

**Follow-up Submission on China's mass use of
Residential Surveillance at a Designated Location (RSDL)**

16 June 2021

To the urgent attention of:

- UN Working Group on arbitrary detention
- UN Working Group on enforced or involuntary disappearances
- UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- UN Special Rapporteur on the rights to freedom of peaceful assembly and of association
- UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- UN Special Rapporteur on the situation of human rights defenders
- UN Special Rapporteur on the independence of judges and lawyers
- UN Special Rapporteur on the right to privacy
- UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;

Object of submission:

To provide new data that highlight new trends in China's use of RSDL and to reiterate the need for the addressed Special Procedures to initiate a follow-up through a joint letter of allegation to its [earlier 2018 joint letter](#).

It also seeks to bring attention to a significant review on the scale and scope of the use of RSDL provided to the WGAD, WGEID and SR on Torture on 19 August 2020, [reported on here](#), but which resulted in no follow-up action. The review, as well as the new data herein included, is the first of its kind – and shows the scale and scope of the RSDL system, and how it is developing, on the basis of official governmental data available from China.

It shows that the use of RSDL is, beyond a doubt, both widespread and systematic. It clearly illustrates the urgent need to issue a follow up communication to the Chinese government on the matter. Since the previous joint communication, the system has only worsened.

We also place this call due to a new report to be released on 22 June, *Locked Up*, which includes a number of artists renditions of the inside of RSDL facilities basis of extensive victims' testimonies. A draft version of that report is attached to this communication.

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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.

Prior actions on RSDL

1. On 16 May 2018, Safeguard Defenders (SD), along with Network of Chinese Human Rights Defenders (CHRD), International Service for Human Rights (ISHR), and the Rights Practice provided the first [comprehensive review of the RSDL](#) (Residential Surveillance at a Designated Location) system to 15 Special Procedures, using victim testimonies to show the reality behind the system, and treatment inside.
2. On 24 August 2018, the ten Special Procedures¹ addressed issued a joint letter of allegation ([OL CHN 15/2018](#)), classifying the use of RSDL, in light of the systematic abuse of ‘exceptions’ in law, as tantamount to an ‘enforced or involuntary disappearance’ and that torture and maltreatment were common in the system. It also noted the increased use of RSDL on human rights defenders, and that the lack of judicial oversight and prolonged detention without charges constitutes an arbitrary detention.
3. The initial 2018 submission was based primarily on victim testimonies on treatment inside the system, alongside a comprehensive legal analysis of RSDL in Chinese domestic law and how it violates China’s legal- and human rights commitments. At the time, there was limited data available however on the *scale and scope* of the system, merely indicative and ad-hoc cases.
4. On 19 August 2020, Safeguard Defenders launched [Rampant Repression](#), the first systematic analysis of data on the scope of RSDL. It was filed with the same ten Special Procedures. It proved, using official government data, that the use of the RSDL system was both *widespread, systematic, and expanding*.

Needed actions on RSDL

5. Despite providing irrefutable evidence on the **widespread** use of RSDL, we regret that no Special Procedure issued a follow-up letter of allegation nor was the issue brought up in any other format. Moreover, China has not submitted its country report to the Committee Against Torture which was expected in 2019.
6. The review shows that China maintains one of the most far-ranging systems for enforced disappearances anywhere. We are especially concerned by the ‘legalization’ of the practice, the

¹ The same 10 herein addressed

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risk that acceptance of such a system poses to protections from arbitrary detention, enforced disappearances, and torture, and of the risk of such practices expanding to other countries upon failure to hold China accountable. We, therefore, call upon the WGIED, WGAD and SR on Torture to take the lead in coordinating a letter of allegation on the practice of mass use of RSDL.

New data on the mass use of RSDL

7. Since the original submission was made, new data searches in China's official court records database ([Wenshu](#)), have shown a continued mass use of the system. All the data below is based on searches conducted on June 9, 2021.

- a. As of June 9, 2021, the official court database on verdicts includes 22,845 **cases** of RSDL. This is thus the **bare minimum** of cases of RSDL – and **only those** which have later led to verdicts from trials.
 - i. This does not include those placed into RSDL who either have not or will not go to trial, or
 - ii. those now inside RSDL, or many of those inside during the last year, as their cases has not yet gone to trial, and
 - iii. it concerns cases, not persons, and on average, based on an extensive study of 1,580 RSDL verdicts by a Chinese law professor and former prosecutor, each RSDL case on average concerns 1.191 persons. With this in mind, the official data indicates 27,208 victims so far.
- b. The annual data from the court database indicates the following number of RSDL persons, keeping points a) i, ii, and iii in mind:

Year	Officially logged
2013	325
2014	2,027
2015	2,542
2016	3,889
2017	4,139
2018	3,912
2019	3,042
2020	5,810
2021	1,523

- c. As the extensive review submitted outlines in detail, and which will not be repeated here, a significant amount of verdicts are never uploaded into the court verdict database.
 - i. The same study referenced in a) iii showed that only some 37% of RSDL verdicts were uploaded. The estimation below, to avoid any exaggeration, instead presupposes that only 50% of RSDL verdicts are uploaded (average HIGH) or that even 75% of cases are uploaded (average LOW),
 - ii. It also notes that no case concerning national security, or those taken into RSDL by the Ministry of State Security (MSS) has ever been uploaded into the system, which we, based on our own internally maintained database, believe represents

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- a significant group, but which, in our estimation figures below, is calculated at 5% of total number of victims only, to maintain very cautious estimations,
- iii. That verdicts are reached only significantly later than the RSDL placement, as they need await trial and sentence until uploaded. The same study showed that on average 45% of RSDL use leads to verdict the same year, while the rest is concluded (and therefore uploaded) the next year. Because of that, the value for 2020 is estimated at 67.92% of total (45% during 2020, and estimated five month (Jan-May) for 2021, for an estimated total of 67.92% of 2020 cases uploaded as of June 1, 2021, when the search was made, and
 - iv. The value for 2021 is discounted entirely for estimation, as it's far too early to make any extrapolations based on the 2021 figure.

With that in mind, the estimation on number of persons in RSDL, by year and cumulative, is as follows:

Annual (persons)

Year	Officially logged	Estimate Low	Estimate High
2013	325	456	685
2014	2,027	2,845	4,268
2015	2,542	3,567	5,351
2016	3,889	5,458	8,187
2017	4,139	5,809	8,713
2018	3,912	5,491	8,237
2019	3,042	4,269	6,404
2020	5,810	10,080	15,120
2021	1,523		

Cumulative² (persons)

Year	Officially logged	Estimate Low	Estimate High
2013	325	456	685
2014	2,352	3,301	4,952
2015	4,894	6,869	10,303
2016	8,782	12,326	18,489
2017	12,921	18,135	27,202
2018	16,834	23,626	35,439
2019	19,875	27,895	41,843
2020	25,685	37,975	56,963
2021	27,208		

² It is possible one person may have been placed into RSDL more than once. However, SD, though its own database, focused on human rights defenders, have identified only one such person, who was placed into RSDL in 2013 and again in 2018.

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8. Again, these estimations are merely for those that have, or will, face trial and have a verdict delivered by court. A great many – amount unknown – will not face trial after their RSDL placement and those cases will never be identifiable in any officially available data. Based on a database maintained by SD this regards however a sizeable group and therefore this point is highlighted here again.
9. Disregarding those placed into RSDL who never faces any trial, the data above shows, for 2020, that somewhere between 16 (official Supreme Court database number), 27 (low estimation) and 41 (high estimation) people were placed into RSDL – *every single day*.
10. China is not a party to the Rome Treaty and International Criminal Court, but we draw your attention to the fact that if torture, maltreatment, or use of enforced disappearances are used intentionally, targeting a civilian population, and is either widespread or systematic, this may constitute a *crime against humanity*³.

Recommendation

11. We call upon the Special Procedures addressed to:
 - a. **Perform a comprehensive analysis** of the system and how it stands in line with international legal and human rights obligations;
 - b. **Launch requests to the Chinese Government concerning clarification** on the scope and operations of the RSDL system, in a **joint letter of allegation**, in particular on the lack of data on how many persons are placed into RSDL, especially those that are not brought to trial afterwards;
 - c. **Reiterate calls for a country visit by the relevant Special Procedures** including access to RSDL facilities, victims, family members, procuratorate, police, and others involved in the system;

³ The [Rome Statute](#) classifies *Crimes against humanity* as any of the following acts, carried out against a civilian population, with knowledge of such attack, and when use is widespread or systematic:

Article 7 (i): *Enforced disappearances*

Article 7 (f): *Torture*

Article 7 (k): *Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.*

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Table of data.

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Officially logged

Based on the Supreme Court's database of verdicts.

2020

For latest full year, extrapolation is needed. A study showed that 45% of RSDL cases concluded the same year, with the remaining the next year. Furthermore, takes into consideration that only 5 months of 2021 had been concluded when search was made. Hence, only 67.92% of 2020 cases uploaded as of June 1, 2021.

Estimate Low

A very cautious estimation based on 75% of verdicts in cases that involved RSDL having been uploaded into the database, a value far lower than most estimates, and 5% of cases either involving MSS or State Security charges, and therefore not included in database.

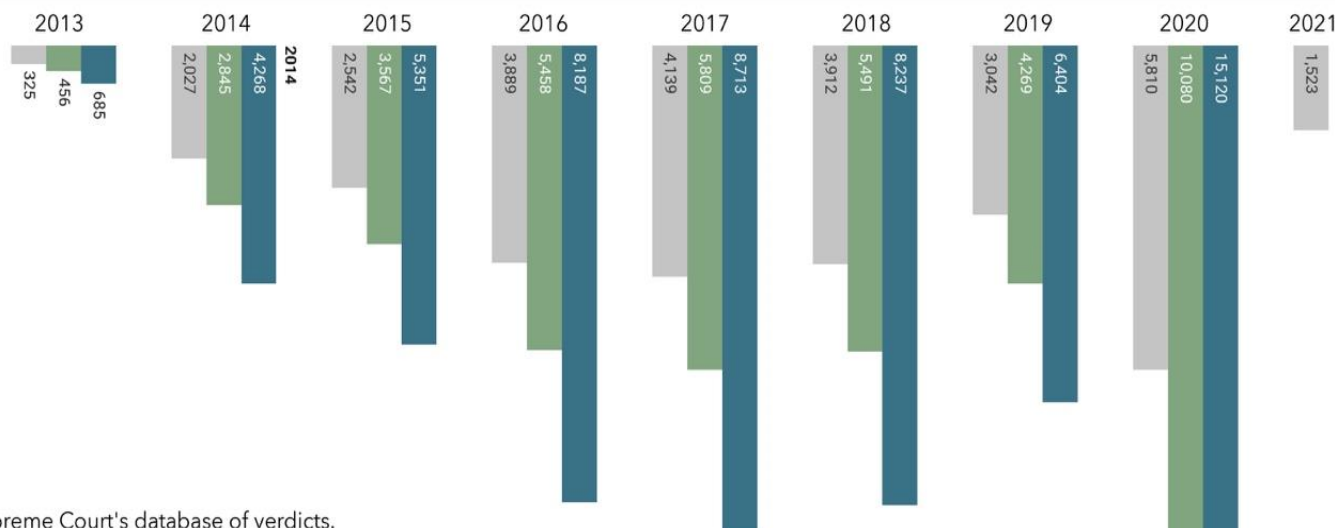
Estimate High

An estimation based on 50% of verdicts in cases that involved RSDL having been uploaded into the database, a value lower than most estimates, and 5% of cases either involving MSS or State Security charges, and therefore not included in database.

THE TRUE SCALE AND SCOPE OF CHINA'S RSDL SYSTEM FOR DISAPPEARANCES

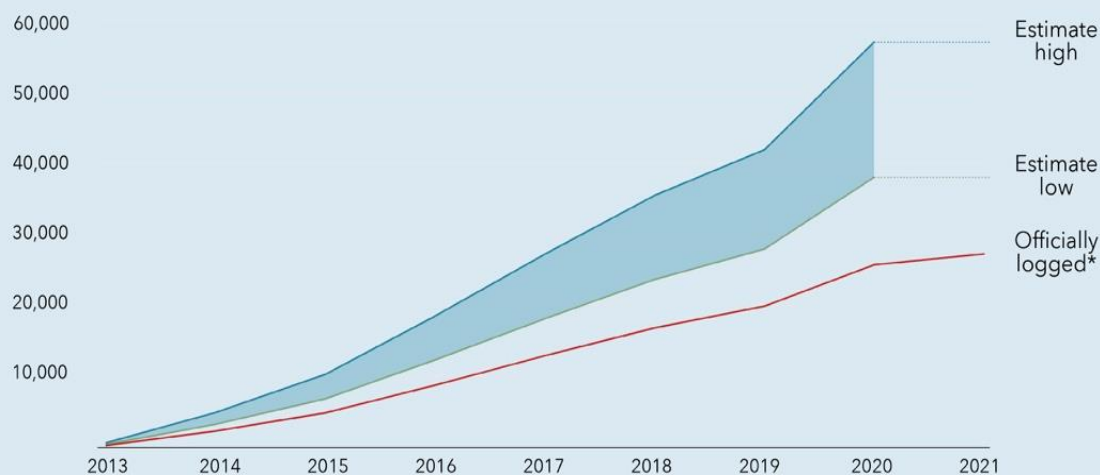
BY YEAR (persons)

- Officially logged*
- Estimate low
- Estimate high



* Refers to cases registered in the Supreme Court's database of verdicts.

CUMULATIVE (persons)



TIMELINE

