

This update covers recent reports on the commutation of the [death penalty](#) in a [drunk-driving](#) case, [corruption](#) in Chongqing, new [arrest procedures](#) in [corruption](#) cases, new trends in [juvenile crime](#), a model program which offers [legal services](#) to [prison inmates](#), and a new ruling on grassroots [traffic courts](#).

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## Death Penalty Commutation for Sun Weiming Continues to Stir Debate

The commutation of a death sentence handed down this summer for a fatal drunk-driving accident continues to stir controversy in China. On July 22, the Chengdu Intermediate People's Court convicted Mr. Sun Weiming, 30, of "a dangerous offense against public safety" and sentenced Sun to death for killing four people while under the influence of alcohol. Sun appealed the sentence and on September 7 a higher Sichuan Court commuted the initial sentence to life imprisonment.

The Sun Weiming case has been hotly debated in China for a variety of reasons, including the novelty of the application of the death sentence in such situations, concerns about the role financial compensation of victims plays in criminal justice, and the government's high profile national campaign against drunk driving.

Some media reports have characterized Sun as a symbol of an emerging class of China's young elites -- immodestly wealthy and wielding undue influence on the way government applies basic rules. When visited the day following the accident, Sun, a 30-year old company executive in Chengdu, was reportedly more concerned about the status of the victims' household registrations than the fate of their families. According to accident compensation

standards, compensation arrangements are lowest for those registered as "agricultural people." Sun's family offered to pay compensation to the victims and their families outright. On August 5, after agreeing to a 1 million yuan (\$147,058) compensation arrangement, the victims' families signed a "letter of forgiveness," which was forwarded to the Sichuan Court.

The Supreme People's Court approved the commutation of the sentence in the Sun case on September 8, stating that the final judgment was "in accordance with China's criminal law." But Chinese 'netizens' have harshly criticized the courts for adjusting the wealthy executive's sentence. Critics have even blasted the victims' families for providing a "letter of forgiveness" in exchange for financial benefit.

The Sun Weiming case and other reported instances of fatal accidents have ignited a broad debate over how China should deal with drunk-driving and its offenders. Typically, penalties for drunk-driving that do not cause injury are moderate: a license suspension for three months and a fine of 500 yuan (US\$73). Sun's initial death sentence, however, demonstrated the elasticity of the punishment scale, as well as an intensification of the concern about drunk-driving. Last month, *Xinhua* reported "an increase in traffic fatalities and accidents during recent months, raising public concern because of damage caused and their negative social impact."

<http://www.chinanews.com.cn/gn/news/2009/09-09/1856970.shtml>

<http://www.nanfangdaily.com.cn/nfjx/200909050016.asp>

[http://news.xinhuanet.com/english/2009-08/13/content\\_11876303.htm](http://news.xinhuanet.com/english/2009-08/13/content_11876303.htm)

## Widening Chongqing Corruption Scandal Exposes "Protective Umbrella"

A widely-publicized anti-corruption drive in the southwestern city of Chongqing has revealed widespread corruption within local government and law enforcement agencies. A veteran reporter with the *Chongqing Morning News* likened the crackdown to "an earthquake dealing a blow to corrupt elements in law enforcement bodies and other government agencies."

While local and national media have provided details about the campaign, the number of arrests reported has changed quickly in response to developments. According to a *People's Daily* article on August 19, Chongqing officials arrested 1,544 members of 14 gangs reportedly under a "protective umbrella" offered by high ranking officials and businessmen. According to the *China Daily* on September 2, six police chiefs of district-level bureaus have been detained, as well as more than 100 policemen. By September 18, local Chongqing news site CQnews.net reported that more than 2,000 suspected gangsters had been apprehended, including 24 leading figures. Xinhua reported on September 22 that Chongqing municipal procuratorates have arrested 604 criminals and that 263 suspects face prosecution.

According to the *China Daily*, those prosecuted are primarily gangsters involved in more than 50 crimes, including gambling, extortion, prostitution and drug distribution. The crackdown has also focused on government officials accused of protecting triad bosses and organized crime networks, including Wen Qiang, the director of the local municipal judicial bureau; Zhang Tao, deputy chief justice of the Chongqing higher people's court; and Wu Xiaoqing, former director of the court's enforcement bureau.

The *China Daily* further reports that Chongqing officials, earlier this summer, strengthened rules to ensure the campaign would be effective in curbing gang crimes: "Judicial bodies of the city ruled in July that any gang criminal should not be granted release on parole; any gang leader should not have his sentence cut short; and any attempt to shorten

a gangster's jail sentence should call for public hearings."

With the upcoming Fourth Session of the 17th Plenary Session of the CPC, the anti-graft campaigns appear timed to highlight China's advancements in fighting corruption. And yet the reach of Chongqing's scandal may have come as a surprise to the Party. As much as illustrating efforts to clean-up government, the widening Chongqing bust shows multiple levels of Chongqing judicial and law enforcement agencies engaging in bribery and conspiring with gang networks.

The *Procuratorial Daily* has reported on the success of this and other corruption campaigns across China. Police have investigated more than 8,923 gang crimes and arrested more than 43,779 people between 2006 and 2009.

[http://www.chinadaily.com.cn/china/2009-08/21/content\\_8596824.htm](http://www.chinadaily.com.cn/china/2009-08/21/content_8596824.htm)

[http://www.china.org.cn/government/local\\_governments/2009-09/12/content\\_18513119.htm](http://www.china.org.cn/government/local_governments/2009-09/12/content_18513119.htm)

[http://cq.cqnews.net/fzxw/200909/t20090918\\_3616442.htm](http://cq.cqnews.net/fzxw/200909/t20090918_3616442.htm)

[http://cq.cqnews.net/fzxw/200909/t20090918\\_3616437.htm](http://cq.cqnews.net/fzxw/200909/t20090918_3616437.htm)

[http://www.chinadaily.com.cn/cndy/2009-09/23/content\\_8723289.htm](http://www.chinadaily.com.cn/cndy/2009-09/23/content_8723289.htm)

[http://www.chinadaily.com.cn/cndy/2009-09/18/content\\_8706083.htm](http://www.chinadaily.com.cn/cndy/2009-09/18/content_8706083.htm)

<http://english.people.com.cn/90001/90776/90882/6732107.html>

## Arrest Procedures in Corruption Cases Reformed

According to the Supreme People's Procuratorate website, a regulation reforming the arrest approval procedure for cases of corruption became effective on September 1. Under the new procedure, only provincial level procuratorates will be able to issue

arrest warrants in corruption cases. Previously, arrests in such cases could be approved or decided by lower level procuratorates.

The new regulation, developed in response to instructions prescribed by the Central Political and Legal Commission, appears designed to strengthen the justice system's supervisory mechanism and diminish illegal or unwarranted interference in investigations by local leadership officials. According to the Xinhua report, in instances where the arrest warrants are not approved, the lower level procuratorate responsible for the case will face supervisory procedures (*jiandu chengxu*), as a result of the decision that the warrant should not have been sought.

The article does not address the consequences of the regulation and how the shift may influence provincial procuratorates' workload. The new supervisory procedures might require provincial procuratorates to hire additional personnel and make other adjustments to their systems of supervision.

<http://www.spp.gov.cn/site2006/2009-09-06/0005424571.html>

### **Changing Trend of Juvenile Crime: Rise of "After '90" Criminal Behavior**

Eleven days after the *Legal Daily* reported on a rape committed by three juveniles, the paper returned to juvenile delinquency and rising criminal trends associated with the "after '90" generation. The term "after '80" became a popular phrase to describe young Chinese born in the post-reform era. "After '90" has increasingly been used to describe Chinese youth born after January 1, 1990.

In the article, entitled "Bold and More Violent"—Increasing "After '90" Crime Reflects the Absence of Preventative Legal Measures," the *Legal Daily* offers accounts of gang violence and criminal behavior at the hands of young men in this age cohort. "After '90" crime, says the *Legal Daily*, exhibits new and distinct tendencies from earlier juvenile crime: the crimes are more violent; the crimes are more random; and the crimes often involve gangs.

The *Legal Daily* faults China's Criminal Law for not adequately protecting juveniles and society overall. Since the Criminal Law is not applicable to individuals under 14 years of age, the *Legal Daily* argues that the law does not intervene early enough and does not suitably address "dangerous social behaviors."

Starting in 2008, those born after January 1, 1990 reached 18 years of age--and now face full criminal responsibility for their crimes. The article suggests that, as this cohort has grown, "after '90" youth have been linked to a continual rise in criminal activity. Statistics provided by the Haidian People's Procuratorate show that in 2008 "after '90" criminals committed 198 of 3463 total crimes, representing 5.7 percent. Through the first six months of 2009, "after '90" criminals had committed 168 of 1848 recorded crimes, or 9.1 percent.

In addition to the failure of criminal law itself to curb the growth in juvenile delinquency, the *Legal Daily* suggests there is an "inextricable link" between "after '90" crime and the Internet. Despite 2002 regulations to limit underage access to internet cafes, the *Legal Daily* argues that these venues serve as the "starting point" for various criminal plots.

Pi Yi-jun, the director of the Juvenile Delinquency Research Center at China University of Political Science and Law, assessed recent trends in juvenile crime for the *Legal Daily*, and argues that it is important to separate crimes committed by migrant youth from those committed by city residents. Migrant youth crime is often associated with "obvious material gain, mostly property-type crimes," says Pi. City youth, however, often commit crimes as hoaxes and are not as concerned with the "results" of their criminal activities.

Pi argues that this juvenile delinquency reflects a greater "sickness" in adult society. Social changes, family disintegration, educational marginalization have all contributed to the underlying pressures behind juvenile crime. According to Pi, the concept of child protection has yet to become an issue at judicial levels, and he states that China has failed to

work out a substantive plan for an independent juvenile justice system. The article notes that juvenile justice experts in China have called for the formulation of a minor rehabilitation law or a law covering a code of conduct for minors, so as to reduce criminal tendencies at an earlier age. The article does not, however, mention specific proposals or a time-line for legislative changes.

[http://www.legaldaily.com.cn/0801/2009-08/31/content\\_1145769.htm](http://www.legaldaily.com.cn/0801/2009-08/31/content_1145769.htm)

### **Henan Prison Offers Free Legal Services to Inmates**

According to the *Legal Daily*, a legal assistance project at Yuxi Penitentiary in Henan Province has contributed to inmate rehabilitation and is set to become a model for other prisons in Henan.

Formally established in 2002, the first prison legal aid center in the province has provided inmates with a variety of legal services and resources. Inmate Zhang Jun (a pseudonym), who was sentenced to life imprisonment for robbery, sought legal assistance at Yuxi after his young son was seriously injured while illegally trespassing on a construction site. The construction company refused to bear any responsibility or pay the costs for his treatment, but Zhang received help from the center, which sent lawyers and police to investigate and collect evidence. Ultimately, the center was able to obtain over fifty-seven thousand yuan in disability allowance and related medical costs.

Yuxi Penitentiary's prison warden, Li Jian, has become a strong advocate for the program, stating that, "according to the needs of inmates, the reach of legal aid extends to every corner of the prison." While the project initially raised concern internally and at higher provincial levels, Li Jian convinced prison police officers and the Party Secretary of Henan Provincial Department of Justice by assuring them that the center would fall under legal restrictions, would assist in rehabilitation and would provide valuable legal aid research.

According to the article, the free legal assistance has added to inmate rehabilitation and contributed

to an improved prison environment. The article notes that inmates are happier, more disciplined and less subject to punishments. For the first half of this year, the rate used to measure inmates' compliance with disciplinary regulations (*zhangoujilv*) surpassed 99%. (The article does not, however, detail how prison officials measured these statistical improvements related to inmate welfare and satisfaction.) Yang Hongchao, a law professor at Henan Agriculture University states that the results are "greatly significant," as the services resolve inmate uncertainties, enhance the legal awareness of prison staff and lower rates of recidivism.

Following the Yuxi model, the Justice Department in Henan Province has decided to promote the legal aid center model throughout the province. Party Secretary Wang Wenhai reiterated the province's intention to create a "primary standard" for ensuring that the legal aid centers achieve the goal of providing educational, scientific and social-oriented services to inmates.

[http://www.moj.gov.cn/2008dfxx/2009-08/31/content\\_1145819.htm](http://www.moj.gov.cn/2008dfxx/2009-08/31/content_1145819.htm)

### **SPC Spokesman Affirms Positive Role of Grassroots Traffic Courts**

On September 4, SPC Spokesman Yuan Dingbo answered reporters' questions about the development of grassroots traffic circuit courts throughout China. Yuan declared that the role of traffic courts should be affirmed since the courts provide specific measures to deal with people's needs.

According to the *Legal Daily*, Yuan said that since the growing problem of traffic accidents raises new problems of compensation and responsibility, the traffic courts provide an environment that can deal with these specific legal issues. A uniform traffic court structure allows for fair and just enforcement, as well as the timely resolution of disputes.

The most serious challenge to adjudicating such cases, said Yuan, is the lack of relevant legal provisions. Although the cases are handled according to Chinese Civil Law, the Road Traffic Safety Law or

specific judicial interpretations, Yuan argued that the cases often reflect more complex forms of tort liability. Even the role of insurance companies in traffic accidents has yet to be suitably determined in many proceedings.

While Yuan endorsed the new local court initiatives, Yuan also noted the NPC's current efforts to draft a "Tort Liability Act," which will include provisions specifically related to tort liability in traffic accidents. Yuan stated, "We look forward to this law as soon as possible, so that the trial of such cases can have a more explicit legal basis."

*[http://www.legaldaily.com.cn/0801/2009-09/04/content\\_1148671.htm](http://www.legaldaily.com.cn/0801/2009-09/04/content_1148671.htm)*

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