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Police Torture of Criminal Suspects in China

A tiger chair specially designed to restrain detainees. Former detainees say that police often strap them into these metal chairs for hours and even days, depriving detainees of sleep, and immobilizing them until their legs and buttocks were swollen. 2014 Private

In May 2010, Chinese media went into a frenzy over the case of Zhao Zuohai, a 57-year-old man who in 1999 had been convicted of murdering a neighbor. On April 30, 2010, the neighbor reappeared in their village, apparently having merely fled after a violent dispute with Zhao. Zhao, who said police torture in 1999 had led him to confess to a murder he did not commit, was released after 11 years in prison. The Zhao case is one of a number of cases of police brutality that have emerged from across China around 2009 and 2010, prompting a national outcry against such abuse.

The Chinese government adopted legal prohibitions on the mistreatment of persons in custody as early as 1979, ratified the United Nations Convention against Torture in 1988, and launched official campaigns to curb torture in the 1990s. Yet at the time of the 2009 and 2010 outcry, the use of torture and forced confessions had long been endemic to China's criminal justice system. Even Chinese officials had characterized torture in detention as common, serious, and nationwide. It has received attention at the United Nations, by Chinese legal scholars, and in reports of Chinese and international nongovernmental organizations.

Following the 2009 cases, the government announced various measures to curb torture as well as convictions based on evidence wrongfully obtained. The measures included legislative and regulatory reforms, such as prohibitions on using detainee cell bosses to manage other detainees, and practical steps such as erecting physical barriers to separate police from criminal suspects and videotaping some interrogations.

In 2012, the National Peoples Congress revised the country's Criminal Procedure Law to require law enforcement officials to improve access to legal counsel for suspects and to exclude suspects' confessions and written statements obtained through torture. The Ministry of Public Security, the agency in charge of the police, claims that the use of coerced confessions decreased 87 percent in 2012, that cell bosses who abuse fellow suspects are things of the past, and that deaths in custody reached a historic low in 2013. Some Chinese legal scholars contend that, due to these efforts, torture is gradually being curbed at least for ordinary, non-political criminal defendants.

This report based on Human Rights Watch analysis of hundreds of newly published court verdicts from across the country and interviews with 48 recent detainees, family members, lawyers, and former officials shows that the measures adopted between 2009 and 2013 have not gone far enough.

The detainees and defense lawyers we spoke with said that some police officers deliberately thwart the new protections by taking detainees from official detention facilities or use torture methods that leave no visible injuries. In other cases, procurators and judges ignore clear evidence of mistreatment, rendering China's new exclusionary rule which prohibits the use of evidence directly obtained through torture of no help. Out of 432 court verdicts from early 2014 examined by Human Rights Watch in which suspects alleged torture, only 23 resulted in evidence being thrown out by the court; none led to acquittal of the defendant.

While measures such as the exclusionary rule and videotaped interrogations are positive, they are being grafted onto a criminal justice system that still affords the police enormous power over the judiciary and offers police numerous opportunities to abuse suspects. For example, the Ministry of Public Security operates the detention centers, not the Ministry of Justice, permitting police unlimited and unsupervised access to detainees. Lawyers cannot be present during interrogations and suspects have no right to remain silent, violating

their right against self-incrimination. Procurators and judges rarely question or challenge police conduct, and internal oversight mechanisms remain weak. According to academic sources, only a minority of criminal suspects have defense lawyers.

Absent more fundamental reforms in the Chinese criminal justice system that empower defense lawyers, the judiciary, and independent monitors, the elimination of routine torture and ill-treatment is unlikely.

In 2014, the reversal of two verdicts by appeals courts brought positive outcomes, but more than anything the reversals demonstrated the entrenched failings of the existing system. In a landmark case, a court acquitted Nian Bin who spent eight years on death row for the murder of two children based on his confession obtained through torture. In another case, a court in Inner Mongolia issued a posthumous exoneration of Huugjilt, an ethnic Mongolian teenager executed in 1996 for rape and murder also based on a confession obtained through torture. In both cases, the internal mechanisms responsible for police oversight—police internal supervision units, the procuratorate, and the courts—missed or ignored the use of torture to obtain convictions.

If China's leadership is genuinely committed to legal reform and to addressing growing public frustration over miscarriages of justice, it should move swiftly to ensure that lawyers are present during police interrogations, adopt legislation guaranteeing suspects right to remain silent, and establish an independent commission to receive and investigate complaints of police abuse. It should also go beyond measures adopted since 2009, which were modifications to a fundamentally abusive system, and instead make systemic changes that strengthen the procuratorate and the judiciary relative to the police. Such reforms should include transferring responsibility for detention facilities to the Ministry of Justice, which currently oversees prisons, and freeing the judiciary from Party control. Allowing a visit by the UN special rapporteur on torture would be a serious indication of commitment to reform.

China's November 2015 review before the UN Committee against Torture affords the Chinese government an important opportunity to demonstrate its commitment to vigorously implementing existing laws, and to making key improvements to eradicate torture and ill-treatment of detainees. Failure to do so will raise larger questions about the government's willingness to bring reforms to improve public confidence in the country's judicial system.

A central component of the research for this report was our search of a large database of Chinese court verdicts made possible by a Supreme Peoples Court (SPC) decision requiring all courts to post decisions online starting January 1, 2014 and our analysis of the resulting subset of verdicts in which suspects alleged police torture. We searched all of the roughly 158,000 verdicts published on the SPC website between January 1, 2014, and April 30, 2014. As noted above, a total of 432 verdicts referenced torture allegations and judges excluded confessions in only 23 cases.

Further analysis of the 432 verdicts shows that very few judges investigated torture allegations in any detail. Thirty-two verdicts mention suspects alleged torture and then say nothing further about it. In the remaining 400 verdicts, judges addressed the torture claims, but most often relied solely on documentary evidence (247 of the 400) or on the existing case record with no additional evidentiary sources (118 of the 400). In only 35 verdicts is there any mention of live witness testimony and in every instance those witnesses were police officers; there is no sign that defense witnesses or medical or forensic experts were allowed to testify in relation to a torture claim.

Our analysis of court cases and interviews with former detainees show that police torture and ill-treatment of suspects in pre-trial detention remains a serious concern. Former detainees described physical and psychological torture during police interrogations, including being hung by the wrists, being beaten with police batons or other objects, and prolonged sleep deprivation.

Some said they were restrained for days in so-called tiger chairs (used to immobilize suspects during interrogations), handcuffs, or leg irons; one convicted prisoner awaiting review of his death sentence had been handcuffed and shackled for eight years. Some detainees spoke about abuses at the hands of cell bosses, fellow detainees used by detention center police as de facto managers of each multi-person cell. In some cases, the abuse resulted in death or permanent physical or mental disabilities. Most suspects who complained of torture to the authorities had been accused of common crimes such as theft. Interviewees said torture is particularly severe in major cases with multiple suspects, such as in organized or triad-related crimes.

In most of the cases we examined, police used torture and other ill-treatment to elicit confessions on which convictions could be secured. Abuses were facilitated by suspects lack of access to lawyers, family members, and doctors not beholden to the police.

Former detainees and relatives described the difficulty of retaining lawyers willing to challenge the police in court over allegations of mistreatment. In addition, many told Human Rights Watch that medical personnel who have the opportunity to report apparent torture or ill-treatment do not do so, denying detainees a critical source to validate their allegations. Videotaped interrogations are routinely manipulated, such as by first torturing the suspects and then taping the confession, further weakening suspects claims of ill-treatment. Police use of torture outside detention centers means that detainees often live in terror of being taken from the centers, whether for purported transfers to another facility or for any other reason.

As noted above, the exclusionary rule, one of the most important protections established to protect detainees from torture, has also proved to be of limited utility thus far. Lawyers told Human Rights Watch they welcome the rule insofar as it provides an opportunity to challenge police behavior in legal proceedings. However, in practice procurators and judges too often ignore their requests, often providing no reason for doing so, or give them only perfunctory consideration without seeking evidence to corroborate detainees torture claims.

Judges often evaluate torture claims solely on the basis of documentary evidence that is either produced or controlled by the police and, unlike with live witnesses, is not subject to cross-examination. In the court verdicts Human Rights Watch analyzed, not a single defense witness or expert witness testified regarding the torture claims. Although the exclusionary rule places the burden of proof on the procuratorate to demonstrate that the police obtained evidence legally, judges often continue to expect detainees to prove that torture had taken place.

The extraordinary power of the police is reflected in the pervasive lack of accountability for police abuse, recent reforms

notwithstanding. Those whom Human Rights Watch interviewed including a former judge and a former police officer agreed that mechanisms to supervise the police are inadequate, and that police officers are rarely held legally accountable for abuse. Among the SPC verdict database cases we found only one prosecution of three police officers responsible for torture, but none served jail time. The lack of prosecutions in turn means that compensation or rehabilitation for victims is especially difficult to obtain. Former detainees who had tried to press claims for compensation said that police at most offered them some money in exchange for their silence, and that it is very difficult to access formal state compensation. Detainees efforts to seek accountability have produced few positive results and in some cases have even led to further punishment.

Finally, while this report focuses on the mistreatment of ordinary criminal suspects in custody, the torture and ill-treatment of those detained for political reasons remains a severe problem. Political prisoners such as Gao Zhisheng, Guo Feixiong, Hada, Cao Shunli, and countless others have suffered repeated torture and other abuses at the hands of police and cell bosses under police control to punish them for their activism and to deter others from challenging the state. They have experienced much of what is described in this report and often worse.

Research for this report was conducted by Human Rights Watch researchers in interviews and document reviews conducted between February and September 2014, and in follow-up research through March 2015. As detailed below, the research included our analysis of 432 Chinese court verdicts addressing detainee torture claims comes from a pool of 158,000 verdicts from the first four months of 2014, as well as Chinese media accounts of detainee abuse cases from the same period.

The scope of this research was necessarily limited by constraints imposed by the Chinese government. The government is hostile to research by international human rights organizations, and strictly limits the activities of domestic civil society organizations on a variety of subjects, particularly those related to human rights violations. This study was conducted during one of the most serious crackdowns on human rights in recent years.

Over the past two decades, a small number of diplomats, United Nations officials, members of the National Peoples Congress and its local counterparts, and selected members of the Chinese public have been allowed access to Chinas detention centers. These visits have provided invaluable information, but the government strictly controls the visits and only sporadically grants them. Human Rights Watch did not have access to detention centers and relied on the corroborated accounts of others.

Research for this report included interviews with 48 former detainees, family members of detainees, lawyers, a former judge, a former police officer, academics, and members of international and domestic nongovernmental organizations. Among these, 18 were conducted with former detainees, nearly all of them criminal suspects who have no known history of political dissent. We cross-checked individual accounts through interviews with co-defendants, other detainees, and family members, as well as through examination of medical and detention records and official media reports about the cases where available.

The names and identifying details of many of those with whom we spoke have been withheld to protect them from government reprisal. All names of detainees, their family members, and lawyers used in the report are pseudonyms. All those we interviewed were informed of the purpose of the interview, its voluntary nature, and the ways in which the information would be used. All interviewees provided oral consent to be interviewed. All were informed that they could decline to answer questions or could end the interview at any time. No financial or other incentives were provided to individuals in exchange for their interviews. All interviews were conducted in Mandarin except those with international experts.

Human Rights Watch sent letters to four government departments with questions related to the report (see Appendix I). Human Rights Watch has not received any response to them at the time of publication.

As noted above, a central part of the research was our search of a large database of Chinese court verdicts made possible by a Supreme Peoples Court (SPC) decision requiring all courts to post decisions online starting January 1, 2014 and our analysis of the resulting subset of verdicts mentioning detainee torture claims (see Appendix II). [1] We looked at all verdicts in the SPC database from the period January 1, 2014, to April 30, 2014.

Of about 158,000 criminal court verdicts available in the database for that period, Human Rights Watch found a total of 432 in which criminal suspects alleged torture. We also found one verdict in which three police officers were put on trial for torture and 45 decisions in which 50 detained criminal suspects were held legally accountable for abusing detainees. The searched terms we used included torture to extract confession (*xingxun bigong*), using violence to obtain evidence (*baoli quzheng*), abuse of supervisees (*nuedai beijianguanren*), intentional injury (*guyi shanghai*) and same cell (*tongjianshi*), and damaging orderly detention (*pohuai jianguan zhixu*). [2]

While these verdicts provide a glimpse into how Chinese courts make decisions regarding allegations of torture, the sample analyzed by Human Rights Watch (the dataset) almost certainly does not include all torture cases from that time period. The SPC decision regarding posting verdicts online provides exemptions for cases that involve state secrets or personal privacy, and cases that are otherwise not suitable for making public, which gives the courts wide latitude to withhold information. [3] Certain cases, such as major corruption cases involving higher level officials, seem to be missing from the SPC database. [4] In addition, many torture allegations made in court may not be recorded in verdicts, and, of course, some detainees who have been abused likely do not even raise the issue in court.

Secondary sources Human Rights Watch consulted include Chinese government documents, laws, and policies; reports from domestic and international nongovernmental organizations; UN documents on torture in China; interviews with officials from foreign governments and international organizations working on issues pertaining to torture, forced labor, and police abuse; news articles from Chinese and international media; and writings by Chinese and foreign academic experts on police abuse.

This report does not address abuses taking place outside of official criminal proceedings or those committed by forces other than that of the police under the Ministry of Public Security (MPS). It does not address abuses in administrative detention, arbitrary detention or imprisonment, or abuses by the procuratorate. [5] It does not focus on the treatment of political suspects held on state security charges. It also does not focus on police abuse in Xinjiang or Tibet, where torture has been particularly severe, as it is especially difficult to access criminal suspects there without putting them at risk. The report does address the conditions of death row inmates and those sentenced to short sentences, as they are held with criminal suspects and face similar conditions in pre-trial detention centers controlled by police.

The Chinese government has taken some steps, including strengthened legal and procedural protections, which if rigorously implemented would to some extent mitigate torture and other ill-treatment of detainees. Yet as several UN reviews have shown, few fundamental changes have actually been made.

The United Nations Committee against Torture, the international expert body responsible for monitoring state compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), has reviewed China's record four times since 1988.^[6] Together with the recommendations by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, who visited China in 2005, independent UN mechanisms and officials have made many recommendations to the Chinese government to address the problem (see Appendix III). While the Chinese government has made some progress implementing a number of these recommendations, it has yet to implement most of them, which would involve more sweeping and fundamental changes to the justice system, such as empowering the defense vis-à-vis the prosecution, and changing the power relationships among the police, the procuratorate, and the courts.

In its most recent review of China in 2008, the Committee against Torture concluded that notwithstanding the State party's efforts to address the practice of torture and related problems in the criminal justice system, it remained deeply concerned about the continued allegations of routine and widespread use of torture and ill-treatment of suspects in police custody. In a written response to the Committee's concluding comments, the government defended its efforts, stating it has worked conscientiously and unceasingly to combat torture and these measures have obtained notable results.^[7]

China will appear again before the Committee against Torture in November 2015.

The People's Republic of China's first Criminal Law, promulgated in 1979, imposed criminal penalties for coercing confessions. Through the 1980s, economic reforms and greater openness led to an explosion of crimes. The government's slogan of strictly prohibit[ing] coerced confessions became largely meaningless as authorities staged crime crackdowns that focused on results rather than following procedures.^[8]

In the 1990s, the government undertook periodic campaigns that included raising police standards in criminal investigations and strengthening internal supervision and penalties for torture, but without sufficient political will or procedural guarantees, these efforts had almost no impact.^[9] Since the 2000s, concerns over wrongful convictions have been regularly featured in the speeches of top leaders, and authorities have enacted legislative and regulatory measures to combat the use of torture to coerce confessions.

During the two most recent revisions of the Criminal Procedure Law, in 1996 and 2012, the government made changes aimed at curtailing the use of torture to extract confessions. ^[10] During the 1996 revision, it reduced the importance of confessions as criminal evidence. ^[11] In 2010, the case of Zhao Zuohai, which caused widespread public outrage, prompted embarrassed Chinese law enforcement authorities and the judiciary to promulgate a joint notice in 2010 with two sets of rules, one on the exclusion of illegally obtained evidence, another on evidence used in death penalty cases. ^[12] The former known as the exclusionary rule was codified in the 2012 revision of the Criminal Procedure Law.

The exclusionary rule provides that suspects' confessions and witness statements obtained through violence, threats and other illegal means should be excluded from evidence and cannot be used as a basis for recommendations on prosecution, procurator decisions, or adjudication.^[13] It allows for a pretrial process in which the defense may challenge confessions, outlines procedures and requirements for excluding the confessions, and states that police officers may be compelled to appear in court to give in-court testimony.^[14] In addition to the exclusionary rule, the MPS has since 2010, also supported the videotaping of police interrogations and currently requires videotapes for cases involving capital offenses, life imprisonment, and other major crimes.^[15] The MPS announced six months after the 2012 revisions came into effect that there had been an 87 percent drop in coerced confessions nationwide.^[16]

The Chinese exclusionary rule notably does not incorporate the fruit of the poisonous tree doctrine. This doctrine, which the UN special rapporteur on torture considers to be part of international law, extends the rule beyond confessions obtained from torture and ill-treatment to all other pieces of evidence subsequently obtained through legal means, but which originated in an act of torture.^[17]

In February 2009, the Chinese media reported that Li Qiaoming, a 24-year-old criminal suspect in Yunnan province, had died from fatal brain trauma. Authorities initially claimed that he had died during a jailhouse game of hide-and-seek (*duomaomao*). But after details of the case spread over the Internet, they acknowledged that three fellow inmates had beaten Li to death. Following this and other cases of severe abuses against detainees being reported in the media, the Supreme People's Procuratorate and the MPS adopted new measures to improve practices in detention centers.^[18]

The MPS says these measures have been in use since 2009, and they include surveillance cameras in detainee living quarters that can be viewed in real time by procurators on duty in detention centers, alarms in cells so that bullied detainees can report abuses to guards, physical barriers in interrogation rooms separating police officers and suspects, cooperation with local hospitals to provide better health care to suspects, and physical check-ups before suspects can be admitted in detention centers, among others.^[19] The MPS has also prohibited the use of detainees in management a euphemism for cell bosses and instead has stated that all the activities of detainees should be implemented by the police directly.^[20] The MPS claims that since the end of 2011 it has hired special supervisors individuals outside of the police system to carry out periodic, unannounced visits to 70 percent of its detention centers to check on conditions.^[21]

Authorities also staged a campaign against cell bosses, including by seeking criminal charges against 36 cell bosses and disciplinary actions against 166 police officers.^[22] In March 2010, a year after the campaign's launch, the MPS announced that there had been no deaths in custody over the preceding year for which cell bosses were responsible.^[23]

In May 2012 the MPS announced that it was revising the 1990 Detention Center Regulations and drafting a law to replace it to address some of the legal loopholes enabling the abuse of criminal suspects. The draft has not yet been made public, but the Chinese domestic press has reported on some aspects of it. One key issue is which ministry should have the power to manage detention centers. Scholars have advocated that they be transferred to a neutral party to avoid police abuse. ^[24] But the MPS is reportedly reluctant to give up control over detention centers because of the information it is said to obtain by covertly monitoring suspects or through informants. ^[25] About 12.5 percent of all crimes solved by the police are said to have been discovered this way. ^[26] In 2009, the MPS responded to

criticisms of its management of detention centers by vesting leadership of crime investigations and management of detention centers in two different local police vice chiefs. [27]

Once the police identify criminal suspects, they can place the suspects under five types of coercive measures. Police can summon suspects (*juchuan*), [28] put them under criminal detention (*xingshi juliu*), formally arrest them (*daibu*), subject them to residential surveillance (*jianshi juzhu*), or allow them to be released on bail pending trial (*qubao houshen*). [29]

The specific process and time it takes for a suspect to go through the criminal detention system varies considerably. At each step of the criminal process, the Criminal Procedure Law allows the police to extend the deadline under certain circumstances, such as if the suspect has provided no identification information, or if police discover new crimes. There are no safeguards in the law to prevent the police from repeatedly manipulating these procedural rules and detain a suspect indefinitely.

Typically, after the police first summon a suspect, they can hold them for up to 24 hours before formal criminal detention. Suspects must then be transferred to a detention center within 24 hours after formal detention (but as discussed in Chapter IV below, the period before suspects arrive at a detention center can be further extended). From the day suspects are formally detained, police have up to 37 days, during which they can subject suspects to repeated instances of incommunicado interrogation, before the procuratorate approves their arrests. [30] It can then take months and sometimes years before the police finish their investigation and the procurator decides to prosecute the suspect. [31] If there is an indictment by the procurator, the suspect is put on trial, and, if convicted, can appeal and be given a second trial. Once the convicted defendant exhausts avenues for or abandons their appeal, they are transferred from the detention center to a prison. Only if the defendant's sentence is less than three months, or if they are on death row, will they remain at the detention center. Few criminal suspects are given bail while awaiting trial, contrary to international standards. [32] Most suspects are held in detention centers (*kanshousuo*), for months while they await trial. These facilities are often overcrowded, have poor food and rudimentary health care. [33] Suspects have few rights under Chinese law to challenge the decision to hold them in pre-trial detention. [34]

The International Covenant on Civil and Political Rights, which China has signed but not yet ratified, states that [i]t shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial. It also states that those denied bail need to be tried as expeditiously as possible. [35]

Under international law, governments have the obligation to protect all those in their custody from harm to their person and uphold the right of detainees to be held in humane conditions and treated with dignity. [36]

The Convention against Torture prohibits the use of torture, which is basically defined as the intentional infliction of pain or suffering, whether physical or mental, for the purpose of obtaining information or a confession, or as a punishment, by a public official or agent. [37] Also prohibited is cruel, inhuman or degrading treatment or punishment, referred to as ill-treatment. [38]

Governments are obligated to ensure that any statement made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. [39] They are required to conduct a prompt and impartial investigation by competent authorities when they receive complaints of torture and punish all acts of torture in criminal law. [40] Victims of torture should be given fair and adequate compensation as well as physical and psychological rehabilitation. [41] Similar obligations apply in cases of ill-treatment not amounting to torture. [42]

Although the word torture (*kuxing*) exists in Chinese, the term is not used in domestic law or media reports. A search on China's most popular search engine, Baidu, for *kuxing* brings up articles that describe the use of torture in ancient times, rather than in the contemporary era. Instead, the government uses the term coerced confession (*xingxun bigong*), defined as corporal or quasi-corporal punishment by judicial officers that inflicts severe physical or mental pain or suffering to force suspects to confess, and makes it a criminal offense. [43] It also criminalizes the same behavior when used against witnesses to compel testimonies, as well as corporal punishment of detainees in institutions of confinement. [44]

The UN Committee against Torture has repeatedly raised concerns that the Chinese government has not incorporated in its domestic law a definition of torture that fully complies with the convention's definition. [45] One of the problems was that at the time the committee last reviewed China, the law only prohibited physical, but not mental or psychological, pain. [46]

The Chinese government made some progress toward addressing this problem when the Supreme Peoples Court issued a judicial interpretation in 2012 that for the first time recognized the infliction of severe mental pain as an act of torture. [47] But the law does not specify the types of behaviors that would constitute such mental pain. In November 2013, the Supreme Peoples Court issued an opinion document that elaborated upon the types of coercion prohibited in criminal investigations, noting that the following were not permissible: freezing, starving, shining [a spotlight on], hanging up, and fatiguing the accused. [48] However, because this document is not a judicial interpretation (guidelines to trials which are nationally enforceable), its legal status and thus its power in guiding judges' decisions are questionable. Consequently, interrogation tactics such as prolonged sleep deprivation remain lawful. [49]

The government has also yet to address the problem that the laws do not clearly prohibit the use of torture except for the purpose of extracting confessions. [50] The laws only prohibit torture by judicial officers and officers of detention facilities and do not cover torture by all others acting in an official capacity, including those acts that result from instigation, consent or acquiescence of a public official, such as torture by cell bosses. [51] The Committee against Torture has indicated that the state has an obligation to prevent mistreatment of detainees not only by police and penitentiary officials, but also by other inmates. [52]

Chinese law also contains other significant gaps that lead to weak protections against torture and other ill-treatment. [53] Under the law, police interrogate suspects in detention centers and police stations in the absence of lawyers and other third parties. [54] While Chinese law stipulates that suspects have the right to appoint and meet with lawyers, few have the means or opportunity to seek legal counsel. There is no right to legal aid for the vast majority of suspects. As a result, most suspects have no access to lawyers. [55] Although the Chinese government introduced a provision in the revisions of the 2012 CPL that allows suspects to refuse to answer questions that incriminate themselves, the law continues to require them to answer truthfully in police interrogations, rendering the new provision largely meaningless and ineffective. Protections against self-incrimination do not include the right of suspects to remain silent. [56]

The UN Committee against Torture considers prompt access to a lawyer as among the fundamental legal safeguards to prevent torture and ill treatment during detention as well as to ensure a fair legal proceeding.^[57] The committee stated:

While police may at times use restraints on individuals in custody, international human rights standards have strict procedures and conditions for their use. The UN Standard Minimum Rules for the Treatment of Prisoners provide that instruments of restraint should only be used as strictly necessary to prevent risk of harm to individuals or others, and they are not to be used for punishment.^[59] Chinas Detention Center Regulations make similar stipulations.^[60] Both international standards and Chinese law provide that when restraints are used, there should be efforts to limit discomfort, pain, or injuries.^[61]

However, Chinas relevant regulations allow individuals be restrained for up to fifteen days, and this period can be extended further upon authorization from the head of the PSB.^[62] This contravenes international standards, which advise that the use of restraints be as short as possible, that is, minutes rather than hours or days.^[63] The Committee against Torture has advised that detainees should be guaranteed their due process rights when subjected to disciplinary actions, including to be informed in writing of the charges against them, and to be provided a copy of any disciplinary decision, among others.^[64] But Chinese detention regulations do not set out such due process protections.

The regulations also require detainees on death row who are held in detention centers instead of prison to wear restraints at all times while they await execution.^[65] This contravenes the comments of the UN Committee against Torture, which states that the status or legal condition of a detainee cannot be reason to automatically impose restraints.^[66]

Chinas Detention Center Regulations allow for the use of solitary confinement, called small cell (*xiaohao*), for up to 15 days upon authorization by the head of the detention center. That form of confinement could follow serious cases of breaches of Detention Center Regulations, such as spreading corrupt thoughts, damaging public property, or getting into fights.^[67] The Committee against Torture has stated that the use of solitary confinement should be prohibited for pre-trial detainees.^[68]

International standards set out that all death-in-custody cases should be subjected to thorough, prompt and impartial investigation, including those in which relatives or other reliable sources suggest unnatural death.^[69] As the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions has noted, since there is a presumption of state responsibility due to the custodial setting and the governments obligation to ensure and respect the right to life, the government has to affirmatively provide evidence to rebut the presumption of state responsibility. Absent proof that it is not responsible, the government has an obligation to provide reparations to the family of the deceased.^[70]

Beyond obligations to prosecute wrongful deaths, the authorities also need to take measures to prevent deaths in custody and respond effectively to the causes of death, including by ensuring proper oversight and adequate medical care to detainees.^[71] Families should have access to all information relevant to the investigation and the government should release the results of the investigation in the form of a written report.^[72] In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality or where there are complaints from the family about these problems, the government should pursue investigations through an independent commission of inquiry.^[73]

The Chinese government issued regulations addressing deaths in custody after the string of custodial deaths in 2009.^[74] According to the procedures, the police should immediately notify the family, and then immediately conduct an investigation into the cause of death. The investigation includes viewing and preserving the surveillance video of the detention cell, questioning fellow detainees, doctors, and guards, checking and preserving all related health and detention records, taking photos and videos of the body, and identifying the cause of death. Once the cause has been determined, police should notify the family and submit a report to the procuratorate. The police and the procuratorate can also order a forensic agency to carry out an autopsy, which family members and their legal representatives can attend. The procuratorate should review the police report, and conduct its own investigation in cases of unnatural deaths, which include deaths due to abuse but not those due to illness. The procuratorate is also empowered to conduct its own investigation if the deceaseds family disagrees with or questions the results of the police investigation.^[75]

Among the shortcomings in the regulations is that they do not set out parameters for how long investigations should take. They also do not require that the agency carrying out the investigation be independent or impartial. While the regulations require that police notify the family of the investigations findings, they do not oblige the police to give the family a full report or disclose full details.^[76]

Prior to 1979, Chinas police force primarily functioned as a political instrument of the Chinese Communist Party (CCP) to eliminate political rivals and cement the Partys power; responding to ordinary crime was a lesser priority. Since the reforms beginning in 1979 which provided for a more open economy, common crime has soared, and the police have increasingly taken on a law enforcement role.^[77]

There are five types of police in China: this report focuses on the public security police under the Ministry of Public Security (MPS), which makes up the vast majority (86 percent) of the countrys two million police officers.^[78] Public security police have several main duties, including the investigation of most criminal offenses, and managing the detention centers where criminal suspects are held.^[79]

The MPS guides the operations of the four lower levels of public security services through drafting rules and regulations.^[80] But it is local leaders CCP committee and government officials at the same level that fund the police force, appoint personnel including the local police chiefs, determine police salaries, and set policing priorities.^[81] The CCP controls the police through its committees in each level of the public security service, and through its Political and Legal Committee (*zhengfawei*), which lead and coordinate the police, the procuratorate, and the courts on law and order matters. The strong local party-state control makes the police susceptible to local political influences.^[82]

The power of the police has increased substantially in recent years, particularly under the leadership of Zhou Yongkang, who was minister of public security from 2002 to 2007.^[83] Zhou made police chiefs the center of local power by having them appointed as secretaries of the CCP political and legal committees.^[84] He expanded the nationwide political repression or stability maintenance (*weiben*) infrastructure, further empowering the police.^[85] This situation began to change around 2010, when the CCP ordered separation of the roles of police chiefs and secretaries of political and legal committees at the provincial level.^[86] While the MPS has

been put under greater CCP control under the leadership of President Xi Jinping, it continues to be powerful. [\[87\]](#)

Chinese officials have characterized the use of torture as nationwide, common, and serious, [\[88\]](#) while Chinese scholars analyzing prominent cases of wrongful convictions involving capital offenses concluded that over 80 percent of these cases involved torture. [\[89\]](#)

Some lawyers interviewed by Human Rights Watch said the problem of torture in police interrogations has become less serious in non-political criminal cases because of recent legal reforms aimed at reducing torture. But other lawyers and former detainees told us that torture remains a serious problem. These variations may be due to differences of locale, prevalence of crime, varying resources available to law enforcement agencies, and other factors. The 432 allegations of torture documented in court verdicts analyzed by Human Rights Watch, however, occurred in 30 of China's 31 provinces, municipalities, and autonomous regions. [\[90\]](#)

Our research also shows that criminal suspects are at risk of ill-treatment in detention at times other than during interrogations. So-called cell bosses, detainees who act as de facto managers of a cell, at times mistreat or beat detainees. Police subject some detainees to the use of restraints in so-called stress positions or prolonged solitary confinement to punish them, or to force them to work long hours without pay. While authorities say that the numbers are down, detainees continue to die in custody, in many cases allegedly due to torture and ill-treatment by police officers, guards, and fellow detainees, or prolonged lack of adequate medical attention. [\[91\]](#)

Chinese criminal law currently prohibits infliction of severe physical or mental pain or suffering to coerce suspects to confess during police interrogations. [\[92\]](#) But criminal suspects who spoke to Human Rights Watch reported these methods continue to be used. They described similar methods in different provinces. Many of these methods can also be found in Chinese press reports. [\[93\]](#) They include:

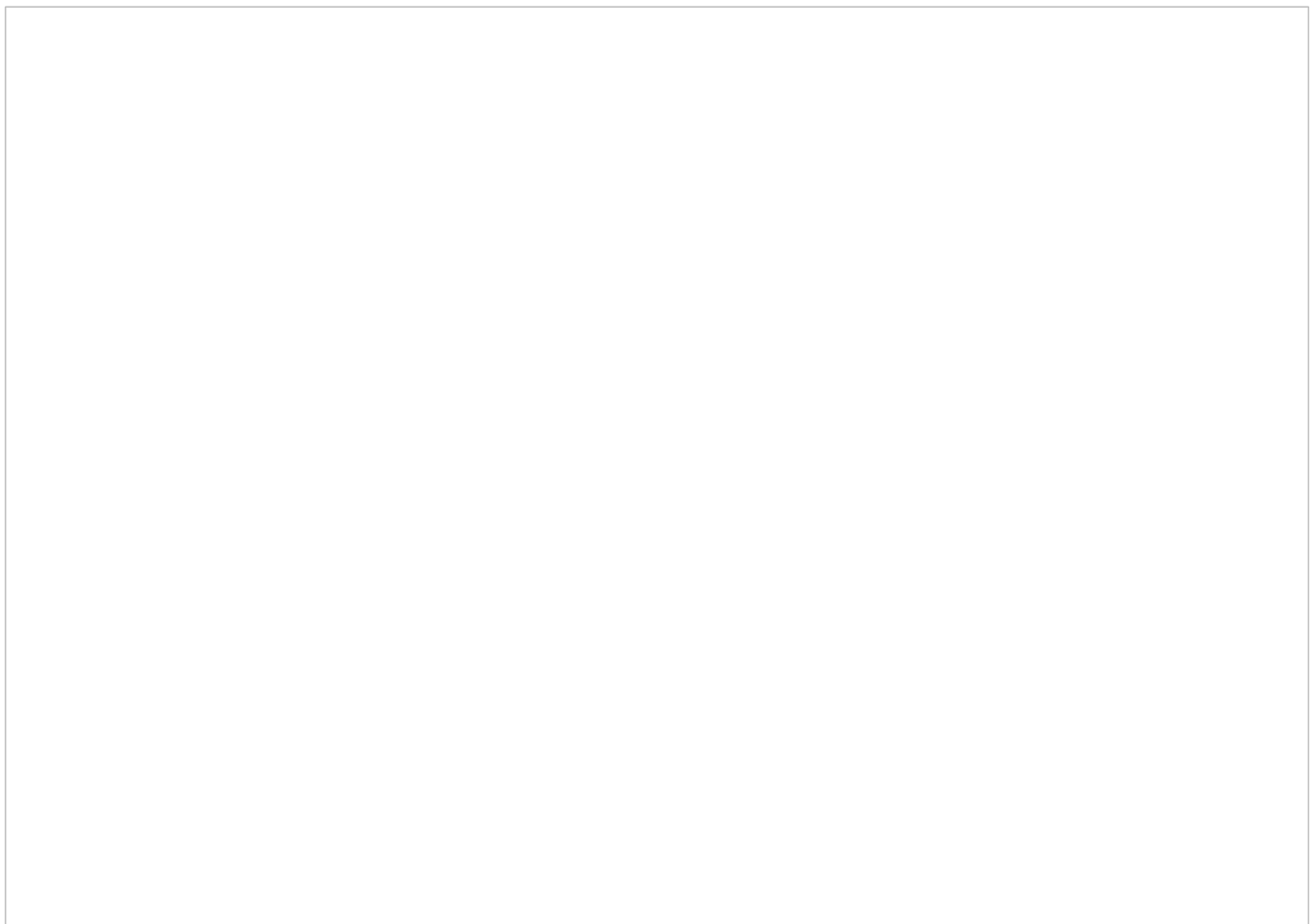
Criminal defense lawyers described some common methods of abuse. Beijing-based lawyer Shen Mingde, who focuses on procedural violations in the criminal system, told Human Rights Watch that many types of torture are used in China:

A former police officer from Heilongjiang Province, who left the police force in 2011, told Human Rights Watch that the use of physical and psychological abuses by police is common:

Victims and lawyers reported beatings and kickings. Wu Ying, a lawyer who has practiced for over two decades, told Human Rights Watch:

Beijing-based lawyer Luo Chenghu described a case he handled in 2012, in which his client, a farmer charged with homicide, was tortured:

Gu Daoying, who runs a gambling parlor in Zhejiang province, told Human Rights Watch that police tortured him after they took him into custody:



[Click to expand Image](#)

Illustration of police beating a detainee on the ground, with both of his hands in handcuffs behind his back. Human Rights Watch commissioned this and two other drawings below based on descriptions of torture and ill-treatment by former detainees and lawyers. [\[99\]](#)





[Click to expand Image](#)

Illustration of a suspect hung up on the iron grill of the window. Some former detainees say they were hung by their handcuffs, which is especially painful as the handcuffs cut into the flesh. (c) 2015 Russell Christian for Human Rights Watch

One common method is to string up the suspect by the wrists using handcuffs or ropes, sometimes with arms tied backwards. Chen Zhongshen, from Hunan Province, described how police officers tortured him: They handcuffed me and then hung the handcuffs on the windows, just like this, heels off the ground the handcuffs cut into my flesh. I was hung like a dog.[\[100\]](#)

Other suspects also reported being beaten while hung up by their wrists:

Interviewees noted that substances like chili oil are used to inflict pain or severe discomfort on suspects. Zhang Chun told Human Rights Watch: They covered my mouth, and poured chili oil into my nostril, it ran inside and everywhere on my nose, mouth and face.[\[102\]](#)

Some lawyers told Human Rights Watch that police have become sophisticated in their infliction of pain of suspects, and they employ techniques that leave little or no physical trace. They describe police using towels, books, helmets, or other items to cushion the site of injury, so as to create intense pain but leave no visible marks. Lawyer Luo Chenghu told Human Rights Watch:

Shanghai-based lawyer Song Sanzuo, who has been a criminal defense lawyer since 1999, said:

The use of sleep deprivation appears to be endemic. Yu Zhenglu, who is in his 30s, told Human Rights Watch that he was strapped in an interrogation chair and prevented from sleeping for over 96 hours:

Lei Xinmu, a farmer in his late 20s, described similar ill-treatment to Human Rights Watch. Lei was accused of robbery, which he said he did not commit: I was sitting on a tiger chair, and there were two spotlights on top on my head, they took turns to talk to me they would not let me rest, I couldn't take it any longer.[\[106\]](#) After over 200 hours of sleep deprivation, Lei did not confess to the crime. After a few weeks of detention, police released him due to lack of evidence.

According to the Committee against Torture, sleep deprivation used to extract a confession is impermissible,[\[107\]](#) and prolonged periods of sleep deprivation constitute torture.[\[108\]](#)

Police rely on torture and ill-treatment to obtain confessions for several reasons. The criminal system considers confessions to be the king, or ultimate form, of evidence, and the system is arranged in ways that maximize opportunities for investigators to obtain such evidence. [\[109\]](#) Police are expected to extract a confession in every case, which they then use to conduct an investigation to corroborate the confession. [\[110\]](#)

Although the government has spent hundreds of billions of yuan in recent years for stability maintenance projects across the country, [\[111\]](#) police, particularly at the local level, often have inadequate financial or human resources to properly investigate crimes. [\[112\]](#) In addition, outside of major cities, police officers are often insufficiently trained and lack basic knowledge of how to conduct criminal investigations. [\[113\]](#) This under-resourcing for crime control makes it expedient for the police to rely on torture, which they consider the most efficient means of obtaining the necessary evidence for criminal prosecutions and convictions.

Individual officers' promotion through the ranks and other financial or material rewards are often based on assessment criteria that include clearance rates, the number of crimes solved compared to the number of crimes reported to police. [\[114\]](#) The requirements that officers need to reach a certain clearance rate over 90 percent in some areas puts tremendous pressure on officers to solve crimes. [\[115\]](#) The MPS prohibited the use of clearance rates in evaluations in 2011, and a number of provincial police bureaus followed this important

step, but it is yet unclear how effective these formal announcements have been on police behavior. [116]

Lawyers told Human Rights Watch that police officers in charge of investigations sometimes beat suspects to get them to admit to crimes they did not commit or to testify against others as complicit in crimes. One lawyer described a father and son held separately; both were beaten and told that the other had confessed against him. [117] In some cases the suspects already had admitted to the crimes voluntarily but the police coerced them to confess to other similar crimes that the suspects insisted they did not commit. In one case, a suspect confessed quickly to a robbery and provided details and information about his fellow robbers. The suspect was then strung up and beaten while police demanded he confess to other robberies. [118]

Most of the cases of torture described in this report involve suspects charged with theft, drug sales, or robberies, all common crimes in China. [119] But a number of lawyers we interviewed said that torture is particularly common and severe in murder cases, triad-related crimes, and corruption cases. [120]

In recent years, the most prominent cases of torture to extract confessions reported by mainland Chinese media have involved the latter categories of crimes, such as the case of Zhao Zuohai, accused of homicide, and that of Vincent Wu, accused of triad activity. These crimes have been specifically targeted for crackdowns by the central government in recent years because they tend to attract widespread public condemnation and attention. [121] The government has clearly made a priority of murder cases; the MPS announced in 2013 that the national rate for solving murders was 95.5 percent. [122] Some cities, such as Urumqi in Xinjiang, claimed a 100 percent rate for solving murders in 2013. [123]

Lawyers we interviewed said that in these major cases, there is political pressure coming from the top to solve them, thus further weakening any procedural protections however limited that otherwise might exist in Chinese criminal law for the defendants. [124]

The investigation and prosecution of such cases can create an environment especially conducive to torture and other ill-treatment, largely because officials from the procuratorate and the court are made to work together as a group (*lianhe banan*). [125] Local governments set up Special Investigation Units (*zhuananzu*) involving the supposedly separate branches of police, procuratorate, the court, and the Party's Disciplinary Commission in cases involving official misconduct. Together, and under the leadership of the local Communist Party Political and Legal Committee, the units study the case to see how to convict [126] the suspects.

These three categories of crimes numerically make up a small proportion about 6 percent of the 432 allegations of torture documented in court verdicts Human Rights Watch analyzed. But the severity of the torture, and the fact that these get considerable public and media attention, means they make a disproportionately large impact on public confidence in the justice system.

The 2009 string of deaths in detention centers, including the infamous hide-and-seek death of Li Qiaoming described in Chapter I of the report, generated public outrage that pushed the government to acknowledge the problem of cell bosses detainees who organize and abuse others on behalf of detention authorities. In 2009, the Deputy Procurator-General of the SPP Jiang Jianchu acknowledged the severity of the problem in a published interview:

In 2009, the SPP and the MPS announced a series of promising measures, including increased monitoring of detainees living quarters to prevent violence by cell bosses. [128] In 2014, the Ministry of Public Security said the problem of cell bosses had been effectively curbed. [129]

Yet former detainees and defense lawyers told Human Rights Watch that cell bosses continue to be commonly used as de facto managers of cells and act as the intermediaries between detainees and the police officers. Many facets of life including where to sleep and organizing the purchase of extra food and necessities are under the management of the cell bosses.

Former detainee Yuan Yifan, who is in his 30s and had been in a Guangzhou detention center, told Human Rights Watch that although cell bosses have new titles, they continue to function as de facto guards in detention centers:

The level of mistreatment and abuse employed by the cell bosses varies. Wang said those in his detention center had not mistreated fellow detainees: There are still jail bosses, but the situation is better than before. Corporal punishment and verbal abuse are still being used, but they are less harsh. [131]

Others said physical abuse was common. Lawyer Wu Ying who spent months in a detention center in a southern province said he witnessed simple beatings:

Detainee Zuo Yi said beatings were very serious in the Fujian province detention center where he was detained; a cell boss there threatened to torture him to death slowly. He recalled one beating:

Cell bosses mistreat and beat fellow detainees for a variety of reasons, in some cases, they dislike particular detainees or want to extort money from them. A detainee from Henan Province, Feng Kun, told Human Rights Watch:

Another main function of cell bosses is to act as the cells production manager in the many detention centers that require detainees to work without pay. Cell bosses divide the work among the cells detainees and failure to work quickly enough or accomplish the individual quotas assigned appears to be one of the main reasons cell bosses abuse fellow detainees. Zuo Yi, who was detained in Fujian, told Human Rights Watch: They bring your work in for you to do every day, you have to do whatever they told you to or they will beat you. [135]

Former detainee Tong Shenmu said cell bosses use violent mistreatment as punishment for violating cell rules:

Similarly American teacher Stuart Foster, who spent months in Guangzhou's Baiyun Detention Center, told Human Rights Watch that cell bosses punished detainees who were slow in their work:

Detainees told Human Rights Watch that cell bosses have a close relationship with the guards, who gave them favorable treatment

including extra cigarettes and warm tea. Although much of the violence and mistreatment from cell bosses appears to be part of their management style to instill fear and obedience among inmates, some is done on the behest of the guards.[\[138\]](#) Interviewees have also reported that cell bosses beat detainees to extract further confessions and information from them, either at their own initiative, or because they were instructed by the police to make the detainee cooperate with the investigation. Zuo Yi told Human Rights Watch:

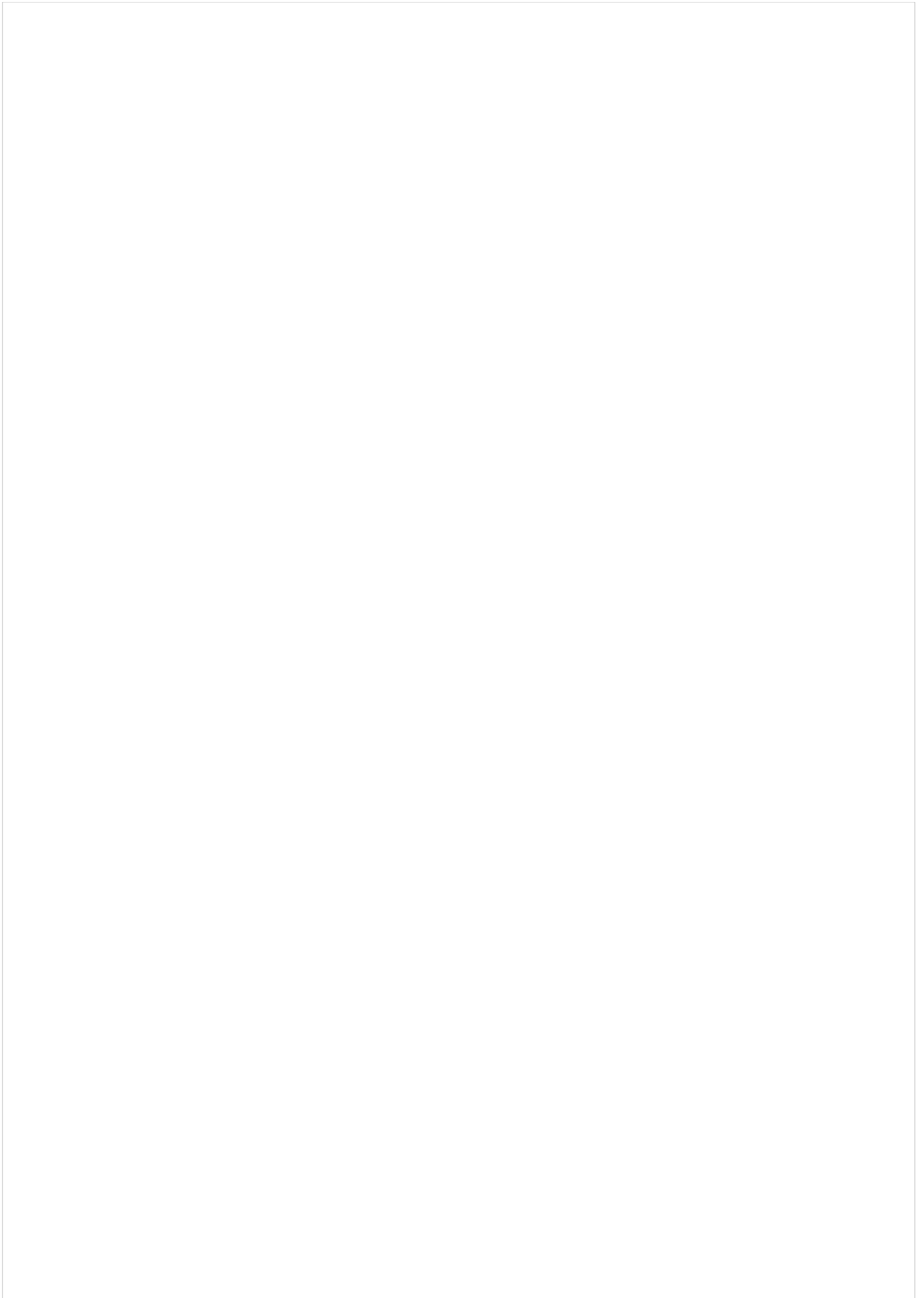
Yu Zheng, a lawyer from Shanghai who has been practicing since 1992, told Human Rights Watch: If you don't obey, they tell the cell bosses to beat you, like when you don't confess.[\[140\]](#)

Another Shanghai-based lawyer, Song Sanzuo, said:

Police officers regularly use restraints known as the tiger chair to immobilize suspects during interrogations. Former detainees told Human Rights Watch that they were strapped in this metal chair for hours and even days, deprived of sleep, and immobilized until their legs and buttocks were swollen.

Former detainee Ma Yingying told Human Rights Watch that she was strapped to this device for weeks, during which time she lost considerable weight and fainted multiple times:

Former detainee Lei Xinmu said:



[Click to expand Image](#)

Illustration of a suspect restrained in what the police call an interrogation chair, but commonly known as a tiger chair. Former detainees and lawyers interviewed say that police often strap suspects into these metal chairs for hours and even days, often depriving them of sleep and food, and immobilizing them until their legs and buttocks are swollen.(c) 2015 Russell Christian for Human Rights Watch

Some police have acknowledged the use of this device, but they contend that it is used to prevent suspects from harming themselves and others. According to a written statement by the Guiyang City Public Security Bureau:

According to an MPS notice, interrogation rooms should be equipped with special seats for suspects that should be secure and fixed to the ground with safety features.^[145] But the notice did not give details as to the kinds of features this seat should have, the circumstances under which the chair should be used, or how long suspects can be strapped to the chair. While police have contended the chair is for protecting suspects from hurting themselves or others, the relevant regulations governing police equipment and restraints do not include interrogation chairs.^[146]

Detention center staff also regularly use handcuffs and leg irons on detainees.^[147] Relevant regulations require that detainees on death row awaiting court review of their cases and convicted inmates awaiting execution be restrained at all times using leg irons and handcuffs, often with leg irons and handcuffs linked together, presumably to prevent escape.^[148] This could mean months and sometimes even years in restraints as detainees appeal their cases.

One detainee convicted of homicide whose appeal of his death sentence was pending had been handcuffed and shackled in leg irons in an uncomfortable position for 24 hours a day, seven days a week for the past eight years, according to a family member:

Long-time Beijing-based human rights lawyer Ze Zhong told Human Rights Watch:

Detention centers also use painful restraints for prolonged periods to punish detainees for bad behavior, such as fighting other detainees, and failure to obey the staffs orders or detention center rules. Former detainee Li Fang, who is in her 50s, recalled one episode in which a fellow detainee was chained for days:

Former detainees we interviewed all noted that this punishment is particularly uncomfortable and painful, because the leg irons are heavy and make it difficult for the detainees to move or stand to their full height, or cut into their skin. Lawyer Wu Ying, who was held in a detention center, explained:

Detainees sometimes have also been chained to a stationery object in the cell, so they effectively cannot move for the period of the punishment. Former detainee Stuart Foster told Human Rights Watch that:

In some detention centers, detainees are required to sit in one position for hours without moving, which can be very painful. Former detainee Yuan Yifan said:

Former detainee Yang Zhenling described a similar situation:

Detainees told Human Rights Watch that the restraint periods can be days or even weeks depending on the mood of the guards. Zuo Yi, who now works as a driver after release from a Fujian detention center, told Human Rights Watch:

Wu Ying said:

Several detainees said that they witnessed others subject to solitary confinement during pre-trial detention. Ma Yingying said:

Tong Shenmu, a professional in his mid-30s detained for economic crimes, said it was common for detainees to be subjected to solitary confinement:

The cells are often small, dark rooms that can barely accommodate one person. Guangzhou lawyer Chen Le told Human Rights Watch:

Former detainee Tong Shenmu said:

Shandong-based lawyer Hua Shengyu said a number of his clients were detained in these small cells and described the conditions there:

Former detainee Li Fang described her experience in the cell:

Detainees told Human Rights Watch that these punishments are imposed in an arbitrary manner. Lawyers noted that there is no formal way to effectively challenge these disciplinary actions. Detainee Li Fang told Human Rights Watch that few dare to challenge the guards on their arbitrary punishment:

While Chinese regulations outline a set of procedures for handling deaths in custody including viewing the detention centers surveillance video, questioning fellow detainees, doctors, and guards, and an optional autopsy how authorities actually handle deaths in custody appears to vary considerably.

Human Rights Watch interviewed family members of four detainees who had died in custody and all said they were told by the police that their family members had died of natural causes; in most cases, it was unclear to them whether investigations had been conducted.

Bai Qingzuo, father of a 17-year-old who died days after a month in custody in a detention center in northwestern China, said the authorities did not conduct an investigation into his sons death:

In Bais sons case, police appear to have relied on a common tactic: releasing a fatally ill prisoner on medical bail, which relieves the police of responsibilities as outlined in the relevant regulations to conduct an investigation or notify their superiors about a death in custody. While Bais son died in a hospital outside the detention center, there is strong evidence, described below, that authorities had neglected his condition until it was too late.

Jiang Yiguo, the daughter of a detainee in her 60s, said it was unclear if the police conducted an investigation into her mothers death:

Ao Ming, the son of a detainee in his late 60s told Human Rights Watch that he was kept in the dark by the police about his fathers

death:

When families asked to see the standard surveillance video meant to be taken of all detainees in their living quarters, police did not allow them to watch all the surveillance footage. Jiang Yiguo told Human Rights Watch:

Ao Ming said:

Xiao Li, daughter of a detainee in his 40s, told Human Rights Watch that the detention center showed her a video of her father, which showed signs of abuse by a fellow detainee suspected to be a cell boss, but it refused to give her footage of the area where he was beaten:

All of the families told Human Rights Watch that authorities conducted autopsies on the bodies either on the authorities own initiative or following the families requests, but two families said they had been reluctant to authorize autopsies because they distrusted the police to conduct them impartially.

Forensic experts are controlled by the state and they have to be registered and managed by the Ministry of Justice, but the Public Security Bureaus have their own forensic department and experts.^[172] In cases of deaths in custody, according to the relevant regulations, the police and the procuratorate can order autopsies from these experts.^[173] Families should be consulted in this process, and if they wish to seek forensic experts other than those chosen by the police or the procuratorate, the authorities should allow them.^[174] However, Ao Ming told Human Rights Watch that they were not allowed to use forensic experts other than those appointed by the police:

Xiao Li also said they fought with the police about having an autopsy done, but failed:

Because families cannot choose who conducts the autopsies, some want to videotape the autopsy so they can send it to other experts. The relevant Chinese regulations say families can be present at the autopsy, but are silent on whether they can document them.^[177] Two family members told Human Rights Watch that police refused their request to obtain photos or videos of the autopsy.

Bai Qingzuo said he was reluctant to agree to an autopsy, which was carried out by forensic experts employed in a local university and appointed by the police. He eventually relented, but on the condition that he be given a video of the autopsy. They did not give it to him:

Similarly, police showed Xiao Li a copy of the autopsy video and pictures, but did not allow her to make copies of them:

Because family members cannot obtain this kind of information or evidence, it is virtually impossible for them to press for redress, including criminal prosecution of the police officers believed responsible for the deaths. Under relevant laws and regulations, police can be held criminally or financially responsible if detainees die as a result of physical violence in detention.^[180]

A detention center told Xiao Li that her father had died of a sudden heart attack, even though there was evidence of physical violence:

In two other cases, police denied any responsibility even though there were signs of neglect and denial of adequate medical attention while in detention. Bai Qingzuo said his son suffered for days from increasingly itchy, painful red patches on the legs and face, but the detention center did not attend to him or send him to the hospital until just before his death. They released him after they sent him to the hospital, where he died only a few days afterwards:

After Bais sons death, the police said that he had died of tuberculosis. However, neither the police nor the procuratorate initiated an investigation, and that since his son died from natural causes, they said they were not liable for the death.

Abnormal deaths in custody, such as when suspects die after beatings by fellow detainees, have been at the center of media attention in China. It is difficult to ascertain how many deaths like these take place each year, as the MPS is the only agency that publishes statistics. In 2009, official data noted only 15 cases of deaths in custody due to unnatural causes, and subsequent reports by the MPS state that both the numbers of unnatural and natural deaths dropped consecutively in 2010 and 2011.^[183] The MPS claims that deaths in detention centers dropped to a historical low in 2013.^[184]

Press reports of suspicious deaths while in custody continue to be published regularly in recent years.^[185] The case below, which alleges the involvement of cell bosses, is taken from Chinese press accounts.

In December 2013, Mo Youwen, 38, was taken into custody for allegations of theft to a county detention center in Guangxi, where he died 39 days later. Initially, the local Public Security Bureau and doctors at the hospital who had treated Mo insisted that he had died of a sudden illness: leukemia. Yet Mos family saw his body and said it was covered with injuries and bruises. The police offered the family 900,000 RMB (about US\$150,000) as compensation on the condition that the family not publicly discuss the case.^[186] The familys suspicions of ill-treatment grew when they saw the hospital records, which noted external injuries.

The *Beijing Youth Daily* quoted anonymous sources saying that Mo died after being beaten by cell bosses for more than two weeks, all within view of the watchful surveillance camera in the cells. It was not the first time Mo was badly beaten either earlier, he had been transferred out of his first cell after he was beaten by other detainees, and it was in this second cell that he was beaten to death. Ironically, the procuratorial office of the detention center in which Mo died was given awards by the SPP in 2007 and in 2011 for its excellence in ensuring a safe detention environment.^[187] After the press reports, the local procuratorate promised to investigate the case, but at this writing, the results of this investigation have not been made public and there is no publicly available evidence that anyone has been held accountable.^[188]

Prompt access to independent lawyers and doctors, as well as the right to be visited by or correspond with family members, are basic rights of detainees and are critical to the prevention of torture and ill-treatment. In general, detainees should have the rights to legal counsel of their own choosing, to prompt access to an independent physician, and to be able to communicate with family members, including through visits, subject only to restrictions and supervision necessary to the security and order of the facility.^[189]

These rights are often denied in China. Under Chinese law, suspects have no right to have lawyers present while they are interrogated in police stations and detention centers.^[190] Suspects are not guaranteed the right against self-incrimination (being allowed to remain silent

during interrogations).^[191] They can appoint and meet with lawyers, but the practical bars to hiring effective counsel are considerable and free legal counsel is not guaranteed.^[192] In addition, police are legally entitled to deny access to lawyers to suspects charged with terrorism, major corruption crimes, and state security offenses.^[193] Detainees also have no access to medical professionals independent from the police, and very restricted or no communication with their families, creating conditions that are conducive to the use of torture.^[194]

Safeguards introduced in recent years, including the video recording of criminal interrogations and mandatory physical examination upon arrival at the detention center, could prevent torture if effectively implemented. But they have had a limited impact because they rely on the state to restrain and police itself. While the exclusionary rule—the exclusion from trial of statements obtained through torture—which should provide lawyers opportunities to challenge such evidence in criminal proceedings, has proven to be too weak a tool.

Academic and official sources estimate that 70 to 90 percent of criminal defendants in China have no lawyers, typically because defendants are often too poor to hire them or are discouraged from doing so by the police.^[195] Legal representation and legal aid are compulsory for those accused of crimes that might lead to life imprisonment or the death penalty, or to juvenile suspects and those with disabilities.^[196] While others can apply for legal aid, such assistance is not guaranteed, as required by international law.^[197] In a positive move, the Chinese government has piloted a duty lawyer system in some detention centers since 2006 to improve legal access, though it is unclear if and when the scheme will be adopted nationally.^[198]

For the minority of defendants who can afford lawyers, the next hurdle is being able to contact a lawyer to request legal representation while in police custody. Under the Criminal Procedure Law, suspects have the right to appoint lawyers as soon as they are first interrogated or held under any of the compulsory measures of the police (summons, bail pending trial, residential surveillance, detention, or arrest).^[199] Police should then convey this request to the lawyer in a timely manner.^[200]

Former detainees and defense lawyers Human Rights Watch spoke with, however, said that police often fail to pass on these requests and, in two cases we examined, suspects said they suffered retaliation for making them.

Cao Zuowei, a worker accused of theft, said police ignored him when he said he wanted to hire a lawyer:

Beijing-based lawyer Lu Qinghua said that in a case he handled, police started beating his client when the client asked for a lawyer:

Defense lawyers told Human Rights Watch that access to non-political criminal suspects improved after revisions to the Criminal Procedure Law in 2012. Under the revisions, lawyers have access to suspects upon presentation of three documents—their lawyers license, a letter authorizing them to represent the suspect, and a letter from their law firm.^[203] But lawyers have also complained about long waiting times because of a shortage of meeting rooms for lawyers, additional requirements for documents not required by the law, excuses by the police that presiding officers must be present, and other obstacles to meeting their clients in some detention centers.^[204]

Pursuant to the 2012 revisions, moreover, those charged with terrorism, state security crimes, and major corruption charges (involving over 500,000 RMB [\$82,000] in bribes), cannot meet with lawyers without police approval.^[205] These same suspects can also be held in a secret location outside of official detention centers for up to six months, creating conditions rife for torture and ill-treatment.^[206] Lawyers have also complained that the authorities have abused this exception to legal access even when it is not clear that the case falls into one of the three categories. According to a state press report:

Officials charged with corruption are often denied access to lawyers even though the total amount involved is well below the threshold that would qualify the case as one involving major corruption.^[208] In a survey cited in the official press, only 30 percent of corruption suspects are allowed legal access.^[209] In one 2013 case, for example:

A number of detainees who had access to lawyers told Human Rights Watch that the lawyers they hired refuse to take cases involving police abuse or failed to advocate on behalf of their clients due to police pressure. Bai Qingzuo told Human Rights Watch:

Another family member of a victim, Yang Jinli, said she also had a hard time finding lawyers who dared to challenge the police:

Ao Ming, son of a detainee who died in custody, told Human Rights Watch:

A lawyer explained why fellow lawyers are afraid of confronting the authorities on police abuse:

In addition to fears of offending the authorities, there are also legal consequences for lawyers challenging the police on torture. Article 306 of the Criminal Law penalizes lawyers who entice suspects to falsify evidence or change their testimony contrary to facts.^[215] The widely reported case of Li Zhuang, a lawyer who was imprisoned for helping his client to speak out about torture, reportedly has deterred many criminal lawyers from taking such cases.^[216]

The police are required to notify family members within 24 hours of criminal detention, residential surveillance, or formal arrest.^[217] Access to families is critical: often it is a detainee's only means of hiring a lawyer, and for those who do not have lawyers it is the only way of alerting people outside the detention center that they are being mistreated. According to the law, suspects can meet with their families in the presence of police officers after they obtain permission from the police.^[218] But in practice, detention centers severely restrict suspects' communication with their families. Academics and lawyers report that detention centers do not allow suspects to meet with family members until they are convicted and either choose not to pursue appeals or have exhausted the appeals process.^[219] Detention centers typically do not allow suspects to call their families, according to interviewees.

Several suspects told Human Rights Watch that the police failed to notify their families of their detention or notified them days after they were first taken into custody.^[220] Yu Zhenglu said police did not notify his family at all when he was in detention for 20 days:

Chen Zhongshen told Human Rights Watch that police did not notify his family for the entire month he spent in custody:

Often the only way to reach one's family is through letters, but guards or cell bosses at detention centers often intercept letters, exposing

mistreatment in detention. Zuo Yi told Human Rights Watch that his letters never reached his family:

Li Fang, who was held in Shanghai, told Human Rights Watch that she was unable to write or otherwise communicate with her family:

Xiao Li said she had no direct contact with her father, who later died in custody, making it very difficult for her to find out what happened to him in detention, and whether he may have been abused:

Detainees have rights to independent medical examinations upon detention and upon request, according to international standards; these are key safeguards against torture and mistreatment.^[226] In China, detention centers are required to allow medical workers to give detainees a physical check-up before admitting them to the facilities, as well as before their departure, and Chinese regulations allow ill or injured suspects in detention access to medical treatment.^[227] Through these interactions with medical workers during their detention, suspects should be offered a degree of protection from abuse.

The purpose of the initial exam, according to the regulations, is to screen out from detention centers detainees who have psychosocial disabilities, infectious diseases, those who are pregnant or breastfeeding, those who are too ill or too old, those who are injured or whose disabilities make them unable to care for themselves, and those whose continued detention can endanger their lives.^[228] The regulations do not require doctors to check for signs of torture and abuse, but the examination should provide an opportunity for doctors to note such signs.

In practice, however, former detainees and defense lawyers told Human Rights Watch that medical workers whether at hospitals or at the detention centers do not ask suspects about obvious evidence of physical abuse and the presence of police at the examinations makes it difficult for suspects themselves to raise the subject with medical workers.

Gu Daoying told Human Rights Watch that the doctor ignored his injuries:

Shanghai-based lawyer Yu Zheng told Human Rights Watch:

Lawyers told Human Rights Watch that police officers guarding the detention centers are often wary of receiving suspects who are more seriously injured or ill, possibly for fear that they might die in those facilities and thus bear responsibility for their treatment. But those who have been tortured are sometimes admitted. Beijing-based lawyer Luo Chenghu told Human Rights Watch that after the investigative police had a discussion with the police responsible for the detention of his client, the detention center admitted the client even though he had injuries from torture:

Suspects are reluctant to tell medical workers about torture because they do not consider that the workers independent of the police. The medical workers are either stationed in the detention center, in which case they are MPS employees or police officers, or, increasingly, they are doctors in designated local hospitals that often have contractual or close relationships with the detention center.^[232] A number of suspects said police officers were standing right next to them while they were undergoing the physical check-up, such that if suspects chose to raise their abuse with the doctor they would simultaneously be challenging the police.

Ma Yingying, a former detainee who was subjected to days in the tiger chair and sleep deprivation told Human Rights Watch: The police were always around, you cant talk. Talk to the doctor? No way, you get beaten if you talk.^[233]

Another former detainee told Human Rights Watch:

Some lawyers we interviewed said that their clients were forced by the investigating officers to say that their injuries were self-inflicted. Shen Mingde, a lawyer based in Beijing, said:

Detainees also told Human Rights Watch of their suspicion that investigative police officers pressure medical staff to change their medical evaluations so that detainees pass the test and are admitted into detention centers. Chen Zhongshen, who was subjected to the tiger chair for 47 hours and who is in poor health, told Human Rights Watch:

Defense lawyers told Human Rights Watch that detainees medical reports, which could give clues about abuses and trigger legal protections, are often not included in case files. Consequently the report is not available to the procurator, judge, or defense lawyers for examination. Lawyers can ask the judge to request the records, but such requests might not be granted. Shanghai-based lawyer Song Sanzuo said:

Beijing-based lawyer Ze Zhong said:

Beijing-based lawyer Xiao Guosheng, who has over 10 years of experience as a criminal defense lawyer, recalled that in one case the judge specifically requested the medical report but the police refused to hand it over:

When the police officers hand over a medical report to the court, it is not necessarily useful. Lawyer Yu Zheng told Human Rights Watch that the health records do not truthfully record the physical state of the suspects at admission: Even if you are injured, they will either say it is self-inflicted or leave it blank.^[240]

Lawyer Ze Zhong noted the same problem:

A number of former detainees said medical care provided by the detention centers is rudimentary at best, while two relatives of detainees alleged that their family members died after a combination of prolonged neglect and denial of medical care in detention (see Deaths in Custody, above). The problem of inadequate health care is also exemplified by cases of activists who died or became very ill in detention. The most prominent case was the death of activist Cao Shunli in March 2014, who died after the authorities had denied her access to adequate health care for several months while she was seriously ill in detention.^[242]

Official reports have acknowledged that medical care in many detention centers is still inadequate, despite new official measures to improve its standards such as the engagement of local hospitals medical services.^[243] In a review of medical care provision in one

Guangzhou detention center, a procuratorate staff member wrote that it lacked qualified medical staff and staff with the ability to treat detainees.[\[244\]](#)

If detainees are seriously ill, detention centers are supposed to send them to outside hospitals designated by the detention center. [\[245\]](#) But two former detainees told Human Rights Watch that they knew of instances where detention center staff refused to let detainees go to hospitals outside the detention center. Li Fang recalled one incident when a fellow detainee seemed seriously ill but was not sent to the hospital:

Feng Kun told Human Rights Watch that in a detention center in Henan Province:

In recent years the Chinese government has adopted measures including the video recording of interrogations and the use of iron bars to separate suspects and police officers to reduce torture and ill-treatment of detainees. While this has likely had a positive impact in some places, there is also evidence police have adapted by evading the new measures.

The Chinese government and Chinese legal scholars highlight the 2010 requirement to video record criminal interrogations as one of the most promising means of preventing torture during criminal interrogations.[\[248\]](#) Legal scholars who had studied torture prevention in other countries were leading proponents of the measure, and the procuratorate introduced the practice to cut down on abuses.[\[249\]](#)

According to the Criminal Procedure Law, interrogations of suspects who might be sentenced to death or life imprisonment and other major crimes must be videotaped.[\[250\]](#) The Ministry of Public Security further defines other major crimes as those that cause serious injury or death, endanger public safety, or seriously violate citizens personal rights, as well as triad-related crimes and serious drug-related crimes.[\[251\]](#) The videotaping should be a complete[\[252\]](#) recording of each interrogation, and should not be edited.[\[253\]](#) Most interrogation rooms in detention centers and police stations are outfitted with video equipment.[\[254\]](#) The Criminal Procedure Law only states that police can videotape interrogations of other crimes; there is no requirement to do so.[\[255\]](#)

Two of the former detainees we spoke with fell within the videotaping rule, but their interrogations were not videotaped. In both cases, the interrogations took place outside the detention center, where there were no capabilities for videotaping. In other cases, where videotaping is optional, former detainees told Human Rights Watch that their interrogations were not videotaped either. Yu Zhenglu, accused of economic crimes, told Human Rights Watch:

Similarly, Gu Daoying, detained for alleged gambling, said he was not videotaped:

Lawyer Shen Mingde said the selective videotaping of interrogations render the requirement meaningless:

A few lawyers said police officers often first torture or abuse the suspects, then videotape the confession. Xie Yongping, who is currently in detention, told his lawyer what happened after he was beaten:

Lawyer Lu Qinghua said:

A procurator from Tianjin municipality acknowledged that videotaping does not necessarily solve the problem of torture at the hands of the police:

In addition, suspects and lawyers say that the full interrogation video is often not presented in court. Lawyer Luo Chenghu said:

In another case, the procurator tried to make the case that the suspect had not been beaten by showing only parts of the interrogation without such abuse. The detainees sister told Human Rights Watch:

Chen Yongsheng, an expert in criminal procedure law in Beijing University, believes that selectively presenting videotapes that do not depict abuses is common.[\[264\]](#) He wrote:

A former judge also expressed skepticism about partial videotapes of interrogations:

Selective videotaping and excerpting of videotapes in court can have a negative impact. Chen Ruchao, a criminal justice scholar at Southwest University of Political Science and Law, wrote in 2014:

This echoes some of the court verdicts that cite defendants serenity in video recordings as evidence that the alleged torture did not take place:

Lawyers also told us that in some cases police refused to hand over videos, edited them before releasing them, or lost them. Lawyer Chen Lihua, who has worked for nearly two decades as a criminal defense lawyer, told Human Rights Watch:

Former detainee Ma Yingying, whose interrogation was not videotaped even though her case falls under the rule, said police made up excuses when she and other defendants asked that videotapes of their interrogations be shown in court:

Under Chinese law, the defense has no power to compel the police or the procuratorate to give them access to videotapes or have them shown in court.[\[270\]](#) The lawyers can ask the court to make a request for this evidence, but in some cases, judges also are unwilling to compel the police to present videos or challenge or investigate police claims that videotapes are unavailable. Lawyer Zhang Lei noted that in one case:

Lawyers told Human Rights Watch that some police have found ways to sidestep protections against torture and ill-treatment, including by interrogating suspects before they are taken to official detention centers or by removing suspects from them. Indeed, all but one of the detainees we interviewed for this report said the alleged mistreatment took place outside of official detention centers. Shenzhen-based lawyer Zha Guliang told Human Rights Watch:

Lawyer Xiao Guosheng said that coerced confessions do not happen at detention centers, where our country has a rather comprehensive

monitoring system. So if you conduct interrogation in there, it would be difficult to torture to extract confession under surveillance.[\[273\]](#)

Procurator Wu Yanwu acknowledged the problem in an article: The period between when suspects are apprehended and when they are taken to a detention center is a period with high incidence of torture.[\[274\]](#)

Police often hold suspects in the office of the police responsible for criminal investigations (*xingjing dadui*, or *zhencha dadui*), which might be in the same compound as the detention center. Suspects are sometimes also held in police stations (*paichusuo*), hostels, and other police-controlled facilities such as drug rehabilitation centers. Most of these facilities, unlike detention centers, are not equipped with the infrastructure designed to prevent torture during police interrogations. Lawyer Lu Qinghua told Human Rights Watch:

Chinese criminal law requires suspects to be transferred to a detention center within 24 hours after they are put under formal detention. However, suspects can be held in police custody for many hours before they are put under formal detention. Police can delay formal detention in various ways, including by issuing a *chuanhuan* (), a form of non-coercive summons under the Criminal Procedure Law that effectively allows the police to hold suspects for an additional 24 hours, and through a form of administrative detention known as *liuzhi pancha* ()[\[276\]](#) under the Police Law that allows police to hold suspects for another 48 hours. Lawyer Yu Zheng told Human Rights Watch just how flexible the law is regarding this period:

Regardless of the procedures applied, lawyer Ze Zhong told Human Rights Watch that police sometimes do not actually follow them:

Former detainee Lei Xinmu said he was not transferred to a detention center until days after the legal limit:

Police can also falsify the records so that it appears all has been done according to procedures. Lawyer Chen Ao said:

Under the Criminal Procedure Law, once a suspect is detained in an official detention center, he or she can only be interrogated in the center.[\[281\]](#) But criminal investigators have used various methods to circumvent this requirement, for example by transferring suspects between detention centers and using the time between for torture, or by taking suspects out of detention centers to purportedly identify the crime scene. Chinese laws and regulations have no rules regarding the former and allow police to do the latter when necessary.[\[282\]](#) There are few requirements for taking suspects to identify the crime scene except that at least two police officers be present and that the officers first obtain permission from their superiors.[\[283\]](#) The law also does not mandate that defense counsel be present when suspects are taken out to identify crime scenes.

Lawyer Xiao Guosheng told Human Rights Watch that suspects are often taken out of detention centers and then forced to confess:

Lawyer Wu Ying told Human Rights Watch that where he was held in a detention center, there was widespread fear among fellow detainees about being taken out and tortured:

There are official acknowledgments that police take advantage of this legal loophole. A vice chief procurator responsible for overseeing detention facilities in Zhejiang Province wrote:

Chinas procedure to exclude evidence obtained through illegal means in criminal proceedings is a positive step towards preventing torture and other ill-treatment.[\[287\]](#) According to the rule, the police, the procuratorate, and the court all have responsibilities to exclude such evidence if it is found during any phase of legal proceedings.[\[288\]](#)

In theory the procurator has to investigate and verify the accusations.[\[289\]](#) Confessions or witness statements obtained illegally should be excluded. The procuratorate should seek an explanation from the investigators for documentary or physical evidence obtained illegally, and exclude such evidence when it cannot be corrected or be given a reasonable explanation.[\[290\]](#) After exclusion, if the remaining evidence cannot prove the crime, then the procuratorate should either reject the police request for arrest or prosecution, or send the case back for supplementary investigation.[\[291\]](#)

The procuratorate is also required to initiate a criminal prosecution against the police for any illegal behavior found.[\[292\]](#) Procurators can investigate the claim through questioning suspects, the investigators, witnesses, or defense lawyers; obtaining statements, a video recording of the interrogation, or suspects health records in detention; and conducting medical evaluations.[\[293\]](#)

Former detainees and defense lawyers told Human Rights Watch, however, that the procedure often does not work as intended. Too often, procurators refuse or fail to follow-up when allegations of torture are made, even though the burden of proving that evidence has been obtained legally falls upon the procuratorate.

Former detainee Gu Daoying said that when he raised the issue of torture, the procurator simply ignored his complaint: I saw the procurator during the review stage. I said I was hit with electric batons, but he didnt say anything.[\[294\]](#)

Lawyer Lu Qinghua said the procurator in his clients case was more explicit in refusing to look into the torture allegation: My client told [the procurator] about being tortured to confess, but [the procurator] said, This isnt my problem.[\[295\]](#)

Ma Yingying said the procurator responsible for her case did not intervene even when he witnessed her abuse by the police.

Some lawyers also told Human Rights Watch that after they had written to the procuratorate complaining about torture of their clients, the procuratorate would on some occasions provide a brief written reply simply saying there was no torture without giving any details. And sometimes such replies were not even provided, as lawyer Lu Xiangming noted:

Lawyer Shen Mingde said:

Although the procurator never acknowledged the use of torture, in two cases lawyers managed to have some impact on the procurators handling of the cases. Lawyer Lu Xiangming told Human Rights Watch:

Similarly, lawyer Shen Mingde said:

Defendants and their lawyers can request that the court initiate the evidence exclusion procedure either during the trial, or before it starts, in a pretrial hearing.[\[301\]](#) They first have to provide relevant clues or materials,[\[302\]](#) and the court then initiates an investigation, during which the procuratorate has to provide evidence to prove that the police acted legally.[\[303\]](#) In cases where the evidence does not establish that police acted legally, the procuratorate can ask the court to have investigators appear in court; the court can also ask police to testify directly and police should appear in court following the request.[\[304\]](#) If the court concludes that the evidence was obtained illegally, or that it cannot exclude such a possibility, then the evidence should be excluded.[\[305\]](#)

Chinese defense lawyers believe this rule should provide a tool and platform for them to advocate for their clients who were tortured. But they say that in some cases the judges continue to ignore their torture claims without explanation. Lawyer Xiao Guosheng said:

Lawyers we interviewed agreed that, in general, the rule has made it harder for judges to simply brush off torture allegations, but said that judges still do not seem to examine the allegations seriously.

Analysis of the SPC Court Verdict Database

As noted above, our search of all Chinese criminal court verdicts published on the SPC website during the first four months of 2014, some 158,000 in total, turned up 432 verdicts in which suspects alleged police torture. The defendants were convicted in all 432 cases, and judges excluded confessions in only 23 cases (6 percent of the verdicts) due to concerns over police torture. And even in those 23 cases, the defendants were convicted.

Analysis of the 432 verdicts shows that 32 mention suspects alleged torture and then say nothing further about it. In the remaining 400 verdicts, judges address the torture claims at least briefly.

In that latter group of 400 verdicts, a majority of decisions (247 cases, or 62 percent, see Appendix II, Table II) relied only on documentary evidence, which is not unusual given that most trials in China have no live witnesses.[\[307\]](#) Only 35 of the verdicts (9 percent) mention any live witnesses and in every case the live witnesses were police officers. There is no sign that defense witnesses or medical or forensic experts were allowed to testify in relation to a torture claim in any of the cases. In the remaining 118 verdicts (30 percent), neither documentary evidence nor witness testimony is mentioned.

Further analysis of the verdicts shows the forms of documentary evidence judges most often relied on. They include physical examination records (208 cases or 52 percent); written statements by police officers who investigated the case or guarded the detention cell (132 cases or 33 percent); videotaped recordings of interrogations (97 cases or 24 percent); and, much more rarely, written statements from fellow detainees (9 cases or 2 percent). As noted above, however, such documentary evidence is either produced by the police or is highly susceptible to manipulation by the police.

Xie Ying, sister of a detainee who was later convicted, criticized the use of police officers written statements:

Guangdong-based lawyer Zhang Rong also said that in the cases he handled the documentary evidence presented by the procurator was not credible:

Many judges seem to be satisfied with documentary evidence even when it is inadequate to rule out the possibility of torture. For example, in a case in which a defendant alleged that police tortured him and broke his left thumb, the verdict cited a medical record from the detention center that did not record any injury as the sole evidence to rule out ill-treatment. In another case, the defendant said he had injuries to his right wrist and thigh, but the court cited medical records and statements by detention center guards stating that his injuries occurred during his arrest.

As noted above, in 118 of the 400 verdicts, neither documentary evidence nor witnesses are mentioned. In some cases, the judges appear to have made their decisions based on record as it existed, often ruling out torture without any effort to seek evidence corroborating or refuting the claims. The verdict cited below is a typical example:

Another common reason for rejecting a torture claim is that the suspect did not provide the court with sufficient clues or sufficient evidence. According to the rule, judges can refuse to initiate the procedure if the defense has not provided relevant clues. While a defendant needs to set out a basic allegation of torture, providing some information, the law is unclear as to how much evidence is sufficient to warrant an investigation, though it gives examples of the kinds of information needed, such as the time and location of torture.[\[311\]](#)

Lawyer Lu Qinghua told Human Rights Watch:

The exclusionary rule requires that, once the procedure is initiated, the burden of proof to prove that police acted legally in obtaining evidence falls on the procuratorate. But analysis of the court verdicts suggest that in many cases, judges still expect the suspect or the defense to prove that torture had taken place:

Fu Hualing, a Chinese legal scholar, told Human Rights Watch that in practice it remains unclear who has the burden of proof:

The exclusionary rule does not explicitly require the court to order a medical evaluation of the victim, or to call in a medical expert to testify, though the judge can make such a decision in criminal trials.[\[315\]](#) Xie Ying, sister of a criminal suspect, said her brothers request for a medical evaluation was ignored by the judges:

Lawyer Mao Renrong also said judges ignored him when he requested medical evaluations for clients:

Revisions to the Criminal Procedure Law empower the defense in this regard, by allowing them to make an application for expert witnesses to testify in court.[\[318\]](#) But it remains up to judges to approve such requests, while few forensic experts are willing to testify against the police.[\[319\]](#)

Lawyers have also told Human Rights Watch that judges sometimes did not even give them reasons for not excluding confessions.

Lawyer Xiao Guosheng, from Beijing, told Human Rights Watch:

Lawyer Chen Lihua, from Beijing, concurred:

Former judge Ran Sheng told Human Rights Watch that judges are in a difficult position in applying the exclusionary rule because they are bound by law and practice to trust and work with the police and the procuratorate:

A case described by lawyer Xiao Guosheng demonstrates how difficult it is to get a confession excluded, even where there is considerable evidence in support of the defenses torture claims:

Chinese law does not incorporate the fruit of the poisonous tree doctrine, according to which all evidence obtained as a result of torture or other ill-treatment not only the information directly obtained through torture is barred from being used in criminal proceedings. In the Chinese criminal system, even when a confession is excluded, other evidence derived from leads generated by the tainted confession, including similarly worded confessions recorded after torture, may be admitted in the proceedings. [\[324\]](#) Lawyer Lu Qinghua told Human Rights Watch:

Former judge Ran Sheng also acknowledged this important caveat to the exclusionary rule:

As a result, successful exclusion of evidence obtained through torture often does not make a difference in the outcome of the case. Former judge Ran Sheng described to Human Rights Watch one of such cases:

Judges only extremely rarely hand down not guilty verdicts. In 2013, only 825 people were found not guilty in China out of an estimated 1,160,000 verdicts, an acquittal rate of 0.07 percent. [\[328\]](#) None of the lawyers we interviewed said that any clients had been acquitted because evidence obtained through torture was excluded, though one, Lu Xiangming, said his client was released after his case was dismissed:

Ran Sheng explains why acquittals are so rare:

As a number of legal scholars have pointed out, the exclusionary rule is aimed at reducing wrongful convictions rather than torture per se. [\[331\]](#) According to legal scholar Ira Belkin, the rule at best:

Because China's exclusionary rule still permits coercion to help identify other evidence, police continue to use torture to extract confessions, so it has little to no impact on the outcome of cases. Overall, the rule's impact on police behavior is limited.

Police abuse is a function of unchecked power. Police alone make all of the initial decisions to deprive suspects of their liberty and have broad authority to extend detentions within certain, fairly flexible, legal limits. Police also control the facilities in which suspects are held.

While China's government recently has adopted some measures to address abuses in criminal detention, it has not made a comparable effort to pursue greater accountability for those who abuse suspects. Police officers rarely face criminal sanctions for torturing or ill-treating suspects, although the law makes such behavior a criminal offense. Few even seem to face serious disciplinary action, such as suspension or dismissal. At most, their superiors issue a reprimand and move them to posts elsewhere in the force. Human Rights Watch interviews and our search and analysis of the SPC verdict database show that there is little response from internal police supervisors and the procuratorate, the agencies responsible for supervising police conduct and investigating police abuse, when those who have been mistreated in detention try to file complaints.

Mechanisms that should hold police accountable regularly fail to do so. The procuratorate almost never prosecute police officers for torture except in cases when suspects have died or become disabled. [\[333\]](#) Even in those cases, the courts tend to give police officers light sentences. It is also very difficult for victims to obtain official compensation, and on the rare occasions when compensation is forthcoming, the amount tends to be low. In many cases, victims of torture and their families say that authorities ignore them and repeatedly shift blame to other agencies when they seek compensation or accountability; in some instances, they say they are harassed or threatened to stay silent.

The Chinese law enforcement system is structured in ways that require the police, the procuratorate, and the court to mutually cooperate with each other to solve crimes under the leadership and coordination of the CCP's Political and Legal Committee at the same level. [\[334\]](#) This is especially true in political cases and during campaigns targeting particular types of crime. Because the procuratorate and the courts are required to cooperate with the police, which is more powerful than they are, under the leadership of the CCP Political and Legal Committee, it is difficult for them to check police abuse. [\[335\]](#) The reluctance to hold police officers accountable is also likely because police play an important role in enabling the CCP to retain its grip on power. [\[336\]](#)

In October 2014, the government announced at an important annual Party meeting that it would establish a life-long accountability mechanism to hold accountable cadres whose decisions have led to serious mistakes. [\[337\]](#) The authorities appeared to be showing determination to implement the policy two months later. Two days after the Inner Mongolian High Court posthumously acquitted Hugjiltu, a teenager executed in 1996 for murder and rape, the provincial procuratorate arrested the vice police chief who had presided over the case. [\[338\]](#) It is unclear whether this decision will make an impact on other less prominent cases in the future.

On paper, China's police are subject to the supervision of a number of government bodies and agencies. Within the police force, their conduct is monitored by what are called internal supervision police and police legal departments; outside of the force, they are scrutinized by the procuratorate, the National Peoples Congress, and the Ministry of Supervision and their counterpart institutions at lower administrative levels. [\[339\]](#) Any Chinese citizen or organization can report police abuse to these agencies, which according to the Police Law should conduct timely investigations and then inform the complainant of the results. [\[340\]](#)

These supervisory bodies can impose administrative sanctions such as warnings, demotions, and even detention, as well as recommend that police units rectify wrongdoing. In addition, the procuratorate can initiate criminal prosecution against offending police officers and

is the main body that handles investigation of torture.[\[341\]](#)

Each agency has protocols to monitor police behavior and prevent torture. The internal police supervisors, for example, have authority to conduct on-site supervision as police officers interrogate suspects; conduct spot checks in detention centers; and, in certain police bureaus, monitor police officers through a real-time audiovisual surveillance system.[\[342\]](#) Police supervisors can suspend or order officers detained (upon approval from the police chief responsible for supervision), recommend the demotion or dismissal of offending officers, and refer cases to the procuratorate for prosecution.[\[343\]](#)

Former detainees who spoke to Human Rights Watch said that none of these supervisory mechanisms worked in their cases. Although the state media has recently highlighted a case of a procurator who helped overturn wrongful convictions, such cases appear to be unusual.[\[344\]](#)

Suspects can complain to the procurator in charge of their case when the latter meets with them before approving arrests. Suspects can request a meeting with another procurator (called the procurator stationed in the detention center) in the detention center concerning torture and ill-treatment in detention. But former detainees we spoke with said either that they had not been aware that there were procurators stationed in the detention centers, or that they did not request meetings with them as doing so required the approval of the cell boss or guards.

Yu Zhenglu, who was tortured and spent 20 days in a detention center in 2012, told Human Rights Watch: I didnt see the procurator stationed in the detention center. I didnt know there was one.[\[345\]](#)

Another detainee, Zuo Yi, who was severely abused by a cell boss during his detention in a Fujian detention center, said:

Former detainee and lawyer Wu Ying told Human Rights Watch:

Procurators stationed in the detention centers, who tend to identify with the police officers at the detention centers and turn a blind eye to police infractions, are generally ineffective in checking police abuse.[\[348\]](#) In some detention centers, the procuratorate has also provided complaint boxes, but those were seen by some as ineffective. Detainee Feng Kun said:

Former detainees also said that public security bureaus and internal supervision police failed to investigate their claims after they submitted complaints alleging police abuse. After Lei Xinmu was released, for example, he made complaints to all the supervisory departments about being tied to a tiger chair for days, but said he got only perfunctory answers:

Lawyer Xiao Guosheng told Human Rights Watch:

Several former detainees we spoke with said supervisory agencies met their complaints with silence. According to lawyer Shen Mingde, who has been trying to seek accountability for Chen Huiliang, who became physically disabled as a result of police torture:

Cao Zuowei, who was hung up and beaten, said he complained to the police supervisors but there was no follow-up investigation of his case:

Bai Qingzuo said he had repeatedly contacted these agencies but had had no response from them:

Former detainees and their family members also expressed frustration that supervising agencies kept shifting the responsibility to other agencies to investigate abuses, and said that after spending considerable effort going to various authorities, they still have no answers. Jiang Yiguo told Human Rights Watch:

Others, like Gu Daoying, who was beaten with electric baton for hours, said the supervising agencies responded but said the matter should be resolved privately:

In some cases the answers from the procuratorate are simply not credible. The procurator told Chen Aomin, the wife of a former suspect whose torture left him unable to walk without crutches and with hearing and mental concentration impairments, that the torture was just a small issue:

Xie Ying, another family member of a detainee who was later convicted on the basis of a confession elicited through torture and who has become paralyzed as a result of the torture, told Human Rights Watch that they complained to many government agencies but none looked into the case:

These statements are consistent with a 2006 study by Chinese legal scholar Wu Danhong, whose interviews with procurators revealed a great reluctance to prosecute torture perpetrators:

In addition, procurators told Wu that even in cases in which they took steps to investigate abuses, resistance from the police is strong:

The failure of Chinese agencies to effectively supervise police conduct can be seen in a 2009 Fujian Province case, in which a local police chief was transferred, rather than dismissed, demoted, or prosecuted, for a serious case of abuse under his command.

Suspect Chen Huiliang alleged that police officers held him for six months in 2007 and 2008 in an illegal detention facility at the Longhai City Public Security Bureau. He said that police officers tortured him by depriving him of sleep, tying him to a tiger chair for a total of 51 days, beating him with police batons, and using an assortment of tools including shackles and rods to wring his thighs. Chen lost the use of one leg and suffered from injuries to spinal nerves, according to official records. [\[361\]](#)

The Ministry of Public Securitys Police Supervision Committee, after receiving Chens wifes complaint, issued an internal police circular acknowledging that while there were problems in the way this case was handled, including detaining the suspect in an illegal location for 138 days and tying him to an interrogation chair for 20 days, it found no torture to extract confession. [\[362\]](#) The committee sent the circular to public security bureaus across the country, cautioning police officers that they must enforce the law justly and in a civilized

manner.

The police chief with command responsibility over the officers responsible for the alleged torture, Lin Shunde, was merely transferred to another police bureau in Zhangpu County. In Zhangpu County, suspects in a triad-related case in 2012 alleged that Lin had again established illegal detention facilities at the police bureau, and tortured them to confess.

Scholars have criticized internal police supervision as largely unsuccessful, with supervision conducted without "sufficient competency or professionalism" and the teams grossly understaffed, undertrained, and inadequately resourced." [\[363\]](#)

Lawyers and legal scholars told Human Rights Watch that police officers are rarely held legally responsible for torture. Lawyer Song Sanzuo told Human Rights Watch:

Lawyer Yu Zheng said perpetrators are punished only when the torture leads to serious injury or death:

Lawyer Gu Geng said that even when officers are imprisoned they tend to get off with very light sentences:

As noted above, many suspects we spoke with also said that the police officers responsible for mistreating them have not faced prosecution; at most the officers have been demoted. Former detainee Cao Zuwei, who was hung up and beaten, told Human Rights Watch: The head of the PSB told me they've moved the deputy police chief to a patrol post, but I don't know the details. [\[367\]](#)

Even among the most prominent cases of wrongful convictions most of them the result of torture few officers have been held legally accountable. In six such cases analyzed in a Chinese press article in which suspects were released after years of imprisonment, officers were punished in only two cases. [\[368\]](#) And the officers were merely disciplined and faced no criminal punishments. The head of the Zhejiang Provincial High Court said this was because the officers did not intend to do wrong. [\[369\]](#)

A few former detainees or their relatives told Human Rights Watch that the officers involved in their cases were actually promoted. Chen Aomin, whose husband was physically disabled due to torture, told Human Rights Watch:

Xie Ying said officers whose torture left her brother disabled have been promoted for solving the case:

In a 2011 report to the UN Committee against Torture, the Chinese government said a total of 63 individuals were convicted for torture to extract confession, [\[372\]](#) using violence to obtain evidence, [\[373\]](#) and abuse of supervisees, though it is unclear how many of them were police officers. [\[374\]](#)

Our search of all Chinese court verdicts published on the SPC website during the first four months of 2014 found only one case in which police officers were convicted for abusing criminal suspects. In that case, a Liaoning court convicted three police officers of intentional injury. According to the verdict, the officers violently beat the suspect while holding him in a vehicle, then brought him back to an interrogation room where they continued to beat him with electric batons. The suspect repeatedly complained of stomach pain, but was not sent to the hospital until 11 hours later, where he was diagnosed with a ruptured spleen and severe bleeding that endangered his life. All three were convicted, but none served prison terms: two had three-year probations while the third was exempted from criminal punishment. [\[375\]](#)

We also analyzed press accounts over that same period, looking for cases in which police were reported to have been held accountable for torture. We focused on three official Chinese newspapers *Legal Daily*, a newspaper published by the CCPs Political and Legal Committee and managed by the Ministry of Justice; *Procuratorate Daily*, a newspaper published by the Supreme Peoples Procuratorate (SPP); and the *Peoples Police Daily* searching for police officer (*jingcha*), verdict (*xuanpan*) and three official terms used to describe torture and abuses (which translate as torture to extract confession, abuse of detainees, and use of violence to obtain evidence). [\[376\]](#) We found dozens of articles referencing police abuse of detainees, but no articles reporting that police were held accountable.

During this same four-month period, however, authorities repeatedly took action against acts of violence perpetrated by detainees. Human Rights Watch's verdict search between January 1 and April 30, 2014 found 45 decisions in which 50 criminal suspects were convicted of the crimes of intentional injury, damaging orderly detention, or fighting with other detainees in detention centers. Most involved brawls between detainees, but in at least 10 cases the verdicts suggested that the penalized individuals were serving in managerial or supervisory roles within the detention center at the time of the incident, presumably at the behest of the guards. Nearly all involved beatings of detainees that resulted in light injuries but in one case the victim died and in another the victim was badly injured. Five of these 10 cases stemmed from cell bosses dissatisfaction with the victims work in performing forced labor. In three cases the cell bosses punished the victims for some disciplinary transgression, and in one case a police officer repeatedly instructed cell bosses to beat a victim for making complaints. [\[377\]](#) The perpetrators in these 10 cases received between eight months and three years in prison.

While it is promising that a number of suspects were convicted for beating fellow detainees, perhaps indicating increasing resolve by authorities to take action against cell bosses since 2009, in none of the cases were police officers held accountable for using or tolerating cell bosses. As noted above, former detainees told Human Rights Watch that there is little redress for violence by cell bosses: detainees who complain about such abuses to the guards are moved to another cell, ignored, or worse still, punished; but the cell bosses are not punished.

Zuo Yi, who was severely abused by a cell boss for over a year in detention, told Human Rights Watch that the guard did not respond even when the cell boss openly acknowledged that he had beat Zuo:

Torture victims can apply for compensation under the Law of State Compensation. [\[379\]](#) The law, effective since January 1995, was amended in 2010 and in 2012 to improve victims access to compensation from the government. [\[380\]](#) In theory, it compensates victims of police abuse that result in physical injury, disability, or death, as determined by forensic experts. None of the detainees or their family members interviewed by Human Rights Watch, however, said they had received state compensation.

The first challenge in claiming compensation is proving police responsibility for one's injuries. Because the court, procuratorate, and

police rarely acknowledge that torture has taken place, it is difficult for victims to claim compensation. Lawyer Shen Mingde told Human Rights Watch: The problem is there has to be first an [official] acknowledgement of coerced confession before there can be compensation.^[381] As noted above, detainees face extreme obstacles to obtaining and retaining evidence of abuse; judges and procurators, who have the capacity to seek out the truth, rarely do so.

Our search of court verdicts from early 2014 shows that many applications seeking state compensation for injuries and disability caused by torture during pre-trial detention are turned down on the grounds that applicants did not prove that police used torture.

Even in the rare cases in which authorities acknowledge responsibility for abuse, state compensation is only available to those who have physical injuries. Lawyer Zhang Rong told Human Rights Watch:

Those who have no physical injuries may still be eligible for state compensation for lost work days if, in addition to being physically abused, they were illegally or wrongfully detained. But lawyer Mao Renrong pointed out that such rulings are rare:

The amount of compensation for lost days of work is small, calculated based on average annual wages across the country. Lawyer Zhang Rong said:

In 2013, the Chinese government gave out a total of RMB 87.4 million (US\$14.2 million) in 2,045 cases, but it is unclear what portion went to survivors of torture in pre-trial detention.^[387] Victims and their families and Chinese media have criticized the low levels of compensation and the basis for calculating it.^[388] One scholar at Shandong University of Political Science and Law wrote:

Even the Supreme Peoples Court acknowledges that the amount of compensation is lower than it should be. According to a spokesperson of the SPC:

Victims and families of victims told Human Rights Watch they have not received official acknowledgment of police abuse or been provided with state compensation. Instead, the police in several instances have offered them humanitarian aid, a lump sum, or promised to pay for medical expenses. Typically this is paid out by the police bureau or the individual officers own personal account, and is explicitly in exchange for a victims silence. Interviewees told of being given between 20,000RMB (\$3200) and 50,000 RMB (\$8100) by the police.

Cao Zuowei told Human Rights Watch that after he was hung up and beaten, the local leaders tried to prevent him from seeking accountability by offering him money:

Chen Aomin told Human Rights Watch of a similar cash-for-silence offer made to her husband:

Victims have also complained that, even in cases in which money has been promised to them, the police resist paying the full amount. Cao Zuowei told Human Rights Watch:

Zuo Yi, who suffered permanent injury from the abuses of a cell boss, said the procurator reneged on compensation he had promised:

In some cases, victims and their families complain that they have endured retaliation for seeking accountability, compensation, or simply an acknowledgement that torture had taken place. Former detainee Zhang Chun told Human Rights Watch:

Yang Jinli, like some of the interviewees, had tried petitioning the authorities, and was briefly detained for doing so:

Chen Aomin told Human Rights Watch:

The Chinese government should demonstrate its commitment to eradicating torture and ill-treatment in detention by immediately issuing an invitation to the UN Special Rapporteur on Torture and the UN Office of the High Commissioner for Human Rights to conduct independent investigations into the treatment of detainees in police custody in China. Their findings would contribute to the review of Chinas record under the Convention against Torture in November 2015 and help provide a roadmap for further reforms aimed at eliminating abusive police behavior.

March 18 2015

Minister Ms Wu Ai Ying

Vice-Minister Mr. Zhang Sujun

Ministry of Justice

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Beijing 100020

Fax: +86 10 65153439

Copy to:

Mr. Meng Jianzhu

Secretary of Central Politics and Law Commission

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Dongcheng District,

Beijing 100814

Human Rights Watch is an independent international organization that monitors human rights in more than 90 countries around the world. We are currently preparing a report on torture and other ill-treatment of criminal suspects in pre-trial detention, with a focus on the extent to which the Chinese government has complied with domestic law and fulfilled its obligations under the Convention against Torture and other international instruments

As the Ministry of Justice issues regulations on the administration of justice, manages lawyers and forensic experts, who play important roles in the prevention and investigation of custodial abuse, we would appreciate your responses to the questions raised below, as well as any additional information you wish to provide us on this issue. Human Rights Watch strives to ensure the accuracy of our research and look forward to your response. In light of our publishing schedule, we would be grateful to receive your response by April 14, 2015, sent to Sophie Richardson, China director, by email to richars@hrw.org, or by fax to 1-202-612-4333.

Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,

Sophie Richardson

China Director, Human Rights Watch

March 18, 2015

Zhou Qiang, President and Chief Justice

Supreme Peoples Court

Dongjiaominxiang

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Copy to:

Mr. Meng Jianzhu

Secretary of Central Politics and Law Commission

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Sophie Richardson

China Director

Human Rights Watch

March 18, 2015

Cao Jianming, Procurator-General

Supreme Peoples Procuratorate

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Copy to:

Mr. Meng Jianzhu
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Dongcheng District,
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Sophie Richardson
China Director
Human Rights Watch

March 13, 2015

Mr. Guo Shengkun, Minister
Mr. Yang Huanning, Vice-Minister
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Copy to:

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Secretary of Central Politics and Law Commission
14 Beichizi Street
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Sincerely,

Sophie Richardson

China Director

Human Rights Watch

Evidence

Count

% of Torture Cases

Medical reports

208

52

Written pre-trial statement from police

132

33

Videotape recording

97

24

Written pre-trial statements from fellow detainees

9

2

Police testified in court

35

9

Experts testified in court

0

0

Defense witnesses testified in court

0

0

No documentary evidence or witness

118

30

Documentary evidence only, no witness

247

62

Court excluded evidence gained by torture

23

6

Court acquitted suspects

0

0

Source: SPC court verdict database (www.court.gov.cn/zgcpwsw/).

Province

Count

% of cases

Guangdong

67

16

Hunan

45

10

Henan

31

7

Jiangsu

29

7

Sichuan

27

6

Zhejiang

26

6

Shandong

25

6

Anhui

22

5

Liaoning

19

4

Guangxi

18
4
Fujian
24
6
Guizhou
16
4
Hubei
15
3
Hebei
10
2
Gansu
7
2
Heilongjiang
7
2
Shanxi
7
2
Jilin
6
1
Hainan
4
1
Jiangxi
4
1
Shanghai
4
1
Beijing
3
1
Ningxia

3

1

Qinghai

3

1

Chongqing

2

0

Inner Mongolia

2

0

Shaanxi

2

0

Yunnan

2

0

Xinjiang

1

0

Unknown

1

0

Tibet

0

0

Source: SPC court verdict database (www.court.gov.cn/zgcpwsw/).

Recommendations by UN Mechanisms

Year Recommendations Were First Made

Recommendations adopted by chinese government?

Details of Chinese Government Actions

Initiate criminal proceedings against perpetrators of torture and punish all acts of torture through appropriate penalties. [\[402\]](#)

1990

Rarely

Very few officers are held legally accountable; even fewer are given appropriate punishments.

Ensure prompt and regular access to all fundamental legal safeguards including family, lawyers, and qualified and doctors. [\[403\]](#)

1993

Mixed results

The Chinese government has made some progress facilitating lawyers access to non-political suspects but there are still significant

obstacles, as detailed in the main text of this report above. Despite recent legal reforms, moreover, Chinese law requires that three types of suspects those involved in terrorism, major corruption cases, and state security crimes have police permission before meeting with lawyers.

Guarantee medical examination of detainees by qualified and independent doctors immediately after arrest, periodically during detention, and prior to release. [\[404\]](#)

1993

Partial

Detention Center Regulations effective since 1990 require that detainees be examined by doctors before they are admitted to detention centers, which can be many hours after they were first apprehended. Detainees are also given medical examinations during detention. However, the doctors who conduct these exams have close relationships with the police.

Take appropriate measures to ensure judicial independence. [\[405\]](#)

1996

No

The judiciary is not independent and it is required to work with the police and the procuratorate in criminal cases.

Incorporate in domestic law a definition of torture that conforms to the convention. [\[406\]](#)

2000

Partial

After the Criminal Procedure Law was revised in 2012, the Supreme Peoples Court issued a judicial interpretation recognizing that severe psychological pain can constitute torture. But Chinese law still does not recognize that not only judicial officials but all individuals acting on behalf of the state can commit torture.

Exclude statements made under torture as evidence in legal proceedings. [\[407\]](#)

2006

Partial

The government incorporated the exclusionary rule when it revised the CPL, which became effective in January 2013. But the rule so far has not been effective.

Separation between authorities responsible for interrogation and those responsible for detention. [\[408\]](#)

1993

No

The police are responsible for both interrogations and detention.

Establish an independent monitoring mechanisms of all places of detention [\[409\]](#)

2006

No

The procuratorate monitors detention centers but it lacks independence from the police.

Ensure prompt, thorough, effective and impartial investigation of all allegations of torture [\[410\]](#)

2000

Rarely

Occasionally, high profile cases of torture are investigated, but most allegations of torture are not.

Ensure that all instances of deaths in custody are independently investigated and those responsible prosecuted. [\[411\]](#)

2008

Rarely

Occasionally, high-profile cases of deaths in custody are investigated, but most are not.

Establish rehabilitation centers for victims. [\[412\]](#)

2008

No

Ensure that adequate compensation is provided to victims, including medical and psychological assistance. [\[413\]](#)

2008

No

Although some victims report that police give them some money or reimburse them for medical treatment, such compensation is not official or adequate.

Ensure international human rights training to law enforcement officers and training to medical personnel to detect signs of torture. [\[414\]](#)

2008

Limited

Although the Chinese government claims in its fifth periodic report to the Committee against Torture that it conducts legal training for its law enforcement officials, it is unclear if these trainings include content on international human rights.

The government should recognize the competence of the Committee against Torture to receive complaints of torture from individuals and ratify the Optional Protocol to the convention [\[415\]](#)

2006

No

Restrict the use of pretrial detention and empower detainees to challenge the lawfulness of their detention before an independent court. [\[416\]](#)

2006

Limited

The Chinese government has put in place a mechanism for the procuratorate to review the need for pretrial detention when it reviews arrests, but so far there is little evidence that this new power has led to restricted use of pretrial detention.

Mandate lawyers presence in interrogations and videotaped interrogations. [\[417\]](#)

2006

Partial

The Chinese government mandates the video recording of interrogations of certain types of crime.

Judges and procurators routinely meet with individuals in police custody inquiring about their treatment. [\[418\]](#)

2006

Limited

Procurators meet with detainees when approving arrests; procurators who are stationed in and supervise detention centers are available to receive detainees complaints.

Include the right to remain silent and the privilege against self-incrimination in the law. [\[419\]](#)

2006

Partial

The government prohibited self-incrimination in revisions to the Criminal Procedure Law, effective since January 2013, but Chinese law still requires suspects to answer interrogators questions truthfully. The law does not guarantee the right to remain silent.

Remove the power to order or approve arrest and the power to supervise police and detention facilities from the procuratorate to independent courts. [\[420\]](#)

2006

No

Abolish article 306 of the Criminal Law that allows prosecution of lawyers who counsel a client to repudiate a forced confession. [\[421\]](#)

2006

No

Reducing the scope of death penalty. [\[422\]](#)

2006

Partial

The government has reduced the number of crimes eligible for the death penalty from 68 to 55 in 2011, and it is expected to remove another nine crimes in revisions to the Criminal Law expected to be passed in 2015. The vast majority of these crimes are not violent.

Ensure that death row inmates are not subjected to additional punishments such as handcuffs and shackles. [\[423\]](#)

2006

No

1979

Chinas legislature passes the first Criminal Code and Criminal Procedure Law prohibiting coerced confessions.

1988

China ratifies the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

1990

China promulgates Detention Center Regulations.

1998

China signs but has yet to ratify the International Covenant on Civil and Political Rights.

2001

The SPP issues a notice calling on procuratorates at all levels to exclude coerced confessions in criminal proceedings.

2008

The SPP begins to require that procurators videotape interrogations.

2009

The death of detainee Li Qiaoming causes outrage in China after police report that he died after playing hide-and-seek with other detainees.

China cracks down on inmate and cell boss violence by pledging better monitoring of detainees living quarters.

2010

The case of Zhao Zuohai, a man wrongfully convicted of murder and imprisoned for 11 years on the basis of a confession coerced through severe torture, is exposed.

Police start implementing the videotaping of interrogations.

The MPS, the SPP, and the SPC issue rules to exclude evidence obtained through coerced confessions.

2012

The Chinese government passes amendments to the CPL in March 2012 to incorporate the exclusionary rule and to prohibit self-incrimination. But the CPL also requires that three categories of suspects obtain police permission before they can have access to lawyers.

2013

The Supreme Peoples Court issues a judicial interpretation following the revisions to Criminal Procedure Law, recognizing severe mental pain as torture.

This report was written, researched, and edited by Human Rights Watchs China team and reviewed and edited by Shantha Rau Barriga, disability rights director; Joseph Amon, health and human rights director; James Ross, legal and policy director; and Joseph Saunders, deputy program director. Brian Root, quantitative analyst, also provided support.

This report was also reviewed by two experts outside of Human Rights Watch who do not wish to be named.

Production assistance was provided by Storm Tiv, senior associate in the Asia division.

Human Rights Watch is grateful to the former detainees and family members who took the time to speak with us, and to the lawyers, government officials, and other experts we interviewed for this report.

[1] The SPC court verdict database is available at: www.court.gov.cn/zgcpwsw/.

[2] According to the Chinese government in its fifth report to the UN Committee against Torture, officials guilty of the crime of torture are convicted under the crimes of torture to extract confession, using violence to obtain evidence, and abuse of supervisees. It is less clear from official reports what crimes cell bosses are convicted of, but the Supreme Peoples Procuratorate noted the crime of damaging orderly detention in its 2011 annual work report and, in a number of cases reported in the media, cell bosses were investigated or convicted for intentional injury. But because most cases of intentional injury do not involve violence in detention centers, we used the additional key word same cell in searching for cases involving violence between detainees. See Government of China, Fifth Periodic Report to the Committee against Torture, CAT/C/CHN/5, April 3, 2014, para. 74; Interpreting the Supreme Peoples Procuratorate Work Report (), *the Procuratorate Daily*, March 12, 2011, <http://news.163.com/11/0312/08/6UUDIDNR00014AEE.html> (accessed January 7, 2015); A Sequel to the RMB 900,000 hush money incident: Many Cell Bosses Participated in the Beating (90), *Beijing Youth Daily*, March 19, 2014, http://news.xinhuanet.com/legal/2014-03/19/c_126285316.htm (accessed January 7, 2015); Wang Hongwei, Jiaozuo Juvenile Detainee Died after Abuse by Cell Boss; Victim was Thrown Cold Water and Had a Fan Fanning Him in Winter (), *Dahe Net*, February 3, 2010, http://www.baojinews.com:8080/system/_owners/baojinews/_publish/_info/content_154332.htm (accessed January 7, 2015).

[3] Provisions of the Supreme People's Court on Making Verdicts Available on the Internet (), *Supreme Peoples Court*, effective since January 1, 2014, <http://www.chinacourt.org/law/detail/2013/11/id/147242.shtml>.

[4] Wang Lina and Chen Jing, Whose Corruption Cases Are Exposed Publicly? (), *Caijing Magazine*, July 14, 2014, <http://magazine.caijing.com.cn/2014-07-14/114329332.html> (accessed January 7, 2015).

[5] The procuratorate () is part of Chinas judicial system that is responsible for both prosecution and investigation of crimes. Lower levels peoples procuratorates are led by the Supreme People's Procuratorate and procurators () are officers in the procuratorate.

[6] UN Committee against Torture, Concluding Observations and Recommendations to China, A/48/44(SUPP) paras. 387-429, January 1, 1993; UN Committee against Torture, Concluding Observations and Recommendations to China, A/51/44(SUPP) paras. 138-150, January 1, 1996; UN Committee against Torture, Concluding Observations and Recommendations to China, CAT A/55/44 (2000) paras. 123-130, January 1, 2000; UN Committee against Torture, Concluding Observations and Recommendations to China, CAT/C/CHN/CO/4, December 12, 2008.

[7] Government of China, Comments to the Concluding Observations and Recommendations of the Committee against Torture, CAT/C/CHN/CO/4/ADD.1, December 17, 2008.

[8] Chen Ruchao (), Governments Management of Coerced Confession: 1979 2013 (: 19792013), *China Legal Science* (), vol. 5 (2014).

[9] Ibid.

[10] The Criminal Procedure Law was passed by the National Peoples Congress in March 2012 and went into effect on January 1, 2013. There are detailed implementing regulations and judicial interpretation of the law, which include: Trial Rules for the Peoples Procuratorate on Criminal Procedures ([]), *Supreme Peoples Procuratorate*, No.2 of 2012; Provisions on Procedures in the Handling of Criminal Cases by Public Security Organs (), *MPS*, No.127 of 2012; Supreme Peoples Court Judicial Interpretation on the Criminal Procedure Law of the Peoples Republic of China (), *Supreme Peoples Court*, 2013; and Rules by the Supreme Peoples Court, the Supreme Peoples Procuratorate, the Ministry of Public Security and Others on Questions Regarding the Implementation of Criminal Procedures Law (), Supreme Peoples Court, Supreme Peoples Procuratorate, Ministry of Public Security, Ministry of State Security, Ministry of Justice and Commission of Legislative Affairs of the National Peoples Congress Standing Committee, (2012).

[11] Ira Belkin, Chinas Torturous Path Toward Ending Torture in Criminal Investigations, *Columbia Journal of Asian Law*, Vol. 24 No.2 (2011), p.283.

[12] Regulations on the Review of Evidences in the Handling of Death Penalty Cases (), SPC, SPP, MPS, the Ministry of State Security and the Ministry of Justice, 2010; Regulations on the Exclusion of Illegal Evidences in the Handling of Criminal Cases (), SPC, SPP, MPS, the Ministry of State Security and the Ministry of Justice, 2010.

[13] Criminal Procedure Law (CPL), art. 54.

[14] Criminal Procedure Law (CPL), arts. 54-8; Supreme Peoples Court Judicial Interpretation on the Criminal Procedure Law of the Peoples Republic of China (), *SPC*, 2013, arts. 95-103 (SPC Judicial Interpretation on the CPL).

[15] CPL, art. 121; Belkin, Chinas Torturous Path toward ending torture in Criminal investigations, *Columbia Journal of Asian Law*, p. 287.

[16] Coerced Confessions Has Reduced by 87 percent Nationally in the Past Year (87%), *Shanghai Evening Post* (), June 27, 2014, <http://news.sina.com.cn/c/2013-06-27/132027513471.shtml> (accessed March 21, 2014).

[17] UN Office of the High Commissioner for Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, JuanE.Mndez (Report of the Special Rapporteur on Torture), April 10, 2014, A/HRC/25/60, para. 29; citing *Cabrera Garca and Montiel Flores v. Mexico*, Inter-American Court of Human Rights, Series C, No 220, judgement of November 26, 2010, para. 167 (including evidence obtained under duress). According to the special rapporteur, There is no doubt that this includes real evidence obtained as a result of ill-treatment but falling short of torture. Report of the Special Rapporteur on torture, para. 29; citing Human Rights Committee, General Comment No. 32, para. 6; see also African Commission on Human and Peoples Rights, Principles

and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, section N, para. 6 (d) (i).

[18] Ten Rules to Prevent and Combat Cell Bosses in Detention Centers(), the Ministry of Public Security Detention Management Bureau, 2009; National Program for Inspecting the Enforcement of Regulations of Detention Center (), *MPS and SPP*, 2009.

[19] Li Li (), MPS: Detention Centers Have to be Publicly Monitored by Society (:), *China Youth Daily* (), March 8, 2010, <http://news.163.com/10/0308/07/6183V24G000146BD.html> (accessed January 8, 2015); The Ministry of Public Security Detention Management Bureau, The Ministry of Public Security Detention Management Bureau Makes Public a Comprehensive Picture of its Recent Work For the First Time, (), August 16, 2011, <http://www.mps.gov.cn/n16/n1252/n1777/n2497/2897196.html> (accessed June 13, 2014); Huang Xiuli (), Officials Analyze Deaths in Custody: Mostly Due to Coerced Confessions (), *Southern Weekend* (), June 10, 2010, <http://news.sina.com.cn/c/sd/2010-06-10/114920450512.shtml> (accessed September 3, 2014).

[20] Supervision Bureau, MPS, The MPS Supervision Bureau Makes Public a Comprehensive Picture of Recent MPS Supervisory Work For the First Time, (), August 16, 2011 (accessed June 13, 2014), <http://www.mps.gov.cn/n16/n1252/n1777/n2497/2897196.html>.

[21] Shen Yaxin (), the Ministry of Public Security Detention Management Bureau: Over 70 Percent of All Detention Centers Have Opened up to the Public (70%), *People.com.cn* (), March 28, 2012, <http://world.chinanews.com/fz/2012/03-28/3779506.shtml> (accessed September 3, 2014).

[22] Li, MPS: Detention Centers Have to be Publicly Monitored by Society, *China Youth Daily*.

[23] Ibid.

[24] Detention centers and prisons were under the management of the Ministry of Justice at the beginning of the rule of the Chinese Communist Party, but police took over them in 1950 during the Campaign to Suppress Counterrevolutionaries. Management of prisons was transferred back to the Ministry of Justice in 1983 following the end of the Cultural Revolution, but management of detention centers was not. See Instructions on the Transfer of Prisons, Detention Centers and Labor Reform Team to the Leadership of the MPS (), Ministry of Justice and the MPS, No.283, 1950; see also, Huang, Officials Analyze Deaths in Custody: Mostly Due to Coerced Confessions, *Southern Weekend*.

[25] Gu Fusheng and Li Binjie, *300 FAQ on Police Law Enforcement in Detention Centers (300)* (China Legal Publishing House []), p. 59; MPS to Draft Detention Center Law in Attempt to End Hide and Seek Deaths in Custody (), *the New Express Daily* (), May 15, 2014, <http://news.sina.com.cn/c/2014-05-15/053630138178.shtml> (accessed September 3, 2014).

[26] Xu Xiaotong (), The MPS is Drafting the Detention Center Law, Which May End Coerced Confessions and Cell Bosses, (), *China Youth Daily*, May 14, 2014, <http://gd.people.com.cn/n/2014/0514/c123932-21207585.html> (accessed May 15, 2014).

[27] MPS to Draft Detention Center Law in Attempt to End Hide and Seek Deaths in Custody, *the New Express Daily*.

[28] Another form of police power, *chuanhuan*, is often used by the police to effectively detain suspects though it is not considered a form of coercive measure under Chinese law. Police can *chuanhuan* a suspect for up to 12 hours but in major or complex cases, they can do so for up to 24 hours. See *CPL*, art. 117.

[29] Mike McConville, *Criminal Justice in China: An Empirical Inquiry* (Cheltenham: Edward Elgar Publishing, 2011), p.41-42

[30] He Jiahong, How Are Wrongful Convictions Manufactured (), *Caixin*, December 18, 2014 http://opinion.caixin.com/2014-12-18/100764618_5.html Li Weiqiang, Combing through and Reflections on Detention Legal Limits in Criminal Procedure Law (), February 2, 2015, *China Lawyers Net* <http://www.acla.org.cn/html/lvshiwushi/20150202/19616.html>

[31] Ibid.

[32] Translation and Commentary: Reducing Pre-trial Custodial Detention for Juvenile Suspects, *Dui Hua Foundation*, January 3, 2011, <http://www.duihuahrjournal.org/2011/01/translation-and-commentary-reducing-pre.html> (accessed October 27, 2014). The Chinese government has, in its revision of the Criminal Procedure Law in 2012, empowered the procuratorate to review arrests and to recommend releases or other non-custodial measures to reduce pre-trial detention rates. But the impact of this change is not currently known. See also Yao Li and Shao Shao, A Study on Necessity Examination of the Pre-trial Custodial Detention The Application of Article 93 of the New Criminal Procedural Law (93), *Science of Law*, vol. 5 (2013),

[33] Pan Yi (), The Practical Meaning of the Review on the Necessity of Continued Detention (), *Shanxi Youth Post* (), February 16, 2014; Sun Hao (), Research on the Rights and Treatment of Persons Held in Detention Centers, Using International Standards as Reference (), *Henan Social Sciences*, vol. 21 (2) (2013).

[34] Li Enshen, Miscarriage of Justice in the Chinese Pre-trial Process: Authorities VS Suspects, *Law Asia Journal*, vol.83 (2010), p.91.

[35] International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 9(3).

[36] See e.g., ICCPR, art. 6; Convention on the Rights of the Child, adopted November 20, 1989, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 6; Basic Principles for the Treatment of Prisoners, G.A. res. 45/111, annex, 45 U.N. GAOR Supp. (No. 49A) at 200, U.N. Doc. A/45/49 (1990); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988); UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Principles on Extrajudicial Executions), E.S.C. res. 1989/65, annex, 1989 U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989).

[37] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987. Article 1 defines torture as: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

[38] Convention against Torture, art. 15.

[39] Convention against Torture, art. 15.

[40] Convention against Torture, art. 4 and 12.

[41] Convention against Torture, art. 14; Convention on the Rights of Persons with Disabilities, art. 16(4).

[42] Convention against Torture, art. 15; Committee against Torture, General Comment No. 2, Implementation of article 2 by States parties, U.N. Doc. CAT/C/GC/2 (2008), para. 3.

[43] Criminal Law of the Peoples Republic of China (), *National People's Congress*, adopted on July 1, 1979 (amended on March 14, 1997), art. 247; The Supreme Peoples Procuratorates Standards on Filing malfeasance Cases (), *the Supreme Peoples Procuratorate*, effective since July 26, 2006; SPC Judicial Interpretation on the CPL, art. 95.

[44] Criminal Law, arts. 247 and 248; The Supreme Peoples Procuratorates Standards on Filing Malfeasance Cases.

[45] Committee against Torture, Concluding Observations and Recommendations to China, 2008, para. 32.

[46] Ibid.

[47] SPC Judicial Interpretation on the CPL, art. 95. However, the relevant provisions on the filing of cases involving official crimes by the Supreme Peoples Procuratorate, effective since 2006, refer only to physical violence and abuses and do not mention mental pain. Since it is the procurators in lower levels who investigate official crimes, it is unclear how they handle torture complaints involving mental suffering.

[48] Supreme Courts Opinion on the Establishment of a Comprehensive Working Mechanism to Prevent Miscarriages of Justice in Criminal Justice (), *Supreme Peoples Court*, 2013, para. 8.

[49] Although state media has reported that the SPC was drafting such a judicial interpretation on the issue, it has not been released. See Xing Shiwei, Sleep Deprivation Proposed to be Considered as an Act of Coerced Confession (), *The Beijing News* (), December 8, 2014, http://epaper.bjnews.com.cn/html/2014-12/08/content_550984.htm?div=0 (accessed January 7, 2015).

[50] Ibid.

[51] UN Committee against Torture, Concluding observations on China, para. 33.

[52] UN Committee against Torture, Observations of the Committee against Torture on the Revision of the United Nations Standard Minimum Rules of the Treatment of Prisoners (Observations on the UN Standard Minimum Rules), December 16, 2013, CAT/C/51/4, <http://www.refworld.org/docid/53429c014.html> (accessed January 9, 2015), para. 13 (States should take the necessary steps to prevent violence in prisons and places of detention, including sexual violence by law enforcement and penitentiary personnel and by other inmates).

[53] Wei Wu and Tom Vander Beken, Police Torture in China and its Causes: A Review of Literature, *The Australian and New Zealand Journal of Criminology*, vol. 43 No. 3 (2010), p. 557-579. See also, Belkin, Chinas Tortuous Path toward ending torture in Criminal investigations, *Columbia Journal of Asian Law*, p.278.

[54] See CPL, arts. 116 and 117.

[55] Wu and Beken, Police Torture in China and its Causes: A Review of Literature, *The Australian and New Zealand Journal of Criminology*, p.566. The lack of legal representation is likely a reflection of suspects reluctance to hire lawyers because of the cost; suspects belief that other means, such as bribing relevant officials, might be better alternatives; and lawyers reluctance to take criminal cases because they fear official retribution and prosecutions of criminal defense lawyers. See Congressional-Executive Commission on China, Defense Lawyers Turned Defendants: Zhang Jianzhong and the Criminal Prosecution of Defense Lawyers in China, <http://www.cecc.gov/publications/issue-papers/defense-lawyers-turned-defendants-zhang-jianzhong-and-the-criminal> (accessed September 1, 2014).

[56] CPL, arts. 50 and 118.

[57] UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 48.

[58] Ibid. art. 49. See also UN Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990); principle 1.

[59] UN Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977), art. 33; UN

Committee against Torture, Observations on the UN Standard Minimum Rules, arts. 36 and 37 (The use of restraints should be avoided or applied as a measure of last resort, when all other alternatives for control have failed and for the shortest possible time, with a view to minimizing their use in all establishments and, ultimately, abandoning them Immobilization should only be used as a last resort to prevent the risk of harm to the individual or others).

[60] Detention Center Regulations of the Peoples Republic of China (), *State Council*, No. 52 of 1990, art. 17.

[61] Ibid. (The equipment used should be properly designed to limit harmful effects, discomfort and pain during restraint and staff must be trained in the use of the equipment); MPS Notice on the Use of Restraints in Detention Centers (), No.38 of 1991, art.4.

[62] Implementing Methods of the Detention Center Regulations of the Peoples Republic of China (), *MPS*, 1991, art.20.

[63] UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 37.

[64] Ibid., para. 41.

[65] Ibid.

[66] UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 36.

[67] Detention Center Regulations, art. 36; Implementing Methods of the Detention Center Regulations, arts. 47 and 48.

[68] UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 33 (Solitary confinement should be prohibited for pre-trial detainees.).

[69] Principles on Extrajudicial Executions, principle 9.

[70] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/61/311, September 5, 2006, para. 54; Convention against Torture, art. 13; Committee against Torture, General Comment No. 3, Implementation of article 13 by States parties, U.N. Doc. CAT/C/GC/3 (2012).

[71] New York University School of Law Center on Human Rights and Global Justice, UN Special Rapporteur on Extrajudicial Executions Handbook, p. 2, <http://www.extrajudicialexecutions.org/application/media/Handbook%20Chapter%204%20-%20Deaths%20in%20custody.pdf> (accessed January 9, 2015); see also, UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 17. The committee stated that Access to an independent doctor is of particular importance in the context of complaints and allegations on torture or ill-treatment, where there may be a need of/request for assessment and documentation of injuries or other health related consequences stemming from torture or ill-treatment, including forms of sexual violence and abuse.

[72] Principles on Extrajudicial Executions, principles 16 and 17.

[73] Ibid., principle 11.

[74] Rules on the Handling of Deaths in Detention Centers (), *the Supreme Peoples Procuratorate, the MPS and the Ministry of Civil Affairs*, 2011.

[75] Ibid.

[76] For detailed information on investigations into torture and deaths in custody, see generally UN Office of the High Commissioner for Human Rights, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[Istanbul Protocol] (2004).

[77] Kam C. Wong, *Chinese Policing: Theory and Reform* (New York: Peter Lane Publishing, 2009),p.92 and 97; Michael Dutton, *Policing Chinese Politics: A History* (Durham: Duke University Press, 2005), p. 68 and 255; Xuezhi Guo *China's Security State: Philosophy, Evolution, and Politics* (New York: Cambridge University Press, 2012), p.90; Fu Hualing, Zhou Yongkang and the Recent Police Reform in China, *Australian & New Zealand Journal of Criminology*, vol. 38 no. 2 (2005), p.242.

[78] People's Police Law of the People's Republic of China, *National Peoples Congress*, 1995, art. 2; Wong, *Chinese Policing: History and Reform*, p.158. The other four police forces are the state security police under Ministry of State Security, the prison police under the Ministry of Justice, the judicial police under the Peoples procuratorates, and the judicial police under the Peoples Courts.

[79] Public security police investigate all crimes except those committed by officials including corruption, dereliction of duty and others, which are handled by the Peoples procuratorate, and crimes committed by the military, which are handled internally by the Peoples Liberation Army. See Hong Yiyi (), Two million police officers nationwide take law examines, most questions are common sense and work regulations (200), *Southern Daily* (), November 2, 2011, <http://edu.163.com/11/1102/13/7HS15OKO00294IJI.html> (accessed September 4, 2014).

[80] Wong, *Chinese Policing: Theory and Reform*, p. 159-160. The four levels are public security bureaus, two levels of sub-bureaus, and police stations.

[81] Ibid.; Guo, *China's Security State: Philosophy, Evolution, and Politics*, p. 90-91.

[82] Dutton, *Policing Chinese Politics*, p. 279.

[83] Fu, Zhou Yongkang and the Recent Police Reform in China, *Australian & New Zealand Journal of Criminology*.

- [84] Dui Hua Foundation, Taming Police Influence in Politico-Legal Committees, November 29, 2011, <http://www.duihuahrjournal.org/2011/11/taming-police-influence-in-politico.html> (accessed March 20, 2014).
- [85] Karita Kan, Whither Weiwen? Stability maintenance in the 18th Party Congress era, *China Perspectives* (2013), <http://chinaperspectives.revues.org/6120?file=1> (accessed June 17, 2014).
- [86] Major Changes to the Situation of Public Security Bureau Secretary Also Acting as Secretary to Legal and Political Committees (), *Xinhua*, March 25, 2010, http://news.xinhuanet.com/legal/2010-03/25/content_13245075.htm (accessed October 24, 2014); Accelerate Reforms to Legal and Political Committees to Reduce the Cases of Intervention(), *the Beijing News* (), October 23, 2014, <http://www.chinanews.com/gn/2014/10-23/6707403.shtml> (accessed October 24, 2014).
- [87] Willy Lam, Binding the Baton: Expanding Police Power, Improving Accountability, *the Jamestown Foundation China Brief*, vol. 13 (2013), http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=40859&no_cache=1#.VAgH0fmSwqS (accessed September 4, 2014).
- [88] Hu Shiyou (), On Improving The Legal System Of Strict Prohibition Of Exacting A Confession By Torture (), " *Law Science Magazine*, vol. 1 (2007), p. 109-111; Wang Weiyong (), Examining the Harmfulness of Coerced Confessions from Wrongful Convictions (), China Court Net (), April 1, 2014, <http://www.chinacourt.org/article/detail/2014/04/id/1265601.shtml> (accessed September 1, 2014).
- [89] Li Song and Huang Jie ()Scholars Say 80 Percent of Wrongful Convictions Involved Torture (), *Legal System Net* (), July 11, 2011, http://www.legaldaily.com.cn/index_article/content/2011-07/08/content_2787723.htm?node=5955 (accessed September 1, 2014); Fang Pang (), A Rational Analysis of Wrongful Death Penalties Based on the Media coverage of the 33 Death Penalties that Were Wrongfully Convicted (33), *Commentary on Criminal Law* (), vol. 33(2006; Nie Zhaowei (), Causes and Countermeasures of Wrongfully Convicted Death Penalties Based on a Current Sample of 33 Cases (33), *Shandong Police Academy School Journal* (), vol.3 (2007).
- [90] The PRC officially has 34 provinces, municipalities, and autonomous region including Taiwan, Hong Kong, and Macau. We have not included the latter three regions in this report.
- [91] See, e.g., Yang Xu () and Zou Meilian (), A Suspect Died in Yunnan Yongshan County Detention Center; Official Says He Died After Police Found Him Unwell during Interrogations and Sent Him to the Hospital in a Timely Manner(), *City Times* (), April 19, 2014, , http://society.yunnan.cn/html/2014-04/19/content_3179905.htm (accessed July 8, 2014); Dalian Detention Center Suspect Taken to Hospital, Family Claims His Body was Injuredf (), *Beijing Times* (), May 31, 2013, http://www.cnr.cn/gundong/201305/t20130531_512712598.shtml (accessed July 8, 2014); Ding Xianming (), Police Orders Detainees to Beat a Female Suspect (), *China Youth Daily* (), May 30, 2011, http://zqb.cyol.com/html/2011-05/30/nw.D110000zgqnb_20110530_3-07.htm (accessed July 8, 2014).
- [92] The prohibition of the use of severe psychological suffering in coerced confession was an important step forward. Criminal Procedure Law prior to its revisions came into effect on January 1, 2013 and its related rules were vague about the definition of coerced confession and only recognized physical suffering. See for example, Wang Yi (), On the Explanation and Determination of Coerced Confession in the Two Evidential Rules (), *Modern Legal Studies* (), vol. 3 (2011), http://article.chinalawinfo.com/Article_Detail.asp?ArticleID=63006 (accessed July 7, 2014).
- [93] Flora Sapio, *Sovereign Power and the Law in China* (Boston: Brill, 2010), p.207-239. Sapio argues that torture is widely reported and depicted in Chinese press. But because citizens consider that victimscriminal suspectsare unlike them, there is little opposition towards torture and most citizens consider themselves safe from torture.
- [94] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.
- [95] Human Rights Watch interview with Zheng Qianyang (pseudonym), a former police officer who lives in Heilongjiang Province, Feb 13, 2014
- [96] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.
- [97] Human Rights Watch interview with Luo Chenghu (pseudonym), a lawyer based in Beijing, February 11, 2014. He was describing the torture of a client charged with homicide.
- [98] Human Rights Watch interview with Gu Daoying (pseudonym), a former detainee who lives in Zhejiang Province, May 22, 2014.
- [99] Some of the most candid accounts of police torture emerged in the Chinese press after the 2013 fall of Bo Xilai, the Chongqing Communist Party secretary. Bos administration had waged a strike-black campaign targeting corruption and organized crime, and had detained thousands of business people and government officials. Tencent News, a popular internet portal, published stylized drawings of the methods of torture used and detailed accounts of the ordeals experienced by those detained in the course of this campaign. While the widespread use of torture involving such a large number victims in a single campaign is unusual, the methods used by the police are strikingly similar to those described by interviewees in this report. Tencent News depicted 10 methods of torture used in the campaign, including the tiger chair and individuals being hung up for hours. Tencents information was based on media reports with interviews of victims, families, police officers, and lawyers. See Liu Chang, Exposing Details of Torture in Chongqing: Suspects Hung up Using Hoops Affixed to the Wall (), April 24, 2014, <http://www.oeeee.com/html/201404/24/215148.html> (accessed April 30, 2015).
- [100] Human Rights Watch interview with Chen Zhongshen (pseudonym), former detainee who lives in Hunan Province, May 13, 2014.
- [101] Statement of a robbery suspect taken by Zha Guliang (pseudonym), a lawyer who lives in Shenzhen and who was interviewed by Human Rights Watch on May 3, 2014.
- [102] Human Rights Watch interview with Zhang Chun (pseudonym), former detainee who lives in Hunan Province, May 13, 2014.

- [103] Human Rights Watch interview with Luo Chenghu (pseudonym), a lawyer based in Beijing, February 11, 2014. He was describing the torture of a client charged with homicide.
- [104] Human Rights Watch interview with Song Sanzuo (pseudonym), a lawyer based in Shanghai, May 16, 2014.
- [105] Human Rights Watch interview with Yu Zhenglu (pseudonym), a former criminal suspect who was detained in a detention center in Yunnan Province, May 22, 2014.
- [106] Human Rights Watch interview with Lei Xinmu, (pseudonym), a former criminal suspect who lives in Shaanxi Province, June 9, 2014.
- [107] UN Committee against Torture, Concluding Observations and Recommendations to the Republic of Korea, U.N. Doc. A/52/44, November 13, 1996.
- [108] UN Committee against Torture, Concluding Observations and Recommendations on Japan, U.N. Doc. CAT/C/JPN/CO/2, supra note 11, June 28, 2013; UN Committee against Torture, Concluding Observations and Recommendations on Cuba, U.N. Doc. CAT/C/CUB/CO/2, supra note 22, June 25, 2012.
- [109] Belkin, China Tortuous Path Towards Ending Torture in Criminal Investigations, *Columbia Journal of Asian Law*, p.278-9.
- [110] Ibid.
- [111] The bill for public safety (), *Caijing Magazine*, May 8, 2011, <http://magazine.caijing.com.cn/2011-05-08/110712639.html> (accessed January 8, 2015).
- [112] Wu and Beken, Police Torture in China and its Causes: A Review of Literature, *The Australian and New Zealand Journal of Criminology*, pp. 557-579. Fu, Zhou Yongkang and the Recent Police Reform in China, *The Australian and New Zealand Journal of Criminology*, p. 241-253.
- [113] Ibid.
- [114] Wong, *Chinese Policing: Theory and Reform*, p. 166 and 178,
- [115] Henan Police Abolishes Crime Clearance Rate to Prevent Coerced Confessions and Wrongful Convictions (), *China News Weekly* (), November 25, 2013 <http://news.sina.com.cn/c/2013-11-25/110028803637.shtml> (accessed June 3, 2014).
- [116] Ibid.
- [117] Human Rights Watch interview with Luo Chenghu (pseudonym), a lawyer based in Beijing, February 11, 2014. He was describing the torture of a client charged with homicide.
- [118] Human Rights Watch interview with Zha Guliang (pseudonym), a lawyer who lives in Shenzhen, May 3, 2014.
- [119] China Law Society, The Law Yearbook of China (2012), p.1218, Table 1: A Classification of All Criminal Cases Handled by Public Security Organs in China in 2012 (2012).
- [120] Human Rights Watch interview with Chen Lihua (pseudonym), a Beijing-based lawyer, January 24, 2014.
- [121] The MPS has vowed to solve all murders since 2004 after a series of gruesome murders in Henan and Guangdong Provinces. In 2006, the MPS initiated a nationwide campaign to strike hard against triads, a campaign made infamous by Chongqing Mayor Bo Xilai's high-profile campaign to sing red and strike black, and which has continued albeit on a smaller scale elsewhere in the country targeting powerful local interests. And President Xi Jinping's anti-corruption drive since January 2013 has promised to catch both tigers and flies. See The MPS held a News Conference on the work on Solving Murders (), *MPS*, May 16, 2006, <http://www.mps.gov.cn/n16/n1237/n1432/n1522/127271.html> (accessed June 6, 2014); Anti-crime: 1013 Evil Cases Are Under Investigation Currently (1013), *Peoples Daily*, May 26, 2006, <http://big5.china.com.cn/chinese/news/1220431.htm> (accessed June 9, 2014); Coerced Confession Still Popular after Fall of Bo Xilai (), *Deutsche Welle*, September 24, 2013, <http://www.dw.de/%E8%96%84%E7%86%99%E6%9D%A5%E5%80%92%E5%8F%B0-%E5%88%91%E8%AE%AF%E9%80%BC%E4%BE%9B%E4%BB%8D%E7%9B%9B%E8%A1%8C/a-17109493> (accessed July 8, 2014); Tania Branigan, Xi Jinping vows to fight 'tigers' and 'flies' in anti-corruption drive, *the Guardian*, January 22, 2013 <http://www.theguardian.com/world/2013/jan/22/xi-jinping-tigers-flies-corruption> (accessed July 8, 2014),
- [122] Li Enshu (), Two Million Police Loyal to Their Work and Safeguarding Safety (), *Legal Daily*, February 28, 2013, <http://webcache.googleusercontent.com/search?q=cache:UdcYoDztH9gJ:www.mps.gov.cn/n16/n1252/n916512/3706433.html+&cd=15&hl=en&ct=clnk> (accessed June 6, 2014).
- [123] Shi Su (), Urumqi Public Security Bureau Solved 100 Percent of Murder Cases (2013100%), *Yaxin Net* (), January 27, 2014, http://news.yaxin.com/content/2014-01/27/content_4400295.htm (accessed June 6, 2014); Suzhou Police Crime Clearance Rate is 100 Percent (100%), *China Jiangsu Net* (), April 10, 2014 http://webcache.googleusercontent.com/search?q=cache:S_xQOG20Mq8J:jsnews.jschina.com.cn/system/2014/04/10/020741713.shtml+&cd=30&hl=en&ct=clnk (accessed June 6, 2014),
- [124] Human Rights Watch interview with Beijing-based lawyer Ze Zhong (pseudonym), February 7, 2014.
- [125] In November 2013, perhaps recognizing that the judiciary's involvement in these Special Investigation Units is problematic, the

Supreme Peoples Court issued a notice aimed at reducing miscarriages of justice, which included a prohibition against courts being involved in working on such cases jointly with the procuratorate and the police. But the effects of this decision on actual cases are not yet clear. See Supreme Court on the Establishment of a Comprehensive Working Mechanism to Prevent Miscarriages of Justice in Criminal Justice, *Supreme Peoples Court*, para.23.

[126] Human Rights Watch interview with Chen Lihua (pseudonym), a Beijing-based lawyer, January 24, 2014.

[127] Li Jingrui, The Deputy Procurator-General of the Supreme Peoples Procuratorate Said Cell Bosses Have Been a Problem for a Long Time (), March 10, 2009, <http://news.sina.com.cn/c/2009-03-10/014015281580s.shtml> (accessed January 8, 2015).

[128] Song Yian, Zhao Chunguang: The Phenomenon of Cell Bosses Has been Effectively Curbed, *China.com.cn* (), July 24, 2014, http://www.humanrights.cn/cn/zt/tbbd/49/6/t20140724_1190841.htm. (accessed April 29, 2015).

[129] Zhao Chunguang (), We Must Not Tolerate Cell Bosses (), *Peoples Net* (), July 18, 2014, <http://legal.people.com.cn/n/2014/0718/c42510-25300270.html>.

[130] Human Rights Watch interview with Yuan Yifan (pseudonym), a former detainee who lives in Guangdong Province, August 27, 2014.

[131] *Ibid.*

[132] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.

[133] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[134] Human Rights Watch interview with Feng Kun (pseudonym), a former detainee who was detained in Henan Province, May 14, 2014.

[135] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[136] Human Rights Watch interview with Tong Shenmu (pseudonym), a former detainee in a detention center in Henan Province, August 26, 2014.

[137] Human Rights Watch interview with Stuart Foster, a former detainee who was held in a detention center in Guangdong Province, June 3, 2014.

[138] An infamous example is the case of an uncle and nephew named Zhang Gaoping and Zhang Hui, who was falsely convicted and served years in prison after a cell boss and police informant provided false information that led to their conviction. See The Case of Rape and Murder by an Uncle and Nephew in Zhejiang (), *Baidu*, <http://baike.baidu.com/view/10371375.htm> (accessed October 31, 2014).

[139] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[140] Human Rights Watch interview with Yu Zheng (pseudonym), a lawyer based in Shanghai, February 14, 2014.

[141] Human Rights Watch interview with Song Sanzuo (pseudonym), a lawyer based in Shanghai, May 16, 2014.

[142] Human Rights Watch interview with Ma Yingying (pseudonym), a former detainee who was detained in Fujian Province, May 20, 2014.

[143] Human Rights Watch interview with Lei Xinmu, (pseudonym), a former criminal suspect who lives in Shaanxi Province, June 9, 2014.

[144] Police Denies Using Tiger Chairs in Forcing Confession in the Triad Case of Guizhou Political Consultative Committee Member(), *Jinqian Zaixian* (), June 20, 2012 <http://news.shm.com.cn/2012-06/20/content> (accessed April 22, 2014).

[145] The MPS on the Issuance of Rules Regarding the Settings in Places of Law Enforcement and Investigation (), *MPS*, 2010, art. 13.

[146] Regulations of the People's Republic of China on Use of Police Implements and Arms by the People's Police (), *State Council*, 2014.

[147] Chinese law allows the use of restraints in four conditions: when detainees may harm themselves or others or escape, when detainees seriously disturb the detention center, when they are transferred out of the detention center, and for detainees on death row pending execution.

[148] Detention Center Regulations, art. 17. See also, Another Question Regarding the Heilongjiang Incident: How Should We Watch Death Row Inmates (), *Caixin Magazine* (), September 3, 2014 <http://opinion.caixin.com/2014-09-03/100724834.html> (accessed September 4, 2014). The Committee against Torture has advised that restraints should not be used on the basis of the status, penalty, legal condition of an individual. UN Committee against Torture, Observations on the Standard Minimum Rules, para. 36.

[149] Human Rights Watch interview with Yang Jinli (pseudonym, location withheld), a family member of a criminal suspect who was on death row, Jan 24, 2013

[150] Human Rights Watch interview with Beijing-based lawyer Ze Zhong (pseudonym), February 7, 2014.

[151] Human Rights Watch interview with Li Fang (pseudonym), a former criminal suspect who was detained in Shanghai, May 12,

[152] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.

[153] Human Rights Watch interview with Stuart Foster, a former detainee who was held in a detention center in Guangdong Province, June 3, 2014.

[154] Human Rights Watch interview with Yuan Yifan (pseudonym), a former detainee who lives in Guangdong Province, August 27, 2014.

[155] Human Rights Watch interview with Yang Zhenling (pseudonym), a former detainee based in Guangdong Province, May 26, 2014.

[156] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[157] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.

[158] Human Rights Watch interview with Ma Yingying (pseudonym), a former detainee who was detained in Fujian Province, May 20, 2014.

[159] Human Rights Watch interview with Tong Shenmu (pseudonym), a former detainee in a detention center in Henan Province, August 26, 2014

[160] Human Rights Watch interview with Chen Le (pseudonym), a lawyer based in Guangdong Province, May 20, 2014.

[161] Human Rights Watch interview with Tong Shenmu (pseudonym), a former detainee in a detention center in Henan Province, August 26, 2014

[162] Human Rights Watch interview with Hua Shengyu (pseudonym), a lawyer based in Shandong Province, February 14, 2014.

[163] Human Rights Watch interview with Li Fang (pseudonym), a former criminal suspect who was detained in Shanghai, May 12, 2014

[164] Human Rights Watch interview with Li Fang (pseudonym), a former criminal suspect who was detained in Shanghai, May 12, 2014

[165] Huang, Officials Analyze Deaths in Custody: Mostly Due to Coerced Confessions, *Southern Weekend*.

[166] Human Rights Watch interview with Bai Qingzuo (pseudonym), father of a 17-year-old detainee who died days after he was released from a detention center in northwestern China, September 12, 2014.

[167] Human Rights Watch interview with Jiang Yiguo (pseudonym), daughter of detainee in central China who died in custody, September 10, 2014.

[168] Human Rights Watch interview with Ao Ming (pseudonym), son of a detainee in a southern province who died in custody, September 17, 2014

[169] Human Rights Watch interview with Jiang Yiguo (pseudonym), daughter of a detainee in central China who died in custody, September 10, 2014.

[170] Human Rights Watch interview with Ao Ming (pseudonym), son of a detainee in a southern province who died in custody, September 17, 2014

[171] Human Rights Watch interview with Xiao Li (pseudonym), daughter of a detainee in a northern province who died in custody, April 4, 2014.

[172] Chen Yongsheng (), Further Reforms to Chinas Judicial Appraisal System; From the Perspective of the Establishment of Accreditation Bodies in Investigative Authorities (), *Tsinghua Law Review*, Vol.3 No.4 (2009); Guo Hua (), Problems and Solutions to Reform of Forensic Expert System in China (), *Tribune of Political Science and LawJournal of China University of Political Science and Law*, 2009, Issue 6, p.159-167

[173] Rules on the Handling of Deaths in Detention Centers, art. 13.

[174] Ibid.

[175] Human Rights Watch interview with Ao Ming (pseudonym), son of a detainee in a southern province who died in custody, September 17, 2014

[176] Human Rights Watch interview with Xiao Li (pseudonym), daughter of a detainee in a northern province who died in custody, April 4, 2014.

[177] Rules on the Handling of Deaths in Detention Centers, art. 12.

[178] Human Rights Watch interview with Bai Qingzuo (pseudonym), father of a 17-year-old detainee who died days after he was released from a detention center in northwestern China, September 12, 2014.

[179] Human Rights Watch interview with Xiao Li (pseudonym), daughter of a detainee in a northern province who died in custody,

April 4, 2014.

[180] Rules on the Handling of Deaths in Detention Centers, art.28; State Compensation Law, art.3.

[181] Human Rights Watch interview with Xiao Li (pseudonym), daughter of a detainee in a northern province who died in custody, April 4, 2014.

[182] Human Rights Watch interview with Bai Qingzuo (pseudonym), father of a 17-year-old detainee who died days after he was released from a detention center in northwestern China, September 12, 2014.

[183] The Supreme Peoples Procuratorate: 15 Cases of Deaths in Custody Were Received This Year (15), *Peoples Net* (), April 19, 2014, <http://politics.people.com.cn/BIG5/1026/9153861.html> (accessed July 8, 2014); Zhao Chunguang (), Insist on Protecting Criminal Proceedings and Protecting Human Rights: Innovations in National Management Mechanism in Detention Center Have Achieved Remarkable Results (), *Legal Daily*, March 7, 2012 http://www.legaldaily.com.cn/Frontier_of_law/content/2012-03/07/content_3405904.htm?node=33424 (accessed July 8, 2014).

[184] Unnatural Deaths in Custody in Detention Centers Have Fallen to a Historical Low in 2013 (2013), *Peoples Net* (), July 18, 2014, <http://news.163.com/14/0718/14/A1EMC7K200014JB6.html> (accessed September 15, 2014).

[185] See for example Beijing Detention Centers Pays RMB 50,000 Assistance Payment to Prisoners on Death Row who Allegedly Was Killed by a Fellow Detainee (5), *Oriental Morning Post* (), March 29, 2014, <http://news.qq.com/a/20140329/010400.htm> (accessed October 27, 2014); Chen Jiesheng () and Zheng Hong (), Police Said Mans Death in Detention Center Was Sudden, But Family Is Suspicious (), *Southern Metropolis Daily* (), July 25, 2014 <http://news.sina.com.cn/s/2014-07-25/053930576157.shtml> (accessed October 27, 2014); Wang Jian (), Guangxi Yulin: Suspect Died after Five Days of Detention, His Chest Has Greenish Bruises and His Legs and Arms are Injured (5), July 4, 2014, <http://i.ifeng.com/news/sharenews.f?aid=85657655> (accessed July 17, 2014).

[186] Detainee Died after Beaten to Death by Cell Boss (), *Beijing Youth Daily* (), February 24, 2014, http://epaper.yynet.com/html/2014-02/24/content_42395.htm?div=-1 (accessed June 13, 2014).

[187] A Sequel to the RMB 900,000 hush money incident (90), *Beijing Youth Daily*, March 19, 2014, http://news.xinhuanet.com/legal/2014-03/19/c_126285316.htm (accessed January 7, 2015).

[188] Follow-up on the Case of Suspect Beaten in Custody in Yangshuo, Guangxi Province: Guilin Prosecutors Involved in the Investigation (), *Beijing Youth Daily* (), February 26, 2014, <http://gx.sina.com.cn/news/gx/2014-02-26/143910667.html> (accessed June 13, 2014).

[189] UN Committee against Torture, Observations on the UN Standard Minimum Rules, paras. 16, 17 and 48; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, para. 19.

[190] CPL, arts. 116 and 117.

[191] While the law allows suspects to refuse to answer irrelevant questions and to incriminate themselves in police interrogations, it also requires suspects to answer truthfully in police interrogations. CPL, arts. 50 and 118.

[192] Wu and Beken, Police Torture in China and its Causes: A Review of Literature, *The Australian and New Zealand Journal of Criminology*, p.566. The lack of legal representation is likely a reflection of suspects reluctance to hire lawyers because of the cost; suspects belief that other means, such as bribing relevant officials, might be better alternatives; and lawyers reluctance to take criminal cases because they fear official retribution and prosecutions of criminal defense lawyers. See Congressional-Executive Commission on China, Defense Lawyers Turned Defendants: Zhang Jianzhong and the Criminal Prosecution of Defense Lawyers in China, <http://www.cecc.gov/publications/issue-papers/defense-lawyers-turned-defendants-zhang-jianzhong-and-the-criminal> (accessed September 1, 2014).

[193] CPL, art. 37.

[194] The use of incommunicado detention is considered to raise the risk of torture and ill-treatment and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture. Although international standards do not prohibit incommunicado detention, international standards and expert bodies have stated that it should be restricted to very short periods of time and in very exceptional circumstances.

[195] There are no national statistics regarding legal representation, although Chinese legal scholars and officials generally agree that the rate is low and less than 30 percent. See Sida Liu, Terence Halliday, Recursivity in Legal Change: Lawyers and Reforms of Chinas Criminal Procedure Law, *Law and Social Inquiry*, Vol.34, Issue 4, 2009, p. 937, <http://lexglobal.org/files/Recursivity%20in%20Legal%20Change.pdf> and Ira Belkin, China Tortuous Path Towards Ending Torture in Criminal Investigations, p. 281. A former chief procurator in Beijing, said only 2.5 percent of defendants have lawyers. Mu Ping: Lawyers Handled Only 2.5 percent of the 20,000 Criminal Cases (2.5%), *Beijing News*, March 9, 2012. A former president of the All-China Lawyers Association, Chinas official lawyers association, estimated that less than 30 percent of criminal cases were represented by lawyers. Zhu Lei, Committee Member Wang Ning Recommends Increasing Participation of Lawyers in Criminal Cases (:), *Legal Daily*, March 12, 2012.

[196] CPL, art. 34 and 267.

[197] ICCPR, art. 14(3)(b).

[198] Liu Rong, 18 cities pilot fast-track program in criminal cases: theft, dangerous driving can be tried in simplified trial (18), *Peoples*

Net, <http://npc.people.com.cn/n/2014/0623/c14576-25188320.html> (accessed March 25, 2015); Zhao Lei, Delivering Eight Years of Legal Aid, Duty Lawyers Reflect Justice and Warmth in the Legal System (8), *Henan Legal Daily*, December 11, 2014, <http://roll.sohu.com/20141211/n406842837.shtml>; Shanghai Creates Legal Aid Duty Lawyer Workshop System in Detention Centers (), *CRI Online*, August 27, 2014, http://www.humanrights.cn/cn/zt/tbbd/49/5/t20140827_1198072.htm (accessed March 25, 2015).

[199] CPL, art. 33.

[200] Ibid.

[201] Human Rights Watch interview with Cao Zuowei (pseudonym), a former suspect who was detained in Hunan Province, May 17, 2014.

[202] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.

[203] CPL, art. 37. In the first month after these revisions became effective, the MPS says there was a 30 percent increase in lawyers visit to detention centers. But lawyers have reported new hurdles to seeing their clients such as arbitrary rules by local police and lack of adequate meeting rooms. See Wang Feng (), First Anniversary of the Clinical Practice of the Criminal Procedure Law (, 21), *21st Central Business Herald* (21), March 15, 2014, <http://jingji.21cbh.com/2014/3-15/0NMDA2NTFfMTA5Nzc0NA.html>.

[204] Beijing Shangquan Law Firm (), 2013 Research Report on the Implementation of the New Criminal Procedure Law ([2013], March 7, 2013, <http://shangquan.fyfz.cn/b/795789> (accessed September 18, 2014).

[205] CPL, art.37.

[206] Although police are required to notify families of suspects accused of these crimes within 24 hours of subjecting them to designated residential surveillance, they are not required to notify the families the locations where the suspects are held. CPL, art. 73.

[207] Wang Feng, First Anniversary of the Clinical Practice of the Criminal Procedure Law, *21st Central Business Herald*.

[208] Ibid.;Lawyers Can Meet Suspects Anytime One Year After Implementation of Criminal Procedure Law ("), *Peoples Daily* (), March 9, 2014, http://news.jcrb.com/jxsw/201403/t20140319_1351188.html (accessed September 18, 2014).

[209] Guo Mengchao () and Peng Xinhua (), There is Still Room for Improvement in Implementing Lawyers Right to Meet with Clients (), *the Procuratorate Daily*, December 6, 2013, http://newspaper.jcrb.com/html/2013-12/06/content_147363.htm (accessed September 18, 2014).

[210] Beijing Shangquan, 2013 Research Report on the Implementation of the New Criminal Procedure Law .

[211] Human Rights Watch interview with Bai Qingzuo (pseudonym), father of a 17-year-old detainee who died days after he was released from a detention center in northwestern China, September 12, 2014.

[212] Human Rights Watch interview with Yang Jinli (pseudonym, location withheld), a family member of a criminal suspect who was on death row, Jan 24, 2013

[213] Human Rights Watch interview with Ao Ming (pseudonym), son of a detainee in a southern province who died in custody, September 17, 2014

[214] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.

[215] See Human Rights Watch, *Walking on Thin Ice: Control, Intimidation and Harassment of Lawyers in China*, April 29, 2008, p. 55-61.

[216] Liu Jianyong, Troubles that come from nowhere (), *Legal Weekly*, December 31, 2013, <http://www.legalweekly.cn/index.php/Index/article/id/1790> (accessed May 21, 2014).

[217] There are exceptions to this 24-hour rule of notifying families. Police do not have to notify families of suspects accused of two categories of crimes: endangering state secrets and terrorism for up to 37 days in the case of criminal detention.

[218] Detention Center Regulations, art. 28.

[219] Gao Yifei and Zhang Shaosong, Rights Discounted: Reflections on the Current State of Suspects Access to Families (----), *Dongfang Fayan Web*, January 2, 2015, http://www.dffy.com/faxuejieti/ss/201501/37756_2.html; Zhao Xiaoyan, An Exploration of the System and Rights of Suspects Access to Families (), *Legal Daily*, http://www.legaldaily.com.cn/zfb/content/2012-01/29/content_3321843.htm (accessed April 30, 2015).

[220] See also, Thiefs Body Floated in a Fish Pond after Release from Custody (), *Chutian Dushibao* (), June 16, 2014, <http://www.aiweibang.com/yuedu/715407.html> (accessed September 18, 2014); Henan Zhoukou Government Responds to Family of Suspect who Vomitted to Death, but Family Remains Suspicious of Torture (), May 24, 2012, <http://www.chinanews.com/fz/2012/05-24/3912501.shtml> (accessed September 18, 2014).

[221] Human Rights Watch interview with Yu Zhenglu (pseudonym), a former criminal suspect who was detained in a detention center in Yunnan Province, May 22, 2014.

[222] Human Rights Watch interview with Chen Zhongshen (pseudonym), former detainee who lives in Hunan Province, May 13, 2014.

- [223] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.
- [224] Human Rights Watch interview with Li Fang (pseudonym), a former criminal suspect who was detained in Shanghai, May 12, 2014.
- [225] Human Rights Watch interview with Xiao Li (pseudonym), daughter of a detainee in a northern province who died in custody, April 4, 2014.
- [226] UN Committee against Torture, Observations on the UN Standard Minimum Rules, para. 16.
- [227] According to a MPS notice, the physical check-up prior to admission should include a blood pressure test, blood tests, ECG, ultrasound, and chest X-ray, and medical staff should ask the detainees about their physical health, past illnesses, allergies, and family medical history. See Notice of the MPS on Standardizing and Strengthening of Management of Detention Centers to Ensure the Health of Persons in Custody (), *MPS*, 2010.
- [228] Ibid.
- [229] Human Rights Watch interview with Gu Daoying (pseudonym), a former detainee who lives in Zhejiang Province, May 22, 2014.
- [230] Human Rights Watch interview with Yu Zheng (pseudonym), a lawyer based in Shanghai, February 14, 2014.
- [231] Human Rights Watch interview with Luo Chenghu (pseudonym), a lawyer based in Beijing, February 11, 2014.
- [232] Gao Yifei and Zhang Shaosong, The Socialized Reforms of the Provision of Medical Services in Chinas Detention Centers (), *Yunnan Faxue*, vol. 6 (2014); <http://xbxsf.nwupl.cn/Article/llqy/201502/19580.html>. See also, Wuhu Number 1 Peoples Hospital, Our Hospital Has Become the Designated Medical Institution for Wuhu City Detention Center and Detention House (), April 22, 2014, http://webcache.googleusercontent.com/search?q=cache:x3dkEt26cgwJ:www.whfph.com/_d276448897.htm+&cd=2&hl=en&ct=clnk (accessed July 17, 2014); Nanhai District Detention Center, Public Notice Seeking Designated Hospitals to Conduct Five Items of Physical Examination for Detainees in the Detention Center(), <http://www.projectbidding.cn/zbxx/zbzg/2013/06/09090135966155.html> (accessed July 17, 2014); Procurement Notice: Detention Facilities under the Guangzhou Municipal Public Security Bureau Are Now Procuring Medical Services from Society (), *Guangzhou City Public Security Bureau*, July 16, 2014, [http://www.gzg2b.gov.cn/Sites/_Layouts/ApplicationPages/News/NewsDetail___id\\$1\\$59064b38-344e-40e7-bb8f-d86f50246e04.html](http://www.gzg2b.gov.cn/Sites/_Layouts/ApplicationPages/News/NewsDetail___id$1$59064b38-344e-40e7-bb8f-d86f50246e04.html) (accessed July 18, 2014).
- [233] Human Rights Watch interview with Ma Yingying (pseudonym), who was detained in Fujian Province, May 20, 2014.
- [234] Human Rights Watch interview with Yu Zhenglu (pseudonym), a former criminal suspect who was detained in a detention center in Yunnan Province, May 22, 2014.
- [235] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.
- [236] Human Rights Watch interview with Chen Zhongshen (pseudonym), former detainee who lives in Hunan Province, May 13, 2014.
- [237] Human Rights Watch interview with Song Sanzuo (pseudonym), a lawyer based in Shanghai, May 16, 2014.
- [238] Human Rights Watch interview with Beijing-based lawyer Ze Zhong (pseudonym), February 7, 2014.
- [239] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, January 23, 2014.
- [240] Human Rights Watch interview with Yu Zheng (pseudonym), a lawyer based in Shanghai, February 14, 2014.
- [241] Human Rights Watch interview with Beijing-based lawyer Ze Zhong (pseudonym), February 7, 2014.
- [242] Cao suffered from tuberculosis in both lungs, liver ascites, uterine fibroids, and cysts. Cao was detained for trying to participate in the 2013 UN Human Rights Universal Periodic Review of China, and died days after being transferred to a hospital by Beijing authorities. See Sophie Richardson (Human Rights Watch), China Wrongs a Rights Defender commentary, *the Wall Street Journal*, March 3, 2014; Chinese Human Rights Defenders, Cao Shunli Suffers from a Variety of Serious Untreated Diseases; Her Case Transferred to the Procuratorate(), December 21, 2013, http://wqw2010.blogspot.com/2013/12/blog-post_1972.html (accessed December 11, 2014).
- [243] Notice on Strengthening and Improving Medical and Health Provision in Facilities Supervised by the Public Security Organs (), *MPS and Ministry of Health*, 2009.
- [244] Jiang Xianghui (), Investigation Report on the Management of Medical and Health in Detention Centers (), *Legal System and Society* (), vol. 29 (2012), p. 210-214.
- [245] Detention Center Regulations, art. 26, Implementing Methods of the Detention Center Regulations of the Peoples Republic of China, art. 31.
- [246] Human Rights Watch interview with Li Fang (pseudonym), a former criminal suspect who was detained in Shanghai, May 12, 2014.
- [247] Human Rights Watch interview with Feng Kun (pseudonym), a former detainee who was detained in Henan Province, May 14, 2014.

[248] Belkin, China Tortuous Path Towards Ending Torture in Criminal Investigations, *Columbia Journal of Asian Law*, p. 286.

[249] Du Meng, Three Aspects of the Draft Amendments to the Criminal Procedure Law Prohibits Torture (), *Legal Daily* (), http://www.legalinfo.gov.cn/pfkt/content/2011-09/19/content_2971517.htm (accessed July 18, 2014); The new Criminal Procedure Law to Curb Coerced Confession; Illegal Evidence Would Become Trash (""), *Legal Daily* (), March 26, 2012, <http://www.zzrd.gov.cn/html/news/7/2012-03/26/3950.html> (accessed July 18, 2014); Li Kenan (), Dilemmas in Videotaping Criminal Interrogations(), *Phoenix Weekly* (), January 8, 2014, <http://www.21ccom.net/articles/sxwh/fzqy/2014/0120/99279.html> (accessed February 12, 2014); Belkin, China Tortuous Path Towards Ending Torture in Criminal Investigations, *Columbia Journal of Asian Law*, p. 286.

[250] CPL, art. 121.

[251] Provisions on Procedures in the Handling of Criminal Cases by Public Security Organs (), *MPS*, No.127 of 2012, art. 203.

[252] CPL, art. 121.

[253] Provisions on Procedures in the Handling of Criminal Cases by Public Security Organs , art. 203; Regulations on the Management and Usage of Law Enforcement and Investigation Facilities (), *MPS*, 2010, art. 20.

[254] Ministry of Public Security: Forced Confession Cases Dropped 87 Percent in the Past Year; Assaults on Police Officers Occur Regularly (87%) , *Peoples Net* and *Beijing News* (-), June 27, 2013, <http://www.chinacourt.org/article/detail/2013/06/id/1018713.shtml> (accessed December 18, 2013).

[255] According to a legal scholar, Professor Chen Yongsheng at Beijing University, during the revisions of the CPL in 2012, legislators had hoped that to require that all criminal cases be videotaped, but the proposal was rejected by the Ministry of Public Security and the final version is a compromise between the two positions, cited in Li Kenan, Dilemmas in Videotaping Criminal Interrogations, *Phoenix Weekly*.

[256] Human Rights Watch interview with Yu Zhenglu (pseudonym), a former criminal suspect who was detained in a detention center in Yunnan Province, May 22, 2014.

[257] Human Rights Watch interview with Gu Daoying (pseudonym), a former detainee who lives in Zhejiang Province, May 22, 2014.

[258] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.

[259] Zhang Lei, In Zhangzhou Zhangpu Triad Case, Appellant Xie Yongping Narrates Torture in a Special Investigation Room in Zhangpu County Detention Center During the Second Instance Trial (), post to Beijing Lawyer Zhang Leis Blog, January 20, 2014, http://blog.sina.com.cn/s/blog_638695670101gxzh.html(accessed January 12, 2015).

[260] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.

[261] Wu Yanwu (), Practice Thoughts on Procurators Work on Exclusion of Illegal Evidence from the Perspective of the Exclusionary Rule (), *Beijing Procuratorate Net* (), January 28, 2013, <http://www.bjjc.gov.cn/bjoweb/minfo/view.jsp?DMKID=240&ZLMBH=0&XXBH=34324> (accessed July 2, 2014).

[262] Human Rights Watch interview with Luo Chenghu (pseudonym), a lawyer based in Beijing, February 11, 2014. He was describing the torture of a client charged with homicide.

[263] Human Rights Watch interview with Yang Jinli (pseudonym, location withheld), a family member of a criminal suspect who was on death row, January 24, 2013

[264] Li Kenan, Dilemmas in Videotaping Criminal Interrogations, *Phoenix Weekly*.

[265] Human Rights Watch interview with Ran Sheng (pseudonym), a former judge who used to work in Sichuan Province, March 25, 2014.

[266] Chen Ruchao (), Governments Management of Coerced Confession: 1979 2013 (: 1979 -- 2013), *China Legal Science* (), vol. 5 (2014).

[267] *Deng Yongpings First Instance Criminal Verdict on the Crime of Theft* (), The Shunde District Peoples Court in Foshan City, Guangdong Province (), Foshun Court Criminal Case No. 2519 (First Instance) (2519),2013.

[268] Human Rights Watch interview with Chen Lihua (pseudonym), a Beijing-based lawyer, January 24, 2014.

[269] Human Rights Watch interview with Ma Yingying (pseudonym), a former detainee who was detained in Fujian Province, May 20, 2014.

[270] Li Kenan, Dilemmas in Videotaping Criminal Interrogations, *Phoenix Weekly*.

[271] Zhang Lei, A Journal on Shuangfeng, Chapter 14 ([]), post to Beijing Lawyer Zhang Leis Blog, December 21, 2012, http://blog.sina.com.cn/s/blog_63869567010195wh.html (accessed April 24, 2014).

[272] Human Rights Watch interview with Zha Guliang (pseudonym), a lawyer who lives in Shenzhen, May 3, 2014.

[273] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, January 23, 2014.

- [274] Wu Yanwu, Practice Thoughts on Procurators Work on Exclusion of Illegal Evidence from the Perspective of the Exclusionary Rule, Beijing Procuratorate Net, January 28, 2013.
- [275] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.
- [276] Police Law, art. 9.
- [277] Human Rights Watch interview with Yu Zheng (pseudonym), a lawyer based in Shanghai, February 14, 2014.
- [278] Human Rights Watch interview with Beijing-based lawyer Ze Zhong (pseudonym), February 7, 2014.
- [279] Human Rights Watch interview with Lei Xinmu, (pseudonym), a former criminal suspect who lives in Shaanxi Province, June 9, 2014.
- [280] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.
- [281] CPL, art. 116.
- [282] CPL, art. 48(7); Provisions on Procedures in the Handling of Criminal Cases by Public Security Organs, arts.249 to 253.
- [283] Provisions on Procedures in the Handling of Criminal Cases by Public Security Organs, art. 250.
- [284] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, Jan 23, 2014.
- [285] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.
- [286] There Should be Strengthened Supervision over Taking Detainees out of Detention Centers (), *Procuratorate Daily*, April 28, 2014, http://newspaper.jcrb.com/html/2014-04/28/content_157904.htm (accessed June 11, 2014)
- [287] Under article 15 of the Convention against Torture, it is the states responsibility to ensure that any statement obtained through torture not be invoked as evidence in any proceedings.
- [288] CPL, art. 54(2).
- [289] CPL, art. 55.
- [290] Trial Rules for the Peoples Procuratorate on Criminal Procedures ([I]), *Supreme Peoples Procuratorate*, No.2 of 2012, art. 66.
- [291] *Ibid.*, art. 67.
- [292] CPL, art. 55.
- [293] Trial Rules for the Peoples Procuratorate on Criminal Procedures, art. 70.
- [294] Human Rights Watch interview with Gu Daoying (pseudonym), a former detainee who lives in Zhejiang Province, May 22, 2014.
- [295] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.
- [296] Human Rights Watch interview with Ma Yingying (pseudonym), a former detainee who was detained in Fujian Province, May 20, 2014.
- [297] Human Rights Watch interview with Beijing-based lawyer Lu Xiangming (pseudonym), January 22, 2014.
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- [299] Human Rights Watch interview with Beijing-based lawyer Lu Xiangming (pseudonym), January 22, 2014.
- [300] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.
- [301] SPC Judicial Interpretation on the CPL , art. 99.
- [302] CPL, art. 56.
- [303] CPL art. 57(1).
- [304] CPL, art. 57(2).
- [305] CPL, art. 58.
- [306] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, Jan 23, 2014.
- [307] Less than 5 percent of trials in China involve live witnesses. See Ira Belkin, China's Criminal Justice System: A Work in Progress, *Washington Journal of Modern China*, vol. 6 No.2 (2000), p.20, http://www.law.yale.edu/documents/pdf/Chinas_Criminal_Justice_System.pdf.
- [308] Human Rights Watch interview with Xie Ying (pseudonym, location withheld), sister of a criminal suspect (he was later convicted

and is now in prison), April 14, 2014.

[309] Human Rights Watch interview with Zhang Rong (pseudonym), a lawyer based in Guangdong Province, January 22, 2014.

[310] Zhou *Wanrongs Verdict* (), the Wuwei City Intermediate Peoples Court in Gansu Province (), Wuwei City Intermediate Peoples Court Case No.7 (second instance) (7), 2014.

[311] Margaret K. Lewis, Controlling Abuse to Maintain Control: the Exclusionary rule in China, *New York University Journal of International Law and Politics*, vol. 43 (2011), p.654.

[312] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.

[313] First Instance Verdict of the Robbery Case against L guang and Chen Guanxu (), the Xiangtan City Yuetang District Peoples Court in Hunan Province (), Yuetang District Basic Peoples Court Case No.329 (329), 2014.

[314] Human Rights Watch interview with Fu Hualing, a scholar of Chinese criminal justice based in Hong Kong, February 19, 2014.

[315] Liu Chang () and Zhou Nan (), China-Style Expert Witnesses in Court Trials as Authorities No Longer Monopolizes Forensic Appraisal (;), *Southern Weekend*, July 4, 2013, <http://www.infzm.com/content/92056> (accessed January 13, 2015).

[316] Human Rights Watch interview with Xie Ying (pseudonym, location withheld), sister of a criminal suspect (he was later convicted and is now in prison), April 14, 2014.

[317] Human Rights Watch interview with Mao Renrong (pseudonym), a lawyer based in Beijing, October 30, 2014.

[318] Liu and Zhou, China-Style Expert Witnesses in Court Trials as Authorities No Longer Monopolizes Forensic Appraisal, *Southern Weekend*.

[319] Ibid.

[320] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, Jan 23, 2014.

[321] Human Rights Watch interview with Chen Lihua (pseudonym), a Beijing-based lawyer, January 24, 2014.

[322] Human Rights Watch interview with Ran Sheng (pseudonym), a former judge who used to work in Sichuan Province, March 25, 2014.

[323] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, Jan 23, 2014.

[324] Under US law and other jurisdictions, such evidence is excluded under the doctrine known as the fruit of the poisonous tree. See *Nardone v. United States*, 308 U.S. 338 (1939) (opinion of Justice Frankfurter).

[325] Human Rights Watch interview with Lu Qinghua (pseudonym), a Beijing-based lawyer, April 17, 2014.

[326] Human Rights Watch interview with Ran Sheng (pseudonym), a former judge who used to work in Sichuan Province, March 25, 2014.

[327] Ibid.

[328] China has 99.93 percent conviction rate: top court, *Agence France-Presse*, March 10, 2014, <http://www.globalpost.com/dispatch/news/afp/140310/china-has-9993-percent-conviction-rate-top-court> (accessed July 14, 2014).

[329] Human Rights Watch interview with Beijing-based lawyer Lu Xiangming (pseudonym), January 22, 2014.

[330] Human Rights Watch interview with Ran Sheng (pseudonym), a former judge who used to work in Sichuan Province, March 25, 2014.

[331] Margaret K. Lewis, Controlling Abuse to maintain control: the Exclusionary Rule in China, January 2010, p.38.

[332] Belkin, Chinas Tortuous Path toward ending torture in Criminal investigations, *Columbia Journal of Asian Law*, p. 291.

[333] See also Wu Danhong (), Roles, Contexts and Social ToleranceTorture from the Perspective of Sociology (), *Peking University Law Journal* (), vol. 2 (2006).

[334] CPL, art 7.

[335] There have been some recent efforts to increase judges independence, notably by transferring power to hire and promote judges from the local levels where judges are based to the provincial level. But as local interests can continue to influence judges decisions through other means, the actual impact of these reforms on judicial independence is likely limited. The Chinese Communist Party has also called for less interference in court cases by these committees, but so far the impact of these efforts are not known. See Song Shijing () and Zuo Yanyan (), Reforms to the Political and Legal Committee are Accelerating as They Reduce Interference in Cases (), *Beijing News*(), October 23, 2014, <http://www.chinanews.com/gn/2014/10-23/6707403.shtml> (accessed October 28, 2014).

[336] Fu, Zhou Yongkang and the Recent Police Reform in China, *Australian & New Zealand Journal of Criminology*.

[337] Chinese Communist Party Central Committee Decision on Several Major Issues to Advance the Rule of Law (), the 18th

Communist Party of China Central Committee, the fourth plenary session, October 28, 2014, Chapter 3.

[338] Luo Jingyun, Feng Zhimings Suspected Crime May Not be Limited to Coerced Confession (), *Tencent News*, December 31, 2014, <http://news.qq.com/a/20141231/035569.htm> (accessed January 13, 2015).

[339] Jiangxi Police Recruitment Exams: Key Points of Peoples Police Professional Knowledge (30), *Jiangxi Civil Servants Examination Net* (), June 20, 2013, <http://www.jxgwyks.org/jczs/qt/201306/20-7924.html> (accessed July 21, 2014).

[340] Police Law, arts 42, 46, and 47.

[341] Liqun Cao et al. ed., *The Routledge Handbook of Chinese Criminology* (New York: Routledge, 2014), p.72; the Supervising Regulations of the Public Security Organs(), *State Council*, No. 220 of 2014, http://www.gov.cn/zwgk/2011-09/08/content_1943257.htm (accessed October 28, 2014).

[342] Huangshi Full Unleashes the Functions of Supervisor Police in Protecting Safety in Law Enforcement by Comprehensively Achieving Online Inspection of Police through Videos (), *MPS Police Supervision Bureau* (), November 18, 2013, <http://www.mps.gov.cn/n16/n1978875/n1978922/3941020.html> (accessed July 21, 2014); Li, MPS: Detention Centers Have to be Publicly Monitored by Society, *China Youth Daily*; Ling Qing (), Legal Analysis of Coerced Confession (), *Changqing County Peoples Procuratorate* (), May 14, 2012, http://www.huzhoucx.jcy.gov.cn/fxyd/llyj/201205/t20120514_861316.shtml (accessed July 21, 2014).

[343] The Supervising Regulations of the Public Security Organs, arts. 10, 11, 12, and 13.

[344] Rectifying the Case of Zhejiang Uncle and Nephew Wrongful Conviction, Zhang Biao and Other Procurators Receive Awards (), *Legal Daily*, June 4, 2013, http://www.legaldaily.com.cn/index_article/content/2013-06/04/content_4530366.htm (accessed January 13, 2015). In this case, procurator Zhang Biao told the press that the process of rectifying the wrongful conviction was very difficult. See Xing Shiwei, The Unsung Hero of the Case of Zhejiang Uncle and Nephew Wrongful Conviction: We Need to Solve the Problem of Police, Procuratorate and the Court Having a Too Cozy Relationship (), *Beijing News*, April 8, 2014, <http://dailynews.sina.com/bg/chn/chnpolitics/phoenixtv/20140408/12205620888.html> (accessed April 16, 2015). Except for this one case, all other prominent cases of overturned wrongful convictions were the results of factors other than efforts by procurators. In these other cases, the cases were overturned because the victims who were thought to be murdered re-appeared after many years, or because the real culprit got detained for some other cases and confessed to the crime. See Wang Hong, Expert: Main Ways of Discovering Wrongful Convictions Are When the Victims Return or When the Real Culprit Is Caught (""), October 10, 2013, <http://news.163.com/13/1010/13/9AR2MO5P0001124J.html> (accessed April 16, 2015).

[345] Human Rights Watch interview with Yu Zhenglu (pseudonym), a former criminal suspect who was detained in a detention center in Yunnan Province, May 22, 2014.

[346] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[347] Human Rights Watch interview with lawyer and former detainee Wu Ying (pseudonym), May 14, 2014.

[348] Wei Jianwen (), Inspection and Supervision of Detention Facilities: Problems and Countermeasures(), *Journal of Southwest University of Political Science and Law* (), vol.4 (2012). See also, Li and Huang, Scholars Say 80 Percent of Wrongful Convictions Involved Torture, *Legal Daily*.

[349] Human Rights Watch interview with Feng Kun (pseudonym), a former detainee who was detained in Henan Province, May 14, 2014.

[350] Human Rights Watch interview with Lei Xinmu, (pseudonym), a former criminal suspect who lives in Shaanxi Province, June 9, 2014.

[351] Human Rights Watch interview with Xiao Guosheng (pseudonym), a lawyer based in Beijing, Jan 23, 2014.

[352] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.

[353] Human Rights Watch interview with Cao Zuowei (pseudonym), a former suspect who was detained in Hunan Province, May 17, 2014.

[354] Human Rights Watch interview with Bai Qingzuo (pseudonym), father of a 17-year-old detainee who died days after he was released from a detention center in northwestern China, September 12, 2014.

[355] Human Rights Watch interview with Jiang Yiguo (pseudonym), daughter of detainee in central China who died in custody, September 10, 2014.

[356] Human Rights Watch interview with Gu Daoying (pseudonym), a former detainee who lives in Zhejiang Province, May 22, 2014.

[357] Human Rights Watch interview with Chen Aomin (pseudonym), wife of a former criminal suspect in Fujian Province who is now released, May 5, 2014

[358] Human Rights Watch interview with Xie Ying (pseudonym, location withheld), sister of a criminal suspect (he was later convicted and is now in prison), April 14, 2014.

[359] Wu, Danhong, Roles, Contexts and Social Tolerance Torture from the Perspective of Sociology, *Peking University Law Journal*.

[360] Ibid.

[361] Record of Medical Bail Granted to Criminal, Fujian Quanzhou Prison, Case No. 10, September 23, 2011, <http://ww2.sinaimg.cn/mw1024/e45a6297jw1eg3d8dl19fj20k00qsadb.jpg> (accessed January 12, 2015).

[362] Notice about Longhai Public Security Bureau in Violation of the Law in the Handling of a Case (), MPS Supervision Committee (), Case No. 7, March 19, 2009, <http://ww3.sinaimg.cn/bmiddle/e45a6297jw1eg3d9rtbkjmj20hs722e81.jpg>

[363] Wong, Kam C. *Police Reform in China* (New York: CRC Press, 2011), p. 333-34.

[364] Human Rights Watch interview with Song Sanzuo (pseudonym), a lawyer based in Shanghai, May 16, 2014.

[365] Human Rights Watch interview with Yu Zheng (pseudonym), a lawyer based in Shanghai, Feb 14, 2014.

[366] Human Rights Watch interview with Gu Geng (pseudonym), a legal scholar and former lawyer who now lives in the United States, Jan 19, 2014.

[367] Human Rights Watch interview with Cao Zuowei (pseudonym), a former suspect who was detained in Hunan Province, May 17, 2014.

[368] Zhu Yanli (), Why it is Difficult to Seek Responsibility for Wrongful Cases (), *Bandao Dushibao* () (Qingdao), May 15, 2014, <http://news.163.com/14/0515/11/9S9JU44V00014Q4P.html> (accessed October 27, 2014).

[369] Ibid.

[370] Human Rights Watch interview with Chen Aomin (pseudonym), wife of a former criminal suspect in Fujian Province who is now released, May 5, 2014

[371] Human Rights Watch interview with Xie Ying (pseudonym, location withheld), sister of a criminal suspect (he was later convicted and is now in prison), April 14, 2014.

[372] Criminal Law, art. 247.

[373] Criminal Law, art. 247.

[374] In 2010, 60 were convicted of torture to extract confession, 2 for using violence to obtain evidence, 34 for abuse of supervisees; in 2011, 36 were convicted of torture to extract confession, 1 for using violence to obtain evidence, 26 for abuse of supervisees. Government of China, Fifth Periodic Report to the Committee against Torture, para.74.

[375] The Second-Instance Verdict on the Criminal Case of Intentional Injury of Qian Jiang and Wang Jie (), Shenyang City Intermediate Peoples Court of Liaoning Province (), Shenyang City Intermediate Peoples Court Criminal Case No.62 (Final Hearing) (62), 2014.

[376] These three papers were selected because press stories on torture are most frequently reported in media controlled by law enforcement agencies in China. See Sapio, *Sovereign Power*, p. 207-240.

[377] These 10 cases were addressed in 15 court verdicts: *First Instance Criminal Verdict of Intentional Injury of Ma Wei*, Ningxia Hui Autonomous Region Guyuan City Yuanzhou District People's Court, First Instance Criminal Case No.346 (346), 2013; *First Instance Criminal Verdict of Intentional Injury of He Zhijun*, Ningxia Hui Autonomous Region Guyuan City Yuanzhou District People's Court, First Instance Criminal Case No.347 (First Instance) (347), 2013; *First Instance Criminal Verdict of Intentional Injury of Ma Xiaodong*, Ningxia Hui Autonomous Region Guyuan City Yuanzhou District People's Court, First Instance Criminal Case No.348 (348), 2013; *First Instance Criminal Verdict of Intentional Injury of Mamu Hamai*, Ningxia Hui Autonomous Region Guyuan City Yuanzhou District People's Court, First Instance Criminal Case No.349 (349), 2013; *Second Instance Criminal Verdict of Intentional Injury of Yin Qinlin*, Hunan Yueyang City Intermediate Peoples Court, Final Instance Criminal Case No.82 (82); *Criminal Verdict of First Instance of Intentional Injury of Gao*, Sichuan Gao County Peoples Court, First instance Criminal Case No.1, (1), 2014 ; *Criminal Verdict of First Instance of Creating Disturbances of Eight People Including Liu Dongzhen*, Hebei Zaoqiang County Peoples Court, First Instance Criminal Case No.8, (8), 2014; *Criminal Verdict of First Instance of Intentional Injury of Wang Pang and Bai*, Hebei Zaoqiang County Peoples Court, First Instance Criminal Case No.10 (10), 2014; *Criminal Verdict of First Instance of Intentional Injury of Xing*, Hebei Zaoqiang County Peoples Court, First Instance Criminal Case No.27 (27), 2014; *Criminal Verdict of Second Instance of Traffic Accident and Intentional Injury of Han*, Hebei Cangzhou City Intermediate People's Court, Final Instance Criminal Case No.94 (94), 2014; *Criminal Verdict of First Instance of Intentional Injury of Chen*, Fujian Futian City Hanjiang District Peoples Court, First Instance Criminal Case No.68 (68); *Criminal Verdict of First Instance of Intentional Injury of Chen Yukun*, Guangzhou Chaozhou City Chaoan District Peoples Court, First Instance Criminal Case No.10 (10), 2014; *Criminal Verdict of First Instance of Intentional Injury of Cai Yang and Zhang Qingquan*, Fujian Putian City Licheng District Peoples Court, First Instance Criminal Case No.115 (115), 2014; *Criminal Verdict of Second Instance of Damaging Orderly Detention of Huang Anbang and Gong*, Fujian Ningde City Intermediate Peoples Court, Final Instance Criminal Case No.4 (4), 2014; *Criminal Verdict of First Instance of Organizing Gambling Venue, Sheltering Others to Abuse Drugs and Intentional Injury against Huang Zhihai and Organizing Gambling Venue against Wang Gengqing, Yao Jianfan, Guo Songhong, Guo Shaoying, Zhuang Yuelan*, Shandong City Chaoyang District Peoples Court, First Instance Criminal Case No.39 (39), 2014.

[378] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[379] State Compensation Law of the Peoples Republic of China (), *Standing Committee of the National Peoples Congress*, adopted on May 12, 1994 199 (amended on April 29, 2010 and on October 26, 2012). Victims are only entitled to compensation if they were beaten or abused by government officials, or those instructed by them, and suffered injury or death as a result. Such individuals are entitled to expenses related to medical treatment and care, as well as loss of work hours; those who became disabled get additional disability compensation depending on the level of disability; and a living allowance for those who are so severely disabled that they cannot work.

Families of those killed by torture are eligible to death compensation, funeral expenses and living allowance. Loss of work hours and disability and death compensations are capped at a certain factor of the national average wage, while living expenses are the same as the minimum living allowance at the local level given out to families earning under a certain minimum income. In serious cases, victims are also given compensation for psychological harm, but the amount is unspecified.

[380] Jiang Bixin, Several Issues that Should be Focused on and Grasped in the Application of the Revised " State Compensation Law" (), *Falu Shiyong Vol. 6*, 2011, http://www.pkulaw.com/fulltext_form.aspx?Gid=1510112859&Db=qikan. (accessed April 29, 2015)

[381] Human Rights Watch interview with Shen Mingde (pseudonym), a lawyer based in Beijing, April 3, 2014.

[382] Written Decision on the Review of Zhu Haibos Complaint Regarding His Application for Compensation for Unlawful Detention by the Xingan Public Security Bureau in Guangxi Zhuang Autonomous Region (), SPC, Peijianzi No.107 (107), 2013

[383] Written Decision on Yang Jinhuis Application for Compensation (), Jinhua City Intermediate Peoples Court of Zhejiang Province (), Zhejinfaweipeizi No.1 (1), 2013.

[384] Human Rights Watch interview with Zhang Rong (pseudonym), a lawyer based in Guangdong Province, Jan 22, 2014.

[385] Human Rights Watch interview with Mao Renrong (pseudonym), a lawyer based in Beijing, October 30, 2014.

[386] Human Rights Watch interview with Zhang Rong (pseudonym), a lawyer based in Guangdong Province, Jan 22, 2014.

[387] Li Jing (), SPC: The Court Concluded 2045 Cases of State Compensation Cases Last Year (2045), *Peoples Net* (), March 10, 2014, <http://www.chinacourt.org/article/detail/2014/03/id/1227247.shtml> (accessed August 6, 2014).

[388] See Zhao Zuohai Abandons Other Claims: How Ever Much the Government Gives, I Will Take It (), *Beijing News* (), May 14, 2010, http://news.shangdu.com/101/2010/05/14/2010-05-14_438453_101.shtml (accessed August 6, 2014); The Media Claims that Zhao Zuohais 650,000 RMB State Compensation is Too Little (65), *Global Times*, May 14, 2010, http://news.shangdu.com/107/2010/05/14/2010-05-14_438440_107.shtml (accessed August 6, 2014); Three in Anhui Given 600,000 RMB in State Compensation after 8 Years of Wrongful Imprisonment for Murder; They Are Unhappy and Will Appeal (3860), *Jinghua Times* (), May 24, 2014, <http://news.163.com/14/0524/01/9SVMG5T500014AED.html> (accessed August 6, 2014).

[389] Zhang Chuanwei (), The Defects of the State Compensation System and Its Reconstruction from the Perspective of Cases that Involve Torture (), *Law Science Magazine* (), vol. 6 (2008).

[390] Li, SPC: The Court Concluded 2045 Cases of State Compensation Cases Last Year, *Peoples Net*.

[391] Human Rights Watch interview with Cao Zuowei (pseudonym), a former suspect who was detained in Hunan Province, May 17, 2014.

[392] Human Rights Watch interview with Chen Aomin (pseudonym), wife of a former criminal suspect in Fujian Province who is now released, May 5, 2014.

[393] Human Rights Watch interview with Cao Zuowei (pseudonym), a former suspect who was detained in Hunan Province, May 17, 2014.

[394] Human Rights Watch interview with Zuo Yi (pseudonym), a former detainee who was detained in Fujian Province, April 11, 2014.

[395] Human Rights Watch interview with Zhang Chun (pseudonym), former detainee who lives in Hunan Province, May 13, 2014.

[396] Human Rights Watch interview with Yang Jinli (pseudonym, location withheld), a family member of a criminal suspect who was on death row, Jan 24, 2013

[397] Human Rights Watch interview with Chen Aomin (pseudonym), wife of a former criminal suspect in Fujian Province who is now released, May 5, 2014

[398] Supreme Peoples Court: Proposal to Consider Sleep Deprivation in Interrogations as a Form of Coerced Confessions (), December 8, 2014, http://news.xinhuanet.com/yuqing/2014-12/08/c_127286219.htm (accessed February 10, 2015).

[399] CPL, art. 37. In the first month after these revisions became effective, the MPS says there was a 30 percent increase in lawyers visit to detention centers. But lawyers have reported new hurdles to seeing their clients such as arbitrary rules by local police and lack of adequate meeting rooms. See Wang Feng (), First Anniversary of the Clinical Practice of the Criminal Procedure Law (, 21), *21st Central Business Herald* (21), March 15, 2014, <http://jingji.21cbh.com/2014/3-15/0NMDA2NTfMTA5Nzc0NA.html>.

[400] CPL, art. 121.

[401] Coerced Confessions Has Reduced by 87 percent Nationally in the Past Year (87%), *Shanghai Evening Post* (), June 27, 2014, <http://news.sina.com.cn/c/2013-06-27/132027513471.shtml>(accessed March 21, 2014).

[402] Committee Against Torture (CAT) A/45/44 paras. 471-502.

[403] Committee Against Torture (CAT) A/48/44(SUPP) paras. 387-429.

[404] Committee Against Torture (CAT) A/48/44(SUPP) paras. 387-429.

[\[405\]](#) Committee Against Torture (CAT) A/51/44(SUPP) paras. 138-150.

[\[406\]](#) Committee Against Torture (CAT) A/55/44(SUPP) paras. 106-145

[\[407\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6

[\[408\]](#) Committee Against Torture (CAT) A/48/44(SUPP) paras. 387-429.

[\[409\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6.

[\[410\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6.

[\[411\]](#) Committee Against Torture (CAT) CAT/C/CHN/CO/4.

[\[412\]](#) Committee Against Torture (CAT) CAT/C/CHN/CO/4.

[\[413\]](#) Committee Against Torture (CAT) CAT/C/CHN/CO/4.

[\[414\]](#) Concluding observations of the Committee against Torture on China (1993), CAT/ A/48/44 (1993) paras. 427-428; Concluding observations of the Committee against Torture on China (1996), CAT A/51/44 (1996); CAT A/55/44 (2000) paras. 123-130; Concluding observations of the Committee against Torture (2008), December 12, 2008, CAT/C/CHN/CO/4.

[\[415\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6.

[\[416\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6.

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[\[421\]](#) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak E/CN.4/2006/6/Add.6.

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