



from

CENTRAL CONTROL

to

NATIONAL SUPERVISION



How China's *National Supervision Commission* undermines China's criminal justice system

A background primer on the *National Supervision Law*, *National Supervision Commission*, and *Liuzhi* – China's new system for enforced disappearances

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to NATIONAL SUPERVISION

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This report

Founded in early 2018, the *National Supervision Commission (NSC)* and its corresponding detention system, *Liuzhi*, remains concerningly opaque. However, based on what is known about its predecessor, the *Shuanggui* system, and about *Residential Surveillance at a Designated Location (RSDL)*, both of which *Liuzhi* is based on, some clarity on what to be expected with the implementation of the National Supervision Commission can be offered.

The purpose of this report is to draw from what is known of *Liuzhi*'s predecessor, and knowledge of the party branch for anti-corruption work – the CCDI – in an attempt to provide some clarity into the new, relatively unknown system. The target group of potential victims has been massively enlarged, well beyond the party member-only system under *Shuanggui* and the limited number of crimes permitting RSDL under the Criminal Procedure Code. As *Liuzhi* may be enforced on a much expanded target group, counting several hundred million people, this new system will have a significant impact not only on its victims, but on China itself. The creation and implementation of such a system stands to change a fundamental aspect of governance in China. The fact that China is pioneering multiple custodial systems targeting increasingly broad demographics, in a manner that often amounts to *enforced disappearances*, arguably means that China will utilize enforced disappearance on a scale never before seen. Considering several countries are in the process of discussing extradition treaties with China, understanding the NSC becomes even more important.

A report outlining what is known about the NSC and *Liuzhi* is therefore much needed.

The report draws on extensive research on RSDL previously carried out by Safeguard Defenders, and analysis of illustrative higher profile cases of *Shuanggui* to project what can likely be expected. This report, therefore, functions as a briefing paper on the new system.

The report begins with a brief overview of the previous party-only system for investigations, the Central Commission for Discipline Inspection (CCDI), and the use of *Shuanggui* as a means of custodial control. The focus will then move to the formation of the new National Supervision Commission (NSC), and the likely rationale for its creation. The chapter after will show, based on the new National Supervision Law, how the system is supposed to operate. The report will present information on how *Shuanggui* and RSDL function and highlight abusive treatment common inside these facilities. A concluding chapter will highlight the key lessons learned, the areas that must be monitored, and which aspects are prone to permit gross human rights violations.

For further reporting on the previous *Shuanggui* system, Human Rights Watch's report "[Special Measures](#)" is strongly recommended. For in-depth knowledge on RSDL, see Safeguard Defenders book [The People's Republic of the Disappeared](#), and the report [Battered and Bruised](#), or check out [RSDLmonitor.com](#) which regularly releases information on RSDL, torture and other forms of violations related to enforced disappearances.

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Introduction

The worlds' media, along with political commentators, diplomats and politicians watched closely as China's congress gathered in early March 2018 for its once-every-five year congress, to outline the future for China. The focus, understandably, of much of the news and commentary following the Congress was the removal of term limits for China's top leadership, effectively allowing Xi Jinping to serve for life.

It's hard to overstate how much this will affect not just China but the world, and one could forgive the fact that another major development, in the making since early 2016, received far less attention – the passage of the National Supervision Law (NSL), establishing the National Supervision Commission.

With the passage of the NSL, and the constitutional revision it required, China further weakened an already weak judicial system by carving out a massive function that would otherwise be handled by the judicial system, and placed its enforcement with a new super-body under Xi Jinping's ultimate control, with powers to investigate and detain without court approval or any procedural safeguards.

The first steps of this major reform was announced as early as 2016, and before the end of that year a one year pilot had begun in select provinces. In Beijing, one of the pilot provinces, the number of people under direct supervision, and therefore under control for possible investigation and long-term solitary detention, swelled from 210,000 to 997,000, a near five-fold increase. Other provinces saw smaller, but still very significant, increases. On top of that, a secondary group of possible targets for investigation and– almost always secret - detention, is without limitation – anyone who has

a connection with a case being investigated may be placed into the new system for enforced disappearances – for example a suspects children. Anyone connected with the breach, for example, foreigners who have given, or offered to give, a bribe to any state- or party worker, can also be placed into Liuzhi.

The vast majority of those investigated, detained and 'punished' by the CCDI are cases that never reaches the judicial system. The placement into detention is, in most cases, the punishment itself. In 2017 the CCDI alone, not counting the state counterpart (until the NSC was established - the Ministry of Supervision), 'punished' nearly half a million people.

With Liuzhi, the system for custodial control – detention – the NSC and its local counterparts can now, without outside approval needed, detain anyone for six months in solitary confinement. Once inside, there is no appeal system outside the NSC – no right of access to legal counsel, no required judicial supervision, and the family of the suspect detained need not be notified of where they are. Like with RSDL – the system can disappear the person for half a year with no oversight at all.

The worst fears of the system were realized on May 5, 2018, less than six weeks after the system had been established. Chen Yong, a 45 year old driver, died inside Liuzhi. The man had been taken just a month earlier. He was not a suspect, yet he was taken because years earlier he had been the driver to a local state functionary that was now under investigation. His body, as witnessed by his family, was severely bruised, and there is little doubt that he was tortured to death.

CCDI and Shuanggui

at/for a designated time, at a designated location.

The *Central Commission for Discipline Inspection (CCDI)*, is the head commission overseeing anti-corruption and disciplinary work of the *Chinese Communist Party (CCP)* and its 89 million members. This type of work on vaguely defined party discipline goes back to the foundation of the CCP, well preceding the founding of the People's Republic of China, while the CCDI itself was established in 1978. With so-called reform and opening up, and embracing capitalism, the role of the CCDI has expanded greatly, as corruption has exploded and 'discipline' become lax. The CCDI operates with the help of local *Commissions for Discipline Inspection (CDI) branches*. In its work, it utilizes two primary methods – inspections and investigations.

Through inspection teams, the CCDI sends out personnel to closely monitor target party organs, where the team embeds itself for a prolonged period. These roving teams aim to conduct inspections on set schedules, from central organs to provincial party organs to local locales.

On the other hand, the CCDI and CDIs also solicits tips on possible disciplinary breaches or corruption. A strictly internal review by the CCDI decides if such tip offs merit further investigation, and if they do teams of investigators are dispatched. If there are grounds to justify possible breach, the suspect is interrogated.

In 1990 the CCP issued internal regulation on how to handle the need for detention during these investigations. This became known as Shuanggui, perhaps a party member's worst fear.

Shuanggui, definition: dual designation.
A tool to summon and keep people

Shuanggui operates as an internal party tool, outside of the judicial system, and without any of its protections or procedural safeguards. Being a party member means you accept the CCP's right to utilize its tools for disciplinary and anti-corruption work. The system became feared because it has operated without limitations, and with it the CCP's internal police have the right to detain, and place into custody, any suspect, without any outside appeal structure. The placement in detention must be into solitary confinement, with the only rule that the place of detention is secure, to prohibit self-inflicted wounds or suicide. In reality, customized hotel rooms, rooms in military basis, party organ housing etc. have been used. It goes without saying that no lawyer is given access, as it's not a judicial process, nor need anyone be informed of the suspect's whereabouts. With Shuanggui, it's simply a disappearance.

Shuanggui tends to last as long as needed; it lasts until the detainee gives a confession.

What reporting exists on the system of Shuanggui has almost always involved severe torture and in a great many cases death of the suspect. However, perhaps what invokes even more fear in party members is the fact that once taken you are guilty; you will confess. The guarantee that anyone, high or low level, 'tigers and flies,' taken will appear to confess invokes a clear picture in many minds of what may happen inside. Even though the CCDI will occasionally publish statistics on investigations launched, or punishments issued (the equivalent of guilty verdicts), no data exists on how frequent such investigations utilize Shuanggui. Despite the torture, and the many deaths in custody, the system has yield limited reporting in international media, and domestic media cannot touch upon

the subject. As the targets are party members, and such party members are accused of corruption or malpractice, the victims generally elicit little sympathy from the general public, with little discussion about the system itself either.

"It looks very nice. But it is the worst place in the world." - Jean Zou, a victim, on Shuanggui¹

As part of the investigation and custody, the CCDI mete out punishments for those guilty, which is more or less 100%, ranging from demerits, docking of pay, to being expelled from the party. In some cases, the case is furthermore transmitted to the prosecutor's office for criminal prosecution (and conviction), but it's selective, and in many cases no criminal prosecution follows. The fact that very few cases of those punished is sent to the prosecutor and the criminal system means that the placement into Shuanggui is, for most, the main punishment itself.

Even as recently as 2017 it was noted by National People's Congress vice-chair Li Jiangguo that some 80% of civil servants are party members, and that figure increases for higher ups². For those outside this target group, it has primarily been the domain of the special corruption unit of the prosecutor's office to investigate, and for the criminal justice system to prosecute. The anti-corruption work of the prosecutor's office worked under the now abolished *Ministry of Supervision* (MOS), alongside two other state organs - the *National Corruption Prevention Bureau* and the *Office against Dereliction of Duty*. However, the vast majority of 'disciplinary work' has been the domain of the CCDI.

In 1993 the MOS and CCDI merged, sharing office and staff, becoming a dual-structure body, with one name for its work on party matters and another for when related to state matters, a form common in China from the ground up to the very top. With this, it took the first step towards what has now become China's super-organ for all forms of disciplinary, malpractice and anti-corruption supervision work, the National Supervision Commission.

The scope of 'disciplinary' work

It's important to note that even though this report refers to the purpose of the NSL, and the similar work by CCDI/MOS before, as "disciplinary" and 'anti-corruption', the scope is far wider than that. The work against corruption stands as a centerpiece in the National Supervision Law, with focus on *abuse of power*, but it also includes investigations into, and punishment of, those that perform their duties ineffectually, or shirk from responsibility. Furthermore, those that *twist the law for personal benefit* are likewise targets.

The original focus on 'discipline' of the CCDI remains a cornerstone, and as can be seen from past investigations and punishments, 'discipline' in reality is a term including "correct political thought." The continued work of the NSC, for not only party, but all state and state-related workers, will likely continue to operate to manage "political correctness" in a wide sense, including maintaining ideological control, rather than merely "anti-corruption". It's worth noting that before it changed names to CCDI in 1978, its name was the *Central Control Commission*, a name more suitable in terms of reflecting its true purpose.

¹

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

² <http://www.scmp.com/news/china/policies-politics/article/2136949/far-reaching-powers-chinas-new-super-anti-corruption>

Formation of the NSC

The formation of the NSC and the promulgation of the NSL comes with a backdrop of several trends in which the NSC and its establishment need be seen. Only by understanding these trends and developments can more educated assessment be made as to how the NSC will operate, what its focus will be, and how wide it will cast its net.

The establishment of the National Security Commission, under Xi Jinping's guidance, has been discussed primarily in the context of his centralizing power. Hence, what has been seen is a structuring of power, and how it is wielded.

Despite China and the governing power of the CCP often being seen by outsiders as monolithic, in China there are a multitude of power centers, both geographically and politically. Local power centers' dilute Beijing's policies, outright ignore them, or pervert them to fit their own needs. This dilution of central power is a clear threat to the rule of the CCP. It is largely within this framework that the expanded anti-corruption work needs to be seen. "Corruption" is a threat to central power, and anti-corruption work is aimed at enhancing its power and enforcing discipline. In this context, the work against corruption is very real. **Expanding anti-corruption work increases the control of the CCP.**

By reducing the scope of the judicial system to manage social conflicts, crime and corruption, and instituting new systems outside the judicial system to manage those sectors - using new systems under more direct control by the CCP - and with

few to none of the limitations inherent in any judicial system, including China's, the CCP is taking a stronger, more direct role, and thus further increasing the strength of the center. The ability to detain, under Liuzhi, similar to the use of RSDL, grants new tools to detain and disappear, with less checks on the use of them. **Non-judicial systems for custodial control expands the CCP's power.**

"Major crimes related to official duties are not the same as normal crimes and the investigations cannot be done in the same way" - Zhang Shuofu, head of the Beijing Supervision Commission, on the rationale for NSC.³

A key point often brought up when discussing China's ever expanding anti-corruption work is that it is not necessarily about combating corruption, but about being seen to combat corruption as an excuse to target political opponents. This is partly true, and as mentioned in the section on 'scope' above, the real focus tend to be on discipline, not necessarily corruption itself. With the economic and political ideology of the CCP withered, and with an economic slowdown -the CCP needs more than ever to consider legitimacy as an issue, and in public perception one of the few areas of weakness for the CCP is that of perceived rampant corruption. **Expanding anti-corruption work increases legitimacy of the CCP.**

The CCDI and its local CDI branches have been mired in inefficiencies and malpractice, and needed reform. Between 2012 and 2017 some 7,900 CDI officers were punished, including 17 CCDI officers⁴. Local control of the local CDI's

³ <https://www.reuters.com/article/us-china-politics-corruption/china-defends-controversial-detention-measure-of-new-anti-graft-ministry-idUSKCN1GB0KY?il=0>

⁴ http://www.xinhuanet.com/english/2017-07/04/c_136416939.htm

meant that the local watchdogs had largely been under the control of the very people it was supposed to watch. Despite a clear structure of following instructions from CCDI, the local CDIs have, like mentioned above on general party and state structure, been able to dilute and possibly even perverse the duties, with local CDI's allegiance in reality lying with the local power structure. The NSL and the sweeping reforms aim to fix, or at least greatly improve upon this, with clearer control by center's NSC. **Reform of anti-corruption work increases direct control by the CCP.**

Functioning of the NSC

The National Supervision Commission, which stands at the same level as the Supreme Court and Supreme Procuratorate, has its leadership appointed by the National People's Congress. Under the central NSC, there are local NSCs, starting at provincial level, and all the way down to counties and municipal district levels⁵. Leadership at each level is set by the corresponding local Congress. The local NSC then operate under supervision and control by the NSC above it.⁶

Even though jurisdiction for each NSC is spelled out in the law, the law allows for extensive swapping of jurisdiction, solely within control of the higher up NSC that decides to make jurisdictional changes. The NSC at higher level can also set local NSC to take over jurisdiction at any other level, and in other geographic area, and higher up NSC can also take over jurisdiction at any point.⁷ The complete freedom to alter jurisdiction is likely an effective weapon to force local NSC to operate under the strict command of higher NSCs and not dilute directives because of local party power.

The functioning of the NSC is to both undertake inspections and to handle investigations based on complaints received.⁸ Even though a state organ, such investigations, even if including detention, is not a judicial process. Because of this, laws and regulations concerning judicial procedures do not apply. The absence of clear functioning legal and

procedural safeguards give rise to serious concerns of arbitrary detention.

The power of investigation

The primary power of the NSC lies in launching investigations. There are two powers afforded to the investigation team: summoning suspects or *others related to a case* to a designated location for interrogation, and placing suspects, or *others related to a case*, into Liuzhi.

NSC staff have the power to:

- Launch investigations, summon suspects, and others related to a case, to interrogation, and place such suspects, or others related to a case, into detention⁹.
- Carry out searches¹⁰ and confiscate materials, not only targeting suspects but anyone related to the case that could possibly hide evidence¹¹.
- Carry out technical surveillance¹².
- Question witnesses and "other such persons"¹³.
- In conducting searches, the NSC can request the police to cooperate, but need not do so¹⁴.
- NSC can ban people from leaving the country,¹⁵
- May issue warrants for apprehension, and police is responsible to assist¹⁶.
- The NSC may freeze or confiscate assets, if related to the investigation.¹⁷
- Upon conclusion of investigation, the NSC may appropriate such assets.¹⁸

⁵ National Supervision Law, Art 7

⁶ National Supervision Law, Art 9, 10

⁷ National Supervision Law, Art 16, 17

⁸ National Supervision Law, Art 11

⁹ Collection of evidence specified in art 25

¹⁰ National Supervision Law, Art 24

¹¹ National Supervision Law, Art 28, to be employed for crimes such as major corruption or bribery.

¹² National Supervision Law, Art 28, to be employed for crimes such as major corruption or bribery.

¹³ National Supervision Law, Art 21

¹⁴ National Supervision Law, Art 24

¹⁵ National Supervision Law, Art 30

¹⁶ National Supervision Law, Art 29

¹⁷ National Supervision Law, Art 23

¹⁸ National Supervision Law, Art 46

NSCs shall accept reports of complaints. If a complaint received is not within their jurisdiction, they should transfer such a complaint to the appropriate jurisdiction.¹⁹ The NSC at that level shall, after reviewing the complaint, submit their opinion, perform a review of such reports, and decide as whether to approve an investigation.²⁰ The decision to launch an investigation is thus within the same NSC branch that receives and processes the complaint, and no higher up NSC needs to provide approval or oversight. During 2016, some 2.54 million tips/complaints were officially received, of which 734,000 led to investigations²¹.

If further pre-investigation is needed before taking a decision on whether to launch an investigation, a select team shall be composed, which undertakes *preliminary verification* of the leads, and makes a decision on how to proceed. The initial review, putting together a team for preliminary verification, and taking a decision to launch investigation resides with the same NSC.²²

Once an investigation is decided upon, it shall be announced to the person suspected. For serious violations or crimes it shall also inform the person's family, and be announced in public.²³

The decision to summon someone for interrogation, and *Liuzhi*, i.e. to place the suspect - or any person related to the case - in detention, needs to be approved by the same NSC as handling the investigation, unless the decision is made by a local NSC at the district level or lower, in which case the NSC at the next higher level shall approve the decision.

The only safeguards for a suspect, as part of investigation, interrogation at a designated location, and *Liuzhi*, is that gathering of evidence by threats, fraud or other illegal means is prohibited, and berating, striking, abusing or using covert corporal punishment, of a person under investigation, or any other person implicated in the investigation, is prohibited.²⁴ Laws concerning police procedure, criminal procedure, detention centers, etc., however does not apply, as the investigations are not handled by judicial officers, and the places for interrogations and detention is not police stations, detention centers, nor is the suspect a criminal suspect.

Here it need be noted that no outside body supervises use of detention, nor procedures during interrogations. Any appeal that can be filed by the suspect is likewise handled by the NSC itself.

Any interrogation, searches, questioning, detention, seizure of materials, should always be done by two or more people – hence never by a lone person – same as with *Shuanggui* before it.²⁵ The law stipulates that evidence may not be fabricated, concealed or destroyed²⁶.

As it is not a judicial process, the suspect does not have the right to access legal counsel while in interrogation or in detention, nor does the law mention lawyers or legal access related to investigations nor *Liuzhi*.

Targets of investigation may appeal the decision of the NSC. Such an appeal is made, within one (1) month of the decision being made, to the same level NSC that handles the investigation. A decision shall be taken within one (1) month. If the

¹⁹ National Supervision Law, Art 35

²⁰ National Supervision Law, Art 37

²¹ <https://www.cnbc.com/2017/01/09/chinese-anti-corruption-watchdog-toughens-its-stance-on-itself.html>

²² National Supervision Law, Articles 38, 39

²³ National Supervision Law, Art 39

²⁴ National Supervision Law, Art 40

²⁵ National Supervision Law, Art 41

²⁶ National Supervision Law, Art 18

target is unhappy with the appeal, he/she may apply for another appeal, within one (1) month of receiving outcome of first appeal, at the NSC at one level higher. It shall issue its decision within two (2) months.²⁷ Hence, there is no appeal function outside the NSC, and primary appeal is to the same level that made the decision in the first place. As investigations and use of Liuzhi is communicated to NSC at the higher level, there is no reason to expect a secondary appeal, to said higher level, to have any real function.

Relationship to police and prosecutor

As spelled out in article 34, if any other organ, such as police or procuratorate, finds evidence of suspected corruption, bribery, dereliction of duty etc., they shall transfer such to the NSC, who will investigate. Police and prosecutor are not to pursue any investigations themselves. Even with people being suspects of serious crimes, if it is related to abuse of public office, the NSC shall "generally take the lead" in the investigation, and any other organ shall merely assist.²⁸ In short, even in cases of clear suspicion of crime, the judicial system will hand the material over to the NSC.

The judicial system is relegated to merely prosecuting cases at a later date, once the NSC has concluded its investigation (and only to prosecute if recommended by the NSC). The Procuratorate has no right to review the investigations undertaken, and as such, the NSC can choose entirely whether to ask for prosecution. One exception is for cases with clear evidence of criminal wrongdoing, in which case the NSC shall

request prosecution. Again, the prosecutor has no legal access to review the work of the NSC, and this is thus entirely dependent on the NSC willingly asking for prosecution.

Based on statistics from earlier years, the amount of prosecutions by the Procuratorate for corruption cases is a very low. In 2016 the procuratorate prosecuted 27,365 cases of corruption, bribery, and abuse and dereliction of duty. Those cases concerned some 37,349 people²⁹. During the same year, it made arrests in 12,353 cases, of a total of 13,418 persons. According to the Supreme People's Procuratorate official release, the prosecutor's office investigated 47,650 officials in 2016³⁰ (an actual decrease compared with 2015).

In comparison, CCDI announced statistics for the *first half* of 2017, with 1.31 million complaints received, 260,000 cases of investigation opened, and 210,000 punishments meted out³¹. Assuming the second half of 2017 saw an equal number, this would mean the CCDI punished 420,000 people, while the prosecutor only prosecuted some 27,000, and in fact only investigated some 47,000 people. Before the creation of the NSC, some of those prosecuted mentioned above would have been for state functionaries that are not party members (hence investigated right away by the prosecutor), hence the amount of cases by the CCDI that leads to even investigation, let alone prosecution, is even smaller than the figures above indicates.

It should furthermore be noted that, beyond being instructed by the law to assist the NSC in its operation, the police themselves, and the

²⁷ National Supervision Law, Art 49

²⁸ National Supervision Law, Art 34

²⁹ China Statistical Yearbook 2017 (section 24-8)

³⁰

http://www.chinadaily.com.cn/china/2017twosession/2017-03/12/content_28523088.htm

³¹ <https://www.aljazeera.com/news/2017/07/china-punishes-210000-officials-corruption-170720170506456.html>

procuratorate, as state functionaries, are part of the target group of the NSC's work, i.e., the NSC can investigate and target both police and prosecutors.

Families are never told where the person is held. In fact, in many cases no notification is given at all that the person has been taken – in violation of law, and in those cases where the family is notified, its often just a verbal notification.

RSDL, or *residential surveillance at a designated location*, was institutionalized with a major revision of the Chinese criminal law that went into effect in 2013. The legal basis as written into the NSL is largely drawn from the legal text for RSDL, and the known facts about RSDL hints at tragedies to come with Liuzhi, but on an even greater scale.

RSDL was at first employed almost uniquely by either national police units or the Ministry of State Security. The use was against those deemed to have endangered national security, that is, political crimes. Since then, much has changed, and RSDL is now being employed also by local police, and is being used against those charged with relatively minor crimes. However, then as now, almost all victims are political in nature. Victims range from NGO and media workers, religious activist or house church members, or, most famously, China's embattled lawyers.

With RSDL, police may detain a person at a designated location. Such a location may not be in a police station, detention center or any place that is part of the judicial system. Instead, refurbished hotels run by the state or police or military, or police training facilities, or custom-built prisons which are, legally, not allowed to be called prisons, are used.

All detention are in solitary confinement, and such detention may last for six month at the secret location. The family need not be notified of where the person is. The suspect has no right to a lawyer. There is not outside appeal system to the police's decision to place a person into RSDL. You simply vanish.

Safeguard Defenders data collection on RSDL shows that a very large amount of cases spend the full 6 months inside, before either arrested and placed in pre-trial detention, or released under bail. The average time in RSDL of some 100+ cases is 120+ days. The law allows (but does not force) the prosecutor to visit the suspect in holding, yet *so far no single case has ever been discovered where the prosecutor visited a suspect in RSDL*.

Both mental and physical torture is not only common, but widespread and systematic, and nearly guaranteed. For more details, see Safeguard Defenders submission on RSDL to the 3rd cycle Universal Periodic Review of China for more details and data, or for a chilling read on the torture methods employed inside RSDL, *Battered and Bruised: Why Torture continues to stand at the heart of China's judicial system*.

Conclusion of investigations and judicial continuation

If, at end of investigation, there is no evidence, the investigation is concluded, and the person set free. To avoid suspicions against the person who was under investigation, a report on the findings is to be given to the person's work unit – ostentatiously to clear the cleared suspect's name of any suspicion.

If however the investigation finds credible and sufficient evidence of a crime, they are to write an opinion in support of prosecution, and transfer the evidence, opinion and any case materials, to the procuratorate³². The NSC may also *take other measures* to punish, without transferring the case for prosecution, such as criticism or admonishments, give a demerit, demotion, expulsion (from party) or removal (from position)³³.

This opens up the ability of the NSC to punish a person found guilty, without transferring the case to the procuratorate, despite supposedly clear facts of criminal acts. As statistics presented above show, the amount of prosecutions related to corruption is minuscule compared with the number of people punished by the CCDI – i.e., it's incredibly rare for a CCDI case to go to the prosecutor.

Any evidence collected during the investigation may be used as evidence in criminal cases, as per art 30, including confessions.

Liu Jianchao, head of the Zhejiang supervision commission, told state media that suspects averaged 42.5 days

in detention before being transferred into the criminal justice system.³⁴

If the procuratorate finds the facts of the crime clear and the evidence to be credible, they shall prosecute³⁵. If it finds supplementary investigation is needed or in need to verify, it shall return the case to the NSC for such supplementary investigation, but may, when necessary, supplement the investigation on its own.

Hence, the primary form for additional investigation, if the prosecutor thinks evidence is lacking, is again not the prosecutor or police, but the NSC itself.

Of particular note, any evidence gathered by the NSC, despite it not being a judicial process – and which does not allow a suspect access to legal counsel – shall be used by the procuratorate to prosecute them.

If a case, in accordance with the Criminal Procedure Law, shall not be prosecuted, the procuratorate shall report that to the procuratorate at the next higher level. If the NSC disagrees, it may request a reconsideration from that upper level procuratorate³⁶.

If a case is transferred to the relevant judicial organ at end of investigation, and the person is sentenced, any time spent in Liuzhi shall be discounted from any short-term detention or term of imprisonment, by one day for each day served in Liuzhi.³⁷

³² Art 45 (4)

³³ National Supervision Law, Art 45 (1, 2)

³⁴ <https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention->

[called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM](https://www.japantimes.co.jp/news/2018/03/18/asia-pacific/politics-diplomacy-asia-pacific/form-detention-called-liuzhi-widens-xis-crackdown-corruption/#.W0az2dlzYzM)

³⁵ National Supervision Law, Art 47

³⁶ National Supervision Law, Art 47

³⁷ National Supervision Law, Art 44

Liuzhi

Of the 2.54 million complaints received in 2016, and out of the 734,000 of those that led to investigations, some 410,000 led to guilty verdicts, or more exactly, led to punishments³⁸. However, for how many of those that led to the use of Shuanggui, there is no figure at all, nor any indication as to the amount of cases brought to investigation that lead to the use of detention. With that, it is challenging to get a precise figure on the scope of how Shuanggui was used, and how Liuzhi will likely be used. Figures from Xinhua for 2017 corresponds to these figures, with at least 400,000 punishments issued in 2017 by CCDI alone (not counting the MOC)³⁹.

With these figures in mind, that would mean for those that were punished, if Shuanggui was used for as little as 10% of those investigated, not including the use of Shuanggui on *others related to such cases*, it would mean detention of some 40,000 people in 2017 alone.

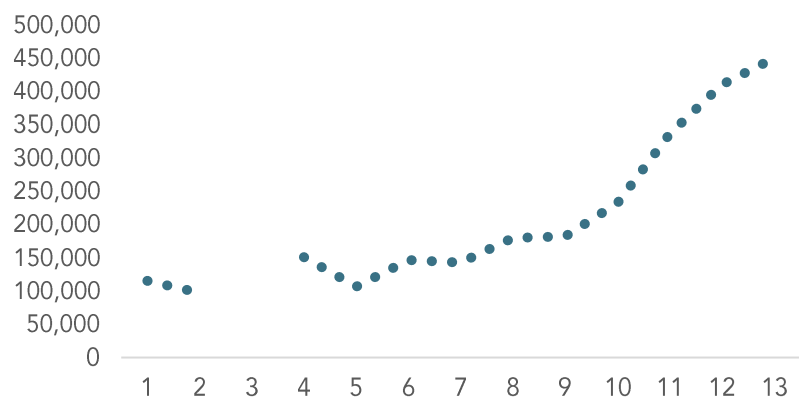
Chinese scholar Li Yongzhong assessed that some 10% to 20% of investigations utilized Shuanggui for detention⁴⁰. If correct, the use of Liuzhi in 2018 could stand between 40,000 to 80,000. However, with the new system for detention codified into law, it is likely that the system will increase in use. With the current trajectory of increase in investigations and punishments, it's possible – perhaps even likely - that the use of Liuzhi could soon exceed 100,000 people a year.

Data from 2005 to 2012 shows a very stable use of investigations and issuing of punishments, at about 140,000. There is no trajectory or increase

spanning those years. Starting in 2012, and the announced anti-corruption campaign of China's then new leader Xi Jinping, things change markedly, as the graph below shows.

Considering the massively expanded scope of target audience, the amount of investigations, punishments and use of Liuzhi is set to significantly increase – even if used at only same level as before, simply due to the vast increase in the amount people covered by the system.

Punishments meted out by CCDI by year



Data collected from CCDI, Xinhua, Global Times
sources used throughout this report.

The law

The codification of Shuanggui into Liuzhi sets out few specifics. Art 22 specifies that those under investigation can be put into detention. 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

³⁸ <https://www.cnbc.com/2017/01/09/chinese-anti-corruption-watchdog-toughens-its-stance--on-itself.html>

³⁹ http://www.xinhuanet.com/english/2017-10/07/c_136663540.htm

⁴⁰ Ye Zhusheng, "'Shuanggui' between Discipline and Law", June, 2013,

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.

Placing someone into Liuzhi is the decision of the leadership of the relevant NSC carrying out the investigation.⁴¹ However, if carried out by NSC at or below the district level, it shall be reported to higher level for approval⁴².

The time period for which custody can be used is set at three months. However, it may also extend that period with another three month, bring the total allowed to six month – like RSDL. The only safeguard is that such extension need be approved by a higher level NSC, except for the national level NSC that may issue such approval to itself.

There is no organ of the state set to supervise that the NSC follows even these very loose limitations.

A person who is placed in Liuzhi shall have his family - *or unit* - notified within 24 hours, according to article 44, *unless doing so could impede the investigation*, such as destruction or fabrication of evidence, disrupting witnesses, colluding testimony, etc. This leaves two major problems: One, that notification becomes optional, as the qualifier is so wide open, and two, even if notified, it doesn't specify how such notification shall take place, nor what information shall be given – especially no requirement to share the whereabouts of the suspect.

Failure to force NSC to tell family the whereabouts of the suspect is a major weakness, along with total lack of possible appeal to outside body.

Whilst in Liuzhi, diet, rest and safety shall be ensured, and medical services be available. Interrogations shall use *reasonably arranged times and lengths*. All interrogation records shall be signed by the suspect.⁴³

Any person put into detention may appeal such a decision, but that appeal is managed by the same NSC that detained them, rendering the mechanism useless.

The law does not contain any additional codification of Liuzhi beyond these points, leaving its implementation wide open.

There is no mention of internal nor external oversight of those inside Liuzhi. If taken, the suspect can be kept for 6 months, in solitary confinement, with his/her whereabouts unknown.

Prior cases reported under Shuanggui have lasted from a couple of days to a year, with most of the relatively few known cases lasting several months.

Facilities

As the NSC does not provide for establishing new facilities for the purpose of Liuzhi, one can conclude that the existing Shuanggui facilities will remain in place, and simply change name, similar to how the facilities for *Re-education Through Labor* (RTL), supposedly abolished, remain in place and use, but with different names.

Most accounts on Shuanggui facilities are fairly similar, showing how hotel rooms, rooms in party

⁴¹ National Supervision Law, Art 43

⁴² National Supervision Law, Art 43

⁴³ National Supervision Law, Art 44

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. It paints a picture of more ad-hoc facilities, and allowing for any room, as long as secured so the person cannot self-harm, to be used.

"[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."⁴⁴

However, other accounts show larger facilities, with cells, suicide-padded, along with meeting rooms, formal interrogation rooms, and more.

"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.⁴⁵

This description largely correspond with an expose, translated into English and published by *DuiHua*, which provides detailed information and pictures from a tailored larger facility in the

countryside for Shuanggui and interrogation – in appearance looking more or less the same as the facilities described by many victims of RSDL.⁴⁶

In fact, the combination of using rooms in party, state or even military facilities, or training center or even guesthouses they own, on the one hand, and more specialized, custom-built facilities, is very similar to the set-up of the system for RSDL detention in general.

The places for Liuzhi, and Shuanggui, are unmarked, and are not official. Often a section of a larger area or building, serving a party- or state function, will be used for detention.

Treatment

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.

The sole purpose for the time inside is to produce a confession, and a suspect will likely remain for as long as is needed to secure such a confession.

Solitary confinement is often considered enough to procure confessions. One CDI officer said:

"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

⁴⁴ Interview by Human Rights Watch with former anti-corruption worker in Beijing, "Special Measures" page 28

⁴⁵

<https://www.washingtonpost.com/news/worldviews/wp/2>

014/07/03/how-the-communist-party-investigates-its-own/?utm_term=.60e21f06331d

⁴⁶ <https://www.duihuahrjournal.org/2011/07/official-fear-inside-shuanggui.html>

who manage more than a week are [already] tough guys"⁴⁷

Despite the use of solitary confinement, additional mistreatment appears to be rampant. Data from more than 100 cases of RSDL, along with anecdotal cases from Shuanggui, shows **sleep deprivation** to be commonly used, in fact, almost guaranteed. Sleep deprivation comes in several forms, with the softer form being to schedule all or most interrogations at night, to ensure lack of sleep and forcing a change in rhythm. More direct forms range from screaming at or slapping those trying to sleep. Some sleep deprivation is high intensity, with three four or five days of absolutely no sleep, to force a confession. Other forms include very limited sleep, and irregular, but over longer periods of time.

As in RSDL, prolonged **stress positions** are used to inflict grave physical pain. Likewise, in some cases the victims are strapped into tiger chairs for longer periods.

More severe forms of torture also seems to run rampant. One of the few provisions made for suspects is that the location must take health and safety into account, to prevent self-harm or suicide.

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."⁴⁸

Death in Liuzhi – the case of Chen Yong

Six weeks after the new law and system was promulgated by China's congress, the first known death in Liuzhi occurred.

Chen Yong, 45, a former driver for a local government worker, was taken into Liuzhi by Fujian provincial NSC on April 9, 2018.

Chen had, until 2016, been the chauffeur for the Jinayang district government of Nanping city. His detention was in relation to Lin Qiang, a vice-director in the district. News of Chen's death first surfaced in Caixin, but was quickly scrubbed from the internet. The original report includes statements from his family members, leaving little doubt as to what had happened.

After nearly a month of Chen's detention, his family was summoned by phone, the first time the family had heard anything from the NSC or about Chen's fate. Once they arrived they were taken into a morgue, and shown Chen dead on the berth. [He had] "a disfigured face". "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 said. His wife who arrived later that night said the same.

The local commission simply said Chen had collapsed while being interrogated, at 4 in the afternoon, and was dead by 8 in the evening, after having been rushed to a hospital. The request from Chen's wife to view) monitoring and video recordings were denied. Police routinely deny access to such video recordings, recordings which they are required to make and keep by law – to limit use of torture. This has also been enshrined in the law on Liuzhi.

⁴⁷ HRW "Special Measures" page 44

⁴⁸

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

Victims of RSDL have repeatedly spoken about suicidal thoughts when inside RSDL, which, like Liuzhi, uses solitary confinement in all cases. 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."⁴⁹

Sporadic news reports on death inside Shuanggui have dodged the system for a long time.

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?"⁵⁰

Other cases have likewise exposed the use of simulated drowning inside Shuanggui.

Data from RSDL cases show that torture is not only rampant but near guaranteed, which in some cases also includes the use of forced medication. For Shuanggui, and what is known from the case of Chen Yong in Liuzhi, more direct physical torture has been employed, from beatings to broken bones, to death.

For more on methods of torture used inside China's RSDL system, and descriptions of such

methods by the victims themselves, see Safeguard Defenders report "Battered and Bruised".⁵¹

Target group

The target audience will expand from party members to all state functionaries. Just as there has been a marked increase in the use of investigations, and punishments issued, between 2012 and 2017, the ranks of the party has continued to grow, adding another 5 million members, bringing the total to 89.6 million, and set to break 90 million at current pace 2018 or 2019. The NSL will also allow interrogation and detention of others outside the target group, if they are relevant to the case. This is actually a broadening of its mandate – as internal work orders from CCDI have previously ruled out interrogation and detention of non-party members⁵², i.e., any person outside its more narrow target group, but with this the NSC can now use it on those outside its primary target group.

Thus, the primary target group is significantly expanded, while at the same time establishing a near unlimited secondary group that can be detained as well.

In the three provinces in which the pilot project ran 2016/2017– one city-centered municipality (Beijing), one large and developed province (Zhejiang) and one smaller and rural province (Shanxi), there was a 500%, 300% and 200% increase in target group size⁵³.

Article 15 specifies who is to be included, and include all CCP members, all staff of government,

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

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

⁵¹ <http://rsdlmonitor.com/battered-and-bruised-new-report-on-rampant-torture-in-china/>

⁵² Further Standardizing the Use of "Lianggui" Measures
CCDI 2001 Order No. 15

⁵³

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

and organs of the federations of industry and commerce, and any people managed by the Law on Public officials. It is unclear for now if it will also include public defenders hired for legal representation.

Although not targeting regular employees of state-owned enterprises, the law lists managers in such, alongside those in public education, research, culture, health care, sports, and other units as part of the target group. It will also include personnel engaged in public affairs at any organ by the state, and personnel engaged in "collective affairs management" at local levels of mass organizations. Worryingly, it also includes "other personnel who perform public duties".

With such weak limitations, the direct target group can be expected to thus rise to somewhere in between the three figures given above, meaning that the direct target group for the NSC and its own detention system could stand somewhere between 448 million, 269 million and 179 million.

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, he was not supervised by either CCDI nor MOS.

"Now people like him will not be able to escape punishment" said Zhang Bisheng, deputy director of the Baiyun district supervisory commission of Guangzhou.⁵⁴

The term 'direct target group' has been used, as it's the focus. However, anyone can be taken in for interrogations and detention in Liuzhi, if that

person is relevant to the investigation. This includes, for example, a foreign businessman that has given, or offered to give, a bribe to any state or party functionary. Residency is not required for a foreign business person to be a targeted, a visitor or tourist may be targeted. Technically, a tourist hinting at a small bribe to a police officer concerning a traffic citation will be enough, in law, to have the person placed into six month of solitary, incommunicado, and secret, detention. There is in reality *no limitation to who can be subjected to the system* as part of this larger, secondary, target group.

Chen Jieren, from NSC to RSDL

Chen Jieren, a journalist, wrote on June 25 this year that he had exposed corruption in Hunan province, within the NSC. At midnight of July 4, he was taken away – along with his wife, two brothers, and two assistants. When his lawyers visited the local police station, whose police officers had taken them, they were told the case was with the NSC, and that Chen and the others had no right to access legal counsel. They furthermore informed them that Chen had been placed in RSDL. Chen, and his family stands to spend 6 months in RSDL, after which they could spend another 6 months in Liuzhi. Technically, they could after that be placed in RSDL again. The NSC does not have the right to utilize detention through the judicial system, and have here used the police to place them into RSDL, despite technically being under investigation by the NSC.

⁵⁴

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

Conclusion

The establishment of the NSC and passage of the NSL clearly represents the further abandonment of international norms and standards within China's domestic legal system and the embrace of rule by law authoritarianism, while also greatly expanding the scope of existing concerns prior to its establishment.

The scope of the NSC's work is likely to be dominated by that of the CCDI, whose party-focused work has dealt not only with corruption, but to instill 'discipline' and 'correct political thinking'. This is unlike the state-focused anti-corruption work earlier carried out by the prosecutor. Within the prosecutor's office, the scope has been focused on corruption issues, and it has used the judicial system to pursue criminal liability for such crimes. Because the CCDI has operated on such a large scale, in contrast to the prosecutor's office and other state-organs under the Ministry of Supervision, and because party organs usually supersede state organs, it is likely that the CCDI's work will set the tone for the whole NSC. This virtually guarantees the politicization of 'anti-corruption' work and adds political 'discipline' work where before it did not exist. In short, with the NSC, all non-party members of the state or those working for or in relation to the state, will now be subject to scrutiny on a far wider set of issues.

Extrajudicial detention is likely to continue at the very least on the same level with Liuzhi. Because almost all investigations lead to guilty verdicts ('punishments'), while very few ever leading to prosecution, this effectively means that the detention itself is the punishment, especially considering that the consequences for punishment are weak. Placement in Liuzhi is thus not merely custody during investigations, but the

punishment itself. As it has now been codified, there is little reason to assume it will be used with less frequency than Shuanggui. Because of the massive expansion in the 'target group' under the NSC, anything other than an equally significant increase the use of extrajudicial detention through Liuzhi is unlikely and unrealistic.

The codification of Liuzhi fails to offer any appeal system outside the very body that took the decision in the first place, and doesn't require notification of the whereabouts to family or access to legal counsel. The fact that the detention takes place outside the judicial system – at any place designated by the NSC, Liuzhi will most often constitute an enforced disappearance.

Taking into account the latest figures on CCDI investigations, and even the most modest estimates on how many include custodial control – **China's implementation of Liuzhi under the NSC will likely amount to the systematic and widespread use of enforced disappearance.**

The massive expansion of target group is perhaps the most concerning. By moving from party members to include all state workers, as well as functionaries working with public institutions like hospitals and schools, or state-owned enterprises, which were not previously covered under such mechanisms, it can expected that a quarter of a billion people – or more – will be subjected to control by the NSC. **More alarmingly still, Liuzhi can be imposed on anyone if they are in any way related to a case, from family members to foreigners.**

Coupled with China's more aggressive attempts to extradite those accused of corruption charges from abroad, this **should be a major warning to any country contemplating an extradition treaty,** or any other form of cooperation on judicial matters. Chen Yong was likely the first innocent

person murdered in the system, just weeks after its establishment, but most certainly will not be the last.

The scope of 'discipline' work, and the vast target groups means that **a very significant sector of society will be effectively under the "jurisdiction" of a system outside the judicial system, and denied even the most basic procedural safeguards.**

The NSC stands to change the very nature of how large sectors of Chinese society are policed and to fundamentally undermine the legal system. The system, based on RSDL, is set to not only carry on the abuses rampant in the RSDL system, but significantly expanding them. This is already happening, but without sufficient scrutiny or attention domestically or internationally.

Both the State Prosecutors and the police are compelled by law to support the NSC, and are themselves under the supervision of the NSC, and therefore cannot be expected to identify or act on any violations by the NSC. The power of the NSC is near absolute over any other branch of government and the judicial system.

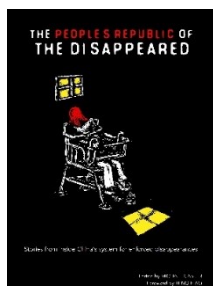
The NSL is inherently abusive and **cannot be reformed**. It must be abolished, and its duties transferred to the police and prosecutor, with proper oversight by an independent judiciary.

Failure to do so risks further entrenching arbitrary detentions, enforced disappearances, torture, and other serious human rights violations within the already abusive rule by law system.

With the NSC's expanded mandate over the population, the numbers at risk of disappearance, torture, and even death in custody, stand to rise significantly.

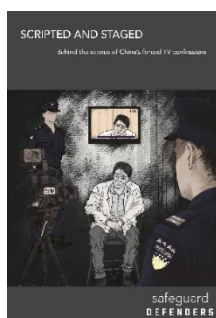
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The People's Republic of the Disappeared, the first book on the subject of China's use of Enforced Disappearances through the legalized system euphemistically named Residential Surveillance at a Designated Location (RSDL), exposes the systematic use of secret imprisonment and torture of lawyers, media workers and government critics.

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