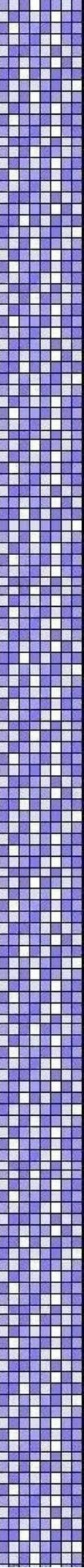


CHINESE URGENT ACTION WORKING GROUP

人权卫士紧急救援协会

DEATHS IN CUSTODY:

THE POLICE'S FREE REIN TO ABUSE
POWER IN DETENTION CENTERS



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The Chinese Urgent Action Working Group (人权卫士紧急救援协会) undertakes direct interventions on behalf of Human Rights defenders in distress through investigations, public advocacy, communication with international institutions and organizations, and through providing legal aid. The group is located inside mainland China, and was formed as a response to increased persecution of Human Rights defenders during 2008 and 2009. The organization also regularly releases reports and background briefs on issues concerning Human Rights, and especially Human Rights defenders, in China.

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DEATHS IN CUSTODY:

The Police's free rein to abuse power in detention centers

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SUMMARY

This report shows how the combination of a lack of proper legal framework, and the lack of enforcement of existing rules, opens up for serious and systemic mistreatment by officials in China's detention center. It furthermore shows how, even though new legal framework is being developed, the steps taken are incremental and have yet resulted in any obvious actual improvement. The political will for proper reform, including providing the Procuratorate with a clear-cut supervisory role, and moving management of the detention center away from local police also in charge of investigation crimes, is non-existent, and thus real, significant improvement of the situation is not realistic.

The lack of investigation of crimes committed against detainees can likely be explained that it is often the local police, also in charge of running the detention facilities, that are responsible for investigating crimes, crimes they themselves or their colleagues are likely responsible for. The lack of clear guidance for how the Procuratorate should conduct supervision leaves police with significant leeway to run the facilities how they please. The report presents a number of strange deaths in detention centers spanning China, and they often ridiculous explanations for these deaths, that police provides. That police dare offer such explanations, such as 'death by squeezing pimples', 'death by washing face' etc makes it clear that Police have little fear in terms of punishment.

The report recommends that the State Council move to change the mandate for running the detention facilities, especially pre-trial detention facilities, away from the local police to either a subsection of the Ministry of Justice, or to the Procuratorate. It further recommends that the Prison Law should be made to apply to detention center, or that provisions in that law are transferred to the Detention Center provisions. Finally, the Procuratorate must play a bigger role in supervising detention centers and investigating crimes against detainees.

中文摘要

此报告说明了缺乏适当的法律框架和对现存法律的执行力，两者结合下，致使中国的拘留所严重的系统变形。它还显示出，虽然新的法律框架正在制定之中，所采取的步伐也在增大，但还没有导致任何明显的实际改善。进行合理的政治意愿改革，包括赋予检察院明确的监督作用，把拘留所的管理责任从同时负责犯罪调查的当地警方手中拿走的可能性，是不存在的，所以，真正意义上的重大改进是不太现实的。

对拘留者的犯罪没有足够的调查可以解释为，同时还负责拘留所管理的当地警察有责任进行犯罪调查，他们或他们的同事有责任负责的犯罪。检察机关对监管的明确指导的缺乏，使得警方可以任意的随他们的喜好运营拘留所。该报告中呈现了横跨中国，在拘留所中奇异死亡的各种个案。他们往往给死者的死亡原因一个荒谬的解释。警方胆敢提出例如“挤粉刺死，”“洗脸死，”这样的解释，说明警察毫不担心处罚的条款。

报告建议，国务院应改变所赋予拘留所运行的权力，特别是审前拘留所，应从当地警方转移一部分到司法部门或检察院。它进一步建议，监狱法应当适用于拘留所，或该法国条例转移到看守所的条例中。最后，检察院必须在对拘留所的监督和对被拘留者的罪行调查中起到更大的作用。

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INTRODUCTION

Spanning China there are about 6000 detention centers¹ where both detainees awaiting trial (pre-trial detention centers) and prisoners sentenced to imprisonment and criminal detention are held. Despite the massive population in these facilities, and despite the fact that sentenced criminals are often serving their sentences in these facilities, little legal framework exists to guide how these facilities are to function, and more importantly, what rights the detainees have.

Great strides were made in the middle of the 1990s in providing clearer legal framework for prisons and improving the rights of inmates, however, the 1994 Prison law does not apply to detention centers.

It is the thesis of this report that the underdeveloped legal framework for detention centers is what allows for a great number of violations in them, and why obvious murdering of detainees by staff goes unresolved and often not investigated at all. The cases used in this report involve detainees dying, according to detention center staff, by 'washing face', 'squeezing pimples', 'muscle twitches' and 'drinking water' to mention a few.

The lack of any effective supervisory system and the fact that very few are held responsible for such obvious and grave violations seems even more surprising by the often not just implausible but ridiculous explanations given by detention center staff to explain these detainees' deaths.

1 Estimate by the Ministry of Public Security, http://www.chinadaily.com.cn/cndy/2010-03/09/content_9557306.htm. China Daily also estimate that roughly 2700 of these are pre-trial detention facilities.

ABOUT THIS REPORT

This report sets out to show the lack of legal protection afforded to detainees, and the complete lack of effective supervision and investigation of crimes in detention centers. The report begins with some background on detention centers, and how they fit in in the penal system in general. The next section specifies the responsibilities for different issues concerning detention facilities, such as supervision, management and day-to-day operation. Following this is an analysis of the situation, especially concerning supervision and management of facilities and this is followed by a section on conclusions and recommendations. The report is rounded off by two appendixes, one offering an in-depth legal analysis, another with information on 26 cases of strange deaths in custody.

This report is not meant as a full-fledged research report, but more of a background briefing on detention centers, meant to compliment prior reports by the Chinese Urgent Action Working Group into systems of arbitrary detention, such as "Black Jails in China", a minor report on Black jails, and "Thought Crimes", an extensive research report on the use of psychiatric institutions as detention centers. For more detailed information on the Chinese criminal code and the penal system, our "Overview of the Chinese criminal process" can be used for reference, which provides detailed legal analysis of the different steps and processes the criminal code and process encompass.

CHINA'S PENAL SYSTEM

Detention centers is only one small component of the penal system in China, which also have 're-education through labor' camps (*lǎojiào*), 'reform through labor' camps (*lǎogǎi*), psychiatric institutions (*jīngshén bìngyuàn*), especially the custodial subsystem of 'Ānkāng' institutions, black jails (*hēi jiānyù*) as well as special purpose prisons without work camps. To understand the role of detention centers, especially since they too hold sentenced criminals, not just detainees awaiting legal process, these different components need to be properly defined.

Re-education through labor camps (*lǎojiào*) is what many people mistakenly refer to as '*lǎogǎi*'. It is these camps that are part of the administrative, not criminal, penalty system. Administrative here referring to that people can get placed in these without any legal process, that is, no court need to issue a verdict for someone to end up in these facilities. It is instead the Police themselves who can send someone here, just as they can detain someone for up to 15 days and give out fines. According to a study by Michael Pareles published late 2006 about 10% of China's total prison population is incarcerated in these facilities². The formal name is since 2007 'correctional center'. A wide variety of sources put the rough amount of inmates in these camps, at any given time, between 200,000 and 300,000. A draft version of the 1979 ammendment to the original (and still effective) law on these facilities states³ that they should hold "...anti-party, anti-socialist reactionaries, whose crimes are minor and not subject to criminal prosecution...". In reality, many of the inmates are either drug addicts or politically 'unwanted elements' dealt with directly by the Police.

Reform through labor camps (*lǎogǎi*) are facilities for criminals, that is, those that have been sentenced to imprisonment on criminal charges, and are tied to prisons. It is thus simply the workplace of a prison population. The same study by Michael Pareles states that roughly 87% of China's prison population are in *lǎogǎi* camps⁴ (thus leaving about 3 % or so in special purpose facilities, prison hospitals etc). The name *lǎogǎi* was changed to 'prison' in 1994.

2 Hard Times, Hard Labor: Prison Labor reform in China from 1978 to present. Michael Pareles, University of Chicago, Winter 2006, Stanford Journal of East Asian Affairs, Volume 6, Issue 1, Center for East Asian Studies, Stanford University, <http://www.stanford.edu/group/sjeaa/journal61/china3.pdf>

3 Decision of the State Council Regarding the Question of Reeducation Through Labor (1957), Supplementary Reeducation through Labor regulationn (1979), Detailed Regulations on the Administration of Reeducation Through Labor (1992), Trial Implementation Methods for Reeducation through Labor (1982), Laogai Handbook 2007-2008, ISBN-13 : 978-1-931550-25-3. Laogai Research Foundation

4 Hard Times, Hard Labor: Prison Labor reform in China from 1978 to present. Michael Pareles, University of Chicago,

Black Jails (*hēi jiānyù*) are illegal jails aimed primarily at detaining petitioners, and run by petition office staff in cooperation with the police⁵. Violations are rampant, and as they are extra-legal have no legal framework. The facilities vary greatly from what would appear to be institutionalized prisons that can hosts

hundreds of people to makeshift areas for detaining only a handful of people.

DICTIONARY	Pinyin	Characters
Detention center (pre-trial)	Kān Shǒu Suǒ	看守所
Detention center	Jū Yì Suǒ	拘役所
Juvenile offender camp	Shào Guǎn Suǒ	少管所
Mental institution	Jīng Shén Bìng Yuàn	精神病院
'Ankang' institution	Ān Kāng	安康
Re-education through labor camp	Láo Jiào	劳教
Reform through labor camp	Láo Gǎi	劳改
Black Jail	Hēi Jiānyù	黑监狱
Custody and repatriation	Shōu Róng Qiǎn Sòng	收容遣送
House arrest/Residential surveillance	Ruǎn Jìn	软禁

Other forms of facilities also exist. Among these are psychiatric

institutions which will sometimes be used to incarcerate 'unwanted elements', sometime it will involve forced medication. Among these, the '*Ānkāng*' institutions, or custodial psychiatric institutions, are of importance⁶. It is a nationwide system currently expanding, and the aim is for each major city to have one of these facilities. No nationwide regulation exist, so cities or provinces make their own, or in some cases operate without any legal framework at all⁷.

There are also special purpose prisons, such as Beijing's Qincheng prison (秦城监狱), specifically designated for high-profile political prisoners⁸, and the only prison directly controlled by the Ministry of Public Security. There are also prison hospitals where those that are severely ill are incarcerated, as well as juvenile offender camps (*shàoguǎnsuǒ*).

DETENTION CENTERS

Detention centers serves three different purposes. First off, and the most obvious, it is a place to detain a person awaiting a legal process (pre-trial centers, or *kānshǒusuǒ*). After investigation they will be either released or arrested and later on tried in court. A person will in most cases remain in a

Winter 2006, Stanford Journal of East Asian Affairs, Volume 6, Issue 1, Center for East Asian Studies, Stanford University, <http://www.stanford.edu/group/sjeaa/journal61/china3.pdf>

5 See the Chinese Urgent Action Working Group's report on Black Jails "**Black Jails in China: System, facilities and victims**" for further information. Report can be found at <http://China-Action.org>, Chinese Human Rights Defenders report on Black Jails "**Black Jails in the Host City of the Open Olympics**" at <http://chrnet.org/2007/09/21/black-jails-in-the-host-city/> or Human Rights Watch's report "**An Alleyway in Hell**" on <http://www.hrw.org/en/reports/2009/11/12/alleyway-hell-0>

detention center until a verdict has been announced by the relevant court.

Detention centers are also part of both the administrative and the criminal penal system. Police can, just as they can issue fines, sentence a person up to 15 days of administrative detention. Such detentions are served in detention facilities (*jūyisuǒ*), although usually in specifically designated detention centers for administrative punishments.^{9,10}

As part of the criminal penal system, people sentenced under criminal law can, and often do, serve their imprisonment in detention centers instead of prisons, and despite being inmates, the prison law and the rights afforded in that law, are not provided to those serving time in detention centers. However, detainees and criminals will not always be separated between the '*kānshǒusuǒ*' and '*jūyisuǒ*' facilities. According to the special regulation concerning serving sentences in detention centers, those sentenced for up to one year of imprisonment, or those that at the time of sentence have one year of imprisonment or less left (after deducting time spent in detention up until verdict is delivered) can serve their time in detention centers instead of prisons.^{11,12} People can also be sentenced to criminal detention, which is served in detention centers.

Legal rights for those in detention centers were first enshrined as part of the regulation on labor reform (1954) but regulations specifically for detention centers, and for keeping sentenced criminals in them were not promulgated until 1990 and 2008 respectively in the detention center provisions and Public Security Bureau order no. 98.

There are furthermore several different laws that stipulates different roles concerning detention centers, amongst them, the supervisory body (the Procuratorate), the managing body (Public Security Bureau with the People's Armed Police Force) and the role played by detention centers both in the criminal (Criminal procedure law) and administrative (Regulations of the People's Republic of China on Administrative Penalties for Public Security and Law on State Security) legal process and penalty system.

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- 6 See the Chinese Urgent Action Working Group's report on psychiatric institutions '**Though Crimes: China's use of psychiatric institutions as detention centers**' for further information. Report can be found at <http://China-Action.org>
- 7 English and Chinese versions of the 2002 regulation for Ānkāng institutions in Shanghai can be found at <http://China-Action.org>
- 8 Inmates include top political leaders fallen from grace as well as key human rights defenders and other high-profile 'enemies of the state'.

RESPONSIBILITIES

ESTABLISHING AND MANAGING DETENTION CENTERS

Detention centers are set up by the Public Security Bureau (PSB) with the objective of guarding criminals and hosting detainees, and are to be managed by the PSB at the same administrative level¹³. No detention centers, like prisons, may be established without the explicit approval of the judicial organ of the State Council, and all detention centers, again, like prisons, are have its guards led by a member of the People's Armed Police Force (PAPF)¹⁴. The police are also explicitly responsible for executing criminal punishments outside of prisons.¹⁵ Furthermore, they are responsible for ensuring that the rights of detainees and criminals are afforded and protected.

Detention centers are obliged to undertake medical checks of all its newly received criminals serving sentences in detention centers, this obligation is not specified for detainees however¹⁶. Both detainees and criminals shall however be afforded proper medical care if needed, and be transferred to a prison hospital if the medical situation necessitates it¹⁷.

Besides local police stations establishing and managing detention centers, provincial, and some other, authorities may establish additional detention centers if needed.

SUPERVISING THE MANAGEMENT OF DETENTION CENTERS

Supervision of detention centers is the domain of the People's Procuratorate¹⁸, and its roles are laid down in the Organic Law of the People's Procuratorate dating back to 1979. The law is clear in that the procuratorate offices are to supervise the facilities and investigate any serious crimes that occur in them, but because the law dates back to 1979, the language is generally vague, and focus more on

9 Articles 2, 6, and 19, Regulations of the People's Republic of China on Administrative Penalties for Public Security (1987/1994).

10 Articles 27 and 28, Law on State Security (1993).

11 Article 2, Detention center provisions (1990).

12 Article 2, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

13 Article 5, Detention Center Provisions (1990)

14 Article 7, Detention Center Provisions (1990)

15 Article 6, paragraph 11, Police Law (1995)

expounding socialist virtues than providing effective legal guidance. For crimes committed by Police during investigation into a criminal charge by a detainee the law of the procuratorate is clearer, and states that it shall exercise supervision over the 'investigatory activities' of the police¹⁹.

The procuratorate is the office of the prosecutors in China, and have the dual role of initiating public prosecution as well as sharing responsibility for investigating crimes with the police²⁰. The procuratorate shall also exercise supervision of the activities in prisons and detention facilities, and investigate that those activities are lawful. In theory the prosecutorial activities of the procuratorate shall be independent and without influence from other bodies.

RECEIVING APPEALS AND ALLEGATIONS OF VIOLATIONS IN DETENTION CENTERS

Since it is unreasonable to assume that police alone will investigate the crimes committed, and to take initiative to do so, mechanisms have been established to guarantee the right of a detainee or criminal in detention to file accusations. For example detention facilities shall not interfere or confiscate any persons' appeal documents nor documents pertaining to legal proceedings. Any document containing accusations of criminal behaviour by law enforcement officials shall promptly be delivered to the procuratorate²¹. The procuratorate is responsible for supervising that the right to file complaints against state functionaries is not violated²².

The regulation on criminals serving time in detention centers also states, unlike the provision on detention centers, that people have the right to submit appeal documents through family members or a lawyer²³, but no such right is specified for accusations of violations by law enforcement personnel. Detention facilities shall also set up report boxes for people to file accusations, and they shall also have the right to file such accusations directly to the police²⁴. This regulation also specifies that any document aimed to the procuratorate or court shall be forwarded within five (5) days of receiving them²⁵.

In short, detainees have the right to file accusations directly to the Police (Public Security Bureau)

16 Article 10, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

17 Articles 10, 26, Detention Center provisions (1990), Article 65, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

18 Article 5, paragraph 5, Organic Law on the People's Procuratorate (1979/1983)

19 Article 5 (3), Organic Law on the People's Procuratorate (1979/1983)

attached to the detention center, and to the procuratorate, and criminals in detention center, and it is presumed also detainees, although not expressly stated, also have the right to file accusations directly to the detention center staff.

Both detainees and criminals serving time also have the right to seek, correspond with, and meet legal counsel. For detainees this is an essential and basic step in the judicial process enshrined in the criminal procedure law, although the right to counsel only applies after first interrogation²⁶. This right also extends to criminals through the 2008 regulation on criminals serving time in detention centers as well as in the Interrim provisions on legal access for the imprisoned²⁷.

INVESTIGATING CRIMES IN DETENTION CENTERS

There is considerable overlap in the responsibility to investigate crimes committed against detainees and criminals in detention. The police who establishes and manages the facility has as its responsibility to investigate any crime, both those committed by detainees as well as those committed by detention centers staff, allowing for the police to essentially investigate themselves. However, the procuratorate also have a responsibility to investigate crimes in detention centers against detainees and criminals, although this responsibility is loosely framed, and the articles in question states that if violations have occurred in prisons or detention centers, the authorities are to to "...notify the organs responsible to correct them."²⁸

The 2008 regulation on criminals serving prison sentences in detention centers specifies that 'serious' crimes are to be investigated by the Public Security Bureau tied to the detention center, while

20 Article 5 (4), Organic Law on the People's Procuratorate (1979/1983)

21 Article 46, Detention center provisions (1990) and Article 13, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

22 Article 6, Organic Law on the People's Procuratorate (1979/1983)

23 Article 13, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

24 Article 14, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

25 Article 15, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

26 Article 32, Detention Center provision (1990)

27 Article 5, 6, Interrim provisions on legal access for the imprisoned (2004) and article 6, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

28 Article 19, Organic Law on the People's Procuratorate (1979/1983)

detention center staff themselves are to handle those that are not serious²⁹. The same separation does not exist in the detention center provision, nor the police law, nor the organic law of the procuratorate. The procuratorate law as well as the detention center provision more loosely states that the police and the procuratorate are to investigate crimes committed in detention centers and to, in general, monitor that what goes on in detention centers are in compliance with the law³⁰.

The fact that the procuratorate shall protect citizens' rights to lodge complaints and file accusations against state functionaries, and follow such complaints up with investigations³¹, would also require the Procuratorate's monitoring of the activities in detention centers to be effective. When it finds that a criminal act has indeed occurred, it shall place the case on file for investigation, and either undertake such investigation, or if appropriate, transfer the case to the police for investigation³². Besides the procuratorate being responsible for monitoring detention centers, detention centers shall voluntarily report their own monitoring and supervision activities to the Procuratorate³³.

The law on the Procuratorate also states that if it discovers any violation of law in prisons and detention centers, it shall notify responsible organs, in this case the police, which as detention center management is responsible for any such violation of law, to rectify whatever is causing said violation³⁴. The article does not state that any such violation of law necessarily need be investigation for criminal liability.

29 Article 85, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

30 Article 8, Detention Center provisions (1990)

ANALYSIS

SELF-CONTROL: THE POLICE INVESTIGATING THEIR OWN CRIMES

A key problem, as noted by many Chinese politicians and academics, is also one of the most obvious – that Police and detention center staff are left, to a large degree, with the responsibility to investigate the crime's they themselves commit. For smaller crimes, it is the staff themselves that are to investigate, which would naturally lead to an abysmal rate of resolving those minor crimes.

For more serious crimes, due to the lack of clearly defined mandate for the Procuratorate, the Police managing the center, but not responsible for the day-to-day operation, are brought in to investigate. However, the Police managing the center are the colleagues of those handling the day-to-day operation, and as such, it is also naturally quite unlikely that a serious violation will be redressed, as the investigator and perpetrator are coworkers with shared loyalties. The regulation for criminals serving time in detention center completely leaves out the Procuratorate when stating how crimes against criminals in detention facilities are to be investigated³⁵.

One of the most common calls regarding improvement of the system for detentions, from both academia and politicians, is to separate the management and running of detention centers. That is, detention centers should not be established and management by the Police at the same level, but another body, lacking shared loyalty, should appropriate that mandate³⁶.

FREE REIN: THE LACK OF EFFECTIVE SUPERVISION

A most important deficiency in today's supervisory system is the unclear role of the procuratorate for crimes committed in detention centers. Because the detention center provisions contain no clear role for the procuratorate in investigating crimes against detainees and criminals, and because the responsibilities outlined in the law of the procuratorate are so vague, little counterweight exist to

31 Article 6, Organic Law of the People's Procuratorate (1979/1983)

32 Article 11, Organic Law of the People's Procuratorate (1979/1983)

33 Article 41. Detention Center provisions (1990), and (for convicted criminals serving time in detention centers only) Article 7, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

34 Article 19, Organic Law of the People's Procuratorate (1979/1983)

ensure that the Police and detention center staff act according to law, and ensure detainees their rights. Furthermore, the lack of effective supervision and investigation of serious crimes also leave the loyalty between Police and detention center staff unhindered, fostering a culture of unbridled violations against detainees.

Among academia and some members of the National People's Political Consultative Congress (NPPCC) it has become clear that the law of the procuratorate and the detention center provision need be redrawn to provide a clear responsibility for both general supervision for the procuratorate, as well as a responsibility to investigate serious crimes committed by law enforcement staff in the facilities³⁷. The idea of transferring responsibility for supervision away from the detention center themselves was first discussed in 1983. A 2008 government paper suggested making responsibility for supervision clearer, but did not however suggest changing the mandate to the procuratorate³⁸.

The little responsibility assigned to the procuratorate in law today simply states that "The People's Procuratorate shall monitor and supervise detention centers from a legal compliance perspective"³⁹, which is not only vague but offers little in terms of how this supervision is to be shaped. Furthermore, this responsibility exist only in the detention center provisions, not in the law of the procuratorate itself. The same law also states "... detention centers shall report their monitoring and supervision activities to the People's Procuratorate."⁴⁰, which could mean that the procuratorate is in actuality not intended to perform supervision of their own volition, but merely respond to the input from the detention centers themselves.

The special order for sentenced criminal serving time in detention centers offers a bit more clarity, but applies only to sentenced criminals, not detainees, and says that carrying out of criminal sentences in detention centers shall be monitored by the procuratorate⁴¹.

35 Article 85, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

36 For example Tang Yao (唐尧), Deputy professor of Law at Xinan Political Science and Law University, NPPCC delegate and All China Lawyers Association member Ma Hu Cheng (马虎成) and NPPCC delegate Li Yue Feng (李钺锋) has made calls for this.

37 Shi Jie (施杰), a delegate to the NPPCC and deputy chairman of the Sichuan province Lawyer's association, as well as NPPCC delegate Li Yue Feng (李钺锋) and NPPCC delegate and members of the All China Lawyers Association Ma Hu Cheng (马虎成) has called for this change. In 1996 the United Nations Committee Against Torture also saw the lack of responsibility as one of the key reasons why progress has been uneven in preventing torture.

38 Document is called "中央政法委员会关于深化司法体制和工作机制改革若干问题的意见" (Report by the Central Political and Legal Committee on reforming the judicial system and improving work mechanisms)

SILENCE: IGNORING DETAINEES ALLEGATIONS

To counter the obvious deficiencies in supervision of detention facilities, and the willful neglect of conducting proper investigations into violations that stems from the set up (i.e. Police investigating themselves), a system for detainees and criminals serving sentences in detention centers exist. However, the use of this system is severely circumscribed not by a lack of channels through which to seek redress, but by the fact that those channels are dependent on the lawful actions of detention center staff. Submitting information on violations directly to the detention center staff, as prescribed for minor violations in the detention center provision, requires the detention center staff to act on that information, as the information is submitted directly to the facility through a complaint box.

If information is to reach the Police managing the center, or the procuratorate, information can be sent either through the detention center, and again requiring the lawful acts of detention center staff, or through a lawyer. For criminals serving sentences in detention centers, they can also send documents through family members, a right not explicitly afforded detainees.

Because of limited supervision of detention centers by the procuratorate, the pressure on detention center staff to act lawfully would naturally be limited, especially if a detainee or inmate is submitting allegations against the very same detention center staff or police in charge of managing the detention center.

As the police entering detention centers to investigate a charge is also the same people in charge of managing the facilities, it would be unlikely that any allegation of wrongdoing by a detainee during the course of investigation, when such violations are most likely to occur, for example torture to force a conviction, would be picked up, nor properly investigated.

LACK OF LEGAL FRAMEWORK AND ENFORCEMENT

The earlier part of this analysis have shown severe flaws in the lack of clear legal guidance in how to protect detainees rights, how to investigate crimes committed in detention centers, and how to

39 Article 8, Detention Center provision (1990)

40 Article 41, Detention Center provision (1990)

41 Article 7, The Use of Detention centers to Carry Out Sentences of Criminal Supervision (Public Security Bureau Order No. 98) (2008)

effectively supervise the facilities. However, as has been noted by several members of the NPPCC, in the academia as well as in Chinese news media, the problem of a lack of clear legal framework remains second to the lack of enforcement of existing regulations.

Lack of enforcement may stem from several factors. To begin with, existing legal framework is difficult to grasp, because different laws go to different lengths to specify legal rights, who is in charge of investigations etc. Furthermore, some of the legal framework is very vague, leaving interpretation to individual police offices, detention centers etc. Finally, because of a lack of supervision, there is little incitement for proper enforcement of laws if such enforcement would be detrimental to the cause of the police, the procuratorate or the detention center staff.

Professor Hou Shu Wen (侯淑雯), at the University of Political Science and Law, as well as Tang Yao (唐尧), deputy professor of law at Xinan Political Science and Law University, both calls for strengthening of enforcement of existing regulations, but do not see the lack of legal framework as a key problem. Both are correct in that proper enforcement of existing regulations would lead to great progress, and is a key issue, not only for detention centers but within the Chinese penal system in general. However, the existing laws dealing with different aspects of detention centers and how to ensure detainees and prisoners serving time in detention centers rights are still severely lacking in detail, and the relevant laws differ considerably in how well developed the rights and procedures are, and how clearly they are defined.

How to deal with deaths in detention centers is also a problem. The law states that when a criminal dies in a detention center, the staff must inform both the procuratorate and the criminals family. The procuratorate can then demand an autopsy if it suspects foul play, however this right is not extended to the criminal in questions' family.

Another issue often brought up is that keeping detainees with sentenced criminals is not suitable, and that detainees, not convicted, may be subject to maltreatment from the hardened criminals they are forced to share facilities with.

There are undoubtedly positive steps being taken at the moment in furthering and enhancing the protection of detainees and improving the management of detention centers in general. In 2009 the Ministry of Public Security launched a campaign to increase Police officers respect of detainees rights and of the law in general, to counter more public cases of obvious murder in detention centers. The

ministry said that "Officials should be brave to reveal their problems in the management of prisons and detention centers, and should exert efforts to address them". In Beijing, the Municipal Security Bureau launched a two month review of all detention centers under its control⁴².

The same year the Supreme People's Procuratorate launched a five-month long review of deaths occurring in detention centers, to by September 30, 2009, together with Police, evaluate all detention center facilities and cases of unnatural deaths occurring in them. Cases of unnatural deaths the ministry said, will lead to retrospective investigations dating back to 2006.⁴³

Finally, new additions to the legal framework are being made. As late as the summer of 2010, new provisions were promulgated (June 1, 2010) within the framework for a regulation on Police discipline⁴⁴. It defines in clear terms the punishment for 76 different types of violations, and punishment includes full criminal prosecution. However, as with many laws and regulations, it remains to be seen whether it will have any real effect. However, the stipulation of a law dealing specifically with violations by police officers and detention center staff is without doubt a positive step.

Perhaps even more important, if properly implemented, is the new "Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases" which took effect on July 1, 2010. The regulation explicitly makes forced confessions illegal, and provides a framework for both prosecutor, defendant and legal counsel to raise the issue of illegality in relation to interrogation of a detainee, including forced confessions through torture⁴⁵. It furthermore states that if the issue of illegality is raised, the court, or the procuratorate, depending on at which stage of the legal process it is raised, must investigate such a claim⁴⁶, and the procuratorate shall automatically exclude any evidence gained illegally from its prosecution⁴⁷. If a lower court fails to do so during a trial, a higher instance should investigate whether or not it was legal or not⁴⁸.

42 http://www.chinadaily.com.cn/usa/2010-11/11/content_11534118.htm

43 Embassy of the People's Republic of China in Kenya, 2009-04-21, <http://ke.china-embassy.org/eng/xw/t558378.htm>

CONCLUSIONS

Despite continued calls from both within and outside the political establishment for reform of the detention center system it has not yielded any significant legal remodelling. Minor changes continue to occur, with new provisions, slight modifications and government campaigns to halt rampant violations, but little willingness seem to exist for proper reform, and it is thus unlikely that some of the key problems herein presented will be solved, such as the lack of a clear system of supervision, outside investigation of crimes against detainees, and ceasing to put detainees and criminals in the same facilities.

One can however expect pressure for reform to continue to grow due to a steady increase in violations perpetrated inside detention centers⁴⁹, or at least a steady increase of violations becoming known.

The development currently occurring will undoubtedly lead to improvement both in the legal framework existing as well as the enforcement of such laws and regulations, but the lack of effective supervision will remain, and without drastic legal reform so will the discrepancy between the legal framework and its actual implementation.

Despite being hailed as an important step forward, explicitly banning evidence gained through illegal means, such as forced confessions, is unlikely to solve the problem. One critic⁵⁰ has pointed out that an improvement would likely require the right to have counsel present during investigation, a right not currently afforded⁵¹. The right to remain silent should also be enshrined to achieve more progress.

The government need to properly review the detention center provision, the regulation on using

44 Police Discipline Regulations of the People's Public Security Organs (2010) (公安机关人民警察纪律条令), <http://www.mps.gov.cn/n16/n1282/n3493/n3778/n4243/2432224.html>

45 Articles 1, 2, 5, 11, Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases (2010); http://www.duihuahrjournal.org/2010/06/translation-chinas-new-rules-on_25.html (English), <http://www.spp.gov.cn/site2006/2010-06-25/0005428112.html> (Chinese)

46 Article 8, Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases (2010)

47 Article 3, Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases (2010)

48 Article 12, Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases (2010)

49 "Prosecutors found 6,430 violations in the management of detention and prison facilities between January and June - a year-on-year rise of 114 percent" Sun Qian, deputy procurator-general of the Supreme People's Procuratorate, http://www.chinadaily.com.cn/china/2009-11/25/content_9040335.htm

detention centers to host criminals, the prison law, the law on the procuratorate and the police law to ensure that clear guidelines are not only incorporated where relevant, but that these different laws and regulations are not contradictory, that the language they use is similar, and that the supposed functioning of the system is made clear regarding both the Police, detention center staff and the procuratorate.

Just as sufficient legal reform is highly unlikely, the mandate to establish and manage detention facilities will not see any change in the foreseeable future. A transfer away from letting police manage their own detention centers is second only to proper supervision by the procuratorate in importance in achieving a functioning system of detention centers where violations can be minimized, and those violations that do occur, can be redressed.

50 Xu Lanting; <http://www.duihuahrjournal.org/2010/06/chinese-lawyer-interviewed-on-new.html>

51 Currently the right to legal counsel starts after first interrogation.

RECOMMENDATIONS

TO THE NATIONAL PEOPLE'S CONGRESS AND STATE COUNCIL

- Undertake a full review of key regulations and laws to achieve cohesion in between the texts;
- Ensure separation of detainees and criminals serving sentences in detention centers;
- Provide rights afforded in Prison law to criminals serving sentences in detention centers;
- Transfer the mandate to establish and manage detention centers to the Ministry of Justice and its provincial and local branches;
- Transfer investigation rights into violations against detainees and criminals serving time in detention centers wholly to the Procuratorate for crimes leading to potential criminal prosecution, while leaving responsible Police to investigate minor violations;
- Reform the Organic law on the People's Procuratorate to bring it up to level with current legal framework, and develop specific rules for its work in relation to Police and detention centers.

APPENDIX A: LEGAL RESOURCES

Note: Some of these links might require the use of a proxy or Virtual Private Network (VPN) to be accessed.

DETENTION CENTERS

For the regulation on Detention centers, please consult the Detention Center Provisions (1990). English and Chinese version respectively can be found at:

- <http://cuawg.wikidot.com/local--files/lawsandregulations/1990%20Detention%20Centre%20Provisions.pdf> (pdf)

For the regulation on Criminals serving sentences in Detention center, please see the The Use of Detention centers to Carry Out Sentences of Criminal Supervision (2008). English and Chinese version respectively can be found at:

- <http://cuawg.wikidot.com/local--files/lawsandregulations/2008%20The%20Use%20of%20Detention%20Centres%20to%20Carry%20Out%20Sentences%20of%20Criminal%20Supervision.pdf> (pdf)

For information on detention as an administrative punishment, please consult the Regulations of the People's Republic of China on Administrative Penalties for Public Security (1986, ammended 1994). English and Chinese version respectively can be found at:

- <http://www.china.org.cn/english/government/207301.htm>

For further reading on Administrative penalties, please see the Administrative Punishment Law of the People's Republic of China (1996). English and Chinese version respectively can be found at:

- <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/administration/administrative-punishment-law-of-the-peoples-republic-of-china-1996.html>

For information on detention related to breaching State Security, please see the Law on State Security (1993). English and Chinese version respectively can be found at:

- <http://www.china.org.cn/english/China/218754.htm>

For information on the rights of legal access for the imprisoned, please consult the Interrim provisions on legal access for the imprisoned (2004). English and Chinese version respectively can be found at:

- <http://www.lawinfochina.com/law/displayModeTwo.asp?id=3865&keyword=> (requires login to access full legal text)

INVESTIGATION AND SUPERVISION

For information on the role of the People's Police, please see the Police Law (1995). English and Chinese version respectively can be found at:

- <http://www.chinese-laws.com/peoples-police-law-peoples-republic-china/>

For information on the role of the Procuratorate, please consult the Organic Law on the People's Procuratorate (1979, ammended 1983). English and Chinese version respectively can be found at:

- <http://www.china.org.cn/english/government/207241.htm>

For further information on the Procuratorate, please see the Public Procurators Law of the People's Republic of China (1995). English and Chinese version respectively can be found at:

- <http://en.chinacourt.org/public/detail.php?id=110>

For the Chinese Criminal procedure code, please see the Criminal Procedure Law of the People's Republic of China (1979, ammended 1996). English and Chinese version respectively can be found at:

- <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/general/criminal-procedure-law-of-the-peoples-republic-of-china-1996.html>

For information on the new rules concerning investigation, please consult the Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases (2010). English and Chinese version respectively can be found at:

- http://www.duihuahjournal.org/2010/06/translation-chinas-new-rules-on_25.html

For information on regulation concerning Police discipline, please see the Police Discipline Regulations of the People's Public Security Organs (2010). English and Chinese version respectively can be found at:

- <http://www.mps.gov.cn/n16/n1282/n3493/n3778/n4243/2432224.html>

OTHER RELEVANT LAWS AND REGULATIONS

For information on the governing regulations on Prison, see the Prison Law of the People's Republic of China (1994). English and Chinese version respectively can be found at:

- http://en.148365.com/Erule_220_1.html (part 1)
- <http://en.148365.com/219.html> (part 2)

For more legal resources and information, see 'Resources' section at <http://China-Action.org>.

RELEVANT INTERNATIONAL LAW, CONVENTIONS AND STANDARDS

For information on non-binding recommendations on the treatment of prisoners, please see the Standard Minimum Rules for the Treatment of Prisoners, at:

- <http://www2.ohchr.org/english/law/treatmentprisoners.htm>

and the Basic Principles for the Treatment of Prisoners, at:

- <http://www.un.org/documents/ga/res/45/a45r111.htm>

For information on access to legal counsel and courses for redress, please consult the Basic Principles on the Role of Lawyers

- <http://www2.ohchr.org/english/law/lawyers.htm>

and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, at:

- <http://www.un.org/documents/ga/res/40/a40r034.htm>

Finally, for information on torture, please consult the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*ratified by China*) at:

- <http://www.hrweb.org/legal/cat.html>

APPENDIX B: CASES

Death by Muscle Twitches (肌肉抽搐死)

Yu Xue Shuang (于学双) (male) died in hospital on March 23, 2010 four days after being taken into custody. Police have said his death was caused by 'muscle twitches,' however the camera meant to record their interrogation was switched off, and his family members who saw his body allege he had been tortured. All the evidence had raised suspicions over the actual cause of death.

Death by Drinking Water (喝水死)

Wang Ya Hui (王亚辉) (male) from Henan was reported to have died while being interrogated over alleged theft on February 21, 2010 three days after he was arrested by Lushun county Police officers. The police claimed he died by drinking hot water. Again relatives found wounds on his corpse, and deemed he had been tortured (bruises on his arms, nipples had been cut off, damages on testicles). Zhang Guanjun, police chief in Henan's Lushan county as well as his deputy was dismissed shortly after the incident.

Death by Playing 'Hide and Seek' (躲猫猫)

Li Qiao Ming (李荞明) (male) of Yunnan province is said to have had sustained brain injury while playing hide and seek with fellow inmates at the detention center where he was being held, which then is supposed to have led to his death. Mass outrage on the Chinese net space followed and a kind of citizens investigation committee was set up by the Yunnan authorities in an apparent attempt to assuage anger and distrust. The citizens investigation committee did not reach any different conclusion about the cause of death. The police refused to disclose crucial evidence such as the CCTV tapes in the detention center.

Sudden Death (猝死)

19 year old Xu Geng Rong (徐梗荣) (male) died of 'sudden death' whilst in police custody in Shaanxi province. Xu was arrested on February 28, 2010 on suspicion of murdering his girlfriend on February 10 the same year. He died one week after he was detained in the March 8, with having apparently confessed to the murder. Police originally stated he was found to be short of breath shortly before dying, but Xu's family reported that his body was covered in bruises and cuts and alleged he was beaten whilst in custody. The deputy Governor of the county and the county's Police chief were both

sentenced to two years imprisonment for abusing their powers in the case, the secretary of the county Police discipline committee was convicted of negligence but not sentenced to imprisonment and three other police officers were sentenced to imprisonment for their involvement in forcing a confession from Xu using violence. The court found that the officers had beat, tied and hung up Xu on numerous occasions during his detention and did not let him to have a rest.

Death by Ectopic Pregnancy (宫外孕死/妊娠死)

19 year old Xi Hong (郗红) (female) in Hohhot, Inner Mongolia was sent, without informing her parents, to a reform through labor camp specialized in treating drug addiction in September 2009. Two months later, her family was told that she died on November 8, 2009 as a result of 'ectopic pregnancy'. This was apparently backed up by a government autopsy that followed. Upon reclaiming her body, her family members noticed bruises suggesting she had been beaten and other unspecified evidence suggesting sexual assault. No video record of her interrogation was provided, her clothes had been changed before handing her over and no death certificate was provided.

Death by Washing Face (洗脸死)

Xue Hong Fu (薛鸿福), a 55 year old man from Hubei province, was detained after having allegedly been caught on CCTV cameras stealing a bicycle. He was then sentenced to 15 days of criminal detention in Jingzhou county. His death was reported on April 7, 2010. He was found drowned in a shallow washing basin in the detention center. Coroner's reports found no foul play, but this didn't convince netizens as his family noticed that his ears, nose and mouth had bloody marks around them, leading to suspicions he had been beaten to death. There are rumours that Police reached a cash settlement with Xue family, but that have not been confirmed.

Death by Picking Spots (抠粉刺死)

Yu Wei Ping (于维平), a man from Shandong province, was under criminal detention in Weihai city on suspicion of involvement in a fight which led to the death of another man. On November 13, 2009 he was found dead, with Police saying he'd died of 'picking acne' on his chest. After the family challenged the claims of an acne-picking death an autopsy revealed that the detainee had been repeatedly stabbed in the chest with a sharp needle-like instrument leading to his death (the needle pierced the heart). The procuratorate are currently under investigation on how the detainee was murdered.

Death by High Fall (高坠死)

Zeng Zhong Sheng (曾仲生) (male), a suspected drug dealer in Nanning, Guangxi province, died after 50 hours of police interrogation. The Police initially said he died by 'smashing into a tree', and then changed this to a 'fall from a great height', which didn't satisfy his relatives as he was handcuffed to a chair in the detention center at the time of his death with nowhere to fall from. An autopsy was rapidly carried out by the Police which confirmed death as a result of a brain injury sustained in a fall from a height, however the family did not accept this conclusion. A second autopsy was carried out by an independent coroner which came to the same conclusion, however the family were unhappy with this as at the time the second coroner noted that the body was severely decomposed as a result of not having been stored at the correct temperature. This occurred in the same detention facility as the death by playing 'hide and seek' above.

Death by Tripping/Falling Over (摔跤死)

45 year old Chen Xu Jin (陈续金) (male) of Jiangxi province 'fell over' whilst on a trip to the toilet and died on February 16, 2010. He was under detention on suspicion of theft. A doctor subsequently announced that he died from a heart failure, however later admitted he had not examined the body and was pressurised into giving this conclusion. Family members who viewed Chen's body noticed bruises and lesion on his head, neck and chest and believe he was beaten to death. The clothes he was wearing at the time of death were also removed and burned before his relatives were allowed to see him. Detention center officials later claimed this was because he had suffered from diarrhoea in the night and had soiled his shirt.

A later autopsy carried out with family members present found more than 70 lesions on his body and concluded that death was caused by the failure of his lungs and heart as a result of numerous latent medical problems not caused by violence. The family still question how his body came to have so many lesions and bruises if his death was as a result of pre-existing medical conditions. A detention center official then explained that Chen had indeed been beaten by a fellow inmate as he had relived himself into the cell's litter bin, causing a stink, but that this had definitely not lead to his death. The family do not accept the autopsy result. A Police spokesman subsequently announced the demotion of the officer in charge of the detention center and the suspension and investigation of a number of his subordinates.

Death by Madness (发狂死)

Lin Li Feng (林立峰), a young man from Guangdong province with a history of mental illness, kidnapped an 11 year old kid on June 25, 2009. He was subsequently apprehended by police and taken to a detention center. Within 24 hours he was dead. His family found numerous injuries on his body and his chest was badly swollen. The cause of death initially offered by the detention center was death from madness, and later sudden cardiac arrest. An autopsy carried out on Lin's body found multiple lesions, 7 broken ribs and severe contusions to his chest, severe internal bleeding from his organs, cuts and contusions to his head and damage to brain tissue. These injuries were said by the Police to have been caused during the rescue of his kidnap victim. The procuratorate will not bring charges against anyone in connection with them. Lin's mother refuses to have the body cremated until an investigation is begun.

Death by Nightmare (做梦死/噩梦死)

Li Wen Yan (李文彦), a 50 year old man from Jiangxi province was said by police to have died whilst having a nightmare in the detention center where he was being held on suspicion of damaging electrical supply equipment. The hospital where he was taken simply said he had suffered sudden death. Li was apprehended on January 24 , 2009, and was formally arrested on March 2. He died in the early hours of March 27. Bruises and marks on Li's head were found by his family, but were later ruled out as being the cause of death by the autopsy, which concluded that his death was caused by pre-existing medical conditions such as intestinal ulcers and blood on the lungs. Detention center officials explained that bruises on Li's head were the result of forfeits in a card game with fellow inmates.

Death in Sleep (睡觉死)

He She Biao (何舍彪), a 30 year old male arrested on suspicion of theft, died in a Wuyi county, Zhejiang province detention center on February 17, 2010. The cause of death, 'death in sleep' was given by the detention center's officials. His family noticed that his nose and mouth were bloody and suspect his death was not natural. Detention center officials claim he died from a heart seizure and that there was no foul play.

Death in Sleep (睡觉死)

Zhou Ling Guang (周凌光), a 37 year old male garbage collector from Guangdong province was sentenced to have re-education in a youth labour camp in Guangzhou. On March 8, 2010 he was

found dead in his sleep. His relatives were allowed to see his body only through a glass window and found it covered by a white sheet with only his head visible, however they noticed swelling around Zhou's neck. According to the center staff an autopsy later concluded blood vessels in his brain had burst, leading to the shutdown of his respiratory system.

Death by Sleeping in the Wrong Position (睡姿不对死)

A technical college student identified only as having the surname Chen (陈) from Fuzhou city, Fujian province, died whilst in Police custody on April 11, 2009 after having been sentenced to 10 days detention for taking illegal drugs in a karaoke bar. Officers claimed inmates found Chen lying unconscious in an abnormal position (hence the reason for death given seems to be that he was sleeping in the wrong position) on the morning of April 11 (his release date), and all attempts to revive him at the scene and later in hospital failed.

Death by Jumping from a Moving Car (跳车死)

Li Shao Min (李绍敏) was being transferred by police car from a local police station to the Baiyun detention center in Guangzhou, accompanied by 4 officers on January 22, 2010. The officers claim that on route Li Shaomin managed to release his handcuffs and leapt from the car at high speed, suffering fatal head injuries as a result. No further information available.

Death by being Handed Toilet Paper (递纸死)

A person identified only as having the surname Wang (王) suspected of stealing two coal lorries was apprehended by police in Dalateqi, Inner Mongolia on April 29, 2009. On May 2, 2009 while in the toilet, officers handed Wang toilet tissue and Wang suddenly died.

Death by Falling from Bed (床上掉下死)

20 year old Wen Long Hui (温龙辉) (male) died on March 23, 2009 whilst being held in the Fuzhou city No.2 Detention center, Fujian province. Detention center officials claim he died as a result from falling from his bed, and was not beaten.

Death on the Way to the Toilet (如厕死)

An unnamed detainee (male) from Hohhot city, Inner Mongolia died whilst in a detention center on March 2, 2010. Detention center officials claimed he died after falling down on the way to the toilet.

Death by Insufficient Evidence (证据不足死)

Pu Ze Min (蒲泽民) (male) of Sichuan province mysteriously died whilst in a detention center following the second rejection of the case against him by a court on the grounds of insufficient evidence.

Death by Over-excitement (激动死)

In December 2009 Shaanxi resident Wang Hui Xia (王会侠) (female) mysteriously died whilst in police custody following 20 hours of questioning. Police claim her death was caused by anxiety and over-excitement.

Death by Skeletisation (骷髅死)

Re-education through labour camp inmate Dong Xiong Bo (董雄波) (male) died on April 9, 2010 whilst on parole for medical treatment. At the time of death he weighed just 35 kilograms. Dong was originally sentenced to re-education through labour in May 2009 for touting concert tickets in Beijing, and was subsequently transferred to Hebei province's Hehuakeng re-education through labour camp. Dong's mother claimed her son had contacted her in October 2009 from the labour camp asking for medicine to be sent as he had a fever which the camp refused to treat. In February 2010 he asked for money to be sent as he had subsequently fainted and needed funds for a medical examination. He saw a doctor however the labour camp forced him to keep working.

On March 18, 2010 his mother received a call from labour camp officials telling her that Dong was receiving medical treatment outside of the camp, and when she arrived at the hospital where he was being treated she found him at death's door. Dong died on April 9, 2010.

Death by Showering (冲凉死)

In March 2008 Kaifeng, Henan province reform through labour camp inmate Mu Da Min (穆大民) (male) died in the camp. Witnesses claimed he was attacked for refusing to take a shower and suffered fatal head injuries as a result.

Death by Breathing (呼吸死)

In April 2007 Henan province detention center inmate Zhi Guo Yu (郟国玉) (male) died whilst in detention. Police claimed that the cause of his death was that he stopped breathing.

Beaten to Death by Inmates (被同狱犯人打死)

57 years old Luo Jing Bo (罗静波) (male) died whilst in a Hainan province detention center on suspicion of selling firearms and explosives. Luo was beaten to death by inmates on March 14, 2010 because he didn't want to take a shower when ordered to by an inmate as it was too cold. The detention center officers on duty have been suspended pending investigation.

Death by Fever (发烧死)

57 years old Wang Li Jia (王立家) (male) was arrested on May 27, 2010 for defrauding the State land compensation payments and put in the Pingfang district detention center, Harbin city, Heilongjiang province. After 11 days, the police told his family Wang was died because of fever. On June 18, an autopsy was performed on Wang which stated that "In the front chest there are two fist-sized ecchymosis (markings of a heavy bruise); left of head under scalp has congestion (excessive accumulation of blood), left elbow has congestion as well as congestion under both armpits."

Death by hanging himself while being handcuffed (被手铐铐住上吊死)

Xing Kun (邢鲲) (male) from Kunming, Yunnan province, was alleged to have hung himself using his shoelaces in a police interrogation room having been arrested and questioned. He was arrested on December 11, 2009 on suspicion of selling stolen goods and had died in the early of next day. Cuts and bruises was found on Xing's body, and he was handcuffed whilst in the interrogation room.

ALSO FROM THE CHINESE URGENT ACTION WORKING GROUP



"DEATHS IN CUSTODY – The Police's free rein to abuse power in detention centers"

A 34 page report on the lack of clear and effective legal framework to properly manage China's 6000 detention centers, and how this has led to a string of most unusual deaths of detainees. The report focuses on the fact that Police are largely responsible for investigating their own crimes against detainees, and how the current laws fail to provide clear guidance for the Procuratorate to investigate crimes committed by detention center staff and police. The report also presents information on 26 cases of unnatural deaths, in most cases obvious murders of detainees by Police. The report also looks at the calls made from both politicians, the media and academia in how the system need be reformed to ensure that the rights of detainees are protected. [January 19, 2011]



"THOUGHT CRIMES - China's use of psychiatric institutions as detention centers"

The report details the use and misuse of China's psychiatric institutions by public security officials, and how the lack of clear regulations concerning placing people in psychiatric custody leaves little space for redress concerning these abuses. It provides an in-depth legal analysis of the legal framework concerning these institutions, as well as on 'Ankang' centers, special custodial institutions where politically unwanted people can be locked up. 'Ankang' centers are part of the administrative penalties system, and little external oversight, from for example the Procuratorate, exist. Misuse of the 'Ankang' institutions, which exists in major cities across China, is widespread and no national regulation or law exist governing these centers. [June 16, 2010]



"PAPERING OVER THE CRACKS - Reform of the forced eviction regime in China"

An extensive report on the current situation concerning forced evictions and demolitions, and how the proposed new law is falling short of providing remedies for what is one of the most widespread human rights violations in China today. The report also details how people are fighting back against unlawful land confiscation, and what role 'barefoot' lawyers play in this fight. Finally, the report uses case studies to highlight different aspects of the problems related to forced evictions and demolitions. [March 29, 2010]



"NO END IN SIGHT - Sustained persecution of human rights defenders in China"

A report detailing how the persecution of human rights defenders has continued unabated at the same high level as during 2008. The report highlights different methods of persecution employed by central and local governments, and how the application of such methods differs between different groups of activists. The report furthermore presents information on key cases of human rights defenders currently being persecuted for their peaceful expression and use of basic rights enshrined in Chinese law. [January 25, 2010]

DEATHS IN CUSTODY

The Police's free rein to abuse power in detention centers



"MANIPULATION AS INSULATION - The non-renewal of *weiquan* lawyers' licenses in China"

This report provides information on the situation for lawyers and law firms in China, with focus on the abuse of non-renewal of lawyers' licenses. It further analyzes frightening new developments concerning the communist party and the state's growing control of independent lawyers and law firms in China. It also provides an analysis of the hazardous situation lawyers in China face when taking on politically sensitive cases, and how the administrative authorities use the annual re-registration to effectively disbar any lawyers it feels provokes the status quo. [October 21, 2009]



"OLYMPIAN REPRISALS – The Chinese government's response to domestic criticism of the 2008 Olympic Games"

A report outlining how human rights defenders who publicly opposed the 2008 Olympic Games were persecuted by the Chinese state. The report focuses on participants in two campaigns, both advocating for prioritizing better protection of Human Rights over the hosting of the Olympic Games. The report provides information on the technique used by the government to silence these groups, and how it differed between the two groups. [April 23, 2009]



"A BRIEFING ON BLACK HOUSES – System, facilities, victims"

This brief report provides information on the nationwide system of illegal, but government run and funded, jails. The black jails, or black houses, are used to detain petitioners who seek redress for perceived wrongs. The report outlines how the system functions, how the facilities operate, who detains the petitioners, and how the police and central government aids and assist in the operation of the system, as well as a legal analysis. The report was released ahead of the 2009 UN Universal Periodic Review of China. [February 1, 2009]