted the lawyers we hired from the very beginning, blocking them from meeting with Chang. Chang's father and I have hired five lawyers in total since he was taken. Four of those five were pressured to quit by the judicial bureau in their cities because the Shaanxi police pressured them to do so. They are Zhang Tingyuan (张庭源), Zhang Keke (张科科), Chen Jinxue (陈进学), and Fu Ailing (付爱玲). Even

before lawyer Zhang Tingyuan had arrived in Shaanxi he was summoned by Chongqing Judicial Bureau to remove himself from the case. But he still came to Baoji twice, and both times he was forcibly taken back by the Chongqing Judicial Bureau.

The second time they said he would lose his lawyer's licence if he persisted. After returning to Chongqing, he was summoned by the judicial bureau many times and so in the end he was forced to quit. The other lawyers told me that 10 minutes after they submitted their power of attorney paperwork to Baoji Gaoxin district PSB branch, their own local judicial bureau called them and ordered them leave Baoji immediately.



When the lawyers tried to meet with Chang, they were told they couldn't because the case involved state security. The most recent request was on 16 June, when the authorities even refused to accept the application and refused to forward any correspondence to Chang. The lawyers were threatened not to tell me what had happened or the police would file complaints against them.

At the beginning of November, Chang's father was summoned to the local police station where was told to fire lawyers Zhang Tingyuan and Zhang Keke. If he agreed to hire a local lawyer of the police's choice, he would be allowed to meet with his son. They also asked who had been paying the legal fees. These illegal actions by the police caused the whole family to become even more worried about Chang, and convinced that he was being tortured again.

[In April 2021, police sent Chen a formal arrest notice that said Chang was charged with subversion of state power and being held at Fengxian Detention Centre]. Fengxian Detention Centre is in a very remote area [a small village]. It's at least a 2.5-hour drive from Baoji city centre, the road is very difficult and there are a lot of car accidents in this region. On my way there one time, I even witnessed an accident. There are many detention centres in Baoji. Holding Chang in such a remote location is completely because they wanted to create obstacles for me to meet with Chang. I'm from Baoji myself but have rarely been to Fengxian, transportation is inconvenient and it is underdeveloped. Every time they attempt to meet with Chang, the lawyers need to take a flight or high-speed train to Xian, then an hour high-speed train to Baoji, and then another 2.5 hour car ride to Fengxian. Lawyers are risking their lives to take this case because the road is so dangerous.

3: Detain or disappear family

If threats don't work, police can simply detain or disappear the family member to make it impossible for them to hire lawyers or talk to media. If there is a history of activism among

family members, the police may detain them at the beginning of the case in order to scare them into compliance.

Legal blockade: locking up the family

- When police grabbed activist **Chen Jianfang** from her home in March 2019, they also disappeared her husband Xu Jianjun (许建军). He was released a few weeks later.⁴⁹
- When **NGO worker Cheng Yuan** was disappeared in 2019, his wife was also blackhooded and interrogated and then placed under residential surveillance at her own home.⁵⁰
- Police placed rights lawyer **Chang Weiping's** parents under house arrest in 2020, their phones were confiscated and no one was allowed to meet them for several weeks.⁵¹

METHOD THREE: TARGET THE LAWYER

"We lawyers are struggling to survive, and to work, but there is less and less room to do that, and we can barely keep our heads above water."

Lawyer Wang Yu⁵⁵

The authorities' key target in preventing detainees accessing independent legal counsel are the lawyers themselves. Since the 709 Crackdown, the CCP has made it clear that it wants to extinguish the human rights lawyers movement. The crackdown was costly in terms of international reputation, and attention now seems to be more focussed on threatening and pressuring lawyers not to take on human rights cases through the weaponization of their licences. Those that still resist can be neutralised with losing their right to practice law. This strategy is masked as an administrative punishment and thus is

less attention grabbing than disappearing and sentencing lawyers to jail time. A tightening of regulations governing how lawyers and law firms operate introduced in 2016 and 2018 has made it easier for authorities to suspend and revoke legal licences. Interviews with lawyers inside China indicate that indeed this method is being more widely and frequently applied, slowly squeezing the space for independent defence. In addition, the authorities are still using blunter tools such as warnings, violence, disappearances and age-old stonewalling at the detention centre doors.

LAWS ON LAWYERS



The conduct of lawyers is regulated by the Law on Lawyers of the People's Republic of China (中华人民共和国律师法) or Lawyers' Law.⁵⁶ It reiterates the right of a suspect to see a lawyer as written in the CPL (see page 7), and further stipulates that:

- Any lawyer who has been found guilty of a crime (apart from negligent crimes) or had their lawyer's licence revoked may not act as a defender for a client (Article 7).
- A lawyer with a valid licence, authorisation from their law firm and power of attorney has the right to meet with their client under the provisions of the CPL. Lawyer-client meetings should not be monitored (Article 33).
- Article 47-49 of the Lawyers' Law covers the behaviours that can be punished either by suspending the licence (if not serious) or revoking the licence (if serious). This includes crimes that you would expect, such as attempting to bribe a judge, but also more ill-defined crimes such as "disrupting court order", "disrupting public order", "presenting views to endanger state security" and "disclosing state secrets".

There are a number of other laws, regulations and administrative measures governing lawyers' conduct⁵⁷ as well as internal notices issued by detention centres and posted on their walls that impose additional restrictions on lawyer-client meetings.

Of these supplementary regulations, Measures on the Administration of Law Firms (律师事务所管理办法) and Administrative Measures for the Practice of Law by Lawyers (律师执业管理办法)⁵⁸ were revised in 2016 and 2018 in ways that make it easier to control lawyers and harder to act as independent counsel.⁵⁹

Essentially these revisions impacted lawyers by:

- Mandating closer ties to the CCP for law firms and lawyers;
- Disallowing lawyers from engaging in protests near courtrooms, making complaints about courtroom procedures and posting comments online about the case;
- Making it unlawful to defend Falun Gong;
- Ordering law firms to dismiss lawyers for any of the above conduct on penalty of losing its licence.

All these essentially make things like petitions, open letters, or having online meetings to discuss the case, a punishable offense.

In 2016, when the regulations on law firms were first made public, rights lawyers criticised them as restricting their ability to defend their clients. Rights lawyer Ma Lianshun (马连顺), who was forced out by his law firm for taking on sensitive cases, told media that: "They are exerting pressure on lawyers via the law firms, but it will have a negative impact on the ability of rights lawyers to protect their clients."⁶⁰

1: Weaponisation of Lawyers' Licences

Disempowering lawyers by temporarily or permanently withdrawing their licence to practice law is nothing new in China, but lawyers say that the authorities are increasingly turning to this method to control rights defence work. This can be seen in both the number of lawyers who have been punished with suspension or disbarment because of their rights defence work and by the introduction of new regulations that make it easier for the authorities to do so. Many times, though, it appears that they act with impunity, revoking and suspending licences without giving a clear reason or with false accusations. "The government is starting to use the justice departments and the Lawyers' Associations instead of criminal proceedings now, to target the legal profession," rights lawyer Lin Qilei (蔺其磊) told media.⁶¹ "They are revoking the licences of human rights lawyers; this is becoming a trend in all provinces."

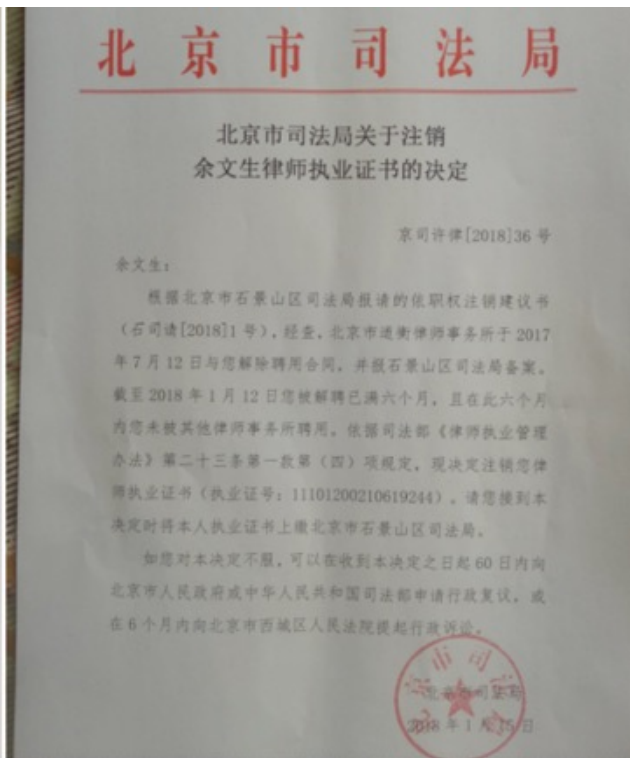
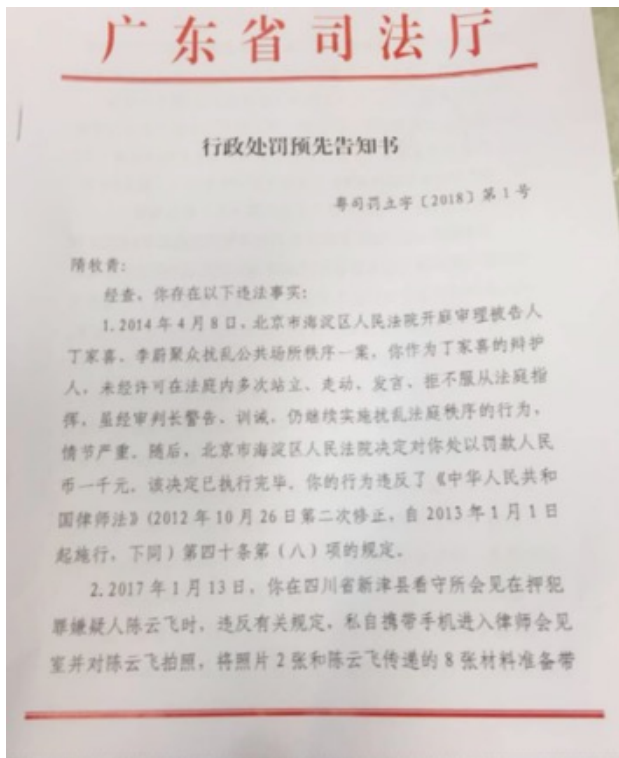
Lawyers and law firms are controlled via the local Justice Bureau and Lawyer Associations. Suspension of law firm licences or suspension or revocation of lawyers' licences exerts great economic pressure on both individuals and firms and can act as an effective deterrent to taking on rights or sensitive cases. Lawyers are also required to report big or complicated cases to their law firm and request the local Lawyers' Association first for permission to take on the case. Lawyers say this restriction began as an unwritten rule, and then slowly started being introduced to local level (county- or district-level) judicial bureau regulations, however, they are not yet law. Newly-qualified lawyers waiting to get their first licence may never be approved if they have been involved with human rights activism or are connected to well-known human rights lawyers, for example, Bao Longjun (包龙军), the husband of renowned rights lawyer Wang Yu (王宇).

One of Cheng Yuan's lawyers, Pang Kun (庞琨), told foreign media that he couldn't accept interviews because he might be disbarred. "I cannot judge whether accepting your interview would be considered 'sensationalising', Pang said. "Due to regulations banning 'sensationalising' legal cases and warnings from the Changsha National Security Bureau, I cannot accept your interview."⁶²

Lawyers who have had their licences suspended or revoked, describe how the authorities do not even follow official procedures in informing them of the fact. Irregularities include:

- not giving a written notice just informing the lawyer orally;
- announcing the action on the Justice Bureau website with no notification (written or oral);
- not informing them of their rights to appeal;
- not giving them the required notice to appeal;
- not adequately explaining the reasons why the action was taken;
- giving illegal or illogical reasons that do not comply with the law, sometimes giving different reasons in oral notification and then later in the written notification.

While this report is focussed on human rights cases, media reports indicate that this is also a problem across the board. A 2020 purge of commercial and other lawyers in Hunan province saw more than 1,000 of them lose their licences (please see page 39) and a Beijing-headquartered law firm published the results of a seminar describing similar attacks on lawyers' licences (please see page 42).



A letter from Guangdong's Judicial Bureau informing Sui Muqing that his licence to practice law has been revoked (left). A letter from Beijing's Judicial Bureau that Yu Wensheng's lawyer's licence has been suspended (right).
Source: Chinese Human Rights Defenders

There are **three ways** that authorities have weaponised lawyers' licences:

- **Annual review** (年度考核)

All lawyers and law firms must get legal licences approved **every year** (usually in May or June) by their local Judicial Bureau (in conjunction with state-run Lawyers' Associations). Any lawyer or law firm that angers the authorities by speaking out or taking on sensitive cases may find that their licence renewal is denied, delayed or stamped "incompetent" (不称职)⁶³, often without giving any reasonable explanation or any reason at all. This orchestrated harassment of human rights lawyers on the surface looks like a simple administrative issue and is a low-key solution compared with disappearing or arresting the lawyer.

The annual review requirement is mentioned in both the Lawyer's Law and the Administrative Measures for the Practice of Law by Lawyers. Although failing to get the annual stamp of approval does not disqualify a lawyer from taking on cases, in practice it makes it even more difficult to do so. Without that stamp, lawyers, who already struggle to do their job, will find it almost impossible to access court documents and meet with their clients as an updated licence is often requested for both. Lawyers who do not pass the annual review are also at risk of being fired by their law firm, especially if the authorities pressure them to do so. If a law firm fails to pass the annual review, it may struggle to take on new clients. Lawyers describe the annual review as a violation against Chinese law and unlawful, as it is a regulation issued by lower organs.

This is a temporary issue, as in theory, the lawyer or law firm may apply again the following year. Their chances of passing next year are only good, however, if they stay well clear of sensitive cases in the meantime.

- **Suspension** (注销)

Authorities may decide to suspend (sometimes called cancel) a lawyer's licence for up to a year. New rules have made this easier and licences can be cancelled for simply posting something on social media. Not being employed by a law firm for six consecutive months also carries the automatic penalty of suspension. Some human rights lawyers have complained that Judicial Bureau have blocked their attempts to find a new employer simply so that they have an excuse to suspend them for one year. Lawyers not attached to a law firm are unable to work effectively as a defence lawyer because they do not have one of the "three certificates" – the letter of authorization from their law firm – making it much easier to block them from meeting with their client.

- **Disbarment** (吊销)

This is the worst outcome for a human rights lawyer, as under Chinese law they may never practice law again. Article 49 of the Law on Lawyers lists reasons why a Judicial Bureau can revoke a lawyer's licence, including such behaviours as "disrupting" court or public order or posting something online, thus ending their career as a practising lawyer.

Pressuring law firms

Judicial Bureau also pressure law firms to fire or not hire particular lawyers. If a lawyer is not associated with a law firm, they may find it difficult to take on cases, and after six months they can lose their licence for up to a year for failing to be associated with a firm. In 2018, rights lawyer Zhang Kai (张凯) lost his job after authorities forced his law firm, Beijing Xinqiao Law Firm, to fire him.⁶⁴ Between 2017 and 2020, at least five rights lawyers were forced out by their law firm: Peng Yonghe (彭永和) and Li Ming (李明) (2017), Zhang Kai (2018), Ren Zhao (任照) (2019) and Wang Shengsheng (王胜生) (2020).

Losing your licence: 3 ways to silence a lawyer in China

(1) Annual Review (temporary)

Judicial Bureau deny, delay or stamp “incompetent” on the lawyer’s licence during the annual review (every May or June), making it difficult or impossible to properly defend clients and putting them at risk of being fired by their law firm.



In 2017, four prominent human rights lawyers: Lin Qiliei, Qin Chenshou, Yu Wensheng and Liang Xiaojun failed the annual review. All four had represented victims in the 709 Crackdown.

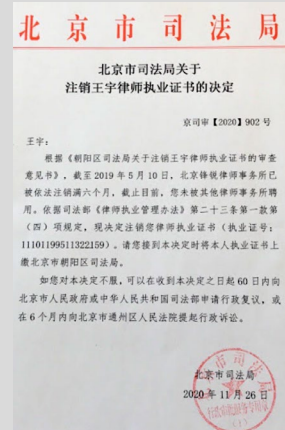
Lawyer Yu Wensheng.

(2) Suspension (temporary)

Judicial Bureau suspend a lawyer’s licence for up to a year for minor offenses, such as posting something online and/or pressure firms to fire or refuse to hire a lawyer, whose licence will then be suspended if they cannot find another employer within six months.

In November 2020, human rights lawyer Wang Yu, famous for being the first victim of the 709 Crackdown, was told her licence had been suspended because she had not worked for a law firm for at least six months. Her original law firm, Fengrui Law Firm, had been deregistered by the authorities in 2018. “I couldn’t find another law firm to accept me because the Judicial Bureau told them not to accept me,” Wang said.

Letter from Judicial Bureau suspending Lawyer Wang’s licence.



(3) Disbarment (permanent)

Judicial Bureau revoke a lawyer’s licence for offenses such as “disrupting” court or public order or posting something online, ending their career as a practising lawyer.



In early 2021, two prominent human rights lawyers Lu Siwei and Ren Quanniu had their licences revoked within weeks of trying to represent clients in the Hong Kong 12 case. Before he was disbarred, Lawyer Ren said: “The domestic security police told me several times that they would revoke my licence if I didn’t drop the case.”

Lawyer Ren Quanniu

WANG YU: Sometimes, police are outrageous



Wang Yu is one of China's most respected human rights lawyers and a recipient of numerous human rights awards. Her most high-profile cases include defending Uyghur scholar Ilham Tohti (who was given a life sentence for separatism in 2014) and Cao Shunli (曹顺利), a women's rights defender (who died in police custody that same year). Wang was one of the first victims to be taken in the 709 Crackdown in the summer of 2015. She was not allowed to see a lawyer throughout more than one year she was kept in RSDL and detention. Accused of state subversion, but never tried in a court of law, Wang was instead released on bail in August 2016 when she agreed to appear in

several televised confessions. After Fengrui Law Firm – the main target of the crackdown – was closed, Wang was unable to find another law firm to accept her and in November 2020, authorities finally cancelled her licence.

This year (2021) I represented the case of Niu Tengyu (牛腾宇) (a teenage boy who was sentenced to 14 years after posting information online about Xi Jinping's daughter). I was prevented from meeting with him for a number of reasons, such as my licence hadn't been renewed in the annual inspection; I didn't have a letter provided by a law firm; or just that I did not qualify as a defender. All these excuses are old, they are nothing new. Denying legal access is violating the detainee's right to defence.

I believe that the practice of denying access to a client is becoming more common. However, they are not using any new ways, mostly they just say the same old things such as denial on endangering state security grounds. Sometimes, police are outrageous: they deny access without giving any reason at all.

My licence was suspended because I was not affiliated with a law firm for more than six months. I was informed by a phone call from Beijing Judicial Bureau, and they also sent me administrative documents about the suspension later. In reality, I couldn't find a law firm to accept me because the Judicial Bureau had told law firms not to hire me. I filed legal procedures against this decision, but I haven't got any response yet.

According to the law, it is possible to reapply for a licence again after suspension, but in reality, most lawyers whose licences are suspended are never able to practice again.

The scale of the problem

Using data supplied by China Human Rights Lawyers Concern Group and media research, since 2016, at least **35** human rights lawyers have had their licences to practice law revoked or suspended because of their rights defence work. Please see Appendix I for a list of their names.

Many of those who have been disbarred were victims of, or lawyers who defended those taken in, the 709 Crackdown.

Mass purge of lawyers

In the summer of 2020, it was reported that Hunan's Judicial Bureau had revoked the licences of hundreds of lawyers for breaking rules that ban lawyers from holding foreign passports, working for more than one law firm, or taking on non-legal side work. While not directly aimed at human rights lawyers, the purge removed more than 1,200 lawyers in Hunan between April and August, showing the scope and depth of control over legal licences.⁶⁵

In January 2021 alone, five lawyers -- Ren Quanniu, Lu Siwei (卢思位), Zhou Ze (周泽), Peng Yonghe and Xi Xiangdong (袭祥栋) had their licences suspended or revoked.

- Like Ren Quanniu (see page 46), **Lu Siwei** lost his licence just weeks after trying to represent one of the defendants in the Hong Kong 12 case in early 2021. The official reason was for publishing "inappropriate remarks on the internet" but Lu believes his efforts to take on one of the Hong Kong 12 was the most likely reason.

- Lawyer **Zhou Ze's** licence was suspended for a year in January 2021 for posting videos online that allegedly showed police torturing his client and witnesses to coerce a confession. The material he posted was "related to unlawful interrogation and extraction of a confession through torture and therefore it was entirely justifiable both from a legal and ethical perspective," he argued.⁶⁶

- Former prosecutor turned human rights lawyer **Yang Bin** (杨斌) was told in August 2020 her licence was suspended because she hadn't been employed by a law firm since May 2019. Her previous law firm in Guangdong had refused to renew her contract because she declined to delete a post connected to a rural rights case. Although she found a law firm in Beijing to hire her, her application with the Beijing Lawyers' Association had been stalled for months.⁶⁷ Her work with rights cases and the fact that activist Xu Zhiyong hid from the police at her house are likely reasons behind her suspension. "I feel pretty helpless right now. This situation is ridiculous. The cancellation of my licence... is caused by a lack of protection for freedom of speech in China," she said.⁶⁸

- In August 2020, **Xie Yang** (谢阳) was informed in person that he would be disbarred because of a criminal conviction he had been given several years earlier in 2017, although this ruling violated a plea bargain he had made at the time of his trial. It also violated a statute of limitations law in China that says administrative penalties cannot be imposed for acts committed more than two years ago. Xie, who was a victim of the 709 Crackdown,

They are just cooking up an excuse to punish me.

Lawyer Xie Yang

had struck a deal that if he plead guilty to incitement to subvert state power and publicly said that his former lawyers' claims that he had been tortured were false, then he would not serve time and he would be allowed to

keep his licence. When Xie received a written notice, informing him he had lost his licence, a different reason was given, namely that he had disturbed court order, without giving any other specific details.⁶⁹

The 'China Post-Lawyers Club'

As an indication of how many lawyers are losing their licences, in 2018 human rights lawyer Qin Yongpei (覃永沛), who had himself just had his licence revoked, established a support group for persecuted lawyers like him. Called the China Post Lawyer's Club (中国律师后俱乐部), it was set up in Nanning, in the Guangxi region of southern China. Its aim was to help find work for dozens of rights lawyers who were struggling to earn money after they had been stripped of their right to represent clients in court. Members included Wen Donghai (文东海), Wang Yu, and Sui Muqing (隋牧青). Unfortunately, in November 2019, the Club was shuttered after Qin himself was detained.^{70 71}



BBC

China rights lawyer Yu Wensheng loses licence

V.A

In China, Rights Lawyer Likely to Be Disbarred for Defending Client

**The
Guardian**

Second lawyer barred after defending Hong Kong democracy activist

n p r

'Where No One Dares Speak Up': China Disbars Lawyers On Sensitive Cases

**South China
Morning Post**

Chinese 709 rights lawyer Xie Yang loses professional licence

Outspoken Chinese Rights Lawyer Who Defended One of Hong Kong 12 Loses License

RFA

China Moves to Punish Lawyers Hired to Help Hong Kong Activists

The New York Times

Chinese lawyer suspended after posting videos of alleged police torture

**South China
Morning Post**

Bangkok Post

'Depressed and unemployed': China's rights lawyers battle disbarment

2: Bureaucratic hurdles

There are a myriad ways that detention centre staff make it difficult or impossible for lawyers to meet with their clients simply by stonewalling them at the detention centre door with various lies and excuses. Even if there is a genuine problem that prevents a lawyer-client meeting at a particular time, the detention centre is legally responsible for arranging a new meeting time within 48 hours. The methods they employ include:

- Jamming up lawyer-client meeting time slots with police interrogations whenever the lawyer tries to arrange a meeting;
- Requiring extra authorisation that is not always legal to indefinitely delay a meeting, such as an updated power of attorney document, permission from the local Lawyers' Association, notarisation of a power of attorney document, etc;
- Claiming there is no free meeting room or not enough staff. Some detention centres intentionally restrict the number of meeting rooms to a level inadequate for inmate numbers;
- Only allowing a restricted number of meeting times. Some lawyers report that slots are so limited that sometimes they are sold under the table;
- Not allowing meetings on the weekend, closing off lunchtimes for meetings, closing early in the day, for example 4pm; and,
- Maintaining an online booking system that cancels meetings without giving a reason.

When lawyer Yu Wensheng was detained in 2018, his wife Xu Yan and his lawyers never got to visit him once in the two years he was held before his trial. Detention centre staff fobbed them off with more than a dozen different excuses. Lawyers for detained Church member Zhang Chunlei (张春雷) were given repeated excuses why they couldn't meet with their client, including that he was in "interrogation" in July 2021.⁷²

It is not just human rights cases where lawyers are prevented from meeting with their clients. In 2018, a mainstream law firm headquartered in Beijing held a seminar discussing the difficulties all kinds of lawyers were experiencing in meeting clients at detention centres.⁷³ Their experiences mirror those of rights lawyers laid out in this report, including the use of fake names to hide the suspect in detention; coercing the suspect to fire their lawyer; and preventing all access when the suspect is held under RSDL. Impeding a lawyer's ability to meet with their client is reported throughout from initial detention, the investigation phase, and through to the actual trial.

DENIAL AT THE DETENTION CENTRE DOOR

When lawyers hired to defend human rights attorney Yu Wensheng repeatedly tried to meet with him in two detention centres (first Beijing and then Xuzhou, Jiangsu province) between 2018 and 2020, Chinese authorities gave them at least 12 different excuses, many false or illegal, to deny them access. They were never allowed to see him.*



*Based on an interview Yu's wife, Xu Yan, gave to Safeguard Defenders in 2020 and media reports.

** Likely because Yu had been registered under a fake name. Please see the first report in this Access Denied series, Access Denied #1: China's Vanishing Suspects.

3: Disrupt meetings

Safeguard Defenders surveyed lawyers inside China anonymously for their feedback on how the detention centre also interferes with meetings when they are allowed to take place. Lawyers complained that even if they are allowed to see their client, the detention centre deliberately acts to disrupt the meeting. CPL Article 39 states that meetings between defence lawyers and suspects must not be monitored, however lawyers complain that sometimes police are present in the meeting room. They also said that rooms are often intentionally left dirty, made too hot, too cold, or so noisy that conversation is difficult. Sometimes a thick mesh wire separates the client and lawyer making it hard to talk to each other, see each other's faces and show documents. At times the detention centre, without reason, will cut the meeting short.

4: COVID-19 restrictions

Once the Covid-19 outbreak was officially acknowledged in China in January 2020, access to lawyers for all detainees held in detention centres was halted to prevent the spread of disease. After the pandemic was brought under control several months later, lockdown restrictions were gradually relaxed, and detention centres began to slowly allow lawyer access, but under much stricter conditions, with pandemic control often employed as a reason for denial across the board.

Lawyers trying to represent human rights defenders, of course, were faced with even more difficulties. They reported that the rollout of Covid-19 prevention measures at detention centres varied widely from facility to facility and region to region, with rules rarely made transparent. For example, new regulations were often only posted online,

causing confusion. They noted that even after central authorities ordered restrictions to be eased, individual detention centres continued to deny visitation rights between detainees and lawyers. Some of the new restrictions included:

1. Lawyers had to request a meeting with their client by phone, but these lines were often left to ring unanswered for days on end.
2. Only one lawyer at a time was allowed to meet with a client. Previously, two lawyers were permitted.
3. Video meetings only. But the quality of the audio and video was so poor that the lawyer had difficulty communicating with their client.
4. Lawyers must provide a negative Covid test before being granted access.
5. Some detention centres insisted on lawyers wearing full personal protection equipment (PPE) to a client meeting.
6. No meetings allowed at all unless close to trial date.
7. Meeting duration and frequency restricted.

While it is reasonable and also necessary to protect people's health, especially in places as crowded as detention centres where infections can spread rapidly, by implementing Covid-19 prevention measures, that should not mean the violation of the human rights of the detainee. When face-to-face meetings cannot be held, video meetings should be facilitated and be of high enough quality to ensure they are useful for both the lawyer and the client. As a techno-authoritarian state, it is inconceivable that China does not have the technology for quality video calls. Once conditions allow, lawyers should be able to resume face-to-face access.

There are many documented cases where detainees have been denied a lawyer meeting based on Covid-19 prevention measures. For example, in June 2020, just five months into the pandemic, Hong Kong-based Chinese Human Rights Defenders found 12 cases where Covid was used as an excuse not to allow access to lawyers or families, even online contact.⁷⁴ US basketball player Jeff Harper, who was held for an illegal eight

months in RSDL in Shenzhen in 2020, did not see his lawyer for the first six weeks when the country was struggling to contain Covid-19. "It took a lot for her to get to see him, to get it approved," said Harper's girlfriend, referring to his lawyer. "She would go back there three or four times, and they would deny the visit. Eventually she did get in and then he started getting somewhat regular visits."⁷⁵

Legal blockade: under cover of Covid

- In January 2021, police stopped lawyers for detained lawyer **Chang Weiping** from meeting with his parents (who were themselves under house arrest) on Covid-19 prevention measures. They were taken to a hotel room, even though at the time there were no Covid outbreaks in that part of China. The next day they were forced to go back home.⁷⁶
- When the lawyer for activist **Xie Fengxia** tried to meet with him in May 2020, he was told he would first need to provide a CT scan of his lungs, a negative Covid test and a green health app code⁷⁷ on his phone. New lawyers hired by his family were again denied access to Xie on Covid grounds in September and October 2020.⁷⁸
- Shanghai Detention Centre told activist **Chen Jianfang's** lawyer in June 2020 that he could not meet with her because during Covid they have a rule that only one lawyer visit is allowed per investigation stage and she had already had one in September 2019.⁷⁹
- Imprisoned Tibetan language activist **Tashi Wangchuk** was prevented from meeting his lawyers in April 2020 on the grounds that all lawyer meetings had been cancelled due to Covid.⁸⁰

REN QUANNIU: it is now almost impossible for me to work as a lawyer



Ren Quanniu, a human rights lawyer from Henan province, studied law as a means to escape a life of poverty in his village. Since the mid-2000s, he has made a name for himself representing victims of land grabs and religious persecution including Falun Gong cases and civil rights activists. During the 709 Crackdown, he was hired to defend Zhao Wei (赵威), a legal assistant but he was never allowed to see her and was himself detained briefly after he

posted on social media his concerns about her treatment in detention. In 2020, he was hired to represent Zhang Zhan (张展), a citizen journalist who is famous for being the first known person to be sentenced for reporting on the initial Covid outbreak in Wuhan and Wong Wai-yin (黃偉然), one of the Hong Kong 12. He was prevented from seeing either client. Ren's lawyer's licence was revoked in February 2021 and his law firm shuttered.

When I represented Zhao Wei's case in 2015, I was never allowed to meet with her. At first, the authorities did not notify the family and so we didn't know where she was. Later on, after a lot of investigation, including several trips to Tianjin by her family and lawyers to ask around, Tianjin Hexi District Public Security Bureau finally admitted that they were dealing with her case.

However, Hexi District PSB wasn't the one really in charge, the Ministry of Public Security and Tianjin Public Security Bureau were really in charge behind the scenes. At first, we were not allowed to meet with her on the grounds of endangering national security, but at a later stage, after she had been transferred to a detention centre for a long time, the police officers who received us said that Zhao Wei had hired two lawyers by herself, so the lawyers hired by the family could not represent her.

I received a phone call from someone, claiming that Zhao might have been sexually assaulted in the detention centre. I didn't know if the news was true or not, so I posted the news on Weibo, but I didn't use the word "sexually assaulted", instead I wrote that she might have suffered personal insults and called on concerned netizens to try and verify it with the [state-appointed] lawyer... They detained me for a month for starting a rumour and said I was suspected of picking quarrels. However, it wasn't just the "rumour" about Zhao Wei that they questioned me about in detention, they also asked

me questions about the many so-called sensitive cases I had handled before... I think they were playing chess with me; detaining me the day before the first anniversary of the 709 case to redirect public opinion and to attack the 709 Crackdown defence lawyers.

I represented Wong Wai-Yin, his mother entrusted me with the case. I tried to meet with him twice. The first time, I took the written power of attorney from the family and a video giving me power of attorney made by the family (in case they didn't accept the letter), and as expected, they didn't even look at the video, merely glanced at the written power of attorney and said: "The power of attorney is not notarised, it needs to be notarised to meet with the detainee." There is no such requirement in Chinese law. Notarisation of power of attorney is only required for foreign clients. I have asked several local lawyers in Guangdong and cases involving Hongkongers did not require this for access to clients. But this time, they were obviously prepared and said we needed to get it notarised or we could not meet. The family spent tens of thousands of Hong Kong dollars to get the document notarised in Hong Kong. Second time, I went to try to see my client, I was told that he had chosen to hire two other lawyers, and so any lawyers arranged by the family could no longer represent him.

We wanted to verify with him that he really wanted these other lawyers, but we were not allowed to check. The law does not say we have the right to check, but neither does it say we are not allowed to, leaving the power to decide in the hands of the police. So, this is how I could not meet with my client, nor check in the end that he didn't want me as his lawyer.

While I was trying to represent Wong, I was under constant pressure from my local Justice Bureau, the domestic security police and the Lawyer's Association to withdraw from the case. I kept pushing them to tell me the names of the lawyers Wong hired, saying I needed to give his family an explanation. But they simply ignored me, telling me to quit. The domestic security police told me several times that they would revoke my licence if I didn't drop the case. I didn't take them seriously at the time. I didn't think the case was that sensitive and I did not talk to the media about the case, except for the fact that I had been stopped from meeting with my client. But even this was too much for them. I didn't quit even though they kept threatening me, but I did stop accepting interviews and did not go back to Shenzhen [where Wong was being held].

In previous years, when the rule of law had not deteriorated as much as today, some local case handling organs would generally allow us to meet with our client (such as, in some religious cases). In some places, domestic security police would have a word with the detention centre, telling them to block lawyer access. When this happened, we had to go directly to the domestic security police, or file complaints, and sometimes that worked, sometimes that didn't, and it varied from place to place. If a human rights related case did not involve endangering state security, then the meeting was usually granted. But as soon as the detainee was connected with inciting

subversion of state power or subversion of state power, in almost all cases we weren't able to see our clients during the investigation phase, although in some cases there was no real investigation and our meeting with the client wouldn't have disturbed that investigation. The law actually says meetings can take place but must get the prior approval of the investigating body but in practice, they prohibited all meetings, which is an abuse of their power and not in line with the original intention of that law.

In some places, the Political and Legal Committee requires lawyers from cities different to that of the detention centre to first obtain a certificate of validity with the local Lawyer's Association before they will be allowed to meet with their clients. This is absurd and against the law. However, most of the time, the reason for denying access is that the case involves endangering national security.

The domestic security police told me several times that they would revoke my licence if I didn't drop the case.

There is also a new method that has become common for sensitive cases in recent years. And that is, the lawyer is told that the client has already hired two lawyers (since two lawyers is the maximum number of lawyers allowed).

The reason the situation is getting worse is because no judicial or political reform is allowed. Authorities are simply tightening control in their hands, inevitably all human rights defenders and lawyers must [align themselves with the CPP]. Everyone must obey. No criticism or speaking out will be tolerated.

I received a call from the Judicial Bureau on 4 January 2021 asking for me and my director to come in for a meeting. That afternoon, I found out they were planning to revoke my licence. It was officially revoked on 2 February. The reason they gave was not the Hong Kong 12 case, but a Falun Gong case I took two years earlier in Sichuan. They said I had made improper remarks that "repeatedly denied the nature of a cult recognised by the state." This is not in line with the law, there is no national law that says that Falun Gong is a cult. I had only mentioned in my address to the judge in court that Falun Gong is not a cult and there is no law that identifies it as such. The Judicial Bureau said I was a "bad influence on society," and me and my law firm had been reported. Actually, according to the law, even if I lost my licence, my law firm could simply add another partner and it could continue to operate. But they came prepared and would not let us hire another partner.

After my licence was revoked, of course, I could no longer practice law as a licenced lawyer. In recent years, China has tightened restrictions on citizen lawyers. Without a licence, a lawyer can no longer take on criminal cases and there are also strict restrictions for civil and administrative cases. [Losing my licence] has seriously affected me as it is now almost impossible for me to work as a lawyer. I haven't yet figured out what I can do now.

5. Conditions of access

Occasionally, police will allow rights lawyers whom they believe will not cause “trouble” to see their clients provided they agree to certain conditions, which generally amount to not making any of the case details public and persuading their client to confess. In the words of Wang Quanzhang: “This is basically the same as a state-appointed lawyer.” In

other words, the lawyer has to agree to cooperate with the police and prosecutors rather than fight for their client. The only advantage to having a muzzled rights lawyer, like this, compared to state-appointed counsel is that they can still provide a channel of communication between the detainee and their family.

Legal blockade: promises to police

- **Zhang Zhongshi** (张重实), one of the lawyers hired to defend detained lawyer Xie Yang was able to see him in November 2016 (about a year and four months after he was detained) after making a “secret” agreement with the police to persuade Xie to confess.⁸¹
- Police allowed another lawyer for Xie, **Chen Jiangang**, to meet with him in December 2016 after agreeing to not release any information to the public about the case.⁸²
- Lawyer **Liu Weiguo** (刘卫国) was allowed to meet with detained lawyer Wang Quanzhang in July 2018 after he signed a confidentiality agreement with the court that said he would not make public any details about the case nor accept media interviews.

LAWLESS

Domestic law

Denying a detainee access to legal counsel violates a host of Chinese laws and regulations outlining the rights of both the suspect to see a lawyer and the lawyer's right to defend their client.

Impeding lawyer meetings violates Articles 33 to 39 of the CPL. The CPL stipulates that a suspect is allowed to hire up to two people to act as their defence and that a meeting with their lawyer(s) must be arranged within 48 hours of a request being made. In addition, the suspect should be informed of this right from the first interrogation or the first day of detention. Article 39 says that this right is not automatic when the case involves suspected national security crimes; any meeting must first get the approval of the police or equivalent during the investigation phase (that is before the case is handed over to the procuratorate). However, this exception has become the norm for China's police, who routinely refuse to give permission in these situations, something which Chinese lawyers say is a violation of the spirit of this law.

Practices at detention centres in China are governed by the Detention Centre Law (看守所条例).⁸³ In addition, Chinese law also regulates detention centre procedures with the Rules for the Implementation of Regulations of Detention Centres (中华人民共和国看守所条例实施办法).⁸⁴ The Detention Centre Law (DCL) was supplemented by Details on Law Enforcement at Detention Centres (看守所执法细则),⁸⁵ an internal document published in 2010, in part to counteract criticism of the treatment of inmates at detention centres and in particular after the well-publicised scandals of several deaths of suspects held in Chinese detention.⁸⁶ Since the DCL has not been revised for 30 years, it is significantly outdated in terms of human rights protections. The

Rules for the Implementation of Regulations of Detention Centres (RIRDC), published by the Ministry of Public Security, is also simple in both concept and structure and lacks any consideration of human rights or the basic rights of detainees. The 2010 Details on Law Enforcement at Detention Centres (DLEDC) compensate to a certain degree for the shortcomings and loopholes of the outdated DCL, but they also highlight the problem of the judiciary paying more attention to "power"—that is the police—than they do to the rule of law, something which is deeply rooted in China's custodial and judicial systems. The situation is so bad that in 2019 a provincial deputy to the National People's Congress called for the Ministry of Justice to take over the running of China's detention centres from the police in order to better protect the rights of inmates.⁸⁷

Preventing a defender or lawyer from enjoying their lawful right to meet with their client is also a violation of the Lawyers' Law.⁸⁸ Article 33 says that a lawyer has the right to meet with their client, whether they are being held in a detention centre or under residential surveillance, as long as they hold a valid lawyer's licence, authorization from their law firm and power of attorney. In addition, Article 10 says that a lawyer should not be restricted by geography in the practice of his or her profession, making requirements to get extra permissions from Lawyers' Associations for taking on cross-provincial cases unlawful.

The DCL, RIRDC and DLEDC, also lay out a lawyer's right to make an appointment to meet their client held at a detention centre. Other counsels may request permission from the court and procuratorate to meet with the defendant. Further, according to the Provisions on the Protection of Lawyers' Practicing Rights,⁸⁹ the detention centre must take all necessary measures to ensure the smooth and safe conduct of the meeting, one or two lawyers may be present and a paralegal may

also accompany the lawyer. The detention centre must arrange the meeting on the spot, or if this is not possible, it must arrange a meeting within **48 hours** of the application (Article 7).

Independence of lawyers

Two new amended regulations: Measures on the Administration of Law Firms (2018) and Administrative Measures for the Practice of Law by Lawyers (2016) have further eroded the independence of lawyers and law firms. The new measures stipulate that firms must support the leadership of the CCP and Xi Jinping. Further, law firms must either establish a Party organisation or allow such a Party organisation to become involved in the firm's operations and decision making. These new measures also ordered law firms to more closely monitor their employees' cases and behaviour, including what they said online. Law firms must dismiss lawyers who make public details of cases or organise public displays of support for their client. The law firm itself may face losing its licence if it does not adequately discipline its lawyers, with the new regulations calling on judicial organs to undertake daily supervision of the conduct of a law firm and its staff.⁹⁰

International law

Obstructing a detained person's access to legal counsel unequivocally violates the right to a fair trial. The Universal Declaration of Human Rights, Article 11, holds that:

"Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."⁹¹ The right to a fair trial implies presumption of innocence and therefore requires that the rights of the detained person be upheld, such as the right to legal counsel. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment rules

that the right of the detained person "to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted" except under limited circumstances.⁹² Further, the same Principles hold that communication "with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days." So fundamental is the right to a fair trial—which can only occur if all rights in detention are also upheld—that it appears in countless international treaties, state practices, and jurisprudence. It is part of customary international law and binding upon states regardless of treaty ratification. For example, the United Nations Human Rights Council (UNHRC) describes the right to a fair trial as "a key element of human rights protection and serves as a procedural means to safeguard the rule of law."

Denying a suspect the right to a lawyer, puts them at greater risk of torture. Torture is so repugnant a violation of human rights, there are no circumstances that excuse the practice. Measures taken to punish or threaten lawyers who take on sensitive cases such as beatings, detentions, licence suspension and revocation are clear violations of the UN's Basic Principles on the Role of Lawyers.⁹³ Article 16 rules that lawyers should be able to conduct "all of their professional functions without intimidation, hindrance, harassment or improper interference", that they "should be able to travel and consult with their clients freely" and they "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics." Article 7 and 8 of the Basic Principles also covers the right of all persons arrested to promptly "communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality."

WANG QUANZHANG: The lawyer who refused to confess



Rights lawyer Wang Quanzhang became famous during the 709 Crackdown as its only victim to be held incommunicado for almost **three years** because of his refusal to confess and accept state-appointed counsel. Wang was eventually sentenced to four years on subversion of state power charges and eventually freed in 2020 to join his wife and young son. He is a well-respected rights lawyer, having defended Falun Gong practitioners, journalists, and activists. Because of his criminal conviction, his licence to practice was revoked.

From the first half of 2016 [Wang was detained in the summer of 2015], the case handling organ changed its attitude towards me and my treatment improved... the officers said they thought there was no need to continue detaining me and they started to hint that if I would just cooperate⁹⁴, I could be released. But I had the opposite idea. I wouldn't cooperate with them at all, so they could not follow their "script".

I knew clearly that if the details of my case were made public, they could not continue trying to prosecute me because there was no logic to it. However, Tianjin [the police and prosecutors working on his case were based in Tianjin where he was detained] couldn't face that kind of media scrutiny, they didn't even dare face their own official [state] media let alone let me meet my lawyer. If I could meet my lawyers, they would make my case public and Tianjin would be embarrassed. So they had to find a lawyer for me who would listen to them and comply with their instructions. That's why for so many years I was never allowed to meet with a lawyer of my choice.

While I was locked up, they arranged six or seven lawyers for me but I refused to meet with any of them. All these lawyers had the same role - they were to act a part in this staged performance.

Because all of my many lawyers were rejected, I gave up asking for my own legal counsel. Instead, I asked for a relative or friend to be my defender. The case handling

organ didn't know what to do about this. On the one hand, they claimed to protect my rights to a defence counsel but on the other hand they kept refusing to allow me to meet with a lawyer. If by the deadline for my trial in 2018 came and I didn't have a defender then they couldn't prosecute me in a court⁹⁵... They came to me to discuss the option of having the trial without a defender. I trusted that once the trial deadline passed, then they had to change the compulsory measures, and I would be released. So, I agreed to accept a defender and gave them the names of four lawyers. From these four, the judge chose one that was the most likely to cooperate with them and that was Liu Weiguo.

Because I had rejected all the lawyers the court had arranged for me -- the so-called state-appointed lawyers over the past three years -- in order to hold this "show trial", the court had to give way and let me name the lawyers. By 2018, they were under unprecedented pressure. They had no choice but to let me choose the names. I think that is a kind of progress [for my case].

The court was genuinely afraid of my lawyers like lawyer Cheng Hai (程海), and my friends and family defenders... but in the end they selected a lawyer [Liu] they thought they could control, because he signed a confidentiality agreement with the court with the key conditions that he would not make public any details about my case nor accept media interviews. This is basically the same as a state-appointed lawyer.

When I first met Lawyer Liu, I told him of my [plan]. I wanted him to find an excuse to withdraw from my case. On the one hand, I requested he act as my lawyer, but on the other hand, I asked him to withdraw. Doesn't this look strange? Actually, the reason comes from my knowledge of legal defence. I didn't really want Liu to be my lawyer; I agreed to hire him only so that by the time the trial date came round [Liu would withdraw from my case and] I would be left with no defender and they would have to release me when the deadline passed.

I have been a lawyer for many years and have developed an understanding that effective defence is not about [the words the lawyer says in court] but rather about highlighting when the police and judicial body break the law, so you can get a better outcome for the client. My idea was to make the court break the law.

But Lawyer Liu wasn't willing to withdraw from my case. He didn't want to risk it and told me that I would have to fire him. But firing him is not the same as him withdrawing from the case... the court would see it as [my fault] whereas if he withdrew then the court needed to step in and protect my rights to a defender. I wasn't told about the lawyers my wife tried to arrange for me before my trial and the court wouldn't tell me either. [In the end, Wang was forced to fire Liu as the trial opened as a form of protest].

[To stop me from trying to see my own lawyers] they threatened to sentence me to 10 years, they threatened to lock up my wife, they used different ways of threatening at different stages, they even didn't tell me about the money and supplies that my wife deposited for me, to make me think that no one cared for me anymore and to make me think that they had locked up my wife.

The case handling organ wants to control everything, they are pursuing the perfect prosecution. If we use their language to explain this, then it is the "three consistencies": consistency in standpoint, consistency in action, consistency in goal. they won't allow anyone to do anything in opposition to that. This is easy for the police, prosecutor and the courts. But this is more difficult for lawyers, because lawyers naturally have to be in opposition, so they don't want to lose any control via the lawyers and so they have to control the choice of lawyer.

Often it is only after someone has been arrested for a long time, that the prosecutor then approves the arrest. Before then, the case is still in the investigation phase, and lawyers need to fight with police for access to their clients. However, in certain very sensitive cases [for example, the 709 Crackdown] it is not the police that puts pressure on the prosecutor or the courts, but another department called the Political and Legal Committee. This Party organisation is above the police, prosecutor and courts; it gives orders but takes no responsibility, and is responsible for many unjust cases.

Many people think that a lawyer can help you plead not guilty, the outside world believes this too, they believe that a lawyer is able to help [the client] ... but actually according to my many years of experience, right from the start the court is immune [to a non-guilty plea]. The court's logic is: "You defend your client and we'll sentence him." The judges completely erase the lawyer's defence argument with the words: "The defense lawyer's opinion has no legal basis and is not accepted" in their verdict. That is why when Wu Gan's lawyers issued a plea of not guilty, the judges just gave him a heavy sentence of eight years.

CONCLUSION

China's war on defence lawyers has moved from the headline-grabbing mass arrests of the 709 Crackdown in 2015 to more subtle actions such as rule-bending, stonewalling, threats, the routine use of legal exceptions and administrative punishments. The goal is the same – the eventual replacement of all independent lawyers with an army of legal enablers whose mission is to simply to help the police, prosecutors and courts stage their desired show trial. Such a “silent crackdown” makes a mockery of the country's law that, on paper, protects the right of anyone detained to see a lawyer of their choice within 48 hours of a request being made.

This report has described how the CCP is using a three-pronged approach: targeting the detainee, their family and their lawyers with a barrage of measures aimed at blocking access to legal defence and punishing those lawyers who speak out and persist with the loss of their profession. The already small space for lawyers to hold authority accountable is rapidly diminishing. Lawyers inside China report that while these methods have been around for as long as human rights lawyers themselves, in recent years they have been significantly scaled up. This report has focussed on human rights cases, online research also points to similar violations in non-sensitive cases.

Detainees are coerced into firing their lawyers and accepting state-appointed counsel; police hide them in detention centres by registering them under fake names or not informing their families where they are being held so their location is kept secret from their lawyers; or they are slapped with national security crimes, an exception that allows police to bypass the automatic right to legal defence and require advance permission for the first eight to 13 months of pre-trial detention. Alternatively, they may coerce or threaten the family into not hiring a lawyer or firing the one(s) they have appointed. Finally, they may set their

sights on the lawyers themselves by targeting them with a combination of threats, fear and bureaucracy. Tactics range from threatening the lawyer with disbarment, violence, and endless bureaucratic hurdles blocking all efforts to see clients including spurious requirements for extra paperwork, claiming no meeting rooms are available or that there are insufficient staff on duty, etc. In addition, since the outbreak of the Covid pandemic in early 2020, disease prevention measures have also become a well-used excuse to block lawyer-client meetings, whether or not there is local transmission.

Even though China's conviction rate is in the region of 99.9%,⁹⁶ a good defence lawyer may help mitigate the sentence, provide a degree of accountability by making abuses public knowledge, which can then be filed in reports to international mechanisms, and most importantly, provide a lifeline between the detainee and their loved ones. In particular, since the risk of torture is highest in the first few weeks of detention, this is a crucial time when access to legal counsel would be of the most benefit. Of course, this is also the most common period when lawyers are denied access to their clients.

Slowly and surely, the CCP is crushing rights defence while avoiding the international attention that mass disappearances and jail sentences bring. When all the independent lawyers are gone, what difference then will there be between state-approved defence counsel and the police, prosecutors and courts?

The CCP pretends to its own people and to the international community that China protects the rights of its citizens. The text of its laws, the words of its officials, and the judgements of its courts are all scripted to disguise their show trials as fair trials. **This report aims to shine a spotlight on just one of the many human rights violations perpetrated by the CCP – the open, repeated, and widespread denial of access for a detained person to an independent defence lawyer.**

Appendix: Lawyers who lost their licence (2016-2021)

	Name (EN)	Name (CN)	Gender	Year	Type
1	Pu Zhiqiang	浦志强	m	2016	revoked
2	Wang Liqian	王理乾	m	2017	revoked
3	Wang Longde	王龙得	m	2017	revoked
4	Zhu Shengwu	祝圣武	m	2017	revoked
5	Wu Youshui	吴有水	m	2017	suspended
6	Xia Lin	夏霖	m	2017	revoked
7	Zhang Zhan	张展	f	2017	suspended
8	Yu Wensheng	余文生	m	2018	suspended
9	Huang Simin	黄思敏	f	2018	Suspended
10	Sui Muqing	隋牧青	m	2018	revoked
11	Wen Donghai	文东海	m	2018	revoked
12	Yang Jinzhu	杨金柱	m	2018	revoked
13	Zhou Shifeng	周世锋	m	2018	revoked
14	Li Heping	李和平	m	2018	revoked
15	Liu Zhengqing	刘正清	m	2018	revoked
16	Yu Pinjian	玉品健	m	2018	suspended
17	Chang Weiping	常玮平	m	2018	suspended
18	Xie Yanyi	谢燕益	m	2018	suspended
19	Liu Shuqing	刘书庆	m	2018	suspended
20	Zhuang Xuezhong	张雪忠	m	2018	suspended
21	Chen Jiahong	陈家鸿	m	2018	suspended
22	Liu Xiaoyuan	刘晓原	m	2018	suspended
23	Qin Yongpei	覃永沛	m	2018	revoked
24	Cheng Hai	程海	m	2018	suspended
25	Li jinxing (Wu Lei)	李金星 (吴雷)	m	2019	revoked
26	Wang Quanzhang	王全璋	m	2019	revoked
27	Wang Yu	王宇	f	2020	suspended
28	Xie Yang	谢阳	m	2020	revoked
29	Yang Bin	杨斌	f	2020	suspended
30	Lu Siwei	卢思位	m	2021	revoked
31	Ren Quanniu	任全牛	m	2021	revoked
32	Xi Xiangdong	袭祥栋	m	2021	revoked
33	Zhou Ze	周泽	m	2021	suspended
34	Peng Yonghe	彭永和	m	2021	suspended
35	Lin Qilei	蔺其磊	m	2021	suspended

¹ A story in the New York Times, dated as early as January 2000, describes lawyers complaining of being blocked from meeting with their clients “in private or in a timely manner.” Please see:

www.nytimes.com/2000/01/06/world/in-china-s-legal-evolution-the-lawyers-are-handcuffed.html

² A 2017 article on China Law Translate argues that reforms that look good on paper guaranteeing the rights to legal defence are aimed at turning lawyers into “socialist legal workers” to defend clients within a narrow remit that does not allow for criticism of authority. Please see:

www.chinalawtranslate.com/en/the-right-to-an-attorney-and-your-attorneys-rights/#_edn2

³ For a full analysis of China’s forced TV confessions please see Safeguard Defender’s report *Scripted and Staged* here: <https://safeguarddefenders.com/en/scripted-and-staged>

⁴ *Presumed Guilty report and trials of Michaels Spavor and Kovrig*. (2021, 5 July). Safeguard Defenders. Accessed from: <https://safeguarddefenders.com/en/blog/presumed-guilty-report-and-trials-michaels-spavor-and-kovrig>

⁵ The English translation of the CPL (2018 revision) is taken from China Laws Portal. Please see: <https://www.chinajusticeobserver.com/law/x/criminal-procedure-law-of-china-20181026>

⁶ A lawyer’s right to access evidence against their client is also enshrined in the CPL, and there is extensive anecdotal evidence that independent lawyers are routinely frustrated on this count too, even if they manage to see their client. Further discussion of this is beyond the scope of this report.

⁷ Caster, M., & Biao, T. (2019). *The People’s Republic of the Disappeared* (2nd edition). Safeguard Defenders.

⁸ English translation accessed from Chinalawinfo. Please see: www.lawinfochina.com/display.aspx?id=34470&lib=law

⁹ English translation accessed from China Justice Observer. Please see: www.chinajusticeobserver.com/law/x/criminal-procedure-law-of-china-20181026

¹⁰ Further discussion of how lawyers are blocked from accessing evidence is beyond the scope of this report. Please see: <https://www.theglobeandmail.com/world/article-canadians-kovrig-spavor-get-first-lawyer-access-in-year-long-chinese/>

¹¹ Lai, M. B. C. (2018, 5 February). *Chinese anti-censorship activist Zhen Jianghua denied access to lawyer*. Hong Kong Free Press HKFP. Accessed from: <https://hongkongfp.com/2018/02/05/chinese-anti-censorship-activist-zhen-jianghua-denied-access-lawyer>

¹² *New data shows China’s secret RSDL jails a crime against humanity*. (2021, 24 June). Safeguard Defenders. Accessed from: <https://safeguarddefenders.com/en/blog/new-data-shows-chinas-secret-rsdl-jails-crime-against-humanity>

¹³ Details on Wu Gan’s case were collected from Chinese Human Rights Defenders’ website. Please see: www.nchrd.org/2016/03/wu-gan/

¹⁴ 维权网. (2016, 29 December). 长沙市公安局直属分局拒绝律师会见江天勇，律师去检察院控告. Accessed from: https://wqw2010.blogspot.com/2016/12/blog-post_164.html

¹⁵ VanderKlippe, N. (2020, 27 February). *Canadians Kovrig, Spavor have received legal access during Chinese detention*. The Globe and Mail. <https://www.theglobeandmail.com/world/article-canadians-kovrig-spavor-get-first-lawyer-access-in-year-long-chinese/>

¹⁶ Interview with Cheng Yuan’s wife and please also see: www.nchrd.org/2021/03/defending-human-rights-in-the-time-of-covid-19-annual-report-on-the-situation-of-human-rights-defenders-in-china-2020/?utm_source=rss&utm_medium=rss&utm_campaign=defending-human-rights-in-the-time-of-covid-19-annual-report-on-the-situation-of-human-rights-defenders-in-china-2020

- ³⁴ *In China, even your name is not safe.* (2020, 3 December). Safeguard Defenders. Accessed from: <https://safeguarddefenders.com/en/blog/china-even-your-name-not-safe>
- ³⁵ This is the extraordinary case of Jeff Harper, an American basketball player who was held in RSDL in 2020 for an illegal eight months in Shenzhen, before having all charges dropped and allowed to return to the US. Please see: <https://safeguarddefenders.com/en/blog/very-unusual-case-rsdl>
- ³⁶ *'I Feel Like I Am Committing Crimes.'* (2020, 23 March). ChinaFile. Accessed from: <https://www.chinafile.com/ngo/latest/i-feel-i-am-committing-crimes>
- ³⁷ Details on Chen Jianfang's case are collected by Chinese Human Rights Defenders. Please see: <https://www.nchrd.org/2019/05/chen-jianfang/>
- ³⁸ *China Steps up Charges Against Activists Who Called For Political Change.* (2021, 25 January). Radio Free Asia. Accessed from: <https://www.rfa.org/english/news/china/activists-crackdown-01252021082807.html>
- ³⁹ From an interview with his wife, Chen Zijuan, in 2021 with Safeguard Defenders
- ⁴⁰ From an interview with his wife, Xu Yan, in 2019 with Safeguard Defenders
- ⁴¹ *China detains Tibetan anti-corruption activist on politicised charge of 'provoking trouble.'* (2018, 20 December). Tibetan Centre for Human Rights and Democracy. Accessed from: <https://tchrd.org/china-detains-tibetan-anti-corruption-activist-on-politicised-charge-of-provoking-trouble/>
- ⁴² Civil Rights and Livelihood Watch. 抗拒极权冷漠 无罪释放凌浩波_民生观察 关注底层民众命运. (2019, 3 December). Accessed from: www.msguanacha.com/a/lanmu2/2019/1203/19171.html
- ⁴³ *China Confirms Holding 12 Hong Kong Residents From Boat Seizure.* (2020, 28 August). Radio Free Asia. Accessed from: <https://www.rfa.org/english/news/china/hongkong-nsi-08282020134543.html>
- ⁴⁴ Xie Wenfei 謝文飛 (謝豐夏). (2020, 27 August). Prisoners of Conscience in China. Accessed from: <https://hkanews.wordpress.com/category/%E8%89%AF%E5%BF%83%E7%8A%AF-prisoner-of-conscience/xie-wenfei-%E8%AC%9D%E6%96%87%E9%A3%9B-%E8%AC%9D%E8%B1%90%E5%A4%8F/>
- ⁴⁵ 张磊律师代理陈建芳案受阻_民生观察 关注底层民众命运. (2019, 12 June). Civil Rights and Livelihood Watch. Accessed from: <https://msguanacha.com/a/lanmu13/2019/0612/18693.html>
- ⁴⁶ United Nations High Commissioner for Refugees. (2017, 24 May). *China: Repatriated cartoonist "being mistreated" in police detention center: Wife.* Accessed from: <https://www.refworld.org/docid/5971a7ef4.html> / <https://www.refworld.org/docid/5971a7ef4.html>
- ⁴⁷ Creery, M. B. J. (2018, 26 July). *In Pictures: 6.5 years in jail for political cartoonist Jiang Yefei after Thailand sends him back to China.* Hong Kong Free Press HKFP. <https://hongkongfp.com/2018/07/26/pictures-6-5-years-jail-political-cartoonist-jiang-yefei-thailand-sends-back-china>
- ⁴⁸ *Zhen Jianghua: The Perilous Life of a Young Activist in China.* (2017, 5 January). China Change. Accessed from: <https://chinachange.org/2018/01/05/zhen-jianghua-the-perilous-life-of-a-young-activist-in-china>
- ⁴⁹ *China: Drop "Subversion" Charge & Release Woman Human Rights Defender Chen Jianfang.* (2019, 21 October). International Federation for Human Rights. Accessed from: <https://www.fidh.org/en/issues/human-rights-defenders/china-drop-subversion-charge-release-woman-human-rights-defender-chen>
- ⁵⁰ From an interview with his wife, Shi Mingwei, with Safeguard Defenders in 2021.
- ⁵¹ From an interview with his wife, Chen Zijuan, with Safeguard Defenders in 2021.

⁵² The wives of Li Heping, Wang Quanzhang, Zhai Yanmin and Xie Yanyi, respectively.

⁵³ Lai, C. (2016, 9 July). *Reluctant human rights defenders: The wives of those detained in China's lawyer crackdown*. Hong Kong Free Press. Accessed from: <https://hongkongfp.com/2016/07/09/reluctant-human-rights-defenders-the-wives-of-those-detained-in-chinas-lawyer-crackdown>

⁵⁴ This includes posts made by Chen on the "Free Chang Weiping" Facebook page. Please see: <https://www.facebook.com/Free-Chang-Weiping-%E5%B8%B8%E7%8E%AE%E5%B9%B3-107416584492421/>

⁵⁵ *Man Jailed Over Photo of Chinese Leader's Daughter Gets Family Visit*. (2021, 6 May). Radio Free Asia. Accessed from: <https://www.rfa.org/english/news/china/website-xijiping-05062021083513.html>

⁵⁶ The 2017 revision of the Lawyer's Law can be found here (in Chinese): <http://search.chinalaw.gov.cn/law/searchTitleDetail?LawID=396082&Query=%E5%BE%8B%E5%B8%88%E6%B3%95&IsExact=>

⁵⁷ These are: Measures on the Administration of Law Firms (律师事务所管理办法); Administrative Measures for the Practice of Law by Lawyers (律师执业管理办法); Measures for the Annual Inspection and Assessment for Law Firms (律师事务所年度检查考核办法); The Supreme People's Court's Interpretation on the application of the PRC Criminal Procedure Law (最高人民法院关于适用刑事诉讼法的解释); People's Procuratorate Rules of Criminal Procedure (察人民检察院刑事诉讼规则); Provisions on the Procedures for Handling Criminal Cases by Public Security Organs (公安机关办理刑事案件程序规定); Regulations on Detention Centers of the People's Republic of China (中华人民共和国看守所条例); and Rules for the Implementation of Regulations of Detention Centres (中华人民共和国看守所条例实施办法)

⁵⁸ For the Chinese version of the revised regulations, please see: http://www.gov.cn/gongbao/content/2016/content_5113014.htm

⁵⁹ An analysis of these revisions was made by the Hong Kong-based China Human Rights Lawyers Concern Group. However, in August 2021, their website was taken offline.

⁶⁰ *Chinese Lawyers Who Highlight Abuse of Clients To Lose Jobs Under New Rules*. (2016, 3 October). Radio Free Asia. Accessed from: <https://www.rfa.org/english/news/china/lawyers-rules-10032016124921.html>

⁶¹ *Top Human Rights Lawyer Stripped of License in China's Guangdong*. (2018, 23 January). Radio Free Asia. <https://www.rfa.org/english/news/china/lawyer-license-01232018154542.html>

⁶² Feng, E. (2019, 6 September). *Inside China's Crackdown On Human Rights Advocates*. NPR. Accessed from: www.npr.org/2019/09/06/753478775/inside-chinas-crackdown-on-human-rights-advocates

⁶³ 人权律师遭打压 年检被评定“不称职”. (2018, 29 June). Radio Free Asia. Accessed from: <https://www.rfa.org/mandarin/yataibaodao/renquanfazhi/yf1-06292018101017.html>

⁶⁴ *War on Human Rights Lawyers Continues: Up to 16 More Lawyers in China Face Disbarment or Inability to Practice*. (2018, 14 May). China Change. Accessed from: <https://chinachange.org/2018/05/14/war-on-human-rights-lawyers-continues-up-to-16-more-lawyers-in-china-face-disbarment-or-inability-to-practice/>

⁶⁵ *660 Lawyers in Hunan Have Law Licenses Revoked in China Attorney Purge*. (2020, 1 September). Radio Free Asia. Accessed from: www.rfa.org/english/news/china/lawyers-purge-09012020100642.html

⁶⁶ Rui, G. (2021, 7 January). *Chinese lawyer suspended after posting videos of alleged police torture*. South China Morning Post. <https://www.scmp.com/news/china/politics/article/3116847/chinese-lawyer-suspended-after-posting-videos-allegedly-showing>

⁶⁷ Yang, W. (2020, 3 September). *Chinese government revoked human rights lawyer's license after she harbored a dissident*. Medium.

<https://williamyang-35700.medium.com/chinese-government-revoked-human-rights-lawyers-license-after-she-harbored-a-dissident-22f0e1a9abd0>

⁶⁸ "I Feel Pretty Helpless Right Now": Guangdong Rights Attorney Yang Bin. (2020, 14 August). Radio Free Asia. <https://www.rfa.org/english/news/china/attorney-08142020103650.html>

⁶⁹ China Disbars 709 Lawyer Xie Yang Who Denied He Was Tortured in 2017 in a Deal Allowing Him to Continue His Law Practice. (2020, 29 August). China Change. Accessed from: <https://chinachange.org/2020/08/29/china-disbars-709-lawyer-xie-yang-who-denied-he-was-tortured-in-2017-in-a-deal-allowing-him-to-continue-his-law-practice/>

⁷⁰ Outspoken Human Rights Lawyer Detained, Office Sealed in China's Guangxi. (2019, 11 October). Radio Free Asia. Accessed from: <https://www.rfa.org/english/news/china/lawyer-detained-11012019142821.html>

⁷¹ Poon, P. (2020, 29 April). China: Disbarment of Human Rights Lawyers. Medium. Accessed from: <https://patrickpoon.medium.com/china-disbarment-of-human-rights-lawyers-e75905097144>

⁷² Chinese Police Refuse Visits to Incarcerated Church Elder. (2021, 7 July). Persecution. <https://www.persecution.org/2021/07/07/chinese-police-refuse-visits-incarcerated-church-elder/>

⁷³ Dehang Law Offices published the results of their seminar on difficulties lawyers have in meeting with clients online. Please see here (in Chinese): www.dhl.com.cn/CN/tansuocontent/0008/013277/7.aspx?AID=&BID=00000000000000001984&MID=0902

⁷⁴ China: Stop Using COVID-19 for Unnecessary Restrictions on Detainees' Visitation Rights | Chinese Human Rights Defenders. (2020, 22 June). Chinese Human Rights Defenders. Accessed from: www.nchrd.org/2020/06/china-stop-using-covid-19-for-unnecessary-restrictions-on-detainees-visitation-rights/

⁷⁵ A very unusual case of RSDL. (2021, 8 June). Safeguard Defenders. Accessed from: <https://safeguarddefenders.com/en/blog/very-unusual-case-rsdl>

⁷⁶ Yang, W. (2021, January 18). Police detained two Chinese human rights lawyers overnight after they tried to visit a friend's parents. Medium. <https://williamyang-35700.medium.com/police-detained-two-chinese-human-rights-lawyers-overnight-after-they-tried-to-visit-a-friends-24c5c636f9a5>

⁷⁷ In March 2020, China unrolled a mobile health app that citizens could download to get a colour code that would show their Covid health status. Please see: <https://www.nytimes.com/2020/03/01/business/china-coronavirus-surveillance.html>

⁷⁸ Details taken from Chinese Human Rights Defenders page on Xie Fengxia. Please see: www.nchrd.org/2016/08/xie-fengxia/

⁷⁹ Details taken from Chinese Human Rights Defenders page on Chen Jianfang. Please see: www.nchrd.org/2019/05/chen-jianfang/

⁸⁰ China: Stop using coronavirus excuse to continue imprisoning Tibetan language rights advocate. (2020, 1 May). Tibetan Centre for Human Rights and Democracy. <https://tchrd.org/china-stop-using-coronavirus-excuse-to-continue-imprisoning-tibetan-language-rights-advocate/>

⁸¹ Turning the Tables: Interviews with Chen Guiqui & Chen Jiangang About Revealing the Torture of Lawyer Xie Yang and the Smear Campaign That Followed During the 709 Crackdown. (2020, 28 July). China Change. Accessed from: <https://chinachange.org/2020/07/28/turning-the-tables-interviews-with-chen-guiqui-chen-jiangang-about-revealing-the-torture-of-lawyer-xie-yang-and-the-smear-campaign-that-followed-during-the-709-crackdown/>

⁸² Ibid.

⁸³ Congressional-executive Commission on China, (1990, 17 March), Regulations on Detention Centers of the People's Republic of China (in Chinese). Accessed from: <https://www.cecc.gov/resources/legal-provisions/regulations-on-detention-centers-of-the-peoples-republic-of-china-chinese>

⁸⁴ For The Rules (in Chinese) please see here: <https://www.cecc.gov/resources/legal-provisions/regulations-on-detention-centers-of-the-peoples-republic-of-china-chinese>

⁸⁵ For The Details (in Chinese) please see here: <https://www.66law.cn/tiaoli/1724.aspx>

⁸⁶ Lewis, M. K. (2017, 23 July). *Behind the Walls and Laws of Chinese Detention Centers*. The News Lens International Edition. Accessed from: <https://international.thenewslens.com/article/74131>

⁸⁷ Xiao, H. & Ren, Q., (8 March 2019), *Legislator Calls for Taking Away Detention Centers from Police to Protect Suspects*, Caixin Global. Accessed from: <https://www.caixinglobal.com/2019-03-08/legislator-calls-for-taking-away-detention-centers-from-police-to-protect-suspects-101389580.html>

⁸⁸ The 2017 revision of the Lawyer's Law can be found here (in Chinese): <http://search.chinalaw.gov.cn/law/searchTitleDetail?LawID=396082&Query=%E5%BE%8B%E5%B8%88%E6%B3%95&IsExact=>

⁸⁹ For the text of the Provisions (in Chinese), please see here: https://www.spp.gov.cn/flfg/gfwj/201509/t20150921_104855.shtml

⁹⁰ China Human Rights Lawyers Concern Group made an analysis of the updated regulations but in August 2021, the Group took their website offline following a crackdown on pro-democracy organisations in Hong Kong. Please see here for an archived copy of the website: <https://web.archive.org/web/20210409202258/https://www.chrlawyers.hk/en/content/joint-analysis-measures-administration-law-firms-and-administrative-measures-practice-law>

⁹¹ The text of the Universal Declaration of Human Rights can be found here: <http://www.un.org/en/universal-declaration-human-rights/>

⁹² The text of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment can be found here: <https://www.ohchr.org/Documents/ProfessionalInterest/bodyprinciples.pdf>

⁹³ For the Basic Principles on the Role of Lawyers, please see: <https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx>

⁹⁴ For the other victims of the 709 Crackdown, cooperation meant agreeing to confess, and sometimes included recording a video confession, such as made by lawyers Wang Yu and Zhou Shifeng and activist Zhai Yanmin.

⁹⁵ Under Chinese law, once the deadline for a trial has passed, the suspect, his or her legal representative, or close relatives have the right to demand the cancellation of the compulsory measures and thus the release of the suspect. However, the state has the right to then initiate different compulsory measures. Wang was hoping to delay the pre-trial period long enough to be able to apply for his own release.

⁹⁶ *Presumed Guilty report and trials of Michaels Spavor and Kovrig*. (2021, 5 July). Safeguard Defenders. Accessed from: <https://safeguarddefenders.com/en/blog/presumed-guilty-report-and-trials-michaels-spavor-and-kovrig>