

In Custody: Lawyers in Detention

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The U.S. State Department's Bureau of Democracy, Human Rights, and Labor, in its 2004 report on China's human rights practices, quotes the All China Lawyers Association as saying that more than 400 defense attorneys have been detained since 1997 on charges of perjury and other charges related to their defense of their clients.¹ However, the actual list of detained lawyers has not been publicly released. According to one source in China, at least ten lawyers are currently being detained in Beijing alone. Below are cases of lawyers known to have been arrested as a result of their professional duties on behalf of their clients.

ZHANG JIANZHONG

A partner in the Beijing Gonghe Law Firm and one of China's most prominent and outspoken defense attorneys, Zhang was arrested while acting as defense attorney for Huo Haiyin, former head of a branch of the Beijing Urban Cooperative Bank, who was detained on suspicion of corruption in March 1998 and subsequently charged with making illegal loans and other crimes.

The Beijing Public Security Bureau detained Zhang on May 3, 2002, and formally arrested him in June on suspicion of assisting in the fabrication of evidence. He was formally indicted on January 6, 2003. The prosecution alleged that Zhang colluded with Huo and a PSB officer to backdate a power of attorney relevant to the case. Zhang's case went to trial on February 25, 2003. In December 2003, the Beijing No.1 Intermediate People's Court found Zhang guilty and sentenced him to two years in prison. Zhang appealed, but on January 7, 2004, the Beijing Supreme People's Court upheld the original judgment. Zhang was released in May 2004 upon completion of his sentence.

For a detailed examination of this case, see the Web site of the Congressional Executive Commission on China: http://www.cecc.gov/pages/news/zhang_052703.php, and <http://www.cecc.gov/pages/news/zhangupdate.php>.

ZHENG ENCHONG

Zheng Enchong was a lawyer with Shanghai's Siwei Law Office who specialized in assisting families displaced in Shanghai's urban redevelopment projects. In July 2001, the Shanghai Municipal Judicial Bureau revoked his license on the grounds that he had contravened China's Law on Lawyers. However, he continued to provide legal advice in redevelopment cases, reportedly assisting families in more than 500 cases. On June 6, 2003, while Zheng was providing legal advice for a case alleging corrupt collusion between local authorities and billionaire developer Zhou Zhengyi, he was detained on charges of "illegally obtaining state secrets" and was formally arrested on June 18. Zheng went to trial on August 28 on amended charges of "illegally providing state secrets to entities outside of China," and on October 28, 2003, the Shanghai Municipal No. 2 Intermediate People's Court sentenced Zheng to three years in prison. He is still in custody at Shanghai's Tilanqiao Prison, where he has reportedly been subjected to oppressive and unfair treatment.

For further details on Zheng Enchong's case, see HRIC's Web site: http://iso.hrichina.org/fs/downloadables/pdf/downloadable-resources/rf5_pprofile4.2003.pdf?revision_id=9992.

The following are cases summarized in the book *Lüshi Weiquan Anlixuan* (A Selection of Cases of Lawyers Protecting Rights),² which was compiled and edited by Liu Wenyuan and other members of the Criminal Law Committee of the All China Lawyers Association.

For each case, the book provides the main facts, related court documents and an analysis of the case's relevance in illustrating the complications lawyers encounter in the exercise of their professional duties. However, the names of all of the parties involved have been changed.

CASE 1:

Liu Yuchu, a lawyer with the Guangda Law Office in Jinhua, Zhejiang Province, took on the defense of Jia Zhongwei, accused of corruption in relation to the company of which he was an executive.

During the court proceedings that commenced on April 23, 1996, Jia retracted his original statement, and conflict arose between the prosecution and defense, after which the case was adjourned. While the court was in recess, Liu submitted two pieces of documentary evidence for the court's review.

On May 6, 1996, the local procuratorate withdrew its case against Jia and began to reinvestigate the case. Subsequently the procuratorate claimed that the two documents submitted by Liu were forgeries intended to reduce the amount of money involved in the case and likewise reduce the extent of Jia's culpability.

On May 27, 1996, the local procuratorate took Liu into criminal detention, and on June 6 formally arrested him on charges of concealing criminal evidence and criminal collusion (*xunsi wubi*)³. Liu was indicted on September 12, 1996, but the court returned the case to the procuratorate for further investigation. Liu was finally brought to trial on December 11, and on January 14, 1997, the Wucheng District Court found Liu not guilty.

The procuratorate appealed to the Jinhua Municipal Intermediate People's Court. On February 27, 1997, the intermediate court upheld the original judgment, ruling that although the document in question were of questionable accuracy, Liu had no intention of submitting false documents to the court, or of concealing criminal evidence.

CASE 2:

Li Hongli, a Party member and principal lawyer with the Linyi Yinguang Law Office in Shangdong Province, on July 4, 1995, agreed to take on the defense of Wu Qinpei, a finance office official accused of accepting bribes totaling more than \$15,000 *yuan*.

On July 5, Li visited Wu at the local detention center, and after Li explained the crime of bribery to Wu, Wu said the charges against him were inconsistent with the facts. On August 12, the Linshu County Court sent the case back to the procuratorate for further investigation. A judgment was ultimately passed by the court on August 15.

In the meantime, the procuratorate

began investigating Li Hongli on suspicion of “inciting a criminal to retract his statement for the sake of reducing his sentence.” On August 16, 1996, Li was indicted on charges of criminal collusion.

On November 26, 1996, the Linshu County Court found Li guilty of inciting a criminal to retract his statement and make a false statement, and of criminal collusion, but passed a non-custodial sentence.

The procuratorate appealed the judgment and sentence, and Li also appealed the verdict for the sake of his professional reputation. On May 26, 1997, the Linyi Municipal Intermediate People’s Court rejected both appeals, upholding the original judgment and sentence. Li submitted another application for appeal.

On February 2, 1999, the Linyi Municipal Intermediate People’s Court upheld the judgment regarding the retracted statement, but overturned Li’s conviction for criminal collusion.

CASE 3:

Song Yuqing, a lawyer with the No. 3 Law Office of Datong City, Shanxi Province, in October 1996 took on the defense of Yang Decai, who had been charged with theft. Song visited her client, then examined the evidence and found that many procedures had been neglected, with the case based solely on the testimony of the victim.

On October 24 and 25, Song carried out further inquiries and obtained several witness statements to the effect that Yang was at work at the time of the alleged crime. She then submitted the statements to the Datong Municipal Intermediate People’s Court.

On February 20, 1997, the Datong Municipal Intermediate People’s Court ruled that important facts of the case were not clear, and sent it back to the procuratorate for further investigation. On February 27, the trial began at the Datong Southern District Court, and the court admitted the statements of the defense witnesses, then adjourned. During the recess, the procuratorate brought the witnesses in for questioning, and detained them until 10:00 that night.

On February 28, the local procuratorate brought Song Yuqing in for questioning, then detained her, finally releasing her on

bail on March 10. On April 25, Song was formally charged, and was brought before the district court for indictment on charges of criminal collusion on June 2. She went to trial on July 17.

Song’s lawyers alleged conflict of interest in the trial judge and applied for recusal, which was refused. Song and her lawyers persisted in the conflict of interest claims, and the procuratorate eventually dropped the case.

CASE 4:

Originally a state employee, Li Yun resigned his post in December 1993 and joined other former state lawyers in setting up the Guangyi Law Office in Shanghai.

On March 23, 1994, Li Yuan and another lawyer were assigned representation of a Macau resident surnamed Sun who was plaintiff in a divorce case. During and after the proceedings, the father of another party in the case presented “transport” and “hardship” fees and a wedding certificate totaling HK\$7,000 to Li Yun. Li actually used around 320 *yuan* in transport fees for the case, and kept the remainder of the money for his own use. On September 29, 1994, Li was detained on suspicion of accepting bribes.

The procuratorate treated Li Yuan as a state legal employee performing an official duty, and considered the additional sums paid to him a means of soliciting Li’s official influence to resolve the dispute.

On June 8, 1995, the Shanghai Municipal Jingan District People’s Court found Li not guilty. The court found that while Li had acted against the relevant lawyer management regulations, he had not made use of his official position, so his acceptance of the funds could not be considered accepting a bribe.

The procuratorate appealed, but the Shanghai Municipal No. 2 Intermediate People’s Court upheld the original judgment on the basis that Li Yun was not a state employee, so his acceptance of the funds could not constitute accepting a bribe.

CASE 5:

Chen Daming, a lawyer in Lanfen City, Shanxi Province, on June 23, 1997 agreed

to serve as defense council for Wu Junjie, the Party Secretary of Hedi Township, Lanfen City, who was indicted on June 2 on charges of accepting bribes.

Prior to trial, Wu’s family asked Chen to reinterview the witnesses, but Chen refused. During court proceedings on July 24, 1997, a witness testified that Wu had not demanded a bribe from him, but had merely borrowed a sum of money. While the court was in recess, the procuratorate on September 2 and 3 detained the witness and others along with lawyers Chen Daming and Gao Zhengxin.

On October 20, 1997, the procuratorate dropped its charges against Gao Zhengxin because of his cooperative behavior, and against some of the others due to lack of evidence. But the procuratorate indicted Chen Daming, the witness and one of his relatives on charges of concealing criminal evidence.

On January 19 and 20, 1999, following two days of strong arguments in court, the court went into recess. On May 26, 1999, the court ruled that Chen should be released from his detention on bail, and sent the case back to the procuratorate for further investigation. There was no apparent follow-up to the case.

CASE 6:

Wang Dakui, head of the Qingtian Law Office in Zhengzhou, Henan Province, was retained in May 1998 as defense counsel for Xue Wuchen, head of the Xingyang City Finance Bureau, who in April 1998 had been detained on suspicion of corruption and bribery.

Wang Dakui requested an opportunity to see his client, but received no reply. In the course of inquiries, Wang learned that Xue was suspected of possession more than 3 million *yuan* in property of unclear origin. Through further inquiries Wang was able to determine the sources of all of the money and property, and so argued that it could not be considered of unknown origin. Xue changed his testimony to say that his property was all lawfully acquired, and as the prosecution witnesses had in the meantime all disappeared, the prosecution was left with no evidence.

In October and November 1998, the public security bureau detained the various

witnesses, and then on December 3, 1998 detained Wang Dakui on suspicion of having incited the witnesses to change their testimony. Wang was indicted on February 16, 2000 on charges of inciting false testimony, while the Jingtian Law Office was charged with tax evasion.

The Zhongmou County Court on December 31, 2001, found the evidence insufficient to convict Wang on the charge of incitement to falsify testimony or to convict his law office of tax evasion. There were no appeals.

CASE 7:

Xu Yufeng, a lawyer with the Diji Law Office in Qiqihar, Heilongjiang Province, in September 1997 agreed to act as defense counsel for Zhao Guojuan, who was accused of several counts of shoplifting at a shopping center.

After interviewing his client, Xu obtained statements from other witnesses testifying that Zhao had been working at the time of the alleged thefts and could not have committed them. During Zhao's trial at the Longsha District Court on November 13, 1997, Zhao weepingly retracted her original confession and said she had made it under duress. After four days' deliberation, the court found Zhao guilty and sentenced her to three years in prison, and requested that the witness statements be turned over to the court.

On November 26, 1997, Xu was detained on suspicion of falsification of evidence. He was indicted on those charges in April 1998. On June 16, 1998, the Longsha District Court found Xu guilty of falsifying evidence and sentenced him to eight months in prison.

Xu appealed, but the Qiqihar Municipal Intermediate People's Court upheld the original judgment. Xu appealed again to the Heilongjiang Provincial Supreme People's Court, which on June 24, 1999, upheld the original judgment.

CASE 8:

Gu Weizhong, deputy director of the Hubei Law Office in Shanghai, in April 1994, took on the defense of Pan Yuejin, who was accused of corruption, bribery and misappropriation of public funds.

In the course of representing Pan, Gu obtained three witness statements, which the procuratorate certified to be false. After the case against Pan was concluded, Gu was called in for questioning on May 9, 1995, and he was formally arrested on May 22. He was indicted on charges of falsification of evidence on October 26, 1995.

On November 20, 1995, Gu went on trial before the Baoshan District People's Court. On June 10, 1996, the court found Gu guilty of falsification of evidence and sentenced him to seven months in prison. Gu appealed, and on April 26, 1998, the procuratorate dropped its case against him.

CASE 9:

Wu Yaozu, a lawyer with the Zhengyi Law Office in Quzhou City, Zhejiang Province, in March 1999 agreed to take on the defense of Chen Linhong, who had been charged with theft.

Wu visited Chen at the detention center, and Chen said he had not participated in the thefts that took place during the day and evening of December 30, 1998, and referred Wu to another individual, Li Hongtao, who could testify on his behalf. In a subsequent interview, Li confirmed that Chen had been playing poker with him at the time of the thefts.

During trial proceedings on April 27, 1999, Chen retracted his earlier confession, and the case was adjourned. Wu's notebook was taken by the court for examination, and on April 29 it was handed over to the procuratorate. On May 4, the day before the trial was scheduled to recommence, Wu and another lawyer went to see Chen at the detention center. It was subsequently alleged that when the other lawyer left the room, Wu instructed Li to alter his testimony, although the other lawyer denied that was the case.

On May 20, Wu was convicted of falsifying evidence and sentenced to one year in prison. Wu appealed, and the appeal court overturned his conviction on July 10.

CASE 10:

Wang Youjiang, a lawyer with the Lifeng Law Office in Hubei Province, in March 1999 agreed to act as defense counsel for a man

surnamed Lei, the deputy director of the Public Security Bureau in Laohekou City, Hubei Province, who had been arrested on suspicion of selling firearms on November 18, 1998. Wu Wei of the No. 2 Law Office in Laohekou City agreed to assist in the defense.

The two lawyers, Wang and Wu, examined the facts of the case and visited Lei at the detention center. They found inconsistencies in the case and undertook further interviews of witnesses. Lei went to trial on March 30, 1999, but because of the witness statements, the procuratorate withdrew its case. A new trial was scheduled, and proceedings began on July 14.

On April 8, 1999, PSB officers went to the Lifeng Law Office and detained Wang Youjiang on suspicion of falsification of evidence, formally arresting him later the same day.

On August 30, 1999, the procuratorate withdrew its case against Wang due to insufficient evidence, and Wang was released. On June 9, 2000, the Xiangfan Municipal Court awarded Wang damages of 4,821.25 *yuan*.

CASE 11:

Zhao Zhengyu, a lawyer with the Yunmeng Law Office in Yueyang City, Hunan Province, on July 19, 1996 agreed to serve as defense counsel to Ding Bochu, the branch Party secretary of Pingtian Village, Yunxi Township, Yueyang City, who was accused of accepting 20,000 *yuan* in bribes.

After accepting the case, Zhao carried out his own inquiries and took witness statements. The main witness denied that Ding had accepted a bribe from him. On August 15, 1996, the Yueyang City Yunxi District People's Court found Ding guilty of accepting bribes and sentenced him to three years in prison, suspended for four years, and confiscated a total of 31,000 *yuan* from him. Ding appealed the verdict to the Yueyang Municipal Intermediate Court. On April 15, 1997, the Intermediate People's Court ruled that the evidence was insufficient to convict Ding and overturned the original verdict.

On August 12, 1997, the local procuratorate again indicted Ding before the district court. The new trial began on November 5. When the court adjourned

that day, Zhao Zhengyu was detained at the local procuratorate, and then arrested on November 19. On November 21, the district court convicted Ding of one count of accepting bribes and sentenced him to two years in prison suspended for two years, and seized 221,000 *yuan* in penalties.

On December 5, 1997, the procuratorate indicted Zhao Zhengyu on charges of assisting another to make a false statement, causing a witness to change his statement, causing confusion in normal judicial procedures and collusion in the creation of a false statement. Zhao's trial began on December 22, 1997. Meanwhile, Ding appealed his conviction, and it was overturned on March 16, 1998, by the Intermediate People's Court. Subsequently, on May 5, 1998, the procuratorate withdrew its case against Zhao on the grounds of insufficient evidence.

On May 11, 1998, Zhao Zhengyu brought an administrative action against the procuratorate, demanding compensation for his wrongful arrest and deprivation of liberty. He was eventually awarded 72,187.60 *yuan* in compensation.

CASE 12:

Liu Zhaoguang, a lawyer with the Xincheng Law Office in Linyi, Shangdong Province, in March 1996 agreed to represent Zhang Junai, the former director of an industrial concern, who was accused of accepting bribes.

Along with Sun Fangli, the head of his law office, Liu undertook inquiries and took statements from witnesses, but did not provide their evidence to the court during the initial trial. Zhang was subsequently found guilty and sentenced to eight years in prison.

Zhang appealed her sentence and continued to retain Liu and Sun as her defense counsel. During the appeal trial at the Linyi Municipal Intermediate Court, Liu and Sun submitted the evidence they had gathered prior to the first trial. Upon receipt of the evidence, the court sent the case back to the first court for retrial. On September 5, the original court sent the case back to the procuratorate for further investigation.

The procuratorate initiated an investigation, and on February 24, 1997, Liu Zhaoguang was placed in criminal deten-

tion on suspicion of inciting witnesses to change their testimony. When Sun Fangli heard of the matter, she fled.

The case raised widespread concern in the local legal community. The procuratorate indicted Liu in December 1997 on charges of falsification of evidence. In May 1998, the Linshu County People's Court found Liu not guilty.

CASE 13:

Feng Lin, a senior lawyer with the Nanfang Law Office in Hengyang City, Hunan Province, on March 22, 1994 agreed to defend Yang Suiguang, who was accused of murder and robbery.

On May 13, 1994, Feng Lin went to the detention center to interview Yang Suiguang, who was brought to him in handcuffs. During the interview, Yang requested a drink of water and to go to the washroom, and Feng accompanied him. At the end of the interview about an hour and a half later, Yang gave his defense statement to Feng to look over, at which time he asked for another drink of water. While Feng was getting water for Yang, just at that moment the detention center guard walked away without locking the door. Feng suddenly noticed that Yang had disappeared and raised the alarm. It was subsequently suspected that Yang's brother had bribed the detention center guard to assist in Yang's escape.

On the evening of May 13, Feng Lin was detained for questioning, and on July 26 was indicted on charges of dereliction of duty. Other alleged conspirators were also indicted. Feng Lin was convicted and sentenced to three years in prison.

Feng appealed, and on May 24, 1996, the Hengyang Municipal Intermediate People's Court overturned the original verdict and declared Feng Lin not guilty.

CASE 14:

Xu Muwang, employee of the Judicial Bureau of Jian'ou City, Fujian Province, and a lawyer with the Nanping Jin'ou Law Office, was detained on December 11, 1996, on suspicion of accepting bribes and malicious defamation. He was formally arrested on December 20 and was indicted on May 9, 1997.

The charges were based on the allegation that in the course of serving as legal counsel in distributing the assets of Huang Xingcai, Xu solicited a fee of 10,000 *yuan*, and that he also falsely accused another party on behalf of his client. The procuratorate considered Xu a state employee, even though he was not acting in his official capacity, and therefore treated his legal fees as bribes. On July 4, 1997, the Jian'ou Municipal People's Court found Xu Muwang guilty of malicious defamation and sentenced him to two years in prison.

Xu appealed the verdict, but on August 3, 1997, the Nanping Municipal Intermediate Court upheld the original verdict. Xu appealed again, and on March 2, 1999, the Fujian Provincial Supreme People's Court overturned the two previous judgments and declared Xu Muwang not guilty. Xu subsequently demanded substantial monetary damages and a formal apology in the print and electronic media.

CASE 15:

Song Qiang, head of the Nanjing No. 1 Law Office, and Wang Yaohua, head of the Nanjing International Commercial Law Office, in 1993 agreed to act as legal consultants to the Jinzhongfu International Futures Trading Ltd.

While the lawyers were handling the company's affairs, the company was investigated for fraud, and as a result Song and Wang were also placed under investigation. On September 4, 1995, their homes were searched, and they were detained in the Nanjing Detention Center. The case raised widespread concern in legal circles and Nanjing society generally. However, after detailed investigation, Song and Wang were finally released without prosecution.

CASE 16:

Xu Qingfeng, a lawyer with the Juntian Law Office in Shenzhen, Guangdong Province, on January 17, 1997 agreed to act as a witness in a financial transaction between a Shanghai company and a Hong Kong company, for which she was to be paid a fee of HK\$30,000. The deal fell through, and Xu Qingfeng was caught up in the subsequent legal action. On April 17, 2000, Xu was con-

victed of conspiracy to defraud and sentenced to five years in prison.

Xu appealed the verdict, but on June 15, the Zhejiang Province Ningbo Municipal Intermediate People's Court upheld the original verdict.

CASE 17:

Wu Feng, a lawyer with the Xiangyuan Law Office in Hunan Province, acted as legal representative for Huang Youyuan in a business dispute. As a result, Wu was accused along with Huang and others of conspiracy to defraud. Because he admitted wrongdoing with a good attitude, and his crime was minor, the procuratorate decided not to indict Wu. However, legal analysis suggests that Wu Feng should not have been implicated in the crime in the first place.

CASE 18:

Wang Qingmin, a lawyer in Tieling City, Liaoning Province, in 1996 agreed to act as defense counsel in an appeal by Shi Hongqing, a middle school student in Cilinzi Village, Tieling County, who had been sentenced to six years in prison for arson in 1995.

Shi told Wang that two villagers could attest to the fact that he had been at home doing schoolwork when the blaze occurred, and both men subsequently provided witness statements to this effect. Wang submitted the statements to the appeal court, which ruled that the evidence in the case was unclear and ordered a retrial.

In the meantime, the local procuratorate detained Wang Qingmin on suspicion of cover-up and inciting witnesses to provide false statements. After being detained for 261 days, Wang was released on bail, but the local television station had already reported his arrest on charges of falsifying evidence.

In May 1997 the Tieling Municipal People's Court ruled that since Shi Hongqing had by then been declared not guilty, there was no evidence of cover-up on the part of Wang Qingmin, and he was declared not guilty. Wang was subsequently paid 6,384.84 *yuan* as compensation for his detention. Wang also demanded that the local television station report his vindic-

ation, but that was refused. Wang brought a legal action against the television station, and in May 1998 the court ruled that the television station should make a public apology to Wang, compensate him for the damage to his reputation, and take other action necessary to restore his good name.

CASE 19:

Huang Yongjiang, a lawyer with the Nanping Zhanlu Law Office in Fujian Province, in October 1996 agreed to act as defense counsel for Lan Guihua, former head of the Songxi County Highways Bureau, who had been indicted for accepting bribes and misappropriating public funds.

By the time Huang took on the case, Lan and some witnesses had altered their statements to say that Lan had borrowed a sum of money rather than extracting it as a bribe. In the course of his examination of the case, Huang noticed these inconsistencies. Huang felt the "receipts" were unconvincing and did not admit them into evidence, but on the basis of the witness statements he argued that there was no conclusive proof that Huang had accepted a bribe rather than a loan. For that reason, the local procuratorate arrested Huang on suspicion of concealing criminal evidence, and on August 28, 1997, the Songxi County People's Court sentenced Huang to one year in prison.

Huang appealed the verdict, and on November 21, 1997, the Fujian Provincial Intermediate People's Court overturned the verdict and ordered a retrial. Huang was subsequently pronounced not guilty and was released.

CASE 20:

Kang Yongqiang and Wang Yuting, lawyers with the Jinyu Law Office in Xinyang City, Henan Province, on November 25, 1996 took on the defense of Wu Shaochun, former finance director of a local factory, who had been indicted on charges of misappropriation of public funds.

The lawyers decided that the case hinged on whether the factory was considered a collective enterprise or a private enterprise. They obtained certification that it was a collective enterprise and produced

the relevant document as evidence when the trial commenced on December 23, 1996. A heated dispute arose between the prosecution and defense, and the trial was adjourned.

The procuratorate considered the document suspicious, and on January 2, 1997, Kang and Wang were placed in criminal detention. They were formally arrested on suspicion of concealing criminal evidence, then released on bail, Kang on January 8 and Wang on January 12. There was apparently no further action in the case, as there was no real evidence of wrongdoing on the part of either Kang or Wang.

CASE 21:

Ma Jianzhong, a lawyer with the Hongqi Law Office in Xinxiang City, Henan Province, on September 13, 1994 agreed to act as defense counsel in an appeal by Wang Jisheng, who on April 9, 1994, had been sentenced to death for a rape and murder that took place on June 1, 1993, in Jun County, Henan Province.

Wang's family produced a statement by Wang, smuggled out of the detention center, claiming that he had confessed under duress. Ma produced this statement before the Henan Provincial Supreme People's Court on October 15, 1994. On November 15, the court ruled that the facts of the case were not clear, and ordered a retrial.

On March 22, 1995, the local public security bureau detained Ma Jianzhong without a warrant and transported him to Jun County, where he was investigated on suspicion of using personal connections to have the case sent back. Ma was ultimately released without any formal charges being brought.

CASE 22:

Wei Jianguo, a lawyer with the Qingdao City Law Office in Shandong Province, in August 1993 took on the defense of Li Zhiqiang, former manager of a tobacco company, who had been charged with corruption and accepting bribes.

In the course of his professional duties, Wei obtained a statement from a key witness that contradicted his previous statement. In April 1994, Wei was arrested on

charges of concealing criminal evidence. He was released on bail on December 23, 1994 and indicted on January 10, 1996.

On November 21, 1996, the Shandong Provincial Supreme People's Court found Li Zhiqiang not guilty, and Wei Jianguo appealed his indictment on that basis. On December 25, 1998, the Qingdao Municipal People's Court withdrew its case against Wei.

CASE 23:

Li Xueyuan, a lawyer with the Baicheng Law Office in Jilin Province, on August 5, 1991, agreed to take on the defense of Niu Zhunwu, who had been charged with corruption.

Li obtained witness statements that contradicted earlier evidence, and the procuratorate began investigating him in October 1991 on suspicion of concealing criminal evidence.

On May 26, 1992, the Baicheng Municipal Intermediate People's Court found Li not guilty. The procuratorate appealed to the Jilin Provincial Supreme People's Court, which on August 11, 1993 upheld the original judgment. The procuratorate persisted and appealed the case to the Supreme People's Court in Beijing in December 1994. The Supreme People's Court upheld the earlier judgments to the effect that Li was not guilty. However, all three judgments noted that Li had committed procedural errors.

CASE 24:

Zhao Yahua, an assistant professor of law at Jilin University and a lawyer at the Jilin University Law Office, in December 1995

was consulted for his legal opinion on behalf of Gao Yongjiu, who had been charged with murder after fatally striking a man surnamed Ding in August 1995. Zhao observed that if Ding had first struck Gao, Gao should not be sentenced to death.

A few days later, Gao was sentenced to death, and Zhao agreed to defend him on appeal. With the help of Gao's brother, Zhao obtained statements from witnesses who said that Ding had first struck Gao. As one of the statements was very poorly composed, Zhao rewrote it. However, there were conflicts between the statements, and Zhao was not optimistic.

Gao's brother said he had information that might help the local police solve some other criminal cases, and wondered if that might lead to a reduction of Gao's sentence. Zhao said this information would only be useful if Gao himself provided it. Zhao visited Gao in detention and asked if he would provide his brother's information to the public security bureau in hopes of reducing his sentence. Gao agreed to do so, and as a result of his information, the PSB was able to make arrests in a fraud case involving more than 100,000 *yuan*. On the basis of Gao's assistance in this case, the court suspended his death sentence for two years (in practice, suspended death sentences are typically commuted to life in prison).

On November 3, 1997, Zhao was detained on suspicion of concealing criminal evidence. Following formal arrest, he was released on bail on June 20, 1998. On March 6, 1999, the Badaojiang District People's Court found Zhao not guilty. The procuratorate appealed, but the Baishan Municipal Intermediate People's Court upheld the original ruling.

CASE 25:

Lu Chongming, a lawyer with the Hecheng Law Office in Hechi City, Guangdong Province, in January 1997 took on the defense of Lan Qingwang, who had been charged with robbery along with two others in the case of a pickpocketing incident in Zhanjiang City on October 10, 1993, that escalated into a violent dispute resulting in the death of a revolutionary veteran.

Lan's father obtained multiple witness statements to the effect that Lan had been caring for his injured brother in Hechi on the date of the incident. Lan made a similar statement, and said his initial confession had been made under duress. Lu Chongming presented these statements when the case went to trial on April 21, 1997. The court ruled that the facts of the case were insufficiently clear, and returned the case to the procuratorate for further investigation.

On November 8, 2000, Lu Chongming was detained on suspicion of manufacturing evidence. On March 16, 2001, the procuratorate refused to issue an arrest warrant against Lu, but the public security bureau would only release him on 20,000 *yuan* bail, despite arguments by Lu's legal counsel for unconditional release

1. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2004 (China [includes Tibet, Hong Kong, and Macau])," accessible on the Internet at: <http://www.state.gov/g/drl/rls/hrrpt/2004/41640.htm>.
2. Published by the Jilin People's Publishing House (*Jilin Renmin Chubanshe*) in August 2003.
3. The literal meaning of this phrase is to engage in irregularities on behalf of friends or relatives, a criminal form of cronyism or nepotism.