

China's Pincer move against regulated detentions

On 26 April Safeguard Defenders filed updated data to relevant UN organs on China's use of its dual systems for enforced disappearances and arbitrary detention: RSDL and Liuzhi. The data presented therein - the most up to date and comprehensive set of data anywhere - is the basis for this article.

Unbeknown to most, since Xi Jinping assumed power, China started implementing two regulated and "legalized" systems for secret detention and enforced disappearances: 1) **RSDL**, aimed at rights defenders, civil society, and "regular criminals"; and 2) **Liuzhi**, aimed at Chinese Communist Party members, State functionaries, but also against those working within academia, State-Owned Enterprises, State-media, local contractors, or anyone related to any of the above.

KEY POINTS:

- The combined use of RSDL and Liuzhi is estimated to have used on some 104,492 people between 2018 and 2021
- The use of RSDL and Liuzhi likely reach 31,520 cases in 2020
- The use of RSDL increased significantly 2020, despite Covid restrictions, and continues to be used at higher than before levels during 2021 too
- Liuzhi is quickly rivalling and overtaking RSDL in scope of use
- Verdicts mentioning RSDL are disappearing from the Supreme Court database, and 6.5% of all RSDL mentions in verdicts disappeared for 2013 to 2019 in search results between February 2021 and February 2022

RSDL – short for *Residential Surveillance at a Designated Location* - came into effect in 2013, while *Liuzhi* – "retention in custody" – has been adopted in 2018. While both systems have predecessors, their current functioning is very much a product of Xi Jinping's China. They are but two of many developments that have severely undermined regulated detention and criminal justice procedure since 2013, and represent key loopholes against legal safeguards otherwise available for those targeted with detention, arrest and prosecution.

To ease the readers' insight into these systems, Safeguard Defenders is releasing two simple one-page factsheets on [RSDL](#) (pdf) (also at bottom) and [Liuzhi](#) (pdf) (also at bottom), also available on our [Publications section](#).

Following submissions by Safeguard Defenders and partner NGO's, United Nations Independent Experts have repeatedly condemned the use of RSDL and Liuzhi as tantamount to enforced disappearances and torture. Already in 2015, the UN Committee Against Torture expressly called on the Chinese authorities to repeal the system of RSDL as a matter of urgency. China has since failed to submit its periodic report to the Committee, due in December 2019.

On April 26th, we presented an update submission on the extent of use of the systems to the UN Working Group on Enforced and Involuntary Disappearances, the UN Working Group on Arbitrary Detention and the UN Special Rapporteur on Torture.

As that data shows, the use of disappearances and arbitrary detention in China is significantly growing and is neutering almost all sectors of potential dissent from the government's hard-line, both within civil society and the government, academia and the Party.

Data on the scope of RSDL is drawn from China's Judgment Online, a database on verdicts run by the Supreme Court, while data estimates on Liuzhi comes from public statements by the CCDI (the Party-organ that runs Liuzhi) as well as their work reports to the National People's Congress and Party/State media reports.

RSDL

Understanding the RSDL system is fairly simple and straightforward. The police (and on occasion the Ministry of State Security (MSS) can, when desired, place someone into RSDL instead of arresting them. Typically, once a person is detained, they will be 'moved' into RSDL within 24 hours, or sometimes immediately. Once inside, they must be kept, by law, in facilities that are not 'case handling areas', such as police stations or detention centers. Once inside, they can be kept for six months, and the location of their whereabouts can (and often is) kept from family (and for foreign citizens, from their respective governments).

Access to legal counsel inside RSDL is very rare. While inside, the target is kept in solitary confinement cells that must be 'suicide padded'. Some RSDL facilities are custom-built secret jails, while others are reconfigured rooms in police- or State-run guesthouses or other forms of compounds. While the prosecutor may perform weekly visits, to ensure no torture is used, Safeguard Defenders have yet come across a single case with any prosecutor visits. Due to the police's near full impunity, once inside, torture is exceedingly common. RSDL in its current form was formalized and 'legalized' in 2013.

For anyone working in government-related environments in China, the sheer mention of *Liuzhi* is bound to send shivers down their spine. The same goes for any lawyer, journalist or civil society worker at the mention of *RSDL*.

The horrors inside the Liuzhi system have been exposed in the extensive Human Rights Watch report *Special Measures*, back when the system was used exclusively on Party members and called "Shuanggui". The functioning of the re-edited *Liuzhi* system has been analysed in Safeguard Defenders' brief *From Central Control to National Supervision* and in exhaustive submissions to the UN.

Treatment inside RSDL has been extensively covered by Safeguard Defenders in the acclaimed publication *The People's Republic of the Disappeared*, in the graphic report *Locked Up*, and in data-centered analysis of its scale and scope in *Rampant Repression* as well as various UN submissions.

LIUZH

The Liuzhi detention facilities are run by the National Supervision Commission (NSC), and was established alongside the NSC itself in 2018. However, it is simply a continuation of a pre-existing system called 'Shuanggui', which was run by a Party-organ, the Central Commission for Discipline Inspection (CCDI). These organs are to inspect and investigate Party members, State functionaries, or those in public bodies, for discipline violations, abuse of power, corruption and beyond.

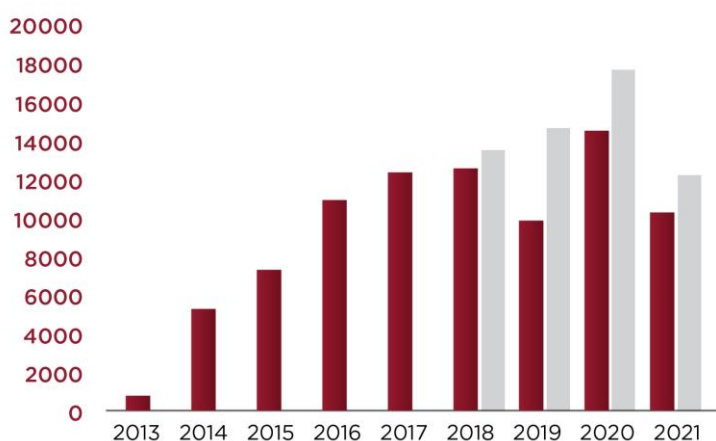
The system is not related, on any level, to the criminal justice system, and takes place entirely outside of it. The NSC staff are not judicial personnel. No legal safeguards in China's criminal code applies, such as the right to legal counsel. To place someone into Liuzhi, the NSC itself decides, and can last for three months. It can however be extended, decided on by the NSC itself, for another three months. As with RSDL, the target's family need not be notified where a person is being kept, and like RSDL facilities various from renovated rooms in Party-owned compounds to custom-built secret jail facilities. Also like RSDL the target need be kept in solitary confinement, in 'suicide padded' rooms.

The NSC does not actually exist, and is but a name added in 2018, to allow the use of the system not only on Party members (like before), but on State functionaries and those in public bodies too. The NSC has no website, it provides no work report to congress, it has not actual staff as such, and instead it is merely a name used by CCDI when appropriate. All information on NSC's work is released by CCDI. It is, in reality, not only not a law enforcement organ, but more extreme, a private police force, with a nationwide system of secret detention facilities, operating entirely outside the legal system, run by a political party.

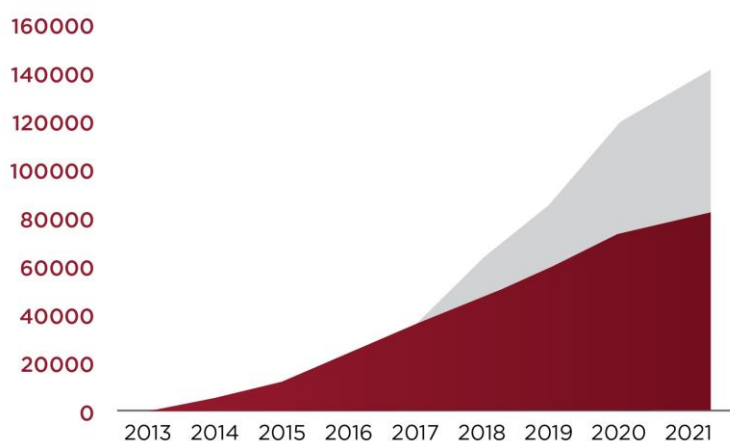
A widespread and systematic practice

With both systems operating simultaneously since 2018, modest estimates indicate that at the very least 104,492 people have disappeared into the systems (47,291 into RSDL; 57,201 into Liuzhi). These include a number of high profile targets such as actress Fan Bingbing, [Supreme Court judge Wang Linging](#), former [Chairman of Interpol Meng Hongwei](#) (and probably mogul Jack Ma), as well as numerous foreign citizens, including Canadian diplomat Michael Kovrig. If we add data on RSDL use between 2013 and 2017, the number rises to 141,167.

ESTIMATED ANNUAL USE



ESTIMATED CUMULATIVE USE



- RSDL, established 2013, used by MPS (police) and MSS (state security), before an arrest takes place.
- Liuzhi, established 2018, used by NSC (National Supervision Commission), entirely outside of any judicial process at all, and the NSC is not a law enforcement- or judicial organ.

At the basis of these estimates, one dataset is of particular interest: the **minimum number of acknowledged cases**. These are numbers provided directly by the Chinese government (or Party) and cannot therefore not be disputed by the government (or Party).

For RSDL - drawing from the Supreme Court website on verdicts for criminal trials at first trial – up to February 18, 2022, that number is 23,700 (verdicts, nor persons) for 2013 to 2021; or 13,105 for 2018 to 2021 only.

For Liuzhi, despite the extremely limited amount of public data available (published numbers exist only for 8/33, 3/33, and 3/33 provinces or regions for 2018 to 2020 respectively, plus CCDI data of 5,006 Liuzhi placements for investigation into the sole accusation of “bribery” for 2021), that number is 11,391.

These numbers place the combined acknowledged use of RSDL and Liuzhi at 35,091 since 2013.

However, occasionally some additional data are released, such as the CCDI’s number of Liuzhi placements as part of a specific campaign targeting law enforcement officials (全国政法队伍教育整顿) citing 1,760 cases of Liuzhi between March and June 2021, and 2,875 between February 27 and end of July 2021. If these two data points are extrapolated to the full year, it would indicate 5,280 to 6,900 people were placed into Liuzhi in 2021 as part of this campaign alone.

While some cases in this dataset might overlap with the provincial or “bribery” campaign data, there is no way to account for them in the officially acknowledged numbers, but it does provide a clear indication that the estimated number for 2021 is far too low, and that likely there has been a continued growth compared to 2020.

Safeguard Defenders has consistently used and extrapolated the little publicly available data provided by Chinese authorities to provide a more likely conservative estimate on the scope of use of the systems:

RSDL				
Year	Annual: Official	Cumulative: Official	Annual: Estimate	Cumulative: Estimate
2013	270	270	765	765
2014	1,670	1,940	5,279	6,043
2015	2,091	4,031	7,313	13,356
2016	3,185	7,216	10,941	24,296
2017	3,379	10,595	12,379	36,676
2018	3,210	13,805	12,584	49,260
2019	2,500	16,305	9,869	59,128
2020	4,776	21,081	14,540	73,668
2021	2,619	23,700	10,298	83,966

Liuzhi				
Year	Annual: Official	Cumulative: Official	Annual: Estimate	Cumulative: Estimate
2018	3,333	3,333	13,459	13,459
2019	1,925	5,258	14,593	28,052
2020	1,127	6,385	16,980	45,032
2021	2,770	9,155	12,169	57,201

The full methodology for the RSDL data can be found in [Rampant Repression](#), while the methodology for the estimates on Liuzhi can be found in our latest evidence submission [here](#).

Fog of war and crimes against humanity

Safeguard Defenders presents these data and estimates both for the purpose of informing UN Experts and governments on their continued and expanding use, and because the “fog of war” is increasing.

Year by year, the CCDI has released less useful data on its use of Liuzhi, and if this trend continues it will be harder and harder to make realistic estimates on its use in the future. More worrying - and another trend that is damaging China’s criminal justice system in and of itself - is the systematic removal of information from the China Judgments Online database. One [ChinaFile investigation](#) estimated that some 11 million verdict were actively removed during three months in early 2021 alone.

Safeguard Defenders’ own regular searches in the database - for RSDL-monitoring, but also on other issues - has also witnessed a reduction in verdicts available, with older ones being deleted, and new ones likely being uploaded on a reduced scale.

Between February 2021 and February 2022, some 6.5% of verdicts mentioning RSDL have disappeared for the years 2013 to 2019. It is very likely the data that is available will soon be so reduced that realistic estimates will become ever more difficult to make.

The “fog of war” is set to increase on both these issues, and the latest data provided to UN Experts might be the best and most realistic data we can expect to get.

In any case, the **data shows beyond any doubt that the use of RSDL and Liuzhi are both widespread and systematic, thus constituting a crime against humanity** under the Rome Statute of the International Criminal Court for they are enforced disappearances *and* acts of torture according to international law. Furthermore, *Liuzhi* also constitutes arbitrary detentions carried out entirely by an organ of a political party rather than a law enforcement agency.

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Safeguard Defenders (SD) is a European human rights NGO that undertakes and supports local activities for the protection of human rights, promotion of the rule of law and enhancement of the local civil society capacity in some of the most hostile environments in Asia, with a focus on China.

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RSDL: A FACTSHEET ON CHINA'S SYSTEM OF BLACK JAILS

What is RSDL?

Residential surveillance at a designated location (RSDL) is the expanding and widespread system for secret black jails. Implemented since 2013, the police and Ministry of State Security (MSS) have full discretion to place a target into RSDL. Placement into RSDL precedes formal arrest.

Victims are:

- kept outside normal detention facilities, in either makeshift renovated rooms in police-controlled facilities or in custom-built secret jails;
- kept for up to six months;
- held in solitary confinement, in rooms designed to prevent suicide;
- denied access to legal counsel and contact with family;
- kept at unknown locations, their whereabouts secret,
- regularly subjected to torture and forced to confess.

In 2015, the UN Committee Against Torture called for the immediate repeal of the system. Since August 2018, ten UN human rights procedures have repeatedly condemned the system as “**enforced disappearances**” according to international law and noted the **heightened risks of torture**.

“I was forced to stay inside the small painted square during the day... If my leg or a foot were out of the square, they would warn me or slap me.”

- Wang Yu

“...I was forced to make up and fabricate things... When failing to do so, I was deprived of sleep, and I was hung up and beaten”

- Niu Tengyu

Legal basis

Article 75 of China's criminal procedure law formally establishes the RSDL system. The right to deny access to legal counsel is enshrined in the same law. Formal obligations to disclose the target's whereabouts to family members comes with exceptions, and is consistently disregarded. The 2016 Supreme Procuratorate regulation on supervision of RSDL facilities (art 19) also establishes that police may (and most often do) deny prosecutor access to undertake supervision.

“...they locked me to iron railings, they would use five or six electric batons to beat me.”

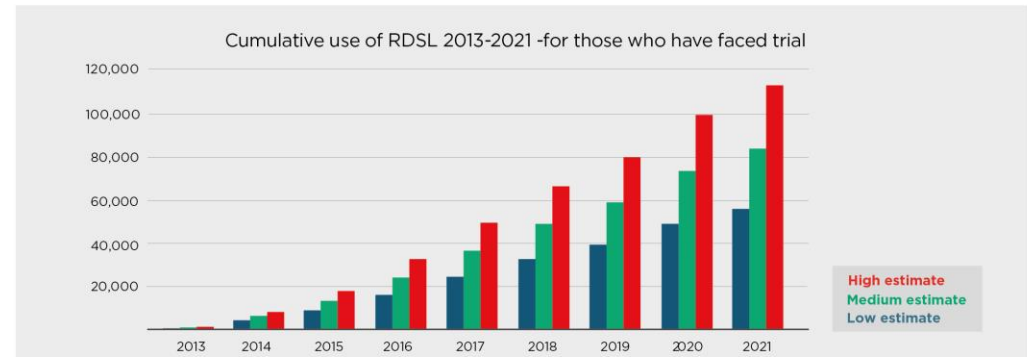
- Liu Sixin

“We are crossing the mountains. If you want to come back alive, you should think well about what you tell us.”

- Jiang Xiaoyu

Scope and scale of RSDL system

Official data on the use of RSDL is scarce as the China Judgement Online database of verdicts only includes cases *leading to a verdict* at trial. Many cases never reach this stage. The real number is therefore significantly higher than minimum conservative estimates below. As of end of 2021, it is estimated that between 55,977 and 113,407 have been placed into RSDL (and later faced trial). In 2020 alone, the year with the highest *recorded* use, some 140,000 people were placed into house arrest using RS.



Recent trends and new developments

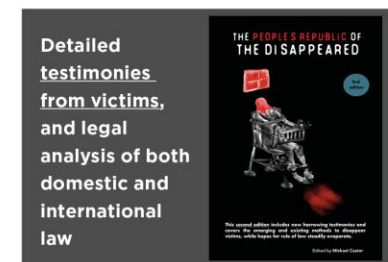
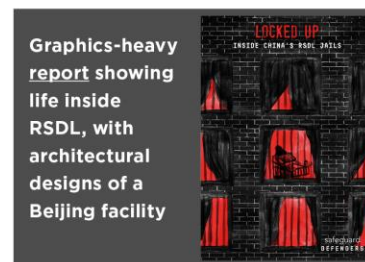
- Local police have started using the system extensively over the past years;
- Recently the system is often used for minor crimes, unlike at early stages when it was primarily used against high profile targets or cases concerning national security;
- Foreigners, especially when used for 'hostage diplomacy', are often placed in RSDL;
- There is a growing number of known cases where people are placed into RSDL for a second time.

“You are now under RSDL.
Your only right is to obey.”
- Xie Yang

“For those 10 consecutive days, 24 hours
a day, [I] was chained to a tiger bench.”
- Chang Weiping

RSDL as a crime against humanity

- As the whereabouts of the detainee are most often kept secret from either family or (in case of foreigners) foreign governments, RSDL constitutes an **enforced disappearance** under international law;
- As no prior approval of arrest is needed from prosecutor and access to legal counsel is regularly denied, RSDL constitutes an **arbitrary detention**;
- The use of prolonged solitary confinement for investigation purposes makes the use of RSDL an **act of torture**. In addition, the use of physical and psychological torture is widespread;
- According to Articles 7e, 7f, 7i and 7k of the Rome Statute, the systematic and widespread nature of these acts makes the use of RSDL **a crime against humanity**.



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LIUZHUI: A FACTSHEET ON CHINA'S SYSTEM FOR SECRET EXTRA-LEGAL DETENTION

What is Liuzhi?

Liuzhi or '*retention in custody*' is not part of China's criminal justice system. Instead, it is run by a non-judicial, non-law enforcement body: the National Supervision Commission (NSC).

Founded in 2018, the NSC can place anyone related to the Chinese Communist Party (CCP) and the State, as well as those working for or loosely related to State-owned enterprises or public institutions - such as hospitals, schools, etc. - into Liuzhi.

Conditions of Liuzhi mirror the better known RSDL system (see [RSDL factsheet](#)), yet is not even technically part of the judicial system. It is in reality a private police force run by the CCP, with its own private, secret, detention facilities.

Victims are:

- not allowed legal counsel;
- kept at facilities not part of the judicial system;
- managed by investigators not classified as 'judicial personnel', so certain anti-torture provisions do not apply;
- held for up to six months;
- kept without any outside supervision of any kind;
- kept incommunicado, in facilities designed to prevent suicide;
- kept at unknown locations, their whereabouts secret.

Those targeted are simply disappeared. Liuzhi is **not** related to any judicial process, and **precedes** any detention or arrest. Within six weeks of launch, the first known victim tortured to death in Liuzhi became known.

"The only sign of the room's true purpose was the soft rubber walls. They were installed because too many officials had previously tried to commit suicide..."

Lin Zhe, professor at the Central Party School

"Major crimes related to official duties are not the same as normal crimes and the investigations cannot be done in the same way"

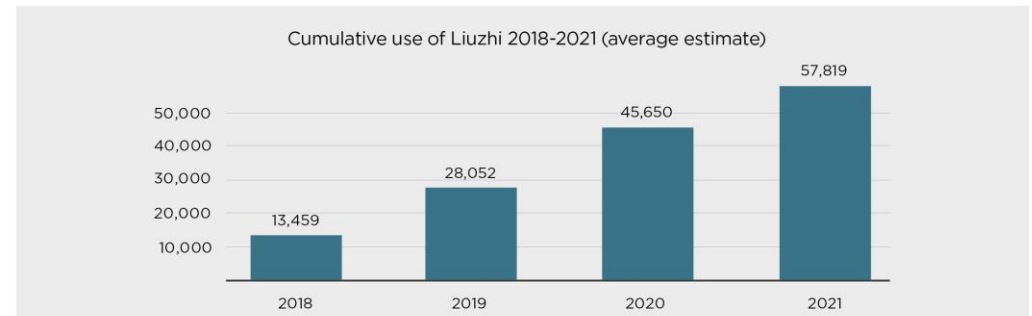
Zhang Shuofu, head of the Beijing Supervision Commission, on the rationale for NSC.

Legal basis

Liuzhi was established by the National Supervision Law (NSL) March 2018. Article 22 of the NSL establishes the right of the NSC to detain targets, but also other people relevant to the investigation. Only the NSC itself supervises use of Liuzhi (art 43) and decides if the three month period can be extended to six months. No external appeal exists. Whereabouts need not be shared with family, but even notification that the person is in Liuzhi can also be kept secret (art 44).

Scope and scale of the Liuzhi system

The data below draws on the very limited official data released by the NSC or State-media - often only for select provinces - and has been extrapolated to a nationwide scale. As of end of 2021, it is estimated that at least near 60,000 individuals have been placed into Liuzhi. In 2020 alone, the year with the highest *recorded* data so far, nearly 18,000 people would have been placed into Liuzhi.



Targets

The most well-known targets are high level party members or state functionaries, often victims of internal power struggles. However, the system has a direct mandate over an estimated 300 million people, including managers at hospitals, schools, trade unions, state-owned corporations and media. It can also be applied to foreigners if an alleged violation relates to the public sector, or an independent contractor working for local government, etc.

"It looks very nice. But it is the worst place in the world"

Jean Zou, victim

"...don't let them die. A dead person would create big problems. Someone who is only injured doesn't matter."

A doctor working at a facility

Liuzhi as crime against humanity

- As the whereabouts of detainees and sometimes even the mere fact of their detention are kept secret, Liuzhi constitutes an **enforced disappearance**;
- It constitutes an **arbitrary detention** as it is not part of a formal criminal process;
- The use of prolonged solitary confinement for investigation purposes makes use of Liuzhi an **act of torture**. In addition, use of direct physical and psychological torture is known to occur;
- According to Articles 7e, 7f, 7i and 7k of the Rome Statute, the systematic and widespread nature of these acts makes the use of RSDL a **crime against humanity**.

Detailed breakdown of the data on the scope and scale of the Liuzhi system



Report on Liuzhi, the facilities used, the powers of the NSC and the scale and scope of system

