

Submission to select UN Special Procedures on China's National Supervision Commission and its detention tool *liuzhi*.

2019-08-21

To:

- The Working Group on arbitrary detention
- The Working Group on enforced or involuntary disappearances
- The Special Rapporteur on the situation of human rights defenders
- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- The Special Rapporteur on the independence of judges and lawyers
- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- The Special Rapporteur on violence against women, its causes and consequences
- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Object of submission: Review of the *liuzhi* system for enforced disappearances, and pertaining National Supervision Law and National Supervisory Commission. Concerns on the respect of Human Rights by said Commission are expressed throughout the present document.

For Reference:

National Supervision Law (official version, Chinese language):

- http://www.gov.cn/zhengce/content/2019-04/15/content_5382991.htm

English translation:

- <http://www.legal-tools.org/doc/ef4c4d/pdf/>

Safeguard Defenders is a Pan-Asian human rights NGO working to protect human rights and promote rule of law in some of Asia's most hostile environment, and to support local civil society organizations in those countries, to strengthen local protection and promotion.

Overview

Every single day in China, depending on which statistic from the Chinese government is used, an average of 16 to 76 people are placed into the new *liuzhi* detention system and, by definition, disappeared. **Every day.**

In reality, the number is likely higher than that. Unlike ‘Residential Surveillance at a Designated Location’ (RSDL), which is used in a very similar fashion against the general public but in particular targeting lawyers, journalists and NGO workers, the *liuzhi* system takes aim at Chinese Communist Party (CCP) members, state functionaries, and leadership at schools, hospitals, official mass organizations, universities and state-owned enterprises. And unlike RSDL, which is beginning to be covered by the international media, and which was subject by a review by 10 Un Special Procedures in 2018¹, *liuzhi* remains little known.

For decades, the Chinese Communist Party’s powerful anti-graft watchdog, the Central Commission for Discipline Inspection (CCDI), used the *shuanggui* detention system to hold suspects for up to six months without charge. Enforcers were not answerable to any state laws. The use of *shuanggui* has been a strictly internal affair for the members of the CCP, it is completely separate from the state or judicial system. The meant that the normal protections afforded to those detained within the judicial system and rights, such as access to legal counsel, were not available to *shuanggui* detainees. Once in these facilities, you have no right to have your family informed of your whereabouts. You simply disappeared.

At the National People’s Congress in March 2018, China introduced a constitutional amendment to establish the National Supervision Commission (NSC), based on the new National Supervision Law (NSL), effectively replacing *shuanggui* with *liuzhi*. In practical terms, the biggest change was the NSC has authority over not just the 90 million or so CCP members but state employees and anyone working for an organization that manages public affairs or is involved in public affairs in any manner, right down to the village level. The style of Investigation and detention, despite the change in name, remain the same.

Another reason for the reform has been to codify, in law, the use of the *shuanggui* detention system, which was formerly outside the law. However, despite this move, *liuzhi* is **not part of the judicial system**, rather, the system has merely been acknowledged in law in an effort to make it appear more legitimate. There is no right of access to legal counsel, simply because it is not a judicial process. There is still no need to inform family of the victims’ whereabouts, and they do not even need to notify them that someone has been placed into *liuzhi* at all. The only process of appeal is through the NSC itself. There is no outside appeal structure at all.

Zhejiang province’s anti-graft chief Liu Jianchao defended the denial of access to a lawyer by arguing that it was necessary for investigations to be:

"effective (...) If he’s a member of the Communist Party, we still need to call him a comrade during the detention. (...) These are not criminal or judicial arrests and they are more effective (...) he (the suspect under investigation) could meet a lawyer after he is handed over to the prosecutors.

Jiang Mingan, a Peking University law professor elaborated further. Corruption cases are:

¹ OL CHN 15/2018: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23997>

"heavily dependent on the suspect's confession. (...) If he (the suspect) remains silent under the advice of a lawyer, it would be very hard to crack the case".²

It took less than two months after the new system was established before the first known death in *liuzhi* was reported. Chen Yong, a former chauffeur for a local state functionary who was being investigated, had also been detained as part of that investigation. About five weeks later his family was notified of his death. When his wife and mother saw his body it was mangled and bruised; his chest sunk in. There is little doubt he had been tortured to death.

This submission to select Special Procedures follows an earlier submission made in May 2018, on the RSDL system by several organizations, including Safeguard Defenders.

² <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

National Supervision Commission

1. The National Supervision Commission (NSC) was established by the National Supervision Law (NSL), alongside revision in the Chinese Constitution, in March 2018.³ It followed an outline for such reform called for by General Secretary of the Chinese Communist Party (CCP) Xi Jinping in 2014, through the *Implementation Plan for the Reform of the Party Discipline Inspection System*⁴.
2. The NSC operates side by side, but technically as an individual organ, with the Chinese Communist Party's Central Commission for Discipline Committee (CCDI). The share both offices and staff, and are in reality the same organ.
3. In the establishment of the NSC, the former Ministry of Supervision, the Procuratorate's anti-corruption bureau and the National Audit Office were merged. All these bodies handled investigation of economic crimes by state functionaries. The CCDI has long been tasked with both 'discipline inspection' and investigating economic crimes by party members.
4. Before the establishment of the NSC, any investigation into breach of law, including for economic crimes, unless the suspect was a member of the Chinese Communist Party, had to be investigated and pursued through the legal system.
5. By creating the NSC, those thought to be in violation of duties and economic crimes can now be investigated by a non-judicial organ, and the judicial system no longer has the right to investigate such crimes, and should they find such crimes, must hand it over to the NSC for investigation.
6. In short, before this reform, this type of special organ to investigate discipline and economic crimes existed only for members of the Chinese Communist Party, and was type of internal policing organization of the party, with no relationship to the state's judicial system. Now, with the NSC, this very internal system has been expanded to include a very large section of Chinese society, who are now investigated for such outside the judicial system, despite not being party members.
7. The NSC, as established by the Chinese Constitution, sits on the same level as the State Council and The Supreme Court, and is supervised by the National People's Congress, China's rubberstamp parliament, and is thus, like the Council and Court, controlled only by the Chinese Communist Party's Standing Committee of the Politburo.

One member of China's National People's Congress went so far as to say: "*Our oversight work has some problems, namely [that] the people's congress doesn't dare supervise!*"⁵

³ http://www.xinhuanet.com/english/2018-03/20/c_137053224.htm

⁴ Sapio, Flora, "The National Supervision Commission: A History of Power Limitations and Untapped Possibilities (April 27, 2019). Available at SSRN: <https://ssrn.com/abstract=>

⁵ Zhou Chengkui, a former deputy general secretary of the National People's Congress, <https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention-called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM>

8. The NSC-CCDI, has branches at central level, provincial/autonomous region/municipality level, and down to local levels at prefecture/district/county level.
9. The NSC and CCDI are in reality the same organ, and will be referred throughout as NSC-CCDI. The annual work reports presented each year comes from CCDI, and make no separation between the work of the NSC and CCDI 'branches'.

Powers and structure

10. The NSL codifies the rights of NSC-CCDI as to perform a wide range of tasks as related to carrying out investigations, such as:
 - i. Summoning suspects, and *others*, for interrogation⁶
 - ii. Carry out technical surveillance⁷
 - iii. Search and confiscate⁸
 - iv. Place exit-ban on people investigated, and *others relevant* for an investigation⁹
 - v. Instruct police (and any other state organ) to provide assistance
 - vi. Issue warrants for those to be detained, which police should carry out¹⁰
 - vii. Detain suspects, or *persons implicated*, at a designated location (*liuzhi*)¹¹
 - viii. Freeze and confiscate assets¹²
11. This submission deals with issue g. listed above, the ability to detain people, including those not suspect, at a designated location, called *liuzhi*. This is a new name for a form of detention that has existed within the CCDI for decades, called *shuanggui*, but which can now be used on a significantly expanded scale. Even though it is not anymore a strictly internal system of the CCP for its members, it exist in a now expanded form, to detain, for up to 6 month, people at secret locations outside of any judicial facility, and with no external appeal system in place at all. As it is not part of the judicial system, no right to legal counsel exist, and detentions are carried out incommunicado, with their whereabouts not announced nor shared. These *liuzhi* detentions are by definition enforced and involuntary disappearances (EID).
12. With the latest overhaul in mind (May 2019), the NSC-CCDI consists of 16 departments, 11 of which are called "Supervision and Inspection Offices" (监督检查室), while the other five are "Review and Investigation Offices" (审查调查室). It is the Supervision and Inspection Offices that handles more routine matters, such as processing complaints received, receiving inquiries, compiling reports, and upon decision by its leadership, hand over more serious possible violations for management by the "Review and Investigation Offices". The latter type of offices have staff with specialized knowledge,

⁶ Art 20, 21, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

⁷ Art 28, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

⁸ Art 24, 25, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

⁹ Art 30, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹⁰ Art 29, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹¹ Art 22, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹² Art 23, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

for example to analyze and investigation corruption within the financial sector etc. The overhaul has aimed to make the different offices more specialized and focused¹³.

13. For CCDI before the reform, as well as for the current NSC-CCDI, there has always been a separation between minor infractions and punishments meted out, such as disciplinary warnings, demotions etc., on the one hand, and more serious violations on the other. For this second part, upon finishing an investigation, the case may be handed over to the Procuratorate, for criminal proceedings¹⁴.
14. For those investigated, the outcome, which as statistics presented below shows, almost already lead to 'punishment', the equivalent of a guilty verdict. However, different severity leads to different 'punishments'. Data comparison can be difficult, as the data categories changes frequently. However, in general, there are lesser disciplinary violations that can lead to a warning, a fine, a demotion and so forth. However, more severe violations can lead to dismissal from the party, and for the most severe ones, to criminal prosecution. With the 2019 work report by the CCDI, data on amount of punishments were presented based on four categories (*the four forms*)¹⁵:
 1. Education or criticism
 2. Light punishment of adjustment
 3. Sever punishment or position change
 4. Suspicions on violation of law
15. Investigations can be launched in two ways; the first is the discovery of possible violations by roving teams of inspectors. Such teams ('**inspection teams**') are sent out to various party- and state organs, on rotation, where they embed themselves. However, the NSC-CCDI also solicits 'tips' on possible disciplinary breaches and corruption. Should a 'tip' or 'complaint' not be relevant to the NSC organ that receives it, it should transfer it to the appropriate jurisdiction¹⁶.
16. Once a complaint has been received, it should review the complaint and submit a report on it. In this report it should decide whether an **investigation** should be launched¹⁷. The same NSC organ that received the complaint drafts the report, and decides if an investigation is to be launched. If the suspect is to be detained in *liuzhi* during the investigation, the very same NSC organ also makes this decision, unless it's at the district or lower level, in which case the NSC organ a next higher level need approve it¹⁸.
17. Once an investigation is launched, according to article 39 paragraph 3, *the decision to open an investigation shall be announced to the target (of the investigation) and notified to the relevant organization (work unit). For anyone suspected of serious violation or crime, the family of the target shall be notified and (the decision shall be) released to the public."*

¹³ http://www.ccdi.gov.cn/xxgk/hyzl/201902/t20190221_188870.html

¹⁴ Art 45, 47, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹⁵ http://www.ccdi.gov.cn/xxgk/hyzl/201902/t20190221_188870.html

¹⁶ Art 35, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹⁷ Art 37, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹⁸ Art 43, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

Target groups

18. Before the launch of the NSC, the target group for CCDI consisted of roughly 90 million CCP members. The target group after reform is unknown. However, three provinces were selected in 2016 to run a one-year pilot project. In those three pilot provinces, the scope of target group expanded roughly 200%, 300% and 500% respectively^{19,20}. Using an average of those percentages, the direct target group would now stand at 300,000,000 people.
19. The direct target group now includes non-party-member state functionaries, but also the management of public bodies, from schools, universities, hospitals, think tanks and, importantly, state-owned enterprises. It should also include leadership in other state bodies, such as the All-China Federation of Trade Unions, which with its 1.7 million different trade union organizations has some 300+ million members, as well as other massive umbrella organizations. Article 15 of the NSL specifies who is concerned by NSC's supervision: all CCP members, all staff of government, and organs of the federations of industry and commerce, and any people managed by the Law on Public officials. The definition in the NSL also includes *"other personnel who perform public duties"* and *"personnel engaged in public affairs"*.
20. The publication of the draft NSL at the end 2017 immediately triggered worried reactions from international Human Rights organizations and lawyers operating in China. *"The concept of liuzhi is of concern because it seems to extend the features of shuanggui to non-party persons, denying such persons the limited protections of the Criminal Procedure Law during the course of an investigation for criminal liability,"* said Lester Ross, a lawyer in the Beijing office of an American law firm, to the press.²¹ One key issue is that the indirect target group is undefined. One core concern is that anyone who is not a suspect, but merely related to an investigation can not only be summoned, but detained at a designated location (liuzhi). Also, the definition of who carries out work for the state or a public organ remains little understood; Does a lawyer representing a client for the state counts? Journalists working for state- or party owned newspaper?
21. In Guangzhou, a contractor of the local urban management agency named Yang Guilan was detained and found taking bribes worth of about 574,000 yuan (about \$90,880). He was not a state worker nor party member. Before the reform - said Zheng Baisheng, deputy director of the Baiyun district supervisory commission of Guangzhou - Yang would not have been supervised by neither CCDI nor MOS, but would have been investigated by the judicial system²².

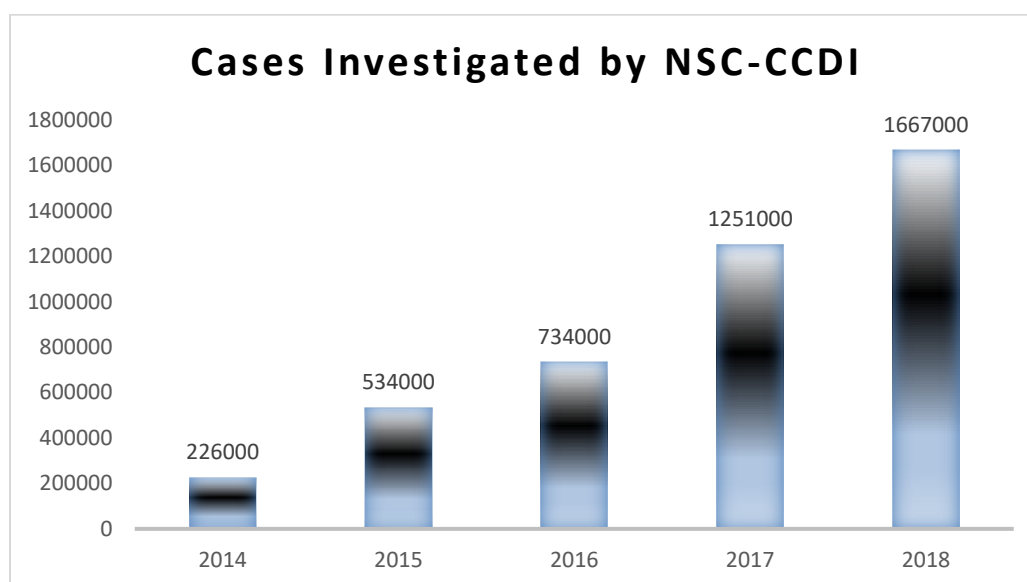
¹⁹ <http://www.chinadaily.com.cn/a/201803/20/WS5ab1172da3106e7dcc143eef.html>

²⁰ *from* CENTRAL CONTROL to NATIONAL SUPERVISION: How China's National Supervision Commission undermines China's criminal justice system, <https://safeguarddefenders.com/en/blog/new-report-central-control-national-supervision>

²¹ <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

²² http://www.china.org.cn/china/NPC_CPPCC_2018/2018-03/21/content_50731869.htm

22. In 2018, the last year for which full statistics is available, the NSC-CCDI received 3,440,000 complaints. Of those, 1,667,000 were dealt with (investigated). Those 1,667,000 investigations (cases) led to the punishment ('guilty persons') for 1,736,000 people. Of those, a vast majority was for minor offences and therefore minor punishments. However, 137,000 punishments were for category 3 and 4 offences, the more serious ones. See paragraphs 82 and 83 for how many of those were sent for prosecution.



23. The NSC-CCDI does not publish statistics that can easily show the 'conviction rate' for these investigations. Instead, it merely states number of *cases* investigated compared with *persons* punished ('convicted'). However, some statistics do exist that can help understand the 'conviction rate'. To begin with, for the years 2013 to 2017, for the cases handled by the Procuratorate, China's official statistical yearbook shows that on average, each case of corruption was related to between 1.64 and 1.7 persons²³.

However, only the most severe cases (3.7% in 2018), are sent to the Procuratorate for prosecution each year, and those cases are much more likely to include multiple persons per case. Even if one includes category 3 crimes, less severe, which account for 4.7% in 2018, and some of which are also sent to the procuratorate, and calculates an average number of people per case based on Procuratorate data, the conviction rate is very high. Those two categories would account for 137,500 cases investigated in 2018. Counted that for 1.65 people per case, and then assuming smaller category 1 and 2 cases only related to one person on average (1,592,500 cases), the total of cases vs persons for 2018 would be 1,667,000 cases, for a total of 1,819,375 people.

Of those people, 1,736,000 were convicted. The conviction rate would thus stand at roughly 95.4%. This is significantly lower than the conviction rate for criminal trials in China, which

²³ National Bureau of Statistics of China, Statistical Yearbook 2018:
<http://www.stats.gov.cn/english/Statisticaldata/AnnualData/>

stands at roughly 99.92%²⁴, but still so high that ‘conviction’ is nearly guaranteed once investigated by the NSC-CCDI.

24. Prior statistics for 2014, 2015 and 2016 showed similar trends, in an almost equal amount of *cases* investigated and *people* punished²⁵. Again, some cases involve more than one person, but such statistics is not provided. However, the fact that cases investigated vs persons punished consistently match and year by year, despite a massive increase in total number of them, is a clear indication that once investigated, the person is punished (found ‘guilty’).

Liuzhi - retention in custody

25. The right to place someone being investigated into *liuzhi*, or another person deemed relevant to the investigation, is based on article 22 of the NSL. The qualifiers given, that the person is suspected on serious violations or crime in ‘abusing public office’, and if custody is needed for fact or evidence collection, is so wide to render it meaningless. It further states that the person can be placed in custody at a designated location if the case is complicated, the person might flee or commit suicide, or if they might collude testimony, or conceal or fabricate evidence – or – otherwise obstruct the investigation. The NSC may also detain others implicated in the case if it involves suspicions of bribery or joint crimes of abusing public office.
26. The decision resides with the local NSC organ that received the complaint leading to an investigation²⁶, which is also the same body that decided to launch the investigation. For placement into *liuzhi*, no higher up body or external body need approve the decision to place the person into *liuzhi*. The only exception is if the body making the decision is on district or lower level, in which case the NSC at next higher level should approve it.
27. Article 43 specifies that the length of detention cannot exceed three months. If, after three months, the NSC believes more time in *Liuzhi* is needed for the investigation, it can extend the time in *Liuzhi* to 6 month, which is the maximum allowed. This is supposed to be reserved for ‘special cases’ but has no further definition. If extended by an NSC provincial level or below, the next higher level NSC shall approve the extension²⁷.
28. Like statistics on the use of *liuzhi* in terms of scope and number of victims, the time spent inside *liuzhi* on average is not published. However, to determine the consequences for victims, especially considering its use of solitary confinement and that victims are kept incommunicado, it is nonetheless of great importance to get a general idea of how long people usually spend inside *liuzhi*, and anecdotal figures reported in Chinese state media can provide that. Liu Jianchao, head of

²⁴ <https://www.telegraph.co.uk/news/worldnews/asia/china/12193202/Chinese-courts-convict-more-than-99.9-per-cent-of-defendants.html>

²⁵ Cases investigated, 2014-2015-2016 at 226,000, 330,000 and 413,000 respectively, leading to *persons* punished at 232,000, 336,000 and 415,000 respectively. Data from CCDI’s annual work reports.

²⁶ Art 43, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

²⁷ Art 43, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

Zhejiang province's supervision commission, stated that in Zhejiang province the average amount of time spent in *liuzhi* was 42.5 days²⁸. Upon concluding the pilot version of the NSC in Beijing municipality, Xinhua [State news agency] reported that the average time spent in *liuzhi* was 58.5 days during 2017, compared with an average of 78.7 days in the prior *shuanggui* system in 2016²⁹.

29. As can be seen above, each and every mechanism of review, validation or arbitration present in the NSL is designed so that Supervisory Commissions of higher levels are always the organ of reference. For example, according to article 43, if detention is carried out by a NSC at or below the district level, it shall be reported to higher level for approval³⁰. If the length of detention is extended, the only safeguard is that such extension needs be approved by a higher level NSC, except for the national level NSC that may issue such approval to itself. Article 49 is emblematic of how the NSC intends to deal with any challenge of its actions. The article states that:

If the subject of supervision is dissatisfied with a decision made by the supervisory commission concerning his treatment, he may apply to the supervisory authority that made the decision for re-examination within one month from the date of receipt of the decision, and the review authority shall make it within one month. If the subject of supervision is still dissatisfied with the re-examined decision, he may apply to the supervisory authority at the next higher level for re-examination within one month from the date of receipt of the re-examined decision, and the review authority shall take a decision within two months".

Since it's strictly an internal mechanism, it renders this appeal virtually useless.

30. The NSL contains only this following provision to safeguard the rights of the person under investigation or inside *liuzhi*:

The gathering of evidence by threats, enticements, fraud, and other illegal means is strictly prohibited; and berating, striking, abusing, and direct or covert corporal punishment of the persons under investigation, and persons implicated in the case, is strictly prohibited.³¹

Liuzhi facilities

31. *Liuzhi* is a continuation of the *shuanggui* system. It uses the same facilities, as exposed when officials from Zhejiang province confirmed just that³². The law offers next to nothing in terms of codification. The little codification that was included, such as time-limits, and wording on how to

²⁸ <https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention-called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM>

²⁹ http://www.xinhuanet.com/2018-01/07/c_1122222227.htm

³⁰ Art 43, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³¹ Art 40, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³² <https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention-called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM>

notify family members, comes straight from the language concerning ‘Residential Surveillance at a Designated Location’ (RSDL) as established in the Criminal Procedure Law.

- a. While in *liuzhi*, diet, rest and safety shall be ensured³³
- b. Medical services be available³⁴
- c. Interrogations shall use *reasonably arranged times and lengths*³⁵
- d. All interrogation records shall be signed by the suspect.³⁶
- e. Interrogations shall be recorded audio-visually and kept for future reference.³⁷

32. Most accounts on *shuanggui* facilities are fairly similar, showing how hotel rooms, rooms in party facilities, and any other party-controlled real estate, is used for *shuanggui*. The accounts tend to focus on the suicide padded walls, removal of sharp object, and use of cameras or systems for surveillance, and the fact that all *liuzhi* is done in solitary confinement.

“The rooms mostly looked normal, with all the expected facilities — bathroom, tables, sofa, she said in an interview. 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 by banging their heads against the wall” – description of a facility in Shanghai by Lin Zhe, professor at the Central Party School.³⁸

Bao Ruizhi, a former detainee [in *shuanggui*], said: *“I was detained in many different places...during shuanggui. I was detained in a hotel, in a Party school, in the “clean government education center,” and other buildings”*.³⁹

33. However, other accounts⁴⁰ speak of larger facilities, seemingly custom-built for the purpose, along with meeting rooms, formal interrogation rooms, and more. This is similar to accounts on the RSDL system, which likewise mixes use of custom-built larger facilities, with converted rooms inside party- state- police- and military- run facilities, from guesthouses to trainings centers to more.

*“(Shuanggui) is usually (carried out) in hotels or villas. There are designated places for it as well as places used temporarily for investigation. Places used temporarily are not (usually) modified; but some are modified to prevent the detainees from committing suicide or from running away.”*⁴¹

³³ Art 44, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³⁴ Art 44, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³⁵ Art 44, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³⁶ Art 44, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³⁷ Art 41, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

³⁸ https://www.washingtonpost.com/news/worldviews/wp/2014/07/03/how-the-communist-party-investigates-its-own/?utm_term=.60e21f06331d

³⁹ Human Rights Watch Interview with Bao Ruizhi (pseudonym), former detainee, May 13, 2014, <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁴⁰ <https://www.duihuahrjournal.org/2011/07/official-fear-inside-shuanggui.html>

⁴¹ Interview by Human Rights Watch with former anti-corruption worker in Beijing, Human Rights Watch, “Special Measures” Detention and Torture in the Chinese Communist Party’s Shuanggui System, page 28,

34. The places used for *liuzhi* are unmarked, and are not official places for detention. In fact, since it's not a judicial process, no case-handling areas, police stations, detention centers etc. There is also an older decree by CCDI that such should not be used⁴². Again, this is similar to RSDL, which is indeed part of the judicial process, but which is also codified in law as not being allowed to take place in official facilities for detentions.

According to a lawyer who has represented six former *shuanggui* detainees: "*The clients usually know where they have been taken, like the street number [of the building]... but the precise locations of these shuanggui facilities are confidential and not public, so we don't know where they are*".⁴³

35. An order from CCDI, before its reform, stated that "should take place anywhere the CDI officers deem suitable, in which the "personal safety" of those under investigation can be ensured"⁴⁴. Another order later specified that detention take place in "single-story building or the ground floor of a multistory building to prevent unspecified "accidents"⁴⁵.
36. Treatment inside *liuzhi*, and *shuanggui* before it, remains opaque. However, a decade of sporadic reports on *shuanggui*, interviews with victims, and extensive cataloging of treatment in Human Rights Watch's report "Special Measures" all indicates wide-spread, and systematic abuse inside. Likewise, the treatment inside *RSDL* has been extensively reported, and follow the same line of the more anecdotal evidence on mistreatment so far known in the *shuanggui* and now *liuzhi* system.

Incommunicado detention

37. If a person is placed into *liuzhi*, according to the National Supervision Law, his/her work unit (*danwei*) or family member should be notified of such within 24 hours. However, the same article (44) provides for the exception "except where there might be circumstances that would impede the investigation such as destruction or fabrication of evidence, disrupting witnesses from testifying, or colluding testimony." As has been documented with similar provisions, the exception is the rule.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁴² CCDI and the Ministry of Supervision Notice on Several Issues on Discipline Inspection and Supervision Organs' Adopting of "Liangzhi" "Lianggui" Measures According to the Law) (中共中央纪律检查委员会、监察部关于纪检监察机关依法采用"两指""两规"措施若干问题的通知), June 5, 1998

⁴³ Human Rights Watch Interview with Zhao Lifeng (pseudonym), a Beijing-based lawyer, December 7, 2015.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁴⁴ Notice of the Central Office of CCDI on Printing and Distributing "the Measures for the Use of 'Lianggui' Measures by the Discipline Inspection Organs (for Trial Implementation)" (中共中央纪委办公厅关于印发《关于纪检监察机关使用"两规"措施的办法(试行)》的通知) (The General Office of CCDI [2000] No. 1) (中纪办发[2000]1号).

⁴⁵ Notice by the Central Commission for Discipline Inspection on Further Standardizing the Use of "Lianggui" Measures (CCDI [2001] No. 15) (中共中央纪委关于进一步规范使用"两规"措施的通知), (中纪发[2001]15号).

38. But even if the family is notified, the law does **not** stipulate that anything beyond the fact that their family member is in *liuzhi* be stated. There is no statutory requirement to provide information on the whereabouts of the person or the details of the charge against her or him.
39. The prompt notification of one's rights and the reason for deprivation of liberty, along with access to a lawyer and communication with family members or a third party are fundamental safeguards against abuse in custody.⁴⁶
40. The Nelson Mandela Rules hold that "Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury."⁴⁷
41. That there is no obligation within the NSL to disclose to the family the whereabouts of suspects within *liuzhi*, in addition to the denial of access to a lawyer and right to challenge one's detention or seek effective remedy, inherently violates international norms, virtually guaranteeing incommunicado and arbitrary detention, and the denial of the right to a fair trial as provided in articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).⁴⁸
42. Being held incommunicado violates the right to be brought promptly before a judge, article 9(3), and to challenge the lawfulness of one's deprivation of liberty, article 9(4) of the ICCPR. And, as held in General Assembly Resolution 68/156, "prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment."⁴⁹ This is emphasized in the Istanbul Protocol, which calls for limiting incommunicado detention and ensuring detainees be held and registered in recognized detention facilities, for the names of all persons responsible for their detention to likewise be kept in a register readily available and accessible to relatives and third parties, and granting lawyers and family members access.⁵⁰
43. Likewise, Article 17 of the International Covenant for the Protection of All Persons from Enforced Disappearances holds that "no one shall be held in secret detention," and that anyone deprived of their liberty should only be held in officially recognized detention facilities and be allowed to communicate and be visited by family, lawyer, or third parties. It also calls for all states to maintain official registers of detained persons, to be made promptly available to competent authorities and include such information as the names of the detained, and among others, the date, time and place where he or she was detained.⁵¹ Effectively none of these safeguards exist with *Liuzhi*.

⁴⁶ <https://www.apr.ch/en/detention-safeguards/>

⁴⁷ Rule 68, <https://undocs.org/A/RES/70/175>

⁴⁸ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴⁹ https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/156

⁵⁰ <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

⁵¹ <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>

Torture

44. The Convention against Torture defines torture as:

*“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”*⁵²

45. Those held in liuzhi are always held individually, and not in shared cells. Procedures dictate that guards shall be present with the detainee at all times. However, as they are guards they provide no meaningful interaction. The Nelson Mandela Rules hold that “solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact.”⁵³

46. The lack of meaningful human contact, means *liuzhi* is by definition solitary confinement. Many victims of solitary confinement of this sort have also shown in testimony that having two people always inside the cell, with the only mission to control and surveil you, can make the isolation at times even worse.⁵⁴

“In the beginning there were three guards in one shift, and then later two guards in one shift, each shift lasts between six to seven hours. They watched you round-the-clock without one minute of rest, they follow you even when you go to the toilet.” - shuanggui detainee Yang Zeyu⁵⁵

Lawyer Du Qing, speaking about a client who had been in shuanggui explained: *“The guards were military police. They did not allow sleep, and they watched you around the clock. They changed shifts every two hours and 12 people were in one shift. One of the clients told me that he was guarded [by two people], one on each side, about a foot away from him.”*⁵⁶

47. Solitary confinement is often considered enough to procure confessions. One Commission for Discipline Inspection (CDI) officer said:

⁵² <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

⁵³ <https://undocs.org/A/RES/70/175>

⁵⁴ *The People’s Republic of the Disappeared*, Michael Caster (ed), 2017, Safeguard Defenders

⁵⁵ Human Rights Watch Interview with Yang Zeyu (pseudonym), December 3, 2015.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁵⁶ Human Rights Watch Interview with Du Qing (pseudonym), January 4, 2016.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

*"In the cases I've handled, generally they collapse after persevering for three to five days, and they'd answer everything you ask, they'd be very cooperative. Those who manage more than a week are [already] tough guys"*⁵⁷

48. The use of solitary confinement in *liuzhi* rises to the level of torture or ill-treatment as defined by the Convention against Torture:
- a. The use of Solitary confinement inside *liuzhi* is during the investigation phase, and is a disciplinary action.
 - b. The use of Solitary confinement inside *liuzhi* is, based on the government own statistics, usually for prolonged use (more than 15 days). As statistics presented in paragraph 28 shows, the average time spent in *liuzhi* greatly exceeds 15 days, and usually last for closer to two months.
 - c. As statistics show under paragraphs 23 and 24, almost all investigations leads to 'punishment' (convictions). Conviction rate at criminal trials spanned 99.92% to 99.93% for the year 2013⁵⁸, 2014⁵⁹ and 2015⁶⁰. No detailed figures are given for within the NSC system, but as data indicates, it is likely around 95% or more. Since the NSC provides all the evidence to the prosecutor for the cases that should be prosecuted (and the prosecutor has no legal right to conduct an independent investigation), the NSC must gain such evidence before concluding its investigation.
 - d. As Solitary confinement is long-term⁶¹, harm that is caused is considered to possibly becoming *irreversible*.
 - e. A key aspect to understanding whether placement into SC constitutes torture relies on intent. To meet the intent standard, the actor must simply intend to inflict suffering for a prohibited purpose. These purposes include obtaining information or a confession, punishment, intimidation, and discrimination.
 - f. The U.N. Special Rapporteur on Torture explicitly found pre-trial solitary confinement to be torture under article 1 of the CAT when used to obtain information or a confession.⁶²

"These cases are heavily dependent on the suspect's confession." "If he [the victim] remains silent under the advice of a lawyer, it would be very hard to crack the case." - Jiang Mingan,

⁵⁷ Human Rights Watch, "Special Measures" Detention and Torture in the Chinese Communist Party's Shuanggui System, page 44, <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁵⁸ https://www.washingtonpost.com/news/morning-mix/wp/2014/03/11/china-scored-99-9-percent-conviction-rate-last-year/?utm_term=.6e8baa1a6cb0

⁵⁹ <https://www.telegraph.co.uk/news/worldnews/asia/china/12193202/Chinese-courts-convict-more-than-99.9-per-cent-of-defendants.html>

⁶⁰ <https://www.telegraph.co.uk/news/worldnews/asia/china/12193202/Chinese-courts-convict-more-than-99.9-per-cent-of-defendants.html>

⁶¹ U.N. Secretary-General, Torture and Other Cruel, Inhuman or Degrading Punishment: Note by the Secretary General, U.N. Doc. A/66/268 (Aug. 5, 2011).

⁶² U.N. Secretary-General, Torture and Other Cruel, Inhuman or Degrading Punishment: Note by the Secretary General, U.N. Doc. A/66/268 (Aug. 5, 2011).

a law professor at Peking University frequently consulted by the authorities on anti-corruption legislation⁶³

The Istanbul Statement on the Use and Effects of Solitary Confinement⁶⁴ and Nelson Mandela Rules define prolonged solitary confinement as a period in excess of 15 consecutive days, and fundamentally violates the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment.

While defining prolonged solitary confinement as 15 consecutive days, rule 44, the Nelson Mandela Rules continues, at rule 45, to state that “solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review,”⁶⁵ contrary to which we have seen that it is imposed in all cases in *liuzhi* and without any independent review.

Furthermore, the lack of outside communication, or witnesses inside the detention facility, solitary confinement may also give rise to other acts of torture or ill-treatment.

Other forms of torture

49. Staff of the NSC and *liuzhi*, which is not part of the judicial system, are **not** classified as “judicial officers”. Only “judicial officers” can be held accountable under the special provisions concerning use of torture in Chinese law. Hence, staff within NSC are under partial legal immunity.⁶⁶
50. The complete lack of any external supervision or control, and the lack of any appeal system outside the NSC, and the focus of the system to procure convictions, not surprisingly leads to severe treatment, some constituting torture.
51. A doctor who worked in one *shuanggui* facility said:

*“Their requirement for us doctors was to keep them safe. That meant, don't let them die. A dead person would create big problems. Someone who is only injured doesn't matter.”*⁶⁷

The wife of one victim of *shuanggui*, Wilson Wang, said:

*“(He) sought to kill himself by biting through the artery in his wrist. He was stopped by members of the team of dozens keeping constant watch over him. Some were doctors, tasked to ensure he was kept alive.”*⁶⁸

52. These facilities also employ health personnel to prevent self-harm or suicide, to keep suspects in a certain physical or mental state allowing for ongoing interrogation and abuse but preventing death

⁶³ <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

⁶⁴ <https://irct.org/assets/uploads/Opinion.pdf>

⁶⁵ <https://undocs.org/A/RES/70/175>

⁶⁶ Art 247, 248, China Criminal Law, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/5375/108071/F-78796243/CHN5375%20Eng3.pdf>

⁶⁷ <https://www.theglobeandmail.com/news/world/shuanggui-and-wilson-wang-in-china/article34400855/>

⁶⁸ <https://www.theglobeandmail.com/news/world/shuanggui-and-wilson-wang-in-china/article34400855/>

in custody, a gross contravention of medical ethics as laid out in the UN Principles of Medical Ethics,⁶⁹ and the Istanbul Protocol which defines participation in torture by health personnel as evaluating one's capacity to withstand ill-treatment, resuscitating individuals for further mistreatment or providing medical treatment immediately before, during or after torture on the instruction of those responsible for it, among others.⁷⁰

53. Sleep deprivation.

"They didn't let me sleep. I had a total of 10 days without closing my eyes." - Yang Zeyu, former *shuanggui* detainee, December 2015

Lu Yicheng, himself a former CDI officer said: *"The CDI officers used all kinds of methods to disturb my basic sleep...it was very hot, stuffy, and humid, and I was detained in a room without windows. [They] shined dozens of 1,000 watt lights on me at all times, and didn't turn them off at night so I [often] couldn't sleep at all. Even if they let me sleep, before I slept they made me drink large amounts of water before I could lie down, so that as soon as I closed my eyes I felt I had to urinate, so I couldn't sleep in peace. But when I was so extremely tired... and closed my eyes they'd shake my bed with a great force, pulled my mattress, or clapped their hands loudly on top of my head, so I couldn't sleep."*⁷¹

Lawyer Huang Xinyao, speaking in reference to 12 different clients who had been in *shuanggui*, said: *"All my clients were mistreated, mostly in the form of sleep deprivation"*.⁷²

54. Forced stress positions.

"In the first eight or nine days, they required that I sit in certain ways and I wasn't allowed to move... I began to hallucinate, as if I had split into several people at once. This was because I was tired: sitting all day from 6 a.m. to 11 p.m., then being interrogated at 11 p.m., and only after that do they let you sleep." – former *shuanggui* detainee Ren Zhiqing⁷³

"If you sit you have to sit for 12 hours straight, if you stand then you have to stand for 12 hours as well. So my legs became swollen, and my buttocks [started oozing pus]... They used gauze pads on my raw, festering buttocks." – former *shuanggui* detainee Chen Juyang⁷⁴

⁶⁹ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/MedicalEthics.aspx>

⁷⁰ <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

⁷¹ Former official Lu Yicheng, who was held in *shuanggui* for over a month, in written testimony given to Human Rights Watch by his family in June 2016. <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁷² Human Rights Watch Interview with Huang Xinyao (pseudonym), December 8, 2015.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁷³ Human Rights Watch Interview with Ren Zhiqing (pseudonym), June 20, 2016.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁷⁴ Human Rights Watch Interview with Chen Juyang (pseudonym), June 30, 2016.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

The former President of Nanchang University spoke about his torture in court, according to a press report, and said: *“During shuanggui, he was forced to stand 10 days and 10 nights, “his feet became swollen like winter melon, and the blisters on his legs were as big as ducks’ eggs.” He was “deprived of sleep for seven days and seven nights” and subjected to “non-stop interrogations for five days and five night.”*⁷⁵

55. Water/food/medicine deprivation.

According to a former police chief in Jiangxi Province: *“For nine days and nine nights I sat in tiger chairs; and urinated and defecated into adult diapers...for over a hundred hours, whether it’s day or night, they took turns interrogating me”.*⁷⁶

One victim told interviewers from Human Rights Watch⁷⁷ how, when he was kept in *shuanggui*, his interrogators severely restricted his water intake. *“Drinking water is a luxury. Every day they give you only a small paper cup of water to drink, sometimes they don’t give you one drink of water for days... Whether water is given depends on whether the interrogators think I have behaved well.”*

Xiong Zumo, another victim said that they also deprived him of his medication, in addition to food, to force him to confess: *“I said... please give me some medicine for my high blood pressure, but they didn’t – they said if you give a good explanation, we’ll go and buy you medicine”.*⁷⁸

56. Beatings, physical abuse and death.

Lawyer Liu Yi told Human Rights Watch: *“[One of my clients] was tortured very severely; he was forced to stand and was beaten, and they forced his legs against the wall into a split.”*⁷⁹

“They viciously whipped the bottom of my feet with a 4-6 mm steel rebar or a bundled iron wire, until my feet became badly mutilated.... I fainted twice.” - Zhou Wangyan, former director of the Land Resources Bureau of Liling City in Hunan province.⁸⁰ The same person went on to describe, while kept detained for six month, that he was subjected to various forms of torture, including: being forced to stand straight for prolonged periods; drink dirty water; having over a dozen lit cigarettes stuffed into his nose and mouth so he was unable to breathe; and his face submerged in a sink full of water to simulate drowning.

⁷⁵ Wang Hui, “Two-Faced Zhou Wenbin: Was It a Case about Eroticism or Was He Framed? (舆论场里的双面周文斌，情色还是构陷？)”, December 30, 2015, Sina.com, <http://news.sina.com.cn/c/zg/2015-12-30/doc-ixneefs5448638.shtml> (accessed May 1, 2016)

⁷⁶ Feng Jigang, “Defense Statement of the Corruption Case of a Certain Chief of an Anti-Drug Unit in a Public Security Bureau in Jiangxi (关于江西某公安局禁毒大队长 xxx 受贿一案),” Beijing Boheng Law Firm, July 29, 2015, <http://www.bjbohenglaw.com/chenggongnanli/247.html> (accessed December 17, 2015)

⁷⁷ Human Rights Watch, “Special Measures” Detention and Torture in the Chinese Communist Party’s Shuanggui System, <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system#d70fd7>

⁷⁸ Deputy County Magistrate Punished for Bribery under Torture, the Procuratorate Withdrew Charges after He Was Held for Two Years (副县长被逼供受贿获刑 关押两年后检方撤诉), December 26, 2014, Phoenix Satellite Television, http://phtv.ifeng.com/a/20141226/40921364_0.shtml (accessed January 8, 2016).

⁷⁹ Human Rights Watch Interview with Liu Yi (pseudonym), a lawyer based in Beijing, December 8, 2015.

<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

⁸⁰ Zhou Wangyan (周旺炎), “180 Days of Darkness for Land and Resource Bureau Director Whose Leg Was Broken from Beatings (被打断腿的国土局长暗无天日的 180 天),” January 26, 2013, posted on his weibo, <http://tw.weibo.com/3260930623/3538721963580651> (accessed October 4, 2016).

Another victim, Xiao Yifei, deputy Party secretary, related to the same case, and one that was reported on by his lawyer, famed Pu Zhiqiang, in a video⁸¹, and reported on by the New York Times⁸², that “His captors [CDI] beat him *“like a live target,”* cuffing his hands and hanging the handcuffs on the window frame such that his feet barely touched the floor while he was beaten.”⁸³

Yu Zucheng, whose son died inside *shuanggui*, after interrogators held his head under water, said: *“What they do is inhumane...” “They took such cruel measures against him. Why does the party treat their own officials this way?”*⁸⁴

One man, who was not a suspect in an investigation, was found dead less than two months after the system was first put in place, in early May 2018. Chen Yong was a chauffeur for a suspect of the NSC, and Chen was placed into *liuzhi* for five weeks before he died. Both his mother and wife testified to local media that his body was severely bruised and battered and his entire chest sunken in. NSC did not offer any explanation, and request for security camera footage was denied. (See paragraph 85 for more information)⁸⁵.

Access to legal counsel

57. No provision in any article of the law guarantees the suspect access to a lawyer during his detention. The term “lawyer” itself is absent from the law. Simply put, because investigation by the NSC-CCDI is not a judicial process, there is no, even theoretical, right to a lawyer.

“These are not criminal or judicial arrests and they are more effective ... he [the victim] could meet a lawyer after he is handed over to the prosecutors.” –head of the Zhejiang province NSC Liu Jianchao⁸⁶

“If he [the victim] remains silent under the advice of a lawyer, it would be very hard to crack the case.” - Jiang Mingan, a law professor at Peking University frequently consulted by the authorities on anti-corruption legislation⁸⁷

⁸¹ <https://www.nytimes.com/2015/12/23/world/asia/china-lawyer-pu-zhiqiang.html>

⁸² <https://www.nytimes.com/2015/12/23/world/asia/china-lawyer-pu-zhiqiang.html>

⁸³ Lawyers Li Jinxing (李金星), Peng Kun (庞琨), Liu Jinbin (刘金宾), Xi Xiangdong (袭祥栋), Jiang Yuanmin (蒋援民), Zhang Weiyu (张维玉), Liu Sixin (刘四新), Long Zhongyang (龙中阳), Xie Yang (谢阳), Wang Haijun (王海军) and Li Zhongwei (李中伟), “Open Letter to The Central and Hunan Provincial Leadership Concerning Hunan Ningyuan County Ten More People Including Xiao Yifei Being Held Under Illegal Shuanggui (就湖南省宁远县肖疑飞等十余人被非法双规案致中央及湖南省各领导的公开信),” Innocent Project (洗冤网), August 17, 2014, http://www.xiyuanwang.net/html/hdsd_1253_1788.html (accessed June 8, 2016)

⁸⁴ https://www.washingtonpost.com/news/worldviews/wp/2014/07/03/how-the-communist-party-investigates-its-own/?utm_term=.60e21f06331d

⁸⁵ <https://www.caixinglobal.com/2018-05-09/death-in-custody-raises-questions-about-new-anti-graft-oversight-101246477.html>

⁸⁶ <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

⁸⁷ <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

58. A particular case, which happened in June 2017, during the trial period of the pilot program, is of additional concern. In that case, the defendant, Li Hua, who had been investigated by the NSC and subject to *liuzhi* detention was later found guilty of misappropriation of public funds by the Tongzhou district court in Beijing. What is worth noticing is that apparently, Li Hua could not appoint his own lawyer but the court designated one for him. None of the legal reasons that allow such designation - that is to say a risk of death penalty, the defendant is subject to a certain disability, is under legal age or cannot afford financially to hire a lawyer - were invoked in this case. It might be possible that for cases of people subjected to NSC investigations and detentions, access to a lawyer might be forbidden even after the case has been transferred to the procuratorate. According to a Shanxi law firm lawyer Li Jianjun, the conditions of access to lawyer have toughened. Before, when transferred to the Anticorruption bureau of the procuratorate, lawyers would need authorization to see the defendant. After indictment and during the prosecution phase, lawyers could see the defendant at any time. Lawyers are now banned from any access during the *liuzhi* detention (in fact during the whole NSC investigation) and need approval from the court after indictment has been made.
59. In another extremely worrying development, Chen Jieren, a journalist, as well as several others related to his case, were placed into RSDL in July 2018. Since the investigation into Chen and the others are not related to national security crimes, nor gross economic crimes, the police has no right to block access for them to legal counsel. However, the NSC in the province announced that it was investigating Chen, and therefore had the right to deny Chen access to legal counsel, despite him not being held in *liuzhi*, but rather inside RSDL, which is part of the normal judicial process⁸⁸. There now risks being a situation where even though not actually detained in *liuzhi* can be denied access to legal counsel merely by NSC announcing that they are investigating a person.
60. The lack of legal counsel, and the use of incommunicado detention in solitary confinement, and the focus on securing convictions was shown in the case of Chen Qian. In 2017 he was held inside the shuanggui system for two months, investigated for two cases of corruption. By the time the CCDI transferred his case to the Procuratorate, the charge against him widened to 38(!) corruption allegation. His later lawyer explained: *"The other 36 cases Chen Qian confessed to on his own during detention"*.⁸⁹
- Liu Jianchao, head of Zhejiang province's supervision commission echoed this, when saying at the time of the NSL's promulgation (March 2018) that: *"We place special emphasis on persuading those under investigation to write their own confessions."*
61. Before reform started on the issue of investigating economic crimes, there was a dual track system for investigation, where CCDI would handle its investigation, but where Procuratorate handled their own investigation. The evidence collected by the CCDI and handed to the Procuratorate was not straight admissible, and the Procuratorate needed to conduct its own investigation before moving a case to indictment and trial. This offered some limited protection for the suspects. With the

⁸⁸ <https://www.scmp.com/news/china/policies-politics/article/2155888/fresh-bigger-fears-over-reach-chinas-new-anti-graft>

⁸⁹ <https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention-called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM>

establishment of the NSC this is, as discussed above no longer the case, and the Procuratorate is now simply tasked with using evidence provided by the NSC, and can at most conduct some limited supplementary investigation⁹⁰. The scope for violations to ensure confessions while in the extra-legal system for detention that is *liuzhi* is massive.

62. The UN Basic Principles on the Role of Lawyers⁹¹ holds that the adequate protection of human rights to which all people are entitled requires that all people have effective access to independent legal services of their own choosing, also a fundamental right under the ICCPR, article 14.⁹² The Nelson Mandela Rules clarify, detainees shall be provided with adequate opportunity, time, and facilities to visit and communicate with legal aid of their choosing, and without delay or censorship and in full confidentiality.⁹³
63. The Nelson Mandela Rules furthermore state that upon admission those deprived of their liberty shall be informed of their rights, including how to access legal advice, including through legal aid and procedures for making internal requests and complaints.

Protection against abuse and right to fair remedy

64. As stated above, there is no appeal structure outside the NSC. An appeal on placement can be filed with the same NSC that took the decision. Should such an appeal be denied, it can be appealed to the next higher level. That is the end.
65. However, far more worrying is article 60, which states that if people are kept inside *liuzhi* longer than the allowed time (6 months), the only appeal, for the victim and for their “close relatives” is to appeal to that very same organ. Should the victim or close relative be unhappy with the decision, they maybe only have it reviewed by the NSC at one higher level. This opens up for indefinite incommunicado detention in solitary confinement, with no legal recourse to challenge that, not ever theoretically.

“...while people could sue the police or other government departments if they broke the law, there were no such legal grounds for someone to sue the commission.” - Jiang Mingan, a law professor at Peking University frequently consulted by the authorities on anti-corruption legislation⁹⁴

⁹⁰ Ling Li (2019) Politics of Anticorruption in China: Paradigm Change of the Party's Disciplinary Regime 2012–2017, *Journal of Contemporary China*, 28:115, 47-63, DOI: 10.1080/10670564.2018.1497911

⁹¹ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>

⁹² <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁹³ <https://undocs.org/A/RES/70/175>

⁹⁴ <https://www.scmp.com/news/china/policies-politics/article/2120175/how-chinas-new-anti-graft-super-body-will-work-and-why>

66. The lack of any form of appeal outside the non-judicial body of the NSC clearly contravenes article 17, paragraph 1, sub-section G, which specifies that those detained, and others with legitimate interest, shall have the ability to take proceedings on such before a court⁹⁵. Since EID constitute a gross human rights violation, the lack of any remedy for victim, including family members, also stands in violations of several provisions of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law⁹⁶.
67. The Chinese Criminal law stipulates that only “judicial officers”⁹⁷ can be held accountable for acts of torture. If one does not count as a “judicial officer”, one cannot be held in violation of torture provisions in Chinese law. Staff of the NSC and *liuzhi*, which is not part of the judicial system, nor is the NSC and administrative body⁹⁸, and hence are not classified as “judicial officers”.
68. The NSC-CCDI is not an administrative organ of the state⁹⁹. Therefore, administrative law, the basis for filing lawsuits against illegal behavior by the state, does not apply. It is not possible to file a lawsuit against the NSC-CCDI for violation of law.
69. Likewise, because it is not an administrative body, other administrative procedures, such as using *China’s Freedom of Information Act*¹⁰⁰, does not apply.
70. The UN Basic Principles and Guidelines on the Right to a Remedy puts forth the State obligation to provide victims of human rights violations with equal and effective access to justice and effective remedies, including reparation.¹⁰¹ As noted by the International Commission of Jurists, the right to an effective remedy has often been considered among the most fundamental and essential rights for effective protection of all human rights.¹⁰²

Scope of use of *liuzhi* system

71. The CCDI, nor any department of the Chinese state, releases, nor has ever released, any data or figure on the use of *liuzhi*, nor on its prior incarnation, *shuanggui*. The official work reports presented and released each year by CCDI does also not include any information to even indicate the scope of use.

However, one can get an idea on the scope of *liuzhi* from **officially released data**. Some provinces has, for limited time periods, released information, such as the three pilot provinces for

⁹⁵ <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>

⁹⁶ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

⁹⁷ “Personnel engaged in the functions of investigating, prosecuting, adjudicating, supervising and controlling offenders.” China Criminal Law.

⁹⁸ http://www.ccdi.gov.cn/toutiao/201803/t20180327_167426.html

⁹⁹ http://www.ccdi.gov.cn/toutiao/201803/t20180327_167426.html

¹⁰⁰ http://www.gov.cn/zhengce/content/2019-04/15/content_5382991.htm

¹⁰¹ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

¹⁰² <https://www.icj.org/wp-content/uploads/2018/11/Universal-Right-to-a-Remedy-Publications-Reports-Practitioners-Guides-2018-ENG.pdf>

parts of 2017, before the new system were put in place nationwide. Likewise, former CCDI staff and scholar Li Yongzhong, who have publically defended the system, has shared his own assessment on its use.

In the reports on the pilot project which ran in Beijing, if one calculates the number of punishments issued and the number of time *liuzhi* was used, it shows that 0.008% of those investigated ended up in *liuzhi*¹⁰³. Using this figure, a very low one compared to almost all other figures available, would still mean, as Beijing has some 1.4% of China's population, that if the same percentage is used for China as a whole, some 5,785 people were placed into *liuzhi*. As this was a pilot project, it is very likely that this modest use of *liuzhi* is under-representative of the use of *liuzhi* normally after the system was put into place in March 2018.

In Zhejiang province, some 266 people were placed into *liuzhi* for an 11 month period¹⁰⁴, which if extrapolated to a full calendar year, would mean roughly 290 people. Zhejiang has about 4% of China's population. Using this as basis, for China as a whole, some 7,250 people were placed into *liuzhi*.

Further data is also available. Official data released from all three pilot provinces during 2017 but which covered slightly different periods, is calculated as an average per month and then, based on that produced for the full calendar year, shows about 420 uses of *liuzhi* in those three provinces¹⁰⁵. Those provinces represents 8% of China's population. That would stipulate some 5,250 or so expected cases of *liuzhi* nationwide. However, since this is a pilot form, it is very likely that the figure, once system has now been put into full use, will be *significantly* higher.

72. Other data is also available. Former CCDI staff and scholar Li Yongzhong assessed that some 10% to 20% of *investigations* utilized *Shuanggui* for detention¹⁰⁶, back when he made his analysis in 2013. Li is himself a known defender of the system. Based on this figure, Human Rights Watch's report on the *shuanggui* system in 2016 estimated its use at 33,000 to 66,000 for 2013¹⁰⁷. However, since in recent years lesser type of violations have become investigated to a much greater extend, and that *liuzhi* is less likely to be used in such cases, this figure is not very useful or realistic for 2018's statistics. Instead, one has to look at the different forms of violations investigated to get a sense of the scope of *liuzhi*.

The number of people punished during 2018 for the most severe cases (category 4) stands at 55,000, or representing 3.2% of all punishments. If including category 3, also considered severe, that figure rises to 137,000 people punished, or 7.9% of all punishments. If using Li Yongzhong's assessment (10%-20% of cases leading to use of *liuzhi*) for only category 4 cases, that would means 5,500 to 11,000 people placed *in liuzhi*, or if including category 3 as well, from 13,700

¹⁰³ http://www.xinhuanet.com/2018-01/07/c_1122222227.htm

¹⁰⁴ <https://news.sina.com.cn/c/nd/2017-11-10/doc-ifynsait6964009.shtml>,
https://www.thepaper.cn/newsDetail_forward_2029021

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<http://cn.rfi.fr/%E4%B8%AD%E5%9B%BD/20150318-%E4%B8%AD%E5%9B%BD%E7%A4%BE%E7%A7%91%E9%99%A2%E6%8E%A8%E5%87%BA%E4%B8%AD%E5%9B%BD%E5%8F%8D%E8%85%90%E5%B9%B4%E5%BA%A6%E6%8A%A5%E5%91%8A%E5%8E%BB%E5%B9%B4%E6%AF%8F%E5%A4%A9%E5%8F%8C%E8%A7%84500%E8%B4%AA%E5%AE%98>

¹⁰⁶ Ye Zhusheng, "'Shuanggui' between Discipline and Law", June, 2013,

¹⁰⁷ Human Rights Watch, "Special Measures" Detention and Torture in the Chinese Communist Party's Shuanggui System ,
<https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system#d70fd7>

to 27,400 cases. However, this is likely also a lower figure than reality, as it is likely almost all category 4 cases uses *liuzhi*, and a much more significant amount than 10% or 20% for category 3 cases. Also note that Li's assessment was for *all investigations*, before data was released separating different type of categories. Should one use Li's figure straight off the total number of investigations, the amount would instead be ~170,000 to ~340,000, but that is certainly much too high.

Finally, *liuzhi* is more likely used for more serious cases. More serious cases are more likely to include more than one suspect. These cases are also more likely to require use of *liuzhi* on people related to a case, but who is not a suspect. The true figure on use of *liuzhi* is likely between 10,000 and 20,000 per year, possibly higher. As more or less all cases of *liuzhi* constitutes an enforced or involuntary disappearance, it would mean this system alone disappears between 16 and 76 people every day, if using only *the most modest statistics* from above.

73. The use of *liuzhi* is both systematic and widespread. All different data sets above on use of *liuzhi* points towards a similar level, which runs in thousands to tens of thousands per year.

After liuzhi

74. What happens upon the conclusion of the investigation is outlined in article 45 of the NSL¹⁰⁸.
- a. For those found to not be guilty of any wrong doing, the person's work unit should be notified as such, and the investigation, and any detention, should come to an end.
 - b. For those found to have been guilty, but there circumstances are minor, should receive minor punishment, such as criticism and education.
 - c. For those found to be guilty, to be given a warning, demerit, demotion, removal from post, or expulsion from the party.
 - d. For those found guilty, as per paragraph c) above, and where the evidence is credible and the facts are clear, the NSC shall write an opinion to the Procuratorate and request prosecution of the case.
75. Once a case is transferred for prosecution, the judicial system shall take control of the suspect, hence the period in *liuzhi* and under investigation by the NSC shall end¹⁰⁹. If prosecutor agree with the NSC that the facts and evidence presented are clear, they shall prosecute.
76. When the NSC transfers a case to the prosecutor, it may recommend a leniency¹¹⁰. It should also include a written opinion on prosecution. When transferring a case to the procuratorate it also transfers all evidence, confessions, witness testimonies, etc.¹¹¹

¹⁰⁸ Art 45, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹⁰⁹ Art 47, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

¹¹⁰ Art 31, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

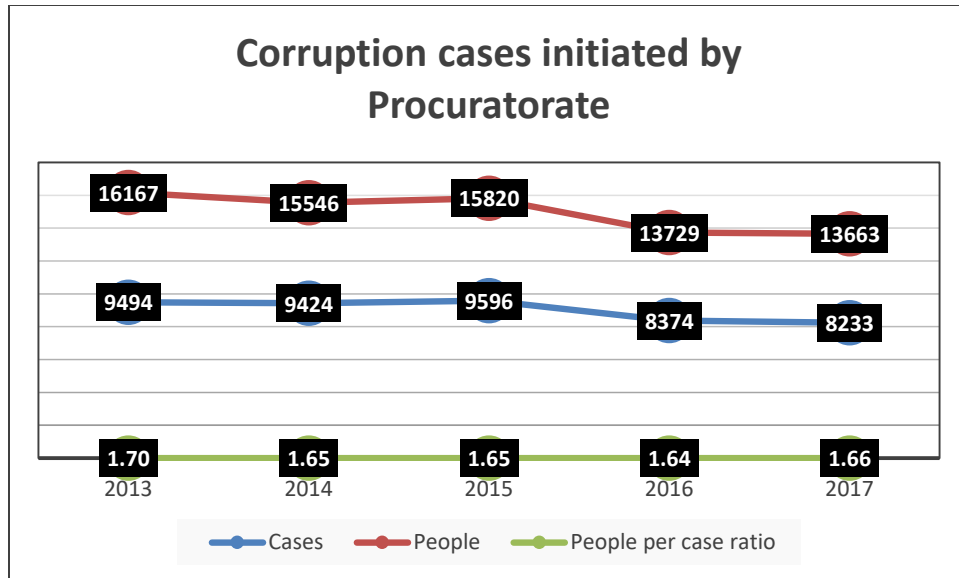
¹¹¹ Art 32, National Supervision Law (2018): <http://www.legal-tools.org/doc/ef4c4d/pdf/>

77. Should additional investigation be needed, the prosecutor shall return the case to the NSC, who shall carry out the supplementary investigation. The prosecutor does not have the right to do so itself, and can only carry out its own investigation after first handing it back to the NSC.
78. If the prosecutor finds that the case should not be prosecuted, it can decide so, but the NSC then has the right to appeal such a decision, in which case the procuratorate at the next higher level must decide whether to abandon prosecution.
79. Both the police and the procuratorate are target groups for NSC's supervision. The NSC stands above both police and procuratorate in China. The prevalence of NSC over the procuratorate can be seen clearly from the rankings of the appointed local leaders: in a local media website, the director of the Shanghai supervisory commission is listed prior to the chief justice of the local senior court and the procurator general of the local procuratorate.^{112 113}
80. The ability for the prosecutor to not prosecute based on NSC's decision is very limited, as shown in the NSL law. However, in practical terms, it is even less able to resist the NSC's command to prosecute, as NSC stands above the prosecutor. Note also, of vital importance, that investigation and evidence collection is the domain of the NSC, not the procuratorate, which may, at best, only conduct a supplementary investigation in addition to the NSC's supplementary investigation.
81. In summary: The NSC investigates, while victim is kept in incommunicado and secret detention, collects evidence, then writes an opinion on prosecution and then hands the suspect, all evidence, including confessions, and its recommendations, to the prosecutor, which does not have the right to carry out its own independent investigation before indictment.
82. Data from the CCDI¹¹⁴ shows that some 14,000 cases were sent by the CCDI to the Procuratorate for prosecution in 2015. That would represent 4.1% of all cases leading to any kind of 'punishment' (guilty) - 14,000 out of 336,000 punishments. In 2015 that statistic was 5.17%. The year after, in 2016, it had been lowered to 2.65%, as the scope of investigations were expanded to include much lesser violations. For the most recent years, 2017 and 2018, the statistic is presented differently, and all we know is that punishments for the most severe category stood at 5.8% and 3.2% respectively (48,000 and 55,000 respectively).
83. From statistics about use of NSC, a very tiny amount of investigations lead to prosecution. In 2017, a total of 8,233 cases of corruption were settled by the legal system, concerning 13,663 people. This represents 1% of all those punished by the NSC. In reality, the NSC is a stand-alone system for punishment, outside of the legal system, and where victims have next to no legal protections.

¹¹² <https://thediplomat.com/2018/02/while-law-unpassed-provincial-supervision-commissions-already-established-in-china/>

¹¹³ <https://web.archive.org/web/20180224052525/http://shanghai.xinmin.cn/xmsz/2018/01/29/31356149.html>

¹¹⁴ Official annual work reports, <http://www.ccdi.gov.cn/xxgk/hyzl/>



84. Even for those placed into *liuzhi*, only some cases gets sent for prosecution. That means that despite the accusation being so severe, and constituting a crime against law, many still do not get sent for prosecution. The use of *liuzhi* itself is a punishment, and the fact that it is done incommunicado, without access to legal counsel, in solitary confinement, is what invokes such strong fear of the system for party members and state functionaries.

Illustrative cases

Example of torture and death in *liuzhi*

85. **Chen Yong.** Just six weeks after the NSC was written into law, the first known death under *liuzhi* was reported. Chen Yong, 45, a former driver for a local government worker for the Jianyang district government of Nanping city, was detained by Fujian province's Supervision Commission on 9 April 2018. Just one month later, media reports of his death surfaced.

He had been detained to answer questions related to an investigation of his former boss, Lin Qiang, who was suspected of corruption. Financial media company Caixin had first reported his death on their Chinese-language website, but the story was quickly scrubbed from the Internet (the English-language version remains online¹¹⁵). According to that report, his family was notified of his death on 5 May 2018. When they arrived at the morgue, Chen's face was "disfigured." "I pulled his shirt up and saw a cave-in in his chest and black and blue bruises on his waist, but was stopped when I tried to check his lower body," his sister told reporters. His wife, who arrived later that night, confirmed his brutalized condition. The Commission said Chen had collapsed while being interrogated and died four hours later. His wife requested to see video recordings of the incident but was denied.

¹¹⁵ <https://www.caixinglobal.com/2018-05-09/death-in-custody-raises-questions-about-new-anti-graft-oversight-101246477.html>

Example of *liuzhi* used to suppress internal grudges, independent reporting

86. **Dai Zigeng.** On 7 June 2019, former editor-in-chief of *The Beijing News* Dai Zigeng was placed under *liuzhi* on corruption allegations. The CCDI confirmed the detention on 10 June and said that he was suspected of serious violations of discipline and law.

Some insiders believe Dai's case is connected to that of former chairman and chief executive of Anbang Insurance Group Wu Xiaohui, who had been sentenced to 18 years for fraud and embezzlement a year earlier. In 2017, *The Beijing News* had interviewed Wu, offering him a platform to showcase his business success but failed to mention the investigation against him.

Others suggest that Dai was caught up in an internal attack against reformists and that his detention was politically-motivated. *The Beijing News* was well known for its strong investigative reporting.

Example of politically-motivated *liuzhi*

87. **Meng Hongwei.** Former Interpol chief Meng Hongwei went missing on 25 September 2018, shortly after he arrived in China. He had been living in Lyon, France with his family, where Interpol is based. The next news of him came 12 days later on 7 October when Chinese authorities admitted that the NSC was investigating Meng for allegedly taking bribes.

Some Chinese scholars pointed out the official statement was different to others in that it did not include references to "violating party discipline." They suggested that since Meng's case was so high profile authorities likely wanted to avoid international criticism about a non-judicial body limiting an individual's freedom, a procedure not in line with international standards.

Meng's wife said the last communication she had from her husband was on 25 September when he sent her the message, "wait for my call" followed by a knife emoji. A week later, she said she received a threatening phone call from an unidentified male speaking in Chinese. He reportedly said: "You listen, but you don't speak ... We've come in two work teams, two work teams just for you," adding that they knew where she was.

Some speculate that Meng's downfall stems from his access to sensitive information after a long career as a vice-minister of the country's Ministry of Security. There is also a suspicion that Beijing blamed Meng when, under his tenure, Interpol revoked an international arrest alert for Dolkun Isa, the president of the Munich-based World Uyghur Congress, which is critical of China's treatment of ethnic Uighurs in Xinjiang.

On 20 June 2019, Meng's plead guilty at his trial to taking around RMB14 million in bribes and expressed regret. A verdict will be announced at a later date.

Example of *liuzhi* used to punish free speech/exposing official corruption

88. **Chen Jieren.** On 4 July 2018, outspoken commentator and popular blogger Chen Jieren was snatched from his home in Shaoyang, Hunan province on suspicion of fraud and running illegal businesses.

Although he was likely subjected to *liuzhi* detention, propaganda officials told journalists that Chen was being investigated by the police but that they could only use official reports on the story and not conduct any independent reporting. Sources told Radio Free Asia that

Chen, his wife, two brothers and two assistants were being held under Residential Surveillance at a Designated Location (RSDL).

In the weeks preceding his detention, Chen had published an article on his blog criticizing the conduct of a provincial party official. Also, on 25 June, Chen had filed a complaint against Shaoyang municipal party secretary Deng Guangya, calling for him to be sacked.

Two Beijing based lawyers, Tong Zongjin and Zhang Lei, were denied permission to meet with Chen and his brother on the grounds that in early July the Supervision Commission had launched an investigation into bribery on their clients.

A month later, in an article entitled "*A Perspective of Chen Jieren's Alleged Crime of Extortion and Illegal Business*" state news agency Xinhua accused Chen of "using official's fear of his reporting to extort money from them." The agency also quoted excerpts of his "confessions" supposedly obtained during *liuzhi* detention.¹¹⁶ Video footage of his forced confessions were also broadcast on state media.

On 12 November 2018, Hunan authorities placed Chen Jieren, one of his brothers and one of his assistants under criminal detention on suspicion of "picking quarrels and stirring up trouble, extortion and concealing a crime," according to his lawyers. Although by that time, the case had been transferred to the procuratorate, their lawyers were still not able to meet their clients.

Example of *liuzhi* used to limit exposure of official wrongdoing

89. **Wang Linqing.** On 3 January 2019, former Supreme Court judge Wang Linqing disappeared just weeks after he had exposed that key legal documents relating to a mining rights dispute between a private and a state company had been stolen. He emerged on 22 February in a shocking confession aired on Chinese state TV in which he said he was the one who taken the documents to stop other judges working on the case and taking credit. It should be noted that at this point Wang had not been formally accused nor had he had any access to legal counsel. It is not clear what happened to Wang on 3 January, but sources say he was taken to a hotel near the Supreme Court in Beijing to be interrogated and it seems likely that he was placed in *liuzhi*.¹¹⁷

News of the missing papers was leaked in December 2018 by former state TV presenter Cui Yongyuan on his Weibo. A few days later, Wang released a video saying that CCTV cameras had been tampered with when the documents went missing in late 2016 and he was making the video to protect himself.

In May 2019, Wang was formally accused of theft and fabrication and officially placed under the custody of Beijing's anti-graft agency. Cui also went missing for one week. Upon his release, he took to social media to apologize for spreading false information. Zhao Faqi, the owner of the private company in the mining dispute, has been disappeared since Wang's TV confession.

¹¹⁶ http://www.xinhuanet.com/2018-08/16/c_1123280255.htm

¹¹⁷ <http://rstdlmonitor.com/missing-chinese-supreme-court-judge-makes-forced-tv-confession/>

Key findings

90. The NSC and liuzhi system lacks any and all external appeal or supervision functions, despite allowing for placing suspects, and others, into prolonged detention.
91. The system is not classified as an administrative body, and therefore administrative law cannot be used against the NSC. Should NSC officers keep someone detained even if there is no ground for it, or keep someone longer than the prescribed 6 months maximum, there is no outside body through which to seek redress. Only internal appeal from victim or victim's close relatives exist against such abuse. Furthermore, because it is not classified as an administrative body, the State Compensation Law cannot be used by victims of abuse to seek compensation from the NSC, regardless of how much proof is provided.
92. The system systematically uses prolonged solitary confinement for investigation purposes. This type of use qualifies as both torture and maltreatment under the Convention Against Torture.
93. Those placed in *liuzhi* are placed in incommunicado detention, in facilities outside the judicial system, which are unmarked. Victim's family members need not be told about the suspect's whereabouts, and the person has no right to access legal counsel at all. Made worse still, the NSC can choose to not inform the suspect's family member at all. The use of *liuzhi* qualifies as *enforced or involuntary disappearance*.
94. Those investigated by the NSC, even if not detained in *liuzhi*, can be denied access to lawyer on the grounds that they are being investigated. In the case of Chen Jieren, who was held in RSDL and for which there was no legal grounds to limit his access to counsel, was nonetheless denied lawyer access because he was being investigated by the NSC.
95. NSC officers are not classified as "judicial officers or personnel" and therefore the special provisions in the Criminal Law does not apply to them. Testimonies by victims and victim's family members or lawyers shows rampant use of torture inside the facilities, aimed at procuring confessions from the suspects. From data collected, the abuse mirrors the abuse in China's other system for *enforced or involuntary disappearances*, RSDL.
96. The Procuratorate no longer has a mandate to carry out independent investigations for this group of people and type of crimes, and must by law simply take evidence, confessions and the NSCs "recommendation" when a case is given to them.
97. Taken together, the NSC operates with impunity, and stands above both police and prosecutor, with no outside supervision. Even by law lawsuits, compensation claims, or use of torture can be challenged in any way according to Chinese law.

Recommendations

98. The NSC system and its use of *enforced or involuntary disappearances* through *liuzhi* is seemingly designed to deprive the suspects of even the more modest protections that exist within Chinese law, and undermine significant part of the framework of International law designed to prevent torture, prevent *enforced or involuntary disappearances*, guarantee right to access to legal counsel, and guarantee effective remedies. There is little that can be done with incremental reform to bring this system into compliance with key International law, other than its full abolishment, and bring investigation, prosecution and detention of those suspected of economic crimes fully into the mandate of the State prosecutor.
99. The most urgent areas in need of reform overlaps with the points present in section Key findings.