

Words Without Substance: The Implementation of the Convention Against Torture in the People's Republic of China

**A report by Human Rights in China
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Introduction

China's actions since it signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention) in October 1988 raise serious questions about the Chinese government's commitment to the letter of the treaty. In various white papers on human rights, China claimed to have cooperated fully with the United Nations human rights mechanisms, including the Committee Against Torture (CAT) which monitors the Convention, and to have met the obligations in the human rights instruments to which it is a state party.¹ Yet reports of individual cases of torture in China collected by human rights groups indicate that torture is still a systemic problem and is often instigated by the authorities, charges the Chinese government has repeatedly denied.

Again and again, Chinese representatives have told the CAT that China's domestic law is fully in line with the requirements of the Convention and that the government has done its best to promote the goals of the Convention. But in fact, although some domestic legislation covering obligations in the Convention has been passed, these laws do not embody the minimum requirements of the Convention. The basic concept of torture in Chinese law is much narrower than that articulated in the Convention.

Furthermore, the implementation of existing Chinese legal standards on torture have been severely hindered by the following deficiencies: political control of the judiciary; inadequate monitoring mechanisms and procedures; the admissibility in court of evidence obtained through torture; the practice of holding defendants incommunicado without access to family or lawyers before trial; strict censorship of news about law enforcement and legal matters; and the widespread use of administrative detention. Under these conditions, Human Rights in China believes that torture remains routine in many Chinese detention centers, prisons and labor camps and that the Chinese government has generally failed in its responsibility to implement the provisions of the Convention.

As some of the sources cited below show, the prevalence of torture in detention centers,

¹ These include the following publications issued by the Information Office of the PRC State Council: White Paper on Human Rights in China (1991); White Paper on Criminal Reform in China (1992); and The Progress of Human Rights in China (1995).

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prisons, labor camps and other incarceration facilities is a subject of serious concern among legal scholars, human rights activists and other concerned parties. In November 1994, medical ethicists at Beijing Medical University held an unprecedented forum entitled "Doctors, Ethics and Torture," at which specialists from the Copenhagen International Rehabilitation Council for Torture Victims described their work.² Such initiatives are to be applauded. However, Human Rights in China is concerned that the central and local governments have not acted on the recommendations of international and domestic experts to implement measures necessary to prevent the occurrence of torture.

This report examines China's reports to the CAT on implementation of the Convention, the Chinese legal regime relating to the prevention of torture, the judicial practices pertaining to the adjudication of torture cases and government policies related to the implementation of the Convention. We do not describe the forms of torture most commonly used, or provide an extensive examination of recent cases, since such materials have been made available in other reports.³ Finally, we propose recommendations to the Chinese government for reforms of the legal system, government policies and practices necessary for China to meet its obligations under the Convention.

The cooperation of the Chinese government with CAT

The CAT has made great efforts to scrutinize China's record on implementing the Convention. In its 1993 report to the General Assembly, the CAT stated: "Although the Committee was aware of the obvious difficulties facing China, it expressed concern at the use of administrative detention and the cases of torture alleged and deplored by various non-governmental organizations, in particular in Tibet. It recommended that energetic measures be taken by the authorities to prevent such cases and to punish those responsible and requested precise statistical data concerning the number of persons in administrative detention, sentenced to capital punishment and executed."⁴ The Special Rapporteur on Torture, Nigel Rodley, has also been critical of Chinese practices. In his most recent report to the Commission on Human Rights, he stated: "The Special Rapporteur advised the Government that he had continued to receive information indicating that the use of torture and ill-treatment against persons held in police stations, detention centers, prisons and labour camps was occurring with frequency. According to the reports, many persons detained for political reasons were convicted of offences partly or

² See Jeffrey Parker: "Doctors Hold Risky Forum on Torture in China," Reuters, November 9, 1994.

³ See, for example, Amnesty International: "Torture in China," ASA 17/55/92, December 1992; Human Rights in China: "Detained at Official Pleasure: Arbitrary Detention in the People's Republic of China," June 1993; Asia Watch: "Anthems of Defeat: Crackdown in Hunan Province 1989-1992," 1992; International League for Human Rights and the Ad-hoc Monitoring Group on China: "Torture in China," 1990; and reports of the Special Rapporteur on Torture.

⁴ See United Nations document A/48/44, p.67.

wholly on the basis of 'confessions' that had been obtained through the application of torture during interrogation."⁵

After ratifying the Convention in October 1988, in December 1989 China submitted an initial report to the CAT concerning its implementation of the Convention, as required under Article 19. In its review of this initial report, at its 50th and 51st meetings, the CAT expressed regret that the report "had been drafted in too general a manner and failed to give details of the practical application of each of the Convention's provisions in China. It did not therefore conform to the Committee's general guidelines regarding the form and contents of initial reports."⁶ The Committee requested that China submit an additional report to it by December 31, 1990. China failed to meet this deadline.

In December 1992, three years after its initial report, the government of China submitted to the CAT a supplementary report, which provided a more detailed description of the Chinese legal regime related to the application of the Convention. The supplementary report repeated the substance of much of the initial report while altering its format in response to the criticisms of the initial report. However, most of the important questions raised by the CAT, on such subjects as administrative detention, incommunicado detention and whether defendants have access to lawyers during the early pretrial phase, remained unanswered.

On December 2, 1995, China submitted its second periodic report, which had been due in 1993. The report is a catalogue of legal provisions relating to torture, official abuses of power and the rights of detainees contained in laws, such as the Police Law, the Procuratorate Law, the Judges Law and the Compensation Law, enacted since the submission of China's supplementary report. About one third of the report also answers specific questions raised by the CAT by citing the relevant laws and regulations. The sum total of practical information about specific cases or measures taken against torturers is one paragraph at the end of the report which briefly describes a case in which four police officers were given serious punishments following their attempts to extract a confession through torture from a middle school teacher. There is no information on the prevalence of torture or any studies conducted on the subject; on numbers of cases filed for investigation; on numbers of officials disciplined for torturing or ill-treating individuals; or any specific problems encountered in the implementation of the laws cited in the report.

All China's reports have insisted that the Chinese government has done a very good job of preventing the occurrence of torture in China. A number of articles of the Criminal Law of the People's Republic of China (hereinafter CL) and China's Constitution are cited as proof that torture was prohibited under domestic law. In the initial report, the Chinese legal system was even described as one of the most perfect devices in the world for preventing the occurrence of torture. However, in the earlier reports, the Chinese delegation admitted to CAT that torture could still occur as a result of weaknesses in the legal system. Some legislation was still being

⁵ See E/CN.4/1996/35, "Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32."

⁶ CAT/C/4/Rev.1.

prepared, it said, including the State Compensation Law.⁷ However, in all the reports the delegation avoided the crucial legal issues raised by the CAT, issues which provide an explanation for the continuing prevalence of torture in China.

There are three principal reasons for this prevalence:

First, failings in the legal system, including within the legal provisions relating to torture. The major contributing factors in this area are an incomplete conception of torture, the lack of an independent judicial system, the denial of the right of the accused to early access to legal counsel and the acceptance by trial judges of evidence obtained through torture.

Second, aspects of judicial practice. Under the influence of both central- and local-level Chinese Communist Party (CCP) political-legal committees, many cases of torture have been handled in an overly tolerant manner. This is expressed in the generally light punishments courts have imposed on perpetrators and in the fact that procuratorates have often exempted accused torturers from prosecution.

Third, CCP policies on law enforcement. The Public Security Bureau (PSB) and State Security organs are given vast powers to maintain social order and to investigate crimes without adequate monitoring. Throughout the process of investigating a crime, law enforcement officials are not subject to supervision by any outside agency. Under such circumstances, the filing of complaints by detainees is not really feasible, since lodging a complaint may only bring further abuse. Furthermore, in order to cover up any incidents, such as torture or malfeasance, which could damage the image of the security organs, in 1986 the CCP ordered that any media reports concerning actions of the PSB and any other state functionaries had to be approved by the CCP Central Committee or its local committees before release.⁸

Lack of judicial independence

One of the principal reasons for the failure of the Chinese legal system to prevent torture effectively is the lack of judicial independence and the relative lack of status of the judiciary in comparison to other state organs. Generally speaking, all judges are nominated by the CCP committee at the corresponding level. According to an internal Party document, those selected as judges at different levels should have reached a corresponding rank within the Party system.⁹

⁷ Passed May 1994.

⁸ See the CCP Central Committee Propaganda Department: "Notice Regarding Doing a Good Job of Reports Correcting the Working Style of the CCP" (*Guanyu Zuohao Duanzheng Dangfeng Xuanchuan Baodaode Tongzhi*), *Judicial Handbook* (*Sifa Shouce*, hereinafter SFSC), People's Court Press, 1988, vol.4, p.783-784.

⁹ See the CCP Secretariat: "Notice on Strengthening the Assignment of Personnel in the People's Courts and People's Procuratorates," SFSC, vol. 3, p.613.

As for the management of cadres in the judiciary, see the Party Group of the Supreme People's Court: "Notice on the Distribution and Approval of the Regulations Concerning Management of Cadres by the Local Committees with the Assistance of the Party Groups of

The initial nomination of candidates for president of People's Courts or People's Procuratorates at all levels is to be made by the Party committee at the same level, while the role of the People's Congress is merely to approve the nomination. Judges have to be responsible to both the Party group within each court and the local Party committee. Furthermore, the political-legal committees within the Party committees at all levels may intervene in the routine work of the judiciary by reviewing cases submitted to the local courts.¹⁰ In most sensitive cases, especially those of a political nature,¹¹ the political-legal committee normally plays a dominant role in reaching the final decision. For example, in cases related to the 1989 Democracy Movement, the whole trial process and its ultimate outcome was determined by Party Committees at both central and local levels. Even defense lawyers had to submit defense statements to the relevant Party committees for approval in advance.¹²

The CCP has issued various instructions to ensure that the PSB and other state organs avoid public scrutiny, a policy which certainly contributes to the lack of proper attention to the occurrence of torture. One such document on preventing news reports about scandals or sensitive

the People's Courts at All Levels," SFSC, vol. 4, p.609; the CCP Organization Department: "Regulations on the Retirement Age of the Presidents of People's Courts and Procuratorates at Provincial Level," SFSC, vol.4, p.784-749; and the CCP Organization Department: "Notice on the Approval and Distribution of Several Opinions on the Request Submitted by the Supreme People's Court and the Supreme People's Procuratorate on the Re-election of Presidents of the People's Court and People's Procuratorates at County-level," SFSC, vol. 4, p.750.

¹⁰ On the functioning of the political-legal committees, see the CCP Central Committee: "Instructions on Strengthening Political-legal Work," SFSC, vol.2, p.287.

¹¹ Some members of the CAT asked if there were any "political crimes" in Chinese law, referring specifically to the clauses in the CL relating to "counterrevolutionary crime." See CAT/C/SR./146/Add.2, p.5. The Chinese delegation denied that these were political crimes. Jin Yongjian, the head of the Chinese delegation, said: "The conception of a political crime did not exist in China, since persons were fully entitled to hold views which differed from the those of the Government of the State." However, the phrase "political offenders" did appear in a Chinese legal document published in 1990, which dealt with the living standards of inmates and specifically stated that "important political offenders" (*zhengzhi anfan*) should enjoy a slightly higher living standard than ordinary inmates. See *Encyclopedia of Judicial Interpretation of New China (Xin Zhongguo Sifa Jieshi Daquan)*, People's Procuratorates' Press, 1990, p.905.

¹² For details, see Human Rights in China: "Going Through the Motions: the Role of Defense Counsel in the Trials of the 1989 Protesters," March 1993.

matters involving the PSB or other state organs says:

*(The media) should differentiate public reporting from internal reporting in order to defend the authority of law enforcement offices. Any case which could possibly damage the image of the People's Liberation Army, the Public Security Organs, the Procuratorates, the Courts, the organs of judicial administration, the State Security Organs and the customs authorities, as well as the international image of our country, may not be reported without the approval of the CCP Central Committee.*¹³

This is certainly one of the reasons why so few cases involving torture are reported in the domestic Chinese media, despite the number of incidents documented by human rights organizations outside the country. The exact number of cases of torture is a top secret. Official reports frequently contain conflicting, even misleading information, further obscuring an already muddy picture. The Chinese delegation told CAT that in 1990, the procuratorates filed 472 torture cases for investigation, in 1991, 407, and in 1992, 339.¹⁴ Another authoritative source indicated that in 1988, the procuratorates received 1048 complaints about torture to coerce a statement, but only 170 were filed for investigation.¹⁵ This means that the torture cases filed for investigation represented only the tip of the iceberg. An official report concerning a prefecture-level jurisdiction provides material for comparison. In 1993, the people's procuratorate of Quanzhou city, Fujian Province, filed for investigation 74 cases in three categories: torture to coerce a statement, illegal detention and dereliction of duty.¹⁶ This figure suggests that nationwide, officially-recognized torture cases could number in the thousands.¹⁷ The rigid restrictions under which the Chinese media operate obscures the reality of torture in

¹³ See *supra* note 8.

¹⁴ See CAT/C/SR.145/Add.2, p.3.

¹⁵ See *1988 Yearbook of China's Procuratorate (Zhongguo Jiancha Nianjian)*, People's Procuratorates Press, 1989. p.410. In editions both before and after that year, the yearbook did not give the number of complaints of torture.

¹⁶ See "We broke through the difficulties at this point: report regarding the handling and disposition of cases involving the commission of crimes by state functionaries not abiding strictly with the law," *China Procuratorate News*, March 10, 1994, p.1.

¹⁷ There are more than 200 prefectural-level units in China. Thus according to a conservative estimate, if the number of torture cases at prefectural-level per year averages ten or so, there would be one thousand cases nationwide.

China today.

Finally, the judicial organs have tended to deal leniently with torturers, under the direct or indirect influence of CCP policy, although there have been some widely-reported cases in which torturers have even been executed. Procuratorates frequently allow torturers to evade responsibility for their crimes, either by not filing cases for investigation or by exempting the individuals concerned from prosecution. The standards to be met for a case to be filed for investigation are very narrow and as a result torturers are not usually brought to trial unless the incident resulted in a death or other serious consequences. Even when torture has caused a death, perpetrators have often received only light sentences or have simply been exempted from prosecution. In a 1991 case in which a detainee was tortured to death, the four perpetrators all received negligible punishments: the most serious was a three-year prison sentence suspended for three years; the other three involved were all exempted from prosecution (see Appendix I). Ironically, one of the excuses for such light punishments is that the torture took place while the accused were carrying out their duty, which for some reason excluded them from the provisions of the Convention.¹⁸ The circumstances of a 1992 case indicated that the local CCP committee was involved in covering up for three police officers who employed torture that resulted in the death of a detainee. Local leaders imposed administrative discipline on the officers while shielding them from criminal penalties. The procuratorate began to investigate this case only recently.¹⁹

¹⁸ The Convention, Article 3.

¹⁹ See *supra* note 16.

The concept of torture in PRC law

In Article 1 of the Convention, "torture" is defined 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 the person acting in an official capacity.

In response to the question of whether Chinese domestic law incorporated the concept of torture articulated in Article 1 of the Convention, both China's initial and supplementary reports stated that Chinese law did contain these provisions.²⁰ In fact, although the CL does indeed have some similar articles concerning torture, the definition of torture is significantly different from that of the Convention in several respects.

First, torture in the CL refers mainly to two types of acts, one being using torture to "coerce a statement" (Article 136); and the other being subjecting imprisoned persons to corporal punishment and abuse for this same purpose (Article 189). In addition, there are several provisions in the CL related to the abuse or ill-treatment of officials. By defining torture narrowly as the use of force to "coerce a statement," the concept of torture in domestic law clearly falls short of the requirements of the Convention.²¹

Second, the penalties prescribed for torture in the CL are relatively light compared to those for other crimes. Torturing to coerce a statement usually only merits a fixed-term sentence of no more than three years or criminal detention ranging from 15 days to six months. Torture that results in disability or death is subject to a penalty of over three years of fixed-term imprisonment. The death penalty is technically not applicable in cases involving the use of torture, although almost one third of the crimes listed in the CL are punishable by execution, including many non-violent offenses. However, there have been some death sentences pronounced on individuals involved in causing deaths through torture, including the one case mentioned in China's second report.

Third, there is no mention of psychological torture in Chinese law. Some articles in the General Principles of the Civil Law address the issue of mental damage, but they are not applicable to psychological torture. Thus no legal provision prohibits the use of mental or psychological torture. In fact, solitary confinement, a common form of psychological torture,

²⁰ See CAT/C/7/Add.14, p.17.

²¹ For further information, see Amnesty International: "China: Torture and Ill-Treatment, Comments on the Additional Report of the People's Republic of China to the U.N. Committee Against Torture," (March 1993), AI Index: ASA 17/11/93.

has been employed to punish those who supposedly are not willing to submit to "education" and "reform." Although regulations limit solitary confinement to 15 days for those serving reform through labor sentences and 10 days with an hour outside per day for those in Reeducation Through Labor, reports from former prisoners make clear that these time limits are frequently ignored.²² Many dissidents detained for their actions during the 1989 Democracy Movement have been held for long periods of time in solitary confinement or in strict regime brigades.²³ Some prominent prisoners, like Bao Tong and Wei Jingsheng, have served most of their terms in solitary.

Fourth, under the Criminal Procedure Law (CPL), the crime of torture is to be handled directly by the People's Procuratorate, which means that the investigation is to be carried out exclusively by the procuratorates. In order to determine whether particular torture cases should be filed for investigation and prosecuted, the Supreme People's Procuratorate established various standards for this process. These standards further define the concept of torture described in the CL. In these standards, two elements are of primary importance in determining how a case should be handled. The first is the intention of the torturer; if the torturer carried out the act for personal ends or in revenge, the case should be investigated. The second is the end result of the torture; an investigation should only be initiated if the torture caused disability, death or other serious consequences.²⁴ In defining Article 136, the standards stipulate:

Cases of state functionaries who subject imprisoned persons to corporal punishment or other forms of ill-treatment for the purpose of coercing a statement and commit one of the following acts, should be investigated:

- 1. Giving vent to personal spite or to exact revenge, carry out torture to coerce a statement;*
- 2. Using torture repeatedly against one person or more than one person to coerce a statement;*
- 3. Employing very cruel means and thus creating a widely-known notorious impact among the people in torturing to coerce a statement;*

²² For regulations governing reform through labor, see Encyclopedia of Judicial Interpretation of New China (see note 11 for citation), p.7, for Reeducation Through Labor, see op cit. p.840.

²³ See Human Rights in China: "Report from the Second Branch of Lingyuan Labor Reform Detachment" (*Laizi Lingyuan Di'er Laogai Zhidui de Baogao*), *Human Rights Tribune*, New York, Fall 1992, Vol.III No.3, p.41-44.

²⁴ See "Rules on Standards for Filing for Investigation Cases Directly Handled by the People's Procuratorates Involving Violations of Citizens' Democratic Rights, Personal Rights or Dereliction of Duty," (*Renmin Jianchayuan zhijie shouli de qinfan gongmin minzhu quanli he duzhi anjian lian biao zhun de guiding*), cited in *Encyclopedia of Judicial Interpretation of New China* (see note 11 for reference).

4. *Creating a wrongful or non-existent case through the use of torture to coerce a statement;*
5. *Causing disability, death, insanity or suicide through the use of torture to coerce a statement;*
6. *Causing other serious results through the use of torture to coerce a statement.*

The standards also further define article 189, focussing on the end result to make a determination of how to deal with the case:

Cases of state functionaries who subject imprisoned persons to corporal punishment or other forms of ill-treatment for the purpose of coercing a statement and commit one of the following acts, should be investigated:

1. *Carrying out, directing or instigating torture of imprisoned persons which causes serious wounding or death;*
2. *Using batons or other instruments against imprisoned persons causing serious wounding or death;*
3. *Carrying out torture or ill-treatment which causes the person subjected to torture to become insane or commit suicide;*
4. *Repeatedly carrying out torture or ill-treatment against one person or more than one person;*
5. *Subjecting imprisoned persons to torture or ill-treatment which causes other serious results.*²⁵

From these explanations it is clear that the Supreme People's Procuratorate has created a very narrow definition of the crime of torture. Such a definition compounds existing ignorance on the importance of preventing torture and appears to encourage officials not to view torture as a serious matter. Unfortunately, this is not simply an inference. In a 1991 report concerning torture, after reviewing four cases, the authors observed:

(since it had been stressed that the results of torture but not the act itself were punishable) some police officers and cadres erroneously believed that beating inmates would not be serious if you were skillful in administering the beating, because there would be no trouble as long as there were no deaths. They relied on their experience to perpetrate acts of torture in the following way: first, they chose to beat people held for minor offences like theft, hooliganism and gang activity, but they never lifted a finger against inmates in important cases; second, they selectively beat the inmates on various parts of the body excluding the head and other important

²⁵ See "The Standards." *Encyclopedia of Judicial Interpretation of New China*, p.152 (hereinafter, *Encyclopedia*).

parts; third, they usually perpetrated the torture during the night.²⁶

Members of quasi-governmental bodies such as the militia known as the United Security Squad (*Lianfangdui*) have been excluded from the purview of prohibitions against torture. A recent document states: "(Because) the United Security Squad is characterized by organizing from among the masses,... its members are not state functionaries, so they cannot commit the crime of using torture to coerce a statement."²⁷ A member of the United Security Squad was specifically mentioned in the case of Ren Wanxia described below and detailed in Appendix II as having kicked Ren so she fell to the floor. No one was ever prosecuted in this case.

In fact, a number of state powers are delegated to various quasi-judicial bodies, including the power to conduct preliminary interrogations, to patrol the streets to maintain public order and to cooperate with the PSB in the investigation of crimes. A considerable number of torture cases have occurred in the process of these bodies carrying out such duties. According to Article 1 of the Convention, those punishable for torture should not exclude any people acting in an official capacity. Therefore, this exclusion is inconsistent with the provisions of the Convention.

Evidence obtained through torture admissible at trial

In response to a question from the CAT concerning Article 15 of the Convention, the Chinese report stated, "It is strictly forbidden to use torture to extort confessions or other unlawful methods to collect or falsify evidence; otherwise the offender incurs legal responsibility and the evidence so obtained is declared null and void."²⁸ However, a review of judicial practice and Chinese law shows that this is not the case. In theory, Article 36 of the Criminal Procedure Law prohibits the practice of torture, but it does not contain any clear rule under which evidence obtained through torture or other unlawful means must be ruled inadmissible.

However, it is interesting to note that the Supreme People's Court's Detailed Rules on the Adjudication Procedure for Criminal Cases²⁹ stated for the first time in the history of the

²⁶ See Wang Dingsuo and Zhang Chongsheng, "Analysis of Four Cases of Torture to Coerce a Statement," *Chinese Public Security News*, Nov. 1, 1991, p.3.

²⁷ The Supreme People's Procuratorate: "Answer to a Letter Concerning Requests About Whether a Member of the United Security Squad Becomes the Subject of the Crime of Torture for Coercing a Statement," See *Encyclopedia*, p.151.

²⁸ See CAT/C/7/Add.14, p.30.

²⁹ *Guanyu Shenli Xingshi Anjian Chengxu de Juti Guiding*, Supreme People's Court, March 21, 1994. The prohibition on evidence produced through torture is contained in Article 45. China's second periodic report mentions these Rules, but in its translation of Article 45, creates the impression that the prohibition is wider than it actually is. The translation of the Chinese text should read (the words omitted are in capitals): "It is

PRC's legal system that evidence obtained through torture was ruled out as legal evidence in Chinese courts. However, these rules alone are not sufficient to eliminate the possibility that torture may be used to extort confessions. The rules are vague on how the determination should be made that a particular piece of evidence has been obtained through torture. Furthermore, other bodies and laws have failed to duplicate this explicit rejection of evidence produced through torture. Most importantly, the first revisions of China's 1979 Criminal Procedure Law failed to enact such a prohibition into law, while comparable rules to the Supreme Court's passed around the same time by the Supreme People's Procuratorate and the Supervision Ministry (*Jianchabu*) also did not exclude such unlawfully-produced evidence.

The official theory of evidence is based primarily on a principle called "Seeking Truth from Facts" (*shishi qiushi*), which means that each piece of evidence should be examined according to whether or not it is a "fact," regardless of its origin. This principle means that if a piece of evidence is proved to be true through the trial process, it is to be considered as legal evidence even if it was obtained illegally. In other words, evidence gathered through torture can be legalized by the judge confirming that it is a "fact." As an authoritative author writes:

*(Although) the provision prohibits torture to coerce a statement and obtaining evidence through threats, inducements or deceit, nevertheless, there is no rule to declare such evidence null and void. This creates a hidden problem of illegally-collected evidence and is one of the main reasons why the use of torture to coerce a statement and other illegal methods of collecting evidence remain widespread, despite the fact that prohibitions against such practices have been issued repeatedly.*³⁰

In practice, the use of evidence obtained from torture at trial is common practice in the Chinese judicial process. The Criminal Procedure Law describes the following six categories of evidence:

1. *Material evidence and documentary evidence;*
2. *Witness testimony;*
3. *Statements of victims;*
4. *Statements and confessions of defendants;*

prohibited to collect evidence by unlawful means. Any testimony by a witness, declaration by a victim or confession by an accused that has been PROVEN THROUGH INVESTIGATION TO BE obtained through unlawful means, such as interrogation under torture, threats, inducements or deceit cannot be admitted as evidence." Given the difficulties for a defendant in proving that a confession was coerced under current circumstances, the omitted words make it very difficult for the defense to successfully achieve exclusion of any such evidence.

³⁰ See Fang Chongyi et al.: *Survey and Evaluation of Studies on the Science of the Criminal Justice System (Xingshi Susong Faxue Yanjiu Zongshu Yu Pingjia*, hereinafter Fang), the University of Politics And Law Press, Beijing, 1991. p.188.

5. *Conclusions of expert evaluations; and*
6. *Transcripts of interrogations and examinations.*³¹

Although the CL states that a defendant's statement is not necessary for the determination of whether a criminal act has been committed, in fact such statements are generally one of the most important pieces of evidence in criminal trials. Many cases of torture show that the defendant's statement plays a significant role in determining the outcome of a criminal case, even in a situation in which evidence other than the statement is sufficient to determine the verdict in the case. In a 1991 case, according to the court verdict (see Appendix I) a detainee was tortured to death because he had refused to confess to the criminal act although the other evidence available was sufficient in itself to prove him guilty. One official commentator pointed out that it was a very common police tactic to break a case through obtaining a confession.³² If the individual does not suffer serious injury in the process, a confession obtained through torture can undoubtedly be used at trial. Even in cases in which a torturer was found guilty and punished, the evidence obtained by him through torture can still be admissible at trial.³³

³¹ Article 36, the Criminal Procedure Law of the PRC.

³² Chen Guohe and Wang Guihua: "On the Reasons for Torture and Strategies for Curbing it," *People's Public Security News*, December 20, 1991, p.3.

³³ See the case of Mao Gengsheng, Appendix I. Also, in a case which occurred in Shanghai in 1984, a defendant who was tortured repeatedly petitioned the People's Procuratorate of Shanghai, but was finally given a sentence of seven years of fixed-term imprisonment even though the prosecutor admitted that the torturer had been disciplined administratively. The evidence against the defendant obtained through torture was still used in the trial. This case later caused an internal debate among local legal experts.

Lack of access to legal counsel for defendants

In Chinese law, defendants are not permitted access to their attorneys in the preliminary stages of the investigation. As a result a considerable number of cases involving the use of torture occur during this stage. In one county during 1990, a recent report said, 67 defendants withdrew their confessions when their cases went to trial. This accounted for 39 percent of total cases surveyed. In all of these cases, the major reason the defendants cited for the retraction was that their confessions had been obtained through torture.³⁴ Many detainees confess to "crimes" in order to avoid further torture.

While Human Rights in China welcomes the provisions in the recent amendments to the Criminal Procedure Law improving the legal rights of accused persons, we are concerned that the new provisions do not actually guarantee rights such as access to legal counsel for persons detained or arrested. In particular, the revisions state that an accused person may be held without their family or legal representative being notified if "this notification hinders the investigation of the crimes or cases." Furthermore, detainees' access to legal counsel remains at the discretion of the authorities, since the revisions contain no mandatory provision guaranteeing such access during the preliminary stage of a criminal investigation.

Throughout the PSB's investigation of a case, defendants are normally completely isolated from the outside world; even members of their immediate families are not allowed to see or have contact with them. Although the new revisions of the CPL now permit lawyers to meet with detainees in the presence of police officers "following the first interrogation," this latter term is left completely undefined. The CPL also fails to state the permitted frequency of such visits, thus raising serious questions about whether real access will be permitted. When a case is handed over to the procuratorates after the investigation has been completed, procuratorates are required to notify defendants' families and lawyers. Defendants are then able to meet with their attorneys to prepare their defense a minimum of ten days before the trial begins. Thus defendants are in police custody for long periods of time without the benefit of monitoring of any kind by an independent body or by the procuratorates. Under such conditions, Human Rights in China does not believe that the extensive provisions cited in China's second report to the CAT detailing the rights of detainees to file complaints are of much use in protecting detainees from abuse; in fact, filing a complaint may only result in further abuse. In these circumstances, the police can torture with impunity. As Special Rapporteur Rodley states:

To register a complaint of torture during incommunicado detention, police and prison officials must be approached, and this requirement was said to dissuade most detainees and prisoners from making such complaints. While the procuracy is responsible for investigating complaints concerning torture, it was alleged that procurators often ignored such complaints because an investigation might pose a conflict of interest with the procurator's role as State prosecutor in criminal cases. In this regard, it was said that the need for the procurators to

³⁴ See Han Jie and Shen Honghua: "Brief Analysis of the Reasons for and Determination of the Retraction of Defendants' Confessions," *Legal Daily (Fazhi Ribao)*, May 2, 1991, p.3.

*cooperate closely with the police served as a disincentive to investigate torture complaints. Consequently, few investigations or prosecutions of torture complaints were said to have been carried out.*³⁵

Human Rights in China does not believe that the situation described by Rodley has been appreciably altered in practice by the complaints procedures detailed in China's second report.

Among their many duties, procuratorates are supposed to have the power to monitor the activities of the police. However, as one observer notes:

*Torture usually occurs during the period when the investigation and interrogation are carried out, after suspects have been detained or arrested. However, the current legal regime only stipulates that the procuratorates have the power to decide whether or not to approve a request for an arrest warrant and are thus only able to prevent abuses of arrest. As far as monitoring PSB investigations, the law is silent, and this means that the procuratorates have no way effectively to check whether the PSB is carrying out criminal interrogations.*³⁶

Defense lawyers are not really able to play a strong role during a trial as do their counterparts in other countries. There is plenty of evidence that lawyers' interventions in trials are subject to the control of Party committees at the central and local levels,³⁷ especially in sensitive cases such as those related to the 1989 protests. Sometimes lawyers have been required to submit their defense statements to the departments of judicial administration (*sifa xingzheng bumen*) in advance for approval. Such prior approval is generally required in two types of cases: political cases and those in which defendants plead not guilty. In cases involving torture, since defendants would generally be state officials and the acts with which they are charged would likely be regarded as damaging to the image of state organs, lawyers representing the victims and their families often encounter a great deal of obstruction from the local Party committee or from other official bodies. One case that occurred in Zhengjiang City, Jiangsu Province, in 1987, shows how hard it can be for a victim to bring torturers to trial. A man who was tortured in a police station sought help from local lawyers, but all their efforts were unsuccessful. Desperate, the man set himself on fire in the city square as an act of protest. Finally, under pressure from the media and the higher authorities, the torturers were put on trial. However, the most severe punishment handed down by the court was a sentence of three years' fixed-term imprisonment suspended for three years.

³⁵ See E/CN.4/1995/35, "Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32."

³⁶ See Lei Xicai: "The Essential Reason for Torture to Coerce a Statement is the Unreasonableness of the System of Criminal Investigation," *Chinese Public Security News*, October 4, 1991, p.3.

³⁷ See Human Rights In China: *Going Through the Motions*, *supra* note 12.

Sometimes the authorities decide to carry out an internal investigation of allegations of torture instead of going through the formal criminal process. A case that occurred in Fuzhou, Fujian Province, presents an example of this. On December 24, 1993, Ren Wanxia was riding home on her bicycle. Witnesses saw her being stopped by police officers who asked her to show her bicycle license. She was not carrying the license and a bitter altercation with police officers ensued. She was slapped in the face and taken to the police station. According to the police account, she was detained there for several hours and then released. Ren never returned home and her body was found a week later in the river. According to the family, the condition of the body strongly suggested the possibility that Ren was tortured and raped and then thrown into the river. However, the PSB sent officers to carry out an internal investigation, beginning five days after Ren disappeared, instead of reporting the case to the procuratorate. Although the resulting internal report (See Appendix II) revealed that the officers had admitted beating Ren, and implied that their superiors believed they may have been responsible for her death, no formal investigation was initiated until April 1994. No police officers were disciplined, and Ren's family has been refused a copy of the autopsy report. To date, there has been no progress in this case. Despite the fact that both the CPL and the standards in the Convention would require further investigation in such a case, since an internal investigation can be substituted for the formal process, any further investigation of criminal responsibility in this case appears highly unlikely.

Another case in which a suspect was allegedly tortured to death occurred in Guiyang City, Guizhou Province, on November 9, 1994 (See Appendix III). While accompanying his inebriated friend home, Yang Xiaohong got into a dispute with a taxi driver. The driver then drove the cab to the Guiyang PSB. According to Yang's family, the officers there tortured Yang. Yang died several hours later after being sent to a local hospital where the police said he had jumped from a fifth-floor balcony on which he had been handcuffed to a pipe. The procuratorate decided not to file the case for investigation after briefly questioning some of the officers involved,³⁸ although there was ample evidence, including statements from medical workers who treated Yang and from other witnesses, to indicate that torture was a distinct possibility in this case. So far the family has been told that the autopsy is an "important secret" and will not be released, although Yang's wife was permitted to read it (excerpts she noted down are contained in Appendix III). There is no indication that any police officers were disciplined in connection with this case.

The failure to investigate in both of the above situations could be partly attributed to the rigid standards for initiating an investigation in a case of torture mentioned above,³⁹ a practice which directly violates the standards established in the Convention and in other international human rights instruments.

³⁸ See Appendix III: The People's Procuratorate of Guiyang City, Guizhou Province: "Notification of Not Filing Case," (94) Jian Fa Zi No. 23.

³⁹ See the "Rules" cited in note 25.

Torture in administrative detention

One of the settings in which torture most frequently occurs is when people are held in administrative detention, since this is outside the judicial process and beyond the scope of any public monitoring. In China, detention outside the formal criminal process can take three major forms. The first is "Shelter and Investigation" (*shourong shencha*), a measure under which the PSB can detain people for as long as three months without any judicial procedure. The second is "Reeducation Through Labor" (*laodong jiaoyang*), which is both a punishment and a coercive administrative detention and empowers the PSB to send people to labor camps for up to three years without going through any judicial process.⁴⁰ The third is "Retention for In-Camp Employment," (*liuchang jiuye*) which enables the organs of judicial administration to continue to detain in camps those who have completed their sentences.

Torture in Shelter and Investigation and Reeducation Through Labor facilities is endemic and extreme, according to evidence collected by HRIC in a previous report. During the mid-1980s, an internal document reported dozens of cases in which individuals sent to Reeducation were tortured to death. The cases cited occurred in Shanghai and Shaanxi and Sichuan Provinces. This geographical spread suggests the frequency of torture in Reeducation Through Labor institutions.⁴¹ The prevalence of torture in Shelter and Investigation facilities also gives cause for serious concern. According to the assessment of an internal report, disorder in the management of Shelter and Investigation facilities resulted in the death of 28 people through torture in 1988, and eight deaths during the first three months of 1989 alone.⁴² In another case revealed by Gao Peiqi, formerly a senior official in the Shenzhen PSB, four people held for Shelter and Investigation were tortured to death in the Shenzhen Detention Center in the first few

⁴⁰ Although the Administrative Litigation Law of the PRC, promulgated in 1989, does entitle people to a limited right to challenge decisions of Reeducation Through Labor against them, the decision as to whether or not to send a person to RTL is basically at the discretion of the PSB. However, a person held under RTL would have great difficulty in proving to a court's satisfaction that he/she was wrongly sentenced to such a term, since the regulations governing this measure give the public security departments above county level very broad discretion to detain people under RTL. Very few cases are known to have been reversed following challenges under the Administrative Litigation Law and, to our knowledge, not a single appeal by a dissident against a RTL sentence has been successful.

⁴¹ For details, see Human Rights In China: *Detained at Official Pleasure: Arbitrary Detention in the People's Republic of China*, New York, June 1993.

⁴² See Mu Yi: "Urgent Need to Rectify Shelter and Investigation" (*shourong shencha jixu zhengdun*), *People's Public Security News*, 1989, No. 7, p. 32-36.

months of 1990.⁴³

On some occasions large numbers of people are subject to torture at one time. In 1986, while investigating two minor criminal cases, the Lujiang police station of Kunming City, Yunnan Province, detained 201 people. More than 100 of them were tortured, resulting in one death.⁴⁴

In the above-mentioned cases, the perpetrators almost never received any serious punishment; some were not subject to any form of sanctions at all. Despite years of concern and internal investigations about the prevalence of abuses in the administrative detention system, demonstrated by the reports from which some of the cases cited are drawn, there has been no move on the part of the authorities to eliminate these forms of detention. Thus torture of those held under all three forms of administrative detention mentioned is likely to continue unabated.

Torture used to threaten or "reeducate" detainees

A form of torture which occurs in detention facilities, prisons and labor camps of all kinds yet has been insufficiently investigated is the practice of inmates committing abuses against other inmates at the instigation of, or without interference from, officials.

In Chinese detention facilities, a few inmates who have "reformed well," usually minor criminal offenders, are often assigned the job of supervising their cellmates. In reward for carrying out the tasks officials have given them, these inmates are given more freedom and other privileges than their fellow inmates. Liu Gang, sentenced to six years in prison for his role in the 1989 student movement, reported being tortured by other inmates. Because Liu and some other dissidents refused to confess their "crimes" after being put into a maximum-security prison in Liaoning Province, they were placed in a "strict regime brigade" (*yanguandui*) managed by other inmates. For Liu, this involved being forced to sit completely still on a bench 50cm in height, two meters in length and 10cm in width for 12 hours a day, from 8:00am to 9:00pm with two breaks of half an hour for lunch and dinner. Liu also reported being hit simultaneously with four electric batons.

After going on a hunger strike to mark the third anniversary of the 1989 Beijing Massacre, another dissident, Li Yang, was stripped naked and beaten by other inmates on the orders of a chief officer called Yang Guoping. Yang himself struck Li on the thighs with an electronic baton which produced a 80,000 volt shock.

Qin Yongmin, a veteran dissident jailed for a second time because of his opposition to China's bid for the 2000 Olympic Games, encountered a similar situation after he was sentenced

⁴³ Those held for Shelter and Investigation are not supposed to be held in detention centers. However, a large number of people so held actually are detained in detention centers. According to an authoritative estimation, about a half of the total number of people "sheltered" were detained in detention centers in 1988. See Mu Yi, *ibid*.

⁴⁴ See Human Rights In China: *Detained at Official Pleasure*, *supra* note 41.

to two years of Reeducation Through Labor. A letter smuggled out of the Hewan Reeducation Through Labor Center in which Qin was held said that he had been seriously beaten by cellmates in the groin area in the summer of 1994. His genitals were hit so often, he said, that his testicles were "tattered and misshapen." Despite the severity of the beating, the labor camp authorities did not provide him with adequate medical treatment following the incident and his condition continued to deteriorate. Furthermore, Qin remained under the supervision of cellmates. Qin's wife was threatened with arrest if she continued to appeal to the international community on behalf of her husband.⁴⁵

In the same Reeducation center, Tong Yi, former secretary and translator to democracy advocate Wei Jingsheng, was beaten repeatedly by "trusties" in her cell while her appeals to the guards for protection were ignored. Tong was sentenced in December 1994 to a two-year Reeducation Through Labor term. According to a letter she gave to her family during a visit, after she refused to work for more than eight hours a day, on January 16, 1995, two trusties beat her. Tong complained to the guards and asked for protection, but was then beaten again the following day, by ten fellow inmates. Her face and body were reportedly swollen and covered with bruises. No action is known to have been taken even after this to protect Tong. Then in July 1995, Tong's family was informed that she was to be transferred to the Shayang Reeducation Through Labor Farm where "forcible measures" would be used to compel her to complete her "production quota" and "accept reform." She is subsequently thought to have been beaten with batons by camp guards.

Another case involved Zheng Muzheng, an active proselytizer in the unofficial Protestant church in Hunan Province, who was allegedly beaten to death by 13 of his fellow inmates in the Dongkou County Detention Center. His family is convinced that officials were either actively involved in, or instigated, the fatal beating. Zheng was detained with 20 other Protestants on January 5, 1994, and taken to the Shanmen PSB, then later to the Dongkou County Detention Center. According to an account in the pro-Beijing Hong Kong newspaper *Ta Kung Pao*, Zheng was beaten there by fellow inmates because he was "disobedient" and "failed to keep up good cleaning work." He died the day after his arrest. However, his family reported seeing rope burns around his neck and ankles and numerous stab wounds in his torso. Later, Zheng's body was secretly transported to a crematorium and it is not known if any autopsy was ever performed. The inmate "perpetrators" were arrested and those responsible for guarding the prisoners dealt with "severely." But no prosecutions are known to have been brought. Zheng's family was offered compensation, but refused, and filed a lawsuit against the Shanmen PSB and the

⁴⁵ On Qin's case, HRIC received several documents including letters from Qin himself, an letter of appeal from his wife Li Jinfang, and Qin's Reeducation order. This case was reported to the Special Rapporteur on Torture and is mentioned in E/CN.4/1995/34. The Chinese government denied the allegations and claimed that Li Jinfang had admitted lying about the matter. However, in further communications with Li she indicated that she continued to fear for Qin's safety and stood by the account of what had occurred. The similar treatment of Tong Yi (see below) at the same Reeducation Center lends force to her contention.

Dongkou Detention Center, naming three officers as defendants.⁴⁶

Ma Liumin, A detainee held in the Chaoyang District Detention Center in the summer of 1994 described how another inmate, known only as Liu, died in July from a combination of ill-health and beatings at the hands of cell-mates. Liu was suffering from a gastric disorder and received no treatment. After several days, his condition became acute and fellow detainees began to beat him because they were irritated by his moans. The beatings continued over three days, with no intervention from guards. When doctors finally came after Ma called the guards, Liu died as he was being removed from the cell. A representative of the People's Armed Police who guard the detention center reportedly said, "The People's Police do not beat people. But if people beat each other, we don't give a damn."⁴⁷

According to former and current prisoners, inmates assigned to supervise others are widely known in the system as "second-rank cadres" or "the second government." HRIC believes that in all types of facilities where detainees and sentenced prisoners are held inmates are employed as "trusties" to assist in the management and control of other inmates and officials tend to use such trusties to carry out torture against those, particularly dissidents, who are not considered to be "accepting reform" or "submitting to Reeducation." This practice falls squarely into the category of "torture" under Article 1 of the Convention and should be completely eliminated.⁴⁸

⁴⁶ See Human Rights Watch/Asia: "China: No Progress on Human Rights," May 4, 1994, Vol.6, No.3, pp.10-11.

⁴⁷ "Inmate Recounts Jail Death Story," by Bruce Gilley, *Eastern Express*, August 20, 1994.

⁴⁸ See the Convention Article 1, "...the term 'torture' means any act by which ...such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official."

Conclusion and recommendations

Despite China's accession to the Convention, torture remains a systemic and regular practice. Although the Chinese authorities have enacted legislation to prohibit the practice of torture, the concept of torture in Chinese law does not reflect the requirements of the Convention. A combination of factors—legal deficiencies such as the lack of avenues for detainees to make complaints about torture while they are held in pre-trial detention and the admissibility of evidence obtained through torture—mean that the provisions of the Convention are not automatically applied in China. Thus the obligations China assumed under the Convention are not being carried out properly. Moreover, the authorities have continued to implement policies which foster a lenient attitude towards torturers as well as encouraging other officials to cover up their crimes. Such policies directly contribute to the continuing widespread use of torture. The extensive use of administrative detention measures such as Shelter and Investigation and Reeducation Through Labor further contribute to the prevalence of torture since these forms of detention are outside the regular judicial process.

In view of the seriousness of the situation pertaining to torture, HRIC urges the Chinese government promptly to take the following actions in order to reduce and eventually eliminate torture in China:

1. Establish an impartial and independent judicial system in order that every case of torture may be tried equally and effectively;
2. Pass legislation to amend the definition of torture under current Chinese law to bring it into compliance with that set out in the Convention, including explicitly recognizing that all people acting in an official capacity should be responsible for acts of torture, and ensure every act of torture defined under Article 2 of the Convention may be punished;
3. Revise the legal provisions in the Criminal Law and the Criminal Procedure Law regarding evidence obtained through torture and ensure that all evidence produced through torture of any kind, including statements of witnesses, is excluded from consideration, unless the evidence is to be used against the perpetrators of torture;
4. Immediately lift the restrictions on the media's reporting of news relating to state organs and officials so that the whole society may monitor the actions of state organs, since publicity about official malfeasance, including torture, may act as a deterrent to officials and institutions;
5. Prohibit the practice of employing inmates to perpetrate torture at the instigation of officials;
6. Eliminate all forms of administrative detention without judicial process, especially Shelter and Investigation and Reeducation Through Labor; and
7. Carry out fully all the obligations contained in the Convention and other international human rights instruments which would contribute to reducing and eventually eliminating

torture.

HRIC recommends that the Committee against Torture and the Special Rapporteur on Torture continue their excellent monitoring of individual cases of torture in China reported to them. We also suggest that they urge China to recognize the competence of the Committee under Articles 21 and 22; seek clarification from the Chinese government on the points raised in this report; and encourage it to take the steps outlined above to bring Chinese law and practice into line with the provisions of the Convention. We encourage the Special Rapporteur to continue requests to the Chinese government to invite him for an investigative visit. Finally, we hope that the CAT and the Special Rapporteur will express strong concern about continuing, severe violations of the Convention in China to the 52nd session of the United Nations Human Rights Commission.

Appendix I:⁴⁹

Translation of a Court Verdict on a Torture Case

**Verdict in the Case of Torture to Coerce a Statement
Committed by Wang Zhengcai, Li Dongguan, Song Qiangfei and Yu Xinglong
Criminal And Supplementary Civil Verdict
of the People's Court of Pengze County**

(91) Peng Criminal No. 045

Public Prosecutor:

Xu Zhusheng, Procurator acting on behalf of the People's Procuratorate of Pengze County.

Plaintiffs in the Supplementary Civil Lawsuit:

Mao Tiantian, female; five (born in April, 1985); residence: Huangling Village, Huangling Township, Pengze County; daughter of the victim in this case.

Mao Qinggang, male; three (born in September, 1987); residence: same as above; son of the victim in this case.

Mao Lili, female; one (born in March, 1989); residence: same as above; daughter of the victim in this case.

Legal Representative (Guardian):

Tao Xiaoyun, female; twenty-six; Han nationality; illiterate; native of Pengze County, Jiangxi Province; residence: same as above; peasant; mother of the aforesaid plaintiffs in the Civil Part.

The Other Plaintiffs:

Mao Chuangguo, male; fifty-six; Han nationality; illiterate; residence: same as above; father of the victim in this case.

Wu Jingjiao, female; fifty-one; Han nationality; illiterate; residence: same as above; mother of the victim in this case.

Defendant (Supplementary Civil Lawsuit):

Wang Zhengcai, male; thirty-five; Han nationality; intermediate technological school education level; native of Pengze County; residence: the dormitory of the County Public Security

⁴⁹ This case was appealed by the plaintiffs. On January 23, 1992, the Intermediate People's Court of Jiujiang City affirmed the verdict of first instance without any significant change. The content of the verdict of second instance is omitted here. The plaintiffs in this case have reportedly been vigorously appealing to all possible authorities since the verdict was issued. One of their appeals was received by HRIC.

Bureau; previously the chief of the police post of Huanghua Township; the member of the CCP; detained on the charge of torture to coerce a statement on May 26, 1991, arrested on June 2, 1991, and released on bail pending trial on October 19, 1991, by the Public Security Bureau of Pengze county.

Defendants in the Supplementary Civil Lawsuit:

Li Dongguan, male; forty-six; Han nationality; middle-school education level; native of Pengze county, Jiangxi Province; residence: the dormitory of the Public Security Bureau; previously a cadre of the police post of Huanghua Township; detained on the charge of torture to coerce a statement on May 26, 1991, arrested on June 2 and released on bail pending trial on October 26, 1991.

Song Qiangfei, male; thirty-seven; Han nationality; high-school education level; native of Wangjiang County, Anhui Province; residence: the dormitory of the Public Security Bureau; previously the deputy chief of the police post of Huanghua Township; bailed pending trial on the charge of torture to coerce a statement on May 26, 1991.

Yu Xinglong, male; twenty-three; Han nationality; high-school education level; native of Wangjiang County, Anhui Province; residence: the dormitory of the Public Security Bureau; previously a cadre of the police post of Huanghua Township; bailed pending trial on the charge of torture to coerce a statement on May 26, 1991.

The Public Security Bureau of Pengze County.

Legal Representative: Li Weiping (Chief)

Authorized Agent: Yang Fan, a cadre of the Pengze Public Security Bureau.

The People's Procuratorate of Pengze County brought an indictment in this court against the defendant Wang Zhengcai who was charged with perpetrating torture to coerce a statement; the plaintiffs Mao Tiantian, Mao Qinggang, Mao Lili and their legal representatives, Mao Chuangguo and Wu Jingjiao also brought a civil lawsuit against the defendants Li Dongguan, Song Qiangfei, Yu Xinglong and the Public Security Bureau for civil remedy. This court formed a collegial panel in accordance with law. Xu Zhusheng, procurator of the People's Procuratorate of Pengze County, presented the case in this court in support of the prosecution. The legal representative of the plaintiffs of the civil part Tao Xiaoyun and the plaintiffs Mao Chuangguo and Wu Jingjiao also appeared in the adjudication of this case. After a public hearing, this court ascertained the following facts:

On April 17, 1991, the police post of Huanghua Township received approval and held Mao Gengsheng for Shelter and Investigation based on evidence proving that Mao had committed the act of stealing. The defendant Wang, together with the defendants Li, Song and Yu (all of these three defendants were exempted from prosecution), conducted an interrogation of Mao in the No.1 interrogation room of the Detention Center of Pengze County (Mao had served a two-year term of imprisonment, was released in 1989 and was put under administrative detention for fighting in 1990). Because Mao refused to confess to the facts of the crime, the defendant Wang threw a chair at Mao. He dodged the chair and its legs were broken. Then Li, Song and Yu held Mao on the ground, while the defendant Wang beat Mao with the broken chair legs on his buttocks several times. Afterwards Li, Song and Yu respectively beat Mao with

the broken chair legs on the arms, the buttocks and the feet. However, Mao still refused confess to the criminal acts. The defendant Wang, again with Li and Song, took turns in further torture Mao with the broken chair legs. Mao's hands, buttocks and feet were beaten bloody, as he rolled around the ground groaning. The whole process lasted more than one hour and until six in the evening. Finally, Mao confessed to the criminal acts and the interrogation ended. Mao felt sick after he had been taken back to his cell so he was sent to the people's hospital of Pengze County for emergency treatment, and died at twelve thirty that night. The forensic examination showed that Mao died from having been violently beaten.

After Mao's death, the Public Security Bureau paid 3,438.70 *yuan* for the costs of the funeral and burial.

The aforementioned criminal acts have been verified and confirmed by the relevant evidence and materials in the court's files. Together with the confessions of the defendants Wang Zhengcai, Li Guangdong, Song Qiangfei and Yu Xinglong, this court determined that the criminal act had been committed.

The court was of the opinion that: the defendant Wang Zhengcai tortured Mao to coerce a statement and caused Mao's death, which constituted the crime of torture. Considering that the victim Mao Gengsheng indeed committed the crimes of theft and had previously suffered from disease, while the defendant Wang's actions occurred while he was carrying out his duty and he confessed to the crime and showed repentance for his act, although no details in the case legally merit a mitigant sentence, it is still a bit serious to impose the lightest punishment on the defendant. The adjudicative committee conducted a discussion and decided to impose a mitigated punishment. Since employing torture to coerce a statement had caused Mao's death, the defendant Wang Zhengcai and the defendants Li Dongguan, Song Qiangfei and Yu Xinglong should be responsible for the economic damage resulting from the death of Mao Gengsheng. However, the above acts of torture were carried out during the period when the defendants were on duty and were acts of the state, so the Public Security Bureau of Pengze County should also be responsible for the civil remedy. But the sum of forty-one thousand and four hundred sixty *yuan*, sought by the plaintiffs and their guardian as compensation for the cost of supporting his offspring and parents, repairing his house, education fees and travel costs, is really much higher than reasonable compensation. Nothing in these costs but the cost of supporting his offspring and parents is consistent with the law, and thus should not be supported by the court. With regard to the issue of compensation, the court repeatedly conducted mediation and failed simply because the plaintiffs insisted on making a much higher demand. In accordance with Article 136, item 2 of Article 134, Article 60, item 2 of Article 59 and Article 67 of the Criminal Law of the PRC and Article 119 and Article 121 of the General Principles of the Civil Law of the PRC, the court hereby rules:

1. The Defendant Wang Zhengcai committed the crime of torture to coerce a statement and is sentenced to a fixed-term imprisonment of three years suspended for three years;

2. The instruments employed as the means of torture, three broken chair legs, are confiscated.

3. The defendants Wang Zhengcai, Li Dongguan, Song Qiangfei and Yu Xinglong, the Public Security Bureau, together must pay eight thousand and one hundred *yuan* to the plaintiffs Mao Tiantian, Mao Qingguan and Mao Lili as compensation for the costs of their rearing (up to 18 years old); and together must pay Mao Chuangguo and Wu Jingjiao two thousand five

hundred and twenty yuan as compensation for the costs of their support;

4. The aforesaid compensation should be paid off in one payment within ten days after this verdict enters into effect.

If the above parties do not agree with this judgement, they may, within ten days after receiving this judgment, lodge with this court a petition, plus ten duplicate copies, to appeal to the Intermediate People's Court of Jiujiang City.

November 13, 1991 (sic)

The Criminal Chamber of the People's Court of Pengze County

Chief Judge: Lu Xichu

Judge: Wu Wenxiang

Acting Judge: Tian Yian

November 14, 1991

(Seal of the People's Court of Pengze County)

This copy has been checked against the original and contains no error

Appendix II:
Translation of Public Security Bureau Report of Internal Investigation
into the Disappearance of Ren Wanxia

Public Security Bureau of Mawei District, Fuzhou City
Report Concerning the Circumstances of the "December 24" Incident

On the evening of December 24, 1993, as part of a city-wide concerted action, Chen Ganchang of the Xingqi Police Station, Mawei District Public Security Bureau, led six members of the People's Police and the United Security Squad in setting up a checkpoint for the inspection of passing bicycles and motorcycles without license plates or registration documents at the No.36 bus station on Junzhu Road in Mawei. At about 9:15 p.m., Ren Wanxia, a female employee of the Mawei branch of the Fujian Hydroelectric Equipment Factory, cycled past the inspection site. She was stopped by the duty officers who inspected her bicycle and discovered that she did not have the registration for it and that she was not carrying her identity card. Under circumstances that remain unclear, Ren was upset by the officers' intention to impound her bicycle temporarily, and she unleashed a stream of foul invective at the duty officers, causing more and more people to gather around to see. In order not to affect the proper conduct of the operation, its director Comrade Chen Ganchang decided to remove Ren Wanxia from the scene and to take her to the police station so that the facts of the situation could be ascertained. However, Ren continued to curse at the duty officers after they arrived at the precinct. This made Driver Chen Zhenshan angry and he slapped her around the face. United Security Squad member Ou Danyong also went forward and kicked her, which caused her to fall to the ground. After she got up, Ren continued to curse the duty officers and United Security Squad members at the scene. Chief Guo Ping heard the cursing from his office, and upon coming out to investigate, saw Ren continuing to curse as she tried to get up. In anger, Guo Ping said: Get out of here. Ren was summarily driven out of the station.

At about 9:00pm on the evening of December 25, Ren Wanxia's elder brother, Ren Chenyao, arrived at the PSB duty office with six or seven relatives to report that his sister had not returned home following her questioning by the police the night before. This matter was considered with seriousness by the Bureau leaders, Bureau Chief Wang Kaiming and Political Commissar Chen Liyi. Both phoned the Xingqi precinct to ask for information about the situation. The next day (the 26th) the Party Secretary of Junzhu Village Ren Shuxin came to the Bureau to report the disappearance of Ren Wanxia (originally he believed she had been detained for investigation at the police station). On the news that Ren Wanxia's whereabouts were not known, under these circumstances Bureau Chief Wang Kaiming and Political Commissar Chen Liyi called Chen Ganchang to report on whole affair. Political Commissar Chen Liyi gave Chen Ganchang the following four orders: first, the question of why Ren Wanxia had not returned home after being brought to the precinct must be dealt with seriously; second, duty officers must be organized to assist in uncovering Ren's whereabouts; third, if her relatives or representatives from her work unit came to the precinct to ask about the situation, they must be treated with courtesy, the situation must be explained and their understanding obtained; and fourth, a report must immediately be written on the matter for the Party Committee, which should be submitted

by a specific time. In addition, Political Commissar Chen phoned Station Chief Guo Ping to demand that he deal with this matter in a serious way and not be careless about it. On December 27, Bureau Chief Wang Kaiming issued three opinions on the issue of Ren's disappearance: first, the officers of the Xingqi Police Station should assist her family members in discovering Ren's whereabouts; second, the Public Order Section should help her family members in drafting an investigation notice; and third, various departments, including the political work department, discipline inspection and the procuracy, should go to the Xingqi Police Station to investigate whether there were artificial or other reasons for Ren's disappearance. On the morning of December 28, Ren Wanxia's father went to the Development Zone Management Committee and asked to see the leaders to report on the situation. At this time, Bureau Chief Wang Kaiming was at the Management Committee for a meeting. Wang patiently explained to Ren's father that the leaders were dealing with the situation, and phoned Political Department Director You Biguang to inform him that he should receive Ren's father cordially and try to smooth out the situation. In the afternoon, Political Department Director You Biguang received Ren Wanxia's brother, Ren Chenyao, and again patiently explained the situation. He promised vigorous assistance in the search and made great efforts to dispel Ren's brother's resentment.

On the morning of December 29, the Political Department, in accordance with the opinion of the Public Security Bureau Party Committee, undertook a thorough investigation by going to the police station and ascertained from Comrade Chen Ganchang, who had been directing operations that evening, the details of the oral interrogation of Ren Wanxia and what happened after she was taken to the precinct. Chen said that, first, he would conduct a thorough investigation of the officers on duty that night and would prepare a written report; second, he would treat Ren's relatives and work unit leaders with courtesy when they came to inquire about the case and would do a good job of smoothing out the situation; third, he would give Ren's disappearance sufficient priority and would send people to assist in the search; and fourth, he would provide prompt updates on the progress of the search, and promptly notify the Bureau leaders upon the discovery of any unusual circumstances. Now that Ren had been missing for a number of days, the Bureau leaders were anxious that Ren's case be solved as quickly as possible; since the meetings of the local People's Congress and the local Political Consultative Committee were about to take place, they feared negative repercussions for public security and stability if there was a collective movement to refer the case to higher authorities for help. Bureau leaders thus undertook to make a concrete division of labor, took personal charge of the front lines of the search effort, and launched investigations in multiple directions and through multiple channels.

On the morning of December 30, Chen Liyi and Director Bi Youguang went to the Xingqi Police Station to press upon Chief Guo Ping and Deputy Chief Huang Jianji that they must do everything possible to help Ren's relatives across multiple channels in the search for Ren.

At 7:00pm on December 31, the Bureau Duty Office received a report from the Qingzhou Police Station that a corpse had been discovered in the water about 10 meters from a pier of the shipyard of the provincial fisheries company. As the acting Bureau leader on duty, Political Commissar Chen Liyi immediately dispatched a team from the Xingqi and Qingzhou Police Stations along with personnel from the Bureau duty team to the spot where the corpse was found, and Ren's family was informed, so that they could come and identify the body. The body

was identified as that of Ren Wanxia. After notifying Bureau Chief Wang, Chen Liyi then notified the relevant leaders of the municipal Bureau, the District Party Committee, the Politics and Law Committee, the township and the neighborhood of the situation. District Party Committee Standing Committee member Chen Zeng'an, Deputy District Chief Li Xiangdong, Politics and Law Committee Secretary Zhu Bentu, District Procuracy Chief Lin Quan and other comrades along with Mawei Township Secretary Chen Ganding and Township Mayor Ye Dacheng as well as Junzhu Village Committee leaders and Ren's relatives, deliberated over how to deal with the body and the remaining problems. Deputy Mayor Huang Yuli, District Chief Gao Yizhong, and other leaders of the District Committee and district government gave the incident their utmost attention, and studied the case repeatedly. The District Committee convened a meeting of the proper authorities of the district, including those at the township and neighborhood levels, and decided to organize a special unit to conduct a complete investigation of the Ren Wanxia incident. The leaders of the concerned departments of the District Committee, district government and Politics and Law Committee undertook to divide the work of organizing an autopsy and smoothing out the feelings of the people.

In order to ensure the success of the two upcoming local assemblies, Deputy Mayor Huang called an urgent meeting of various department heads of the District Committee, the Politics and Law Committee, the Public Security Bureau, the Procuracy and judicial administrations. At the meeting, Deputy Mayor Huang instructed that: the Ren Wanxia case should be dealt with seriously in order to placate her family; comrades Chen Zeng'an and Zhu Bentu should set up a special unit to bring the facts of the incident to light; social pressure should be reduced so as to ensure the smooth running of the upcoming assemblies, and also for the personal safety of the duty officers. The Public Security Bureau Party Committee would call Guo Ping, Rao Xianqi, Chen Zhenshan and other comrades to the bureau for collective education, and also to express to them that the District Committee was concerned for their personal safety. The Public Security Bureau Party Committee would consider how to handle all personnel problems at the Xingqi Police Station. The leaders of the city administration also directed their undivided attention to this incident and subjected it to repeated study on January 4, January 11 and January 13. On January 14, Deputy Bureau Chief Chen Yi, Director Wang Linhua, and other leaders personally went to the Mawei Public Security Bureau to hear reports on the situation, give key instructions and order the completion of the work of educating the personnel involved at the Xingqi Police Station. They emphasized that the truth should be sought from the facts, and that the actions taken against Ren should not be concealed; anyone who was discovered not complying would be dealt with more severely. At the orders of Deputy Mayor Huang and Bureau Chief Chen, the Bureau Standing Committee called a meeting for the afternoon of January 6. Department Chief Chen Zeng'an and Secretary Zhu Bentu attended and deliberated over how to implement their opinions. It was decided to detain the four comrades Guo Ping, Chen Ganchang, Rao Xianqi and Chen Zhenshan at the Bureau overnight. This measure was taken to stabilize the public mood and to ensure the success of the local People's Congress and Political Consultative Committee meetings that were scheduled to convene soon. On January 8, when the District People's Congress convened at the Majiang Building, the relatives of the deceased distributed outside the gates a leaflet recounting their grievances entitled "A Brief Account of the Ren Wanxia Incident." The number of people that gathered outside was quite large, and they only began to disperse gradually after repeated attempts at persuasion. On

the morning of January 9, Ren's mother set out from Junzhu and walked along the road beating a gong and crying out her grievances; she carried on her back a photo of her daughter and a yellow placard that read "To redress the civil injustice perpetrated against Ren Wanxia, punish the murderers of the Xingqi Police Station." Ren Wanxia's mother refused to listen to attempts to persuade her to desist, and went straight to the meeting site at the Majiang building. The crowd was now one-hundred strong, and they rammed open the iron gates and entered the area downstairs from the conference hall. Deputy Mayor Huang Yuli and other District Committee and government leaders were persuaded to invite the relatives of the deceased to the second-floor reception room and receive them. After much exhortation the members of the crowd with no relation to the matter were persuaded to leave the hall. After 1:00pm in the afternoon, Ren's mother and relatives went to the Xingqi Police Station to investigate the area where Ren was detained, and a large number of onlookers managed to get in as well. The Xingqi Police Station received the relatives of the deceased and persuaded the onlookers to leave. Ren's family members discovered a suspicious bloodstain on the floor and immediately reported this to the leaders of District Committee, who in turn asked the legal medical experts from the Provincial and City Procuratorates to come to the scene and investigate. Ren's relatives did not leave to go home until past 8:00pm that evening, and then only after many attempts at persuasion.

In the course of the investigation, comrades Guo Ping and Chen Ganchang showed much resistance. After education and enlightenment by Bureau Party Committee and District Committee member Chen Zeng'an and Secretary Zhu Bentu, three of the comrades left the Police Station on January 6 to stay at the Bureau. While the detainees (the two above plus Ye Fanglin of the United Security Squad) were in protective custody, the Bureau Party leaders not only cared for their daily needs, but also educated them individually by pointing out the seriousness of the incident and the need to take the overall interests into account, so that they could correctly understand the leaders' intentions. The leaders repeatedly stressed that they should diligently review their actions, seek truth according to the facts and deal with correctly the questions of whether the actions taken against Ren on the evening of December 24 were excessive and whether the Xingqi Police Station duty officers had in fact beaten Ren to death as the masses in society were saying. However, on the contrary Guo Ping and Chen Ganchang still resisted the decision of the District Committee. For example, on the morning of January 12, when the principal Bureau leaders sought to talk with Guo Ping, he replied defiantly. On the afternoon of January 14, when Comrade Chen Xuan, Deputy Director of the Municipal Discipline Inspection Office, sought to talk with him, not only did he not behave correctly and bring the events of the evening of Ren's disappearance to light, but he also created a fracas. Only after serious warnings to consider the problem conscientiously did Guo Ping change his attitude; on the second day he actively sought out Director Chen and confessed the events of the evening of December 24. Initially, Comrade Chen Ganchang felt that he had not committed any wrong, and that the Bureau Standing Committee was intentionally using him as a scapegoat. Under the control of this kind of mindset, he did not believe the District Committee's decision and publicly said that he wanted to phone the District Committee to find out the truth. Through patient education and enlightenment by Wang Kaiming and Political Commissar Chen Liyi, Chen Ganchang gradually abandoned his uncooperative attitude.

At the present time, the comrades in protective custody are in a more stable emotional state. Basically, they can now correctly understand the District Committee's decision and

correctly grasp the seriousness and potential danger of the Ren Wanxia incident, and now consciously accept the investigation.

The Bureau Party Committee, in tandem with the special investigation team, is vigorously pursuing the investigation and evaluation of the Ren Wanxia case in accordance throughout with the principles of impartial treatment and non-concealment of violations of law or discipline by police personnel and on a case by case basis. In addition, to increase unity between the Party Committee and the upper and lower levels, numerous meetings of leaders of sections, police stations, teams and offices were called, ordering that this be correctly dealt with, that one be punished to prevent the infraction of three, that valuable lessons be drawn from this incident so that similar incidents may be prevented in the future: rank-and-file officers must be better educated and managed, their emotional state should be stabilized and all aspects of the work in hand should be properly addressed. In particular, a "love thy neighbor" month should be launched, in which vigorous efforts and concrete actions with an impact on the society will be carried out to ensure unwavering peace in the Mawei District.

January 16, 1994

Seal of the Mawei District Public Security Bureau, Fuzhou City Clerk: Yu Hua

Appendix III:
Translated Documents on the Case of Yang Xiaohong

Document I:
Official report

People's Procuratorate of Guiyang City, Guizhou Province

Notification of Not Filing Case for Investigation and Prosecution

(94) [unclear character] jian fa zi No.23

In relation to the complaint from Li Qiuchan regarding the case of the death of Yang Xiaohong, following an investigation by this procuratorate, we find that when Yang Xiaohong, being drunk, was detained in the Taxi Management Bureau of the Public Security Bureau, he was not insulted or beaten. Therefore it is decided that the case will not be filed for investigation and prosecution.

You are hereby informed.

December 2, 1994
Procuratorate seal affixed

Document II:
Materials supplied by the Li Qiuchan, wife of Yang Xiaohong

Procuratorate's version of events

The following information was based on an audio-recording by the victim's wife of the Procuratorate Disciplinary Section's briefing to her on the outcome of the preliminary investigation.

[Account of the incident] On November 9, 1994, at 10:00pm Yang Xiaohong was taking Pan Shining, who was drunk, home. After parting with Second Brother Zhou and the others at the corner of Shanxi street, Yang and Pan got into a taxi. After they got in, Pan threw up in the cab and lost consciousness. Yang refused to tell the cab driver their destination, saying that the cab had hit Pan before they got in, and refused to get out of the taxi. The driver then drove to the entrance to the Pengjing Restaurant on Beijing Street, where he saw Police Officer Wang Bo. The cab driver asked the officer to deal with the matter. Yang then got out of the cab and asked the officer to settle the dispute, he said that the driver had hit Pan with his taxi. The taxi driver denied that he had done so. As a result, the officer took all Yang, Pan and the driver to the Taxi Management Bureau in the Criminal Investigation Building. Pan, who was still drunk, was left downstairs, while Yang and the taxi driver were taken to the bureau on the fifth floor. To begin with, Yang was handcuffed to a bunk bed. Yang shouted loudly, saying, "Government cadre, I have not violated the law, why are you handcuffing me?" Yang then pulled on the handcuffs forcefully, and almost tipped over the bed. In this situation, the personnel of the Taxi Bureau opened Yang's handcuffs and took him and the driver to another room. The officer in charge

of them had to go to the toilet and asked the driver to watch Yang. When the officer returned from the toilet, the driver and Yang were gone. He found them on the first floor still arguing, then he took Yang up to the fifth floor again, handcuffed him to a water pipe, 4 cm in diameter, on the balcony and let the driver leave. The Taxi Bureau person then went to deal with other cases and left Yang alone. At around 11:30 pm, a very loud sound of flowing water was heard, and when the person came out to see what had happened, he discovered that Yang was no longer on the balcony. After a short while, someone shouted to XX that they had seen someone had fallen from the balcony. When he went down to look, he discovered that it was Yang Xiaohong. Yang was found lying face-down on the ground. The water pipe and the handcuffs were both found near his body. This was at midnight. When it was seen that Yang appeared to be dying, he was taken to the Provincial People's Hospital for resuscitation. The resuscitation was ineffective and he died early in the morning at 6:50am.

Excerpts from the autopsy report

- 1) Injuries inside the cranium, left, right, and rear parts were injured, haematoma on rear part of brain, injuries around left eye, bruises around right eye, split on lower chin, closed with eight stitches.
- 2) Bleeding inside the thorax, with accumulation of 150 ml of blood, bleeding inside the abdominal cavity, with accumulation of 200 ml of blood, two ribs broken on the left side and four on the right.
- 3) Injuries around the legs, injuries to the inner part of the right leg, private parts were injured. The inner side of the right wrist had a scrape wound, the inner side of left elbow had a scrape wound.

Statement from the victim's wife

At 7:00pm on November 9, 1994, after I left Xiaohong, he went with Second Brother Zhou, Pan Shining and the brother of Second Brother Zhou's brother's wife to eat at a hotpot restaurant on Peace Street. At sometime after 10:00pm, Xiaohong went to escort Pan, who was drunk, home. The other two had some business at the Normal College, so they parted at the intersection of Shanxi Street. That night I was very nervous when Xiaohong did not come home. Early in the morning of November 10, I saw Zhou XX and only then did I learn that he had left Xiaohong the evening before at 10:00pm. I quickly went to find Pan's wife and learned that he had come home late in the night, at after 3:00am. Then I asked Second Brother Zhou to go to Pan's house immediately and find out where Xiaohong was. When Zhou found Pan, Pan told him that he had set out from the Criminal Investigation Building, but because he had been so drunk he did not know how he had gotten there or how he had become separated from Xiaohong. At that time, Zhou and Pan went to the Criminal Investigation Division, found the leader of the Taxi Management Bureau, Hao Jianzhong, and asked him where Xiaohong had gone. Hao said: "He's dead." Zhou asked where he had died and Hao Jianzhong said he did not know. Zhou continued to enquire at the Fourth Section of the Criminal Investigation Building, and finally found out that he was at the Provincial Hospital. They rushed to the Provincial Hospital, but he was already dead...

Zhou immediately telephoned me and asked me to come down to the Provincial Hospital. Only when I got there did I find out that Xiaohong had left me. I fainted and was taken to my mother's house. Later, when my brother's wife, my sister and some friends went to the Provincial Hospital, they were told that Xiaohong's body had already been taken to the morgue by persons from the Criminal Investigation Division's Taxi Management Bureau. They went to the morgue and gave the order that the body could not be cremated....

In the morning of the next day, Sister Ling and my brother went to the Taxi Bureau at the Criminal Investigation Division to ask what had happened. The people at the Taxi Bureau had a very bad attitude, they just muddled through, replying to the questions as follows: "Xiaohong was drunk... he was fighting and making a fuss, so in order to let him sober up a bit, he was handcuffed to a water pipe on the balcony (the water pipe was six centimeters thick). At that time, the Taxi Bureau people had other cases to attend to, so they left him alone. Then they heard a sound of running water and came out of the office and only then did they discover that he had jumped from the fifth floor balcony and had fallen on the path below, this was at about 12 midnight." Sister Ling and the others then asked what crime Xiaohong had committed that would have pushed him to commit suicide by jumping from the building, and the leader of the Taxi Bureau, Hao Jianzhong, then said: "He had not violated the law, nor had he committed a crime, we were just trying to get him to sober up, what's wrong with that? We have already had five or six people jump down from the building, he was not the first." When they were asked why Xiaohong had been taken to the Taxi Bureau, they kept changing their stories. At first they said that it was because he would not pay the taxi fare, then they said it was because Pan had vomitted in the cab and would not get out and finally they said that a dispute had arisen after the taxi hit Pan and they had been taken to the Taxi Bureau.

...The Taxi Bureau did not inform the family at any time, and when the family came to enquire, their attitude was very unpleasant. They made the family wait for six hours before speaking to them. When they did speak to the family, they made light of the whole matter, behaving as if a dog rather than a person had died. The Criminal Investigation Building is 500 meters from the Teaching Hospital, but even though he was in a critical state they did not take him there but to a hospital much farther away. Their actions clearly show that there was some problem. [Xiaohong] was certainly beaten to death by them.

Victim's wife's questions and answers given by the Procuratorate

Li Qiuchan: How did Yang break the water pipe? Where are the broken water pipe and the handcuffs? If indeed the water pipe was broken, why is there only a minor scrape wound on the wrist and no injury caused by the handcuffs?

Procuratorate official: We have not been able to find the broken water pipe and the handcuffs, but they were seen by someone, but since XX in the Technical Department of the Criminal Investigation Division was busy resuscitating the victim, the water pipe and handcuffs were left lying at the site and were stolen. As for how Yang removed the handcuffs, we cannot say. No one saw the incident.

Q: If the broken water pipe and handcuffs cannot be found, please demonstrate how Yang would be capable of breaking off the handcuffs or the water pipe.

A: You can find someone to try it.

Q: What was Yang's body position when you found him on the ground?

A: He was lying on his stomach facing downwards.

Q: If he was facing downwards, then should have been severe damage caused on the face, particularly the nose. There shouldn't be any severe damage to the rear part of his brain either.

A: He was not dead then. Perhaps he had turned around.

Q: Turning around should not cause severe bleeding in the rear part of his brain. Furthermore, the alleged landing site shown by the Criminal Investigation Division is very flat.

A: (no answer given)

Q: If Yang had jumped by himself, he would have landed on his hands or legs, but there are no breaks or injuries in the bones in either his hands or legs. And there are many severe injuries all over his body, from front to back, left to right.

A: No one saw how he fell or landed. Perhaps he hit something during falling.

Q: If the head hit the ground first and resulted in Yang's death, then why were injuries found on the abdomen, and ribs broken? Why are there injuries in both the inside and outside of the legs, and even in the groin area? How were these injuries caused?

A: The forensic doctor should be consulted if such injuries can be caused by falling.

Q: Yang was happily married with a bright future and no intentions of suicide. Why would he jump?

A: He had drunk alcohol and perhaps he wasn't the same as usual.

Q: Even if he had been drinking, the first time he knew to go down the stairs to the building entrance, why didn't he know to do the same thing the second time?

A: We can't say that either.

Q: Since Yang was found on the ground at midnight having fallen, why did he only arrive at the hospital at 12:40?

A: The times were estimated.

Q: On what basis did you conclude that all the injuries on his body were caused by falling from the building?

A: Sixteen people have testified that they did not see him being beaten.

Q: Can the family have access to the relevant materials and the autopsy report?

A: No, it is an important secret (*jimi*). We have already done Yang's wife a favor by showing her the autopsy report.

Q: You should find the broken water pipe and the handcuffs. These are essential pieces of evidence.

A: They cannot be found, but they were seen by someone. This is as far as we can go.

Witness statements collected by the family of Yang Xiaohong

Witness I: Chen Zhuxiu, accompanying a relative being treated in the same hospital ward to which Yang was admitted

"Between 1:30 and 2:00am on November 10, 1994, the neuro-surgery ward admitted a patient in serious condition. When the patient arrived, we noticed he was bleeding heavily from the lower left side of his jaw. Several people with the patient said they were police from the Criminal Investigation Brigade. One of them looked familiar to me, so I asked him what had happened. He said that the injured man was a criminal who had jumped from the fifth floor of the Criminal Investigation Building. He said that the injured man had been handcuffed to a thick water pipe but had been able to break loose. The handcuffs had been lost when he jumped.

"I saw the injured patient's hands. They were clean and there was no mark or scar from the fall or the handcuffing on them. At the time, the patient was still alive and conscious. He kept saying that his name was Yang Xiaohong and that he lived on Zhaiji Road....

"When the doctors came to treat him, we asked the police officers why they did not know his name if he was a criminal. The officers replied that they hadn't had the time to ascertain his name. One of them mentioned that the case involved a taxi cab. There were two policemen standing outside the surgical ward. They came inside to check once in a while. One of them was a chubby guy who said to the others, 'You look carefully. If he dies, you will not be able to wash your hands of it.'

"The police were very hostile towards Yang. At one point, Yang was bending his legs and one of the policemen slapped him and ordered him to lie straight."

Witness II: Yang Bichun, an intern at the hospital

"A little after 2:00am on November 10, we received an injured patient who needed emergency treatment. So I went to look at the patient in bed number 4 and found that he had already been put on an intravenous drip. I then went to get the necessary surgical tools. On my way over, one of the people who had brought in the patient said that the patient had tried to rob a taxi and had later jumped from the fifth floor of the Criminal Investigation Building in order to commit suicide. The patient's shirt was open and his upper body was dry. There were blood stains on his shirt, but it was not wet with water. I remember his socks were dry because I put them on for him."

Witness III: Xie Haijian, a patient in the same hospital ward

"Around 2:00am on November 10, 1994, friends were visiting me and I had not gone to sleep. About five or six people and the doctor on duty moved a patient into bed number 4. The patient was saying something. I seemed to hear that his last name was Yang. He had obvious injuries on his jaw and was bleeding heavily. The doctor on duty gave him treatment. While the doctor was working, we heard from the people who came with the patient that the patient had jumped from the Criminal Investigation Building. When he fell on the ground his handcuffs bounced away, they said. They also said that he was drunk. We could not tell if the patient was drunk. But the people who brought him in seemed very mean and vicious. All the other patients in the room felt that they were unnecessarily unpleasant. They stripped off the patient's pants and tied up his naked arms with ropes. They ordered him not to move, and beat

him and punched him when he moved. They said that they were police officers from the Criminal Investigation Brigade and that the injured patient had refused to pay a taxi driver, and that he jumped when they had handcuffed him...

"The patient looked very sad. All the other patients were very sympathetic. The doctor opened the patient's mouth and said his teeth were all loose. The patient later wanted to use the toilet but the police officers would not help him.

"The police said that the handcuffs had been lost when he landed. I did not find this convincing. I saw the victim's hands. They looked smooth and without any handcuff marks."

Witness IV: Xia Xue, neuro-surgeon at the hospital

"On November 10, 1994, after 1:00am, the emergency room sent over a patient. The patient had multiple wounds. He was accompanied by several police officers. I inspected the patient and found... he had a head wound. He also had injuries from falling, one on the stomach and one on the chest. His blood pressure was low and he was nearly unconscious.

"The police said he was a criminal. They had handcuffed him to a six-centimeter thick water pipe but he broke loose and jumped off the building, causing the injuries. They also said that the handcuffs had been lost during his fall. I did not see any handcuffs on the patient when he was sent in."

