The Limits of the Arbitrariness in Anticorruption by China’s Local Party Discipline Inspection Committees

Fenfei Li & Jinting Deng

To cite this article: Fenfei Li & Jinting Deng (2016) The Limits of the Arbitrariness in Anticorruption by China’s Local Party Discipline Inspection Committees, Journal of Contemporary China, 25:97, 75-90, DOI: 10.1080/10670564.2015.1060745

To link to this article: http://dx.doi.org/10.1080/10670564.2015.1060745

Published online: 14 Sep 2015.

Submit your article to this journal

Article views: 234

View related articles

View Crossmark data
The Limits of the Arbitrariness in Anticorruption by China’s Local Party Discipline Inspection Committees

Fenfei Li and Jinting Deng

ABSTRACT

Based on interviews in local commissions of China’s Party discipline inspection (CDIs), this article investigates the effectiveness, internal limits and selectiveness of CDIs in the anticorruption campaign. It uses a micro-level analysis to explore the role of law in affecting the CDIs’ anticorruption work and concludes that local CDIs remain heavily affected by the same-level local governments, but are effective in combating local corruption due to recent reforms that have strengthened higher-level CDIs’ control over lower-level CDIs. The current internal decision-making systems of the CDIs make their anticorruption work heavily dependent upon the central leadership. Their work is still not institutionalized and relies heavily on higher-level intervention. Nevertheless, law played a crucial role by providing the bottom lines to set the decision-making standards at different stages. Legal reforms should aim to further clarify and lift these baseline standards.

Introduction

The new leadership of China has taken many initiatives to combat corruption. Scholars have explored how corruption is produced and its causes in China; what the consequences of such corruption are; how effective anticorruption measures are in China; and how these anticorruption measures have affected the economic, political and social development of China. They have tried to explain the corruption in China from different angles and whether the Communist Party of China (hereinafter, the Party) could win the battle against corruption. Through micro-level research based on interviews in local commissions of Party discipline inspection (CDIs), this article extends the prior studies on effectiveness, internal limits and selectiveness of CDIs in the anticorruption campaign with a focus on local CDIs in combating local corruption, and analyzes the role of recent reforms in restricting the discretionary powers of anticorruption institutions. A micro-level analysis is applied to explore the role of law in CDIs’ anticorruption work.
The research concludes that local CDIs remain under the influence of the same-level governments, but are effective in combating local corruption in the short term due to recent reforms that have strengthened higher-level CDIs’ control over lower-level CDIs and current high anticorruption pressure. The current internal decision-making systems of the CDIs make their anticorruption work heavily dependent upon the central leadership. Thus the CDIs’ anticorruption work is still not institutionalized and relies heavily on political intervention. Recent reforms have had limited effects in mobilizing local CDIs to investigate local corruption. Nevertheless, legislation has still played a crucial role by providing the bottom lines to set the decision-making standards at different stages. Legal reforms should aim to further clarify and lift these baseline standards.

This article proceeds in three parts. The first part presents the findings collected during interviews with local senior CDI officers on the concrete work of CDIs in resolving corruption cases. The second part analyzes the effectiveness, internal limits and selectiveness in the steps of CDIs’ work that involve decision-making, and explains the role of law in these steps. The third part is a conclusion and provides suggestions for legal reform in China.

**Background**

The research interviews were mainly conducted in a city-level CDI in X province and two city-level CDIs in Y province. The interviewees were the CDI Leader in charge of cases (Case Leader), the Case Division Chief and Section Directors in charge of anticorruption cases, and frontline investigators who directly investigate cases (together, hereinafter, the Officials). Interviewees also included businessmen who had experienced or learned information regarding corruption and CDIs’ anticorruption work. These interviews helped understand how local CDIs handle corruption cases. Participants were interviewed after names and locations of the CDIs were canceled. The findings include two portions: the collection of information (hereinafter, this term means hints or tips revealing two may be a corruption case, 线索); and the resolution of information. The jurisdiction of the city-level CDI in X province (hereinafter, the X-city CDI) is equivalent to a small-sized city in China, with a population of approximately 300,000 people, where citizens are closely related to each other and local news spreads quickly.

**The findings**

**Sources of corruption information (线索来源)**

One major source is the general letter-and-visit center (hereinafter, the Center), independent of the CDI, serving the entire city. Any citizen can report corruption to the Center. Instead of reporting to letter-and-visit offices of different agencies (including the CDI’s own letter-and-visit office), citizens may report to the Center from which all reports are collected and distributed. Many corruption-related files will be transferred from the Center to the CDI. Information indicating legal violations or concerning low-level officials will be distributed to the procuratorate. Reporters can either report to the letter-and-visit office of the CDI, which is independent of the Center and belongs to the CDI, or report to the CDI via hotlines and the Internet. Following the Central CDI (CCDI) rules, this CDI also dispatches CDI teams to be stationed within essential agencies and organizations. The dispatched teams can report corruption to

---

5 The leadership of all CDIs nationwide includes one Secretary and several Vice Secretaries. Sometimes, the Secretary is in charge of cases. Sometimes, a certain Vice Secretary is in charge of cases. For security concerns, the Case Leader we interviewed requested that we conceal whether he was the Secretary or a Vice Secretary. Thus, we only use the term Case Leader to show that he is in charge of cases.

6 The studies were conducted intensively from mid-March to early May of 2014 and the data collected reflect the situations at that time. For security concerns, we have concealed the names of the interviewed CDI officials, the CDIs and their located provinces.

7 These interviews were conducted with the purpose of verifying the data we collected from the CDI officials. However, given the security concerns and the secrecy of this information, these interviews were done informally from mid-March to mid-June of 2014. We also concealed their names and locations.
CDI; so can the procuratorate in the same city. The provincial-level CDI in X province may provide information and instructions to the CDI in the city. Moreover, the Internet exposure of potential corruption, e.g. photos of an official with many luxury watches, is another source. CDI officers may start to make an investigation by themselves. However, based on our interviews, officers never initiated investigations because they could barely manage to resolve the numerous cases transferred from the Center.

Information sources are similar across China except that the CCDI further dispatches Central Circuit Inspection Teams (hereinafter, the Teams) to collect information on local corruption. China’s new leadership frequently sends the Teams to gather information regarding the behavior of local officials. Rather than investigating or resolving cases, the Teams just collect information and submit it to the central leadership and the CCDI.

Information regarding the possible corrupt activities of CPC members according to the Party Constitution and disciplinary rules or regarding the activities of public officers who are not CPC members according to the Administrative Supervision Law and administrative disciplinary rules would constitute a possible corruption file. Both CPC members and non-CPC members with governmental positions are under the supervision of the CDI, which merges with the executive supervision agency for corruption and official misconduct. Activities that are supervised by the CDI include illegal activities that potentially violate relevant laws, Party rules or administrative disciplinary rules. Corruption cases that possibly violate criminal laws would later be transferred to the procuratorate. Cases that involve officials of certain levels or positions are first investigated by the CDI and later transferred to the procuratorate. In addition, a CDI supervises only Party or non-Party public officials who are at lower political levels. Whistleblowers are required to report to a CDI at the level higher than the suspect’s highest level. If information regarding public officials at higher-than-city levels is misdirected to this CDI, it will be transferred level by level until it reaches a CDI that has jurisdiction over the case.

Resolution of corruption information and steps in the CDI’s anticorruption work

Several rules issued by the CCDI can govern the performance of corruption investigations and guide the work of CDIs in handling cases. These rules include the Rules on Case Work of CDIs (Work Rules) and Rules thereof for Implementation (Implementation Rules), both enacted in 1994. The general procedures for the resolution of information are established therein.

From our interviews, and consistent with the Work Rules, corruption files transferred from the Center are divided into five categories based upon the sufficiency and validity of proof in the file:

1. is sufficient to docket the case (立案) for formal investigation (调查);
2. is enough for preliminary investigation (初核) but insufficient for formal investigation (调查);
3. has some proof of a case but not enough and thus goes on the waiting list for preliminary investigation (暂存);
4. has no proof and clearly no case; and
5. is a very small case that is quickly settled or resolved.

The CCDI’s Work Rules do not include Category 3, but the Rules do not forbid this category. The three CDIs we studied all have Category 3 as a possible category for files.

In 2013, the X-city CDI received approximately 200 files from the Center, of which: seven were formally investigated (Category 1) and finally resulted in punishment; 20 were preliminarily investigated (Category 2); 70 were reserved for later consideration (Category 3); approximately 100 were deemed

---

8 Interview with the frontline X-city CDI investigators by the authors in March 2014 in X province.
9 The CCDI and the Ministry of Supervision have been merged together, with the same people under two names, since 1994. See Zhongguo gongchandang zuzhi shi ziliao [Materials on the CPC Organizational History], Vol. 7 (Beijing: Zhonggong dangshi chubanshe, 2000), p. 186.
to be irresponsible remarks with no proof (Category 4); and ten were very small and quickly resolved (Category 5). Thus, approximately one-third of all files were put into Category 3.

In the X-city CDI, to divide up the files, a meeting of the CDI Case Leader, Case Division Chief and letter-and-visit officers is held, during which they discuss the files and the Case Leader makes the final decision on the categorization of the files. The meetings are held fortnightly to divide files received in the previous two weeks. Other than the principled standard provided in the Work Rules regarding the division between Categories 1 and 2, there are neither concrete standards established in this CDI for the division nor reasons provided on the record for the division.

During the meeting, after the files are divided, Category 2 files are assigned to two CDI investigators, who make preliminary investigations, or to a lower-level CDI for further investigations. After preliminary investigations, investigators provide a report of collected proof, discovered facts and suggestions for resolution and submit it to the Case Leader for approval. The investigators, Case Division Chief and Case Leader must all sign the report for the record. They are responsible for the case during their lifetime.

According to the Work Rules, preliminary investigations aim to collect evidence and decide whether the case will be docketed and whether formal investigations should be conducted. The standard for docketing a case is regulated by Article 16 of the Work Rules: if, after preliminary investigations, there are facts related to violations of Party disciplinary rules and such violations will receive disciplinary punishment, the case will be docketed according to specified procedures, and formal investigations will be conducted. Thus, after preliminary investigations, some Category 2 files may become Category 1 files and follow the same procedures as other Category 1 files; other files may be closed if no facts reveal a violation or if the facts reveal a violation that is too light to warrant any punishment.

Files in Category 1 are further discussed in a meeting of a committee consisting of the CDI Secretary, three Vice Secretaries, and five Division Chiefs. According to the CDI officers’ comments, this committee is similar to the judicial committee in the court system in its function and composition. The CDI committee consists of CDI leadership and important senior officials, who decide on important issues collectively. For cases under the jurisdiction of the X-city CDI, whether a file will finally be docketed and receive a formal investigation is decided during the meeting, according to a majority vote. If not docketed, the file may be closed or receive further preliminary investigation. We have doubts about the majority vote because such decisions are normally passed unanimously by committee members at different political levels.

For Category 1 cases in which the suspects are at the same or higher political levels or the allegations suggest a very serious violation, the committee can only provide suggestions to the higher-level CDI, who decides whether the file will be docketed and receive formal investigation. This procedure follows Articles 17–21 of the Work Rules. For files that are selected to be docketed, formal investigations are conducted. After the formal investigations, cases may be resolved in three ways: (1) suspects receive only Party disciplinary punishment; (2) suspects’ activities warrant legal punishment, and the files are transferred to the procuratorates to commence a prosecution; or (3) investigations find no violating activities, or the activities are too insignificant to warrant any punishment.

Categorical division is essential because only files in Categories 1 and 2 will be further investigated, and the applicable investigative techniques are different in the formal (Category 1) and preliminary (Category 2) investigations. The applicable investigative techniques for preliminary investigations are limited, according to Work Rules and our interviews. Tracking and monitoring techniques cannot be used. Typically, investigators can only review relevant materials, documents and check bank accounts. Because corruption activities are very secretive and money cannot be found on the surface, CDI officers rely primarily on interviews with suspects and witnesses. Witnesses from the private sector can and will

---

1 Article 12, the Work Rules 1994.
2 Article 16, the Work Rules 1994.
3 Interview with the Case Leader, anonymous, of the X-city CDI by the authors in March 2014.
4 Articles 17–21, the Work Rules 1994.
5 Articles 34, 35, 37, the Work Rules 1994; Articles 36, 38, the Implementation Rules 1994.
6 Articles 13, 28, the Work Rules 1994.
most likely reject such interviews. But CPC members and non-CPC member public officers cannot reject such interviews. No laws govern such interviews. The informal, internal rule is that they will be undertaken during the daytime and cannot last overnight.\footnote{According to the comments made by the Chief Director of X-city CDI, interviewed in April 2014 by the authors in X province.} They are different from Shuanggui (an extralegal, Party disciplinary process that involves possibly illegal detention and interrogation),\footnote{See, for example, the following article on the history, scope, organization, recent reform and character of Shuanggui: Flora Sapio, ‘Shuanggui and extralegal detention in China,’ \textit{China Information} 22(1), (2008), pp. 7–37.} which can be used only after the file is docketed and the higher-level CDI approves the use of Shuanggui.\footnote{Interview with the CDI Case Division Chief and the frontline investigators, anonymous, by the authors in early April 2014 in X province.} Limitations on investigative techniques can greatly affect the attainability of evidence and the results of investigations.

Normally, the X-city CDI has only six investigators for preliminary investigations. Once formal investigations begin, the CDI frequently becomes short-staffed. Therefore, the CDI cooperates with the public security bureau to investigate private corruption activities, with the procuratorates to investigate public corrupt activities that potentially warrant legal punishment, and sometimes with the audit bureau officials to facilitate investigations, which is called a ‘joint investigation.’ During joint investigations, the CDI works as an organizer and coordinator, making an overall investigative plan, distributing responsibilities to involved agencies, facilitating communication among agencies, collecting proof and evidence, and making suggestions or deciding the parts of the case that concern breaches of Party discipline.\footnote{Articles 17–21, the Work Rules 1994.} The resolution of the parts that warrant legal punishment is decided by the procuratorate.\footnote{Thus, the CDI only decides part of the case; different agencies decide different parts of the case according to the respective power these agencies have.}

Shuanggui is used in many joint investigations. When a case is docketed, a request for Shuanggui may be submitted to the higher-level CDI, i.e. the provincial CDI, and upon its approval, Shuanggui could be carried out. In line with Professor Sapio’s research, we found that currently, local CDIs can use Shuanggui only with the approval of higher-level CDIs, which strengthens higher-level CDIs’ control over Shuanggui and limits lower CDIs’ abuse. Although Shuanggui measures now have a time limit of six months, the limit can be extended to one or two years under the approval of a superior CDI. The interviewed officials believe, as far as the case is concerned, Shuanggui could last forever, and officials being Shuangguied likely think the same. In current practice, Shuanggui has, or at least seems to have, no real time limit, according to our interviews.\footnote{Both the interviews with the Case Leader and the frontline investigators of the X-city CDI by the authors in March and April 2014 in X province.} As the interviewed officers mentioned, a lack of a time limit is the most important value of Shuanggui; this policy makes it more likely that confessions will be obtained.\footnote{Comments made by one frontline investigator. Interview with frontline investigators of the X-city CDI, anonymous, by the authors in early April 2014 in X province.} During Shuanggui, interrogation is neither video nor audio recorded, and suspects and investigators are not separated. Because only Party members and supervised public officers can be ‘Shuangguied’—whereas corruption cases frequently involve non-Party members or non-public-officer suspects, such as relatives of Party members and private-sector bribers—joint investigations must treat them together. During joint investigations, an area will be isolated for investigation, e.g. an area in which several hotels are located. One hotel houses suspects who receive Shuanggui under the CDI’s supervision, and other hotels house suspects who are detained without Shuanggui but are under the public security’s or the prosecutors’ supervision. Then, all relevant suspects can be jointly investigated. Moreover, if, before or during Shuanggui, the activities of the suspects appear to violate Party disciplines or break laws, then the prosecutors would join in the investigations to ensure that the confessions, depositions and relevant evidence obtained during this period are legally admissible for later prosecutions. Such joint investigations are effective in resolving corruption cases but are legally problematic because after joining in, prosecutors’ investigations are also under the protection of Shuanggui and
are not restricted by laws, particularly the time and interrogative limits and the rights of the suspects in the criminal procedure law.

**Relevant institutions and recent reforms in the CDI system**

There is no internal evaluation system like that in the procuratorates; i.e. a CDI or CDI investigator does not need to resolve a certain number of corruption cases to fulfill his duty and qualify for further promotion. The finances of this CDI are governed by local government under the leadership of the local Party Standing Committee (hereinafter, PSC), of which the CDI Secretary is a member. However, CDI Vice Secretaries are not members. Because local PSC members are nominated by the next higher PSC without superfluous candidates, it is the superior PSC that selects the CDI Secretary. However, the Vice Secretaries who are not PSC members are ultimately decided by the local PSC Secretary. Thus, the fund and Vice Secretaries of the local CDI are heavily controlled by the local government, as Professor Fu Hualing likewise concluded in his study.26

However, recent reforms may bring about changes. First, according to the Resolution of the Third Plenary Session of the 18th CPC Central Committee, not only the CDI Secretary but also CDI Vice Secretaries will be nominated by the higher-level CDI. Thus, higher-level CDIs further control the leadership of lower-level CDIs.27 However, this reform has not been carried out; thus, in interviewing three CDIs, we discovered Vice Secretaries continue to be nominated by the local Party Secretary.28 Although the CCDI recently nominated several Secretaries of provincial CDIs, the way for higher-level CDIs to select lower-level CDIs’ Secretaries and Vice Secretaries is still not institutionalized.29 Second, corruption cases are now led by higher-level CDIs. Information must be submitted, and the investigative plans and resolution of information are subject to the approval of higher-level CDIs.30 Corruption that involves county-level leadership, which used to be handled by the X-city CDI, is currently led and may be directly investigated by the provincial CDI. Third, the CCDI has recently established a new specialized department to receive or collect information regarding the activities of CDI officers that may violate Party or administrative disciplinary rules or laws.32 It is called the internal supervision department for CDI officials, which is responsible for supervising the activities of CDI officers, particularly local CDIs, working as a CDI for CDI officers. Recently, several high-level CDI officers were investigated through this channel, including Lixin Cao, Jian Wei, Weichen Shen and Daoming Jin.33 Fourth, the CDIs’ work has been refocused on corruption case investigations rather than continuing the previous focus to be the general assistants of the Party committees and to build the integrity of Party style (党风廉政建设).34

**Analysis**

The CCDI issued Work Rules on Cases of CDIs in 1994 to uniformly guide all CDIs’ casework regarding Party members.35 Later, the CCDI issued several rules interpreting the meanings of certain articles in the Work

---

25 Articles 24, 25, 27, 29, the CPC Constitution, amended on 14 November 2012.
26 Fu, *The Upward and Downward Spirals in China’s Anti-Corruption Enforcement*, pp. 13, 14.
28 According to our interviews, the Vice Secretaries of these local CDIs are still nominated by the leadership of this local corresponding government. It is unclear who gets to nominate Vice Secretaries for the next term.
29 For example, the new Secretary of the Shanxi provincial CDI is nominated by the CCDI. The Standing Committee Member of the CCDI will become the head of the Shanxi’s CDI; People’s Daily, (30 September 2014), available at: http://news.youth.cn/sz/201409/t20140930_5794318.htm (accessed 11 May 2015).
30 The interview with the Case Leader, anonymous, of the X-city CDI by the authors in March 2014.
31 According to the interview with the chief director in charge of case investigations.
32 See the structure at the CCDI’s website, available at: http://www.ccdi.gov.cn/xsgk/zjjg/201403/t20140314_20114.html
34 The Resolution of the Third Plenary Session of the 18th CPC Central Committee; The Xinhua Net, at Paragraph 4, Article 36, Part 10.
35 The Rules on Case Work of CDIs, issued by the central CDI on 25 March 1994.
Rules. The main one is the Rules for Implementation, also from 1994. The Administrative Supervision Law and relevant implementing rules also govern the CDIs' work regarding non-Party public officials. Regarding the scope of supervised activity, CDIs rely on corruption laws and relevant regulations and Party disciplinary rules. Together, these rules constitute a legal basis for CDIs' anticorruption work. Based on these rules and the collected findings, we want to analyze how effective and arbitrary the CDI is in anticorruption and what role the law plays in the selective decision-making of cases at different stages.

**Stage 1. Information resource** (线索来源)

Because most CDI files come from letter-and-visit centers, and those concerning the supervised activities of supervised officials are automatically transferred to the CDI, there is no decision-making at this stage.

**Stage 2. Information division** (线索分类)

Once transferred to the CDI, files are divided into the above-mentioned five categories. Decision-making herein is vulnerable to arbitrariness. Although four people attend the meeting, the other three CDI officials are at lower levels than—and are appointed and promoted by—the CDI Case Leader. The CDI Case Leader is not restricted by concrete established standards in any rule or internal regulation and does not need to provide any reason for divisions on record. His decision-making on categorizing files is non-transparent to outsiders. This internal decision-making system, in which the superior instructs the subordinate's work with no reasons kept on record and in which such instructions provide the primary basis, or legitimacy, for the subordinate's decisions, is analogous to the decision-making system argued by Professor Ling Li to be the reason for the production of corruption in China's court system. In fact, here, it is more arbitrary than in the courts where a subordinate is promoted considering a certain internal evaluation system, whereas in the CDIs, promotion is purely subject to the superior's wishes. The control of a superior over a subordinate is tighter in the CDIs than in the courts.

Although the interviewed Case Leader said that files are categorized primarily based on the quality of the provided proof and the possibility of investigation, we doubt this statement because categorization decisions are made secretly and cannot be challenged. Moreover, he admitted that the quality of cases does not matter in some situations. He did not explain further what those situations are, what percentage they occupy and the alternative factors considered therein. Worse, the CDI has added Category 3, which allows some cases with proof to be lawfully suspended from investigations. People who initially reported the alleged corruption are not notified because these Category 3 cases are not actually rejected. Thus, the Case Leader faces little limitation when dividing up the files, particularly when putting files into Category 3. However, although such division is essential because it potentially prevents cases from being further investigated, it is at an early stage, when the possible breadth and depth of the investigation remain unclear; therefore, suspects may not yet have noticed the case and have had no time to rally their networking to pervert investigations. Thus, the external influence on decision-making is not severe at this stage. However, when local corrupt officials realize that anticorruption falls outside local control at later stages, they may try to get information in the beginning and exert influence earlier. Thus, the external influence at this stage may increase in the future.

In addition, recent reform on having a higher CDI head the casework may limit arbitrariness at this stage. All information received is submitted to higher CDIs. The CCID has established a uniform national reporting website to receive and distribute nationwide claims. All CDIs have hotlines and letter-and-visit centers for whistleblowers. These measures facilitate reporting and improve the efficiency

---

36 The Implementation Rules for the Rules on Case Work of CDIs, issued by the central CDI on 25 March 1994.
37 For detailed and comprehensive rules regarding the case work of CDIs, please refer to Practice Handbook of Laws and Rules Commonly Used by CDIs and Supervision Agencies in their Work [Jijian Jiancha Gongzuo Changyong Fagui Shiyong Quanshu] (Beijing: Law Press–China [Falv chubanshe], 1 June 2013).
38 Li, ‘The production of corruption in China’s courts,’ pp. 871–873. From the comments we received in the interviews of the three CDIs, most of the cases investigated by the officials are because the superiors require the investigations of them.
of transferring and sharing information. Whistleblowers whose interests are infringed, strive to report corruption and to draw the attention of the highest leadership. Thus, regardless of the means of dividing files, information is prevented from being hidden within the CDI. However, the degree of transparency to superior CDIs depends upon how much the theoretical reporting system is realized in that area. The X-city CDI transfers almost all the received information to the superior CDI, but the two city CDIs in Y province transfer only part of the information. In developed areas, the information reaches higher-level CDIs more transparently and quickly due to convenient ways of reporting. Moreover, whether the higher-level CDIs have sufficient time and staff to actually review the information also matters. Under the current strong anticorruption campaigns, local CDIs are unlikely to hide information. They will exercise their decision-making powers reasonably for file division. The limited transparency defeats much of the individual arbitrary or exploitative decision-making. Such internal institutions of accountability help the public indirectly supervise local CDIs’ work through the CCDI.

Although there is no established standard for categorical division, in many cases the standard is politically clear. According to our interviews, the information can be divided into four types: (a) serious allegations + proof; (b) serious allegations + no proof; (c) light allegations + proof; (d) light/no allegation + no proof. Normally, types (a), (b) and (c) are preliminarily investigated, and type (d) is dismissed or put into Category 3, i.e. a suspended investigation. Thus, once information is transparent within the internal CDI system, discretionary room remains only for deciding whether allegations with no proof are serious enough to be type (b) rather than type (d).

If the allegations are clearly serious, then such information would normally receive preliminary investigations. However, the current law on corruption fails to provide clear standards in many situations. Currently, China has no uniform anticorruption law; relevant rules are included primarily in criminal law and Party disciplinary rules. China's Criminal Law (1997), which was last amended in 2011 and is currently undergoing discussions on a new amendment, has criminalized several corrupt activities, including bribery and graft. Several criminal judicial interpretations and procuratorate rules have supplemented these rules.

Articles 385, 388, 387, 392 and 395 criminalize bribe-accepting activities, directly or indirectly or procured, by public officials and employees and their close relatives and close friends along with former officials and employees and their close relatives, close friends and work units. The core crime is bribery committed by public officials, defined in Article 385 as follows: whoever, being a public official, takes advantage of his/her official position, seeks or demands or illegally accepts any property from others, and seeks profits for such others, shall be convicted of the bribe-accepting crime and punished according to Article 383. Other articles have extended the core bribery crime to cover close friends, former officials and procurers. Article 163 similarly criminalizes the commercial bribery committed by employees of non-state-owned companies, corporations and other units.

Correspondingly, Articles 389, 391 and 393 criminalize the bribe-giving activities committed or procured by public officials and employees and their close relatives and close friends along with former officials and employees and their close relatives, close friends and work units. The core definition is that whoever gives property to any public official with the intent to seek illegitimate profits shall be convicted of the bribe-giving crime and punished according to Article 390. However, China’s bribe-giving crimes do not cover those who give bribes to close relatives or friends, former officials or employees, and the profits sought must be illegitimate for the conviction of bribe-giving crimes, excluding legitimate profits. Thus, China’s bribery criminal law is asymmetric, leaning towards the bribe-accepting part. However, the draft of the ninth amendment of China’s Criminal Law (1997) has considered the extension of bribe-giving crimes to cover the bribe given to close relatives and friends of the public officers.

39 Articles 385, 388, 387, 392 and 395, China’s Criminal Law.
40 Articles 385, 386, China’s Criminal Law.
41 Article 163, amended in sixth amendment, 29 June 2006.
42 Articles 389, 391 and 393, China’s Criminal Law.
43 Articles 389, 390, China’s Criminal Law.
Articles 382, 384 and 396 also criminalize several types of graft activities committed by public officials, defined as follows: whoever, being a public official, or its agent, takes its positional advantage to, or conspires to, misappropriate or embezzle public funds shall be punished according to Article 383.45 Article 164 of the Criminal Law (1997) prohibits overseas corruption, defined as follows: whoever gives property to overseas public officials or international organization officers to seek illegitimate commercial profits shall be convicted of the overseas bribe-giving crime and may be imprisoned or fined.

China's anticorruption criminal law is incomplete and principled in some respects. First, China does not criminalize accepting or giving illegal gratuity. China has no such concept as 'illegal gratuity', and specific intent remains necessary to convict bribery crimes in many parts of China. However, the specific intent requirement has been loosened by some courts to cover situations in which a public official accepts illegal rewards after legally completing his official act. In this situation, the official act may not have been influenced, but the court nonetheless finds specific intent from his knowing acceptance of the illegal rewards afterward.46

Second, as defined in Article 383 above, China currently recognizes only 'property from others' as bribes, clearly excluding benefits comparable to property rights, e.g. opportunities for job promotion, educational opportunities and sexual services.47 It remains unclear whether 'property from others' covers common gifts such as wines and cigarettes or the right to use cars and houses. However, several judiciaries have made some breakthroughs to recognize travel opportunities, debt exemption and free services through propertization as bribes.48 Nonetheless, definitions of corruption offences remain narrow in China.

Third, China requires that the bribed actually have received the bribe and sought profits for bribers. A restrictive textual interpretation of this requirement would exclude the activities that the bribed had promised but not actually sought profits for the bribers, particularly in a situation in which the bribed accepts bribes knowing that the bribers have specific requests. Although a later judicial interpretation in 2003 clarified that bribery activity has three stages, e.g. the promising, carrying out and the realizing stages, and that satisfying any stage would equate to committing bribery, it remains in dispute which interpretation will be binding.49

Fourth, a benefit of over 5,000 RMB would be sufficient for corruption to constitute a corruption criminal offence, e.g. embezzlement or bribery, and a conviction for receiving a benefit of over 100,000 RMB could result in over ten years' imprisonment, lifelong imprisonment or the death penalty.50 These two standards can be easily reached, but for allegations of corrupt dealings worth over 100,000 RMB, there is no further standard to distinguish the degree of seriousness.51 The current standards do not provide practical standards to decide the seriousness of allegations, which are subject to local CDI leaders’ arbitrariness. For the X-city CDI, according to our interviews, allegations or records of dealings over 20,000 or 30,000 RMB would normally count as serious, but dealings less than 20,000 RMB would be deemed ‘light’. If there is no proof, such cases may be dismissed. However, in the first draft of the ninth amendment of China's Criminal Law (1997), such numbered standards are substituted by 'relatively large amount', 'huge amount' and 'extremely huge amount', making them more reasonable and practical.52 However, it will require time for the ninth amendment to become law, and further interpretations of the meanings of these words remain necessary.

45 Articles 382, 384 and 396, China's Criminal Law.
48 Zhao, Practice Guidelines for Punishing Graft and Bribery Crimes, p. 221.
50 Articles 383 and 386, China's Criminal Law.
51 Zhao, ‘On the improvement of criminal rule of law on China’s anticorruption’, pp. 54–55.
52 Article 39, the draft of the ninth amendment of China's Criminal Law.
Fifth, China’s criminal law has no independent offence for conflict of interest. The holding of positions and acts of conflicting interest alone do not trigger criminal liability unless these behaviors satisfy other crimes. China’s rules to prevent conflicts of interest remain in preliminary stages. The Law on Judicature, the Law on Prosecutors, the Law on Public Officials, the Law on Audit, the Law on Securities, the Law on Administrative Supervision, laws on procedures and the Regulations on the Punishment of Administrative Officers have scattered articles on withdrawals to prevent conflict of interest. However, none of them have established institutions to investigate violations and enforce these rules. Due to China’s weak administrative litigation laws, the weak implementation of government information disclosure and deficient disclosure laws on conflict of interest, the general public has no resources or capacity to push the investigations of such violations.

As such, allegations or facts related to these activities can hardly be deemed to constitute a case. Before the criminal offence of taking bribes in return for making use of influence was established in the seventh amendment of China’s Criminal Law (1997), there were disputes regarding whether the acceptance of benefits in return for influencing the official conduct by relatives of officials should be counted as bribery, and information about such relatives could be simply dismissed rather than investigated or prosecuted. After the amendments on Criminal Law clarified that receiving a bribe by a relative remained a serious breach and counted as bribery, it was easy for such activities to receive CDI investigations. Therefore, we suggest that the law on corruption could be reformed to clearly confirm certain activities to be corruption activity, thereby decreasing the power to arbitrarily dismiss such cases.

Under the current procedures, file division remains controlled by the Party and secret to outsiders. Although social media helps quickly spread certain information, anticorruption cases exposed on the Internet comprise only a small portion of all corruption cases, and in many cases, information must be kept confidential to ensure the success of further investigations. The file-division standard is not fixed in any published rules and can thus easily be changed. Moreover, file division can still be biased when the information contradicts Party concerns. The interviewed CDI Case Leader admitted that normally, when the information concerns a large number of officials and large or sensitive interests, and the investigation would affect the Party leadership and the stability of the area, the information may be dismissed or suspended to protect the Party concerns. This balancing is not legally founded and is secret to the public; thus, it is potentially arbitrary. However, these balancing acts can hardly be a cover for local CDIs’ individual interests because of the transparency within the Party and the clear policy statements regarding what constitutes the current essential Party concerns.

Stage 3. Preliminary investigations (初核)

After the categorical division, Category 2 files are preliminarily investigated by two CDI officials who report investigative results and suggest possible resolutions based upon collected evidence. Here, the potential for improper selection arises again because the CDI officials can passively ‘investigate’ the cases that the officials or the CDIs superiors want to dismiss. Such passive investigations are hard to track because limited investigative techniques for preliminary investigations are allowed, and the evidence consists primarily of confessions or testimonies from interviews. The effectiveness of interviews relies heavily on the questioning techniques, preparation and efforts of the interviewing officials and can thus easily be manipulated by investigators. To be even more subtle in dismissing a case, the CDI leader could assign it to two CDI officials who lack investigative abilities. Moreover, because corruption investigations require high confidentiality, the skillful leakage of relevant secret information would further destroy investigations and legitimize the dismissal of a possibly good case. Particularly in X city,
leaked information can easily find its way to those under investigation. Because promotion within CDI is decided by the CDI leader without considering investigative abilities, CDI officials are well controlled by their leader. Therefore, the discretionary power of preliminary investigations is significant.

Balancing (to a small extent) against the misuse of discretion is the institution of holding investigators responsible over their lifetime for wrongfully dismissing or resolving cases. Once a possibly good case is denied further investigation due to passive preliminary investigations, reporters may report the case to higher-level CDIs. With the reported proof, higher-level CDIs may investigate the case, provide opposite results and hold previous CDI officials accountable for passive investigations. However, because such passive investigations are so difficult to track and prove, the lifetime responsibility helps little in restricting the misuse of decision-making power during preliminary investigations, which is consistent with our interviews. No CDI officer nationally has been held responsible or punished for any wrongful dismissal of a case. We doubt that this lifetime responsibility could work as a balance because the assigned investigators have no decision power on case resolution anyway. They can only suggest resolutions, which must be reviewed and approved level-by-level until the CDI Case Leader. Thus, it would be unreasonable to hold those investigators responsible for something over which they have no control. In addition, the CDI Case Leader would not be held responsible for the subordinate’s passive investigations unless corruption or anti-Party-disciplinary activities were discovered. Thus, investigators could arbitrarily treat similar cases differently, which could heavily affect the results.

However, the control of local CDI leadership over investigators could decrease their individual arbitrariness. At least two investigators should be on the scene for such interviews, which decreases the arbitrariness of a single investigator. However, it helps little in decreasing the CDI leader’s arbitrariness because the two investigators are promoted by the leader. The preliminary investigations at this stage are secret even to higher-level CDIs because interviewing the suspects is neither audio nor video recorded. Although the new reforms require the submission of investigative results to the higher-level CDI, these results are prepared by the investigators with little supervision over their investigations. Moreover, the appointment power of the mid-level leadership of the local CDI remains heavily controlled by the local PSC Secretary. Thus, the local PSC Secretary’s instructions prevail over the higher-level CDIs because investigators are afraid of not being promoted if they disregard his instructions, and the closer relationship with the local leader makes it harder to cheat him. The higher-level CDI can itself make investigations and break the local control of the case. However, this method is subject to the time and staff limits of the higher-level CDIs.

Here, no law governs the investigations. The only rule is the Opinion on the Interview with the Suspects of Cases by the CDIs and the Supervision Agencies issued by the CCDI in 2006. The only requirement is that more than two investigators attend the interview. Thus, the law can be reformed to make the investigative procedures more transparent and controllable, such as requiring one investigator from the higher-level CDI to attend the interview, or having the interview video or audio recorded in a specially equipped room. A major concern against recording the interview is that the openness of the interview would reveal important information about the corruption cases, whose investigations require high-level secrecy, particularly in a small and localized community. Furthermore, such openness may reveal certain illegal activities of the investigators during the interviews, possibly including coercive inquiry techniques, the abuse of such interviews and the surpassing of time limits, which are deemed essential for the success of such interviews. Although there are no records to show the existence of

56 Article 3, the Opinion on the Interview with the Suspects of Cases by the CDIs and the Supervision Agencies, issued by the CCDI in 2006, Practice Handbook of Laws and Rules Commonly Used by CDIs and Supervision Agencies in their Work, p. 1009.
57 The Opinion on the Interview with the Suspects of Cases by the CDIs and the Supervision Agencies, Practice Handbook of Laws and Rules Commonly Used by CDIs and Supervision Agencies in their Work, pp. 1009–1010.
58 Ibid.
59 Such concerns have been continuously expressed by the interviewed CDI officials, regarding the deficient investigative capacities and limited information by outsiders in contrast with the entrenched nature of China’s current corruption and the strong network of these investigated officials. Series of interviews with the Case Leader, the Section Directors and the frontline investigators of the X-city CDI and the two Y province CDIs by the authors from mid-March to early May 2014 in X province and Y province.
such illegal activities, and the CDI officers we interviewed denied that they had ever committed illegal activities,\textsuperscript{60} they disclosed their attitudes towards such behaviors.\textsuperscript{61} One frontline CDI officer said that the Party organization is like the parents of the Party members and that it is thus understandable and normal for your parents to scold or beat you.\textsuperscript{62} Other CDI officials agreed with these comments.\textsuperscript{63} One Section Director further explained that because Party members have enjoyed special rights and advantages for having Party membership,\textsuperscript{64} they bear and have actually agreed to bear, by taking an admission oath to the Party, these special obligations, including receiving the interviews and even Shuanggui, conducted by the Party organizations.\textsuperscript{65} Many arguments could be made against such concerns of the CDIs, including the high possibility of wrongful confessions obtained through coercive inquires and the abuse of such power to infringe basic human rights. Given China's entrenched and systematic corruption and the investigated officials' strong network, thorough research is needed to figure out whether and to what extent the power has been abused and whether the potentially corrupt officials have received inhumane treatment in the CDI interviews. However, even if secrecy and illegal investigative techniques are necessary, such video or audio could be made available only to higher-level CDIs, strengthening the higher-level control over the performance during the investigation without revealing the interviews to the public. Moreover, an accountability system and an internal evaluation system connecting investigative behavior to promotion could also be established to decrease the superior control of the investigators and increase their independence and responsibility. However, these reforms have not, so far, been put in the recent reform agenda.\textsuperscript{66}

\textbf{Stage 4. The docket of cases (立案)}

Stage 4. The docket of cases (立案)

Once a case is suggested for docketing, a meeting of the CDI committee is held to decide whether to dismiss, close or docket the case. There is also room for arbitrariness.

Article 383 of China's Criminal Law (1997, amended in 2011) rules that normally, the baseline for corruption crimes is 5,000 RMB, and a local government may establish higher baselines based upon local economic situations, subject to the SPC's approval.\textsuperscript{67} With SPC’s approval, this CDI has a higher baseline of 10,000 RMB; i.e. corruption cases with evidence of more than 10,000 RMB being involved are docketed and formally investigated or transferred to the procuratorates, and the suspect receives legal punishment accordingly.

However, the Case Leader admitted that several cases sufficient to be docketed and formally investigated were dismissed for other reasons, e.g. the suspect was an important figure in the functioning of his agency, the activities were not understood as serious, the possible legal punishment of the suspect had the potential to destabilize the local society, and the suspect provided important information or testimony for other cases under the condition that his own case not be transferred.\textsuperscript{68} He further commented that investigated cases were normally those regarding which the general public had strong complaints or pressing concerns, or that the corrupt officials behaved rampantly and arrogantly.\textsuperscript{69}

No concrete standards or rules for such dismissals are established, no reasons are needed for the record, such decisions are neither available to the general public nor challengeable by the whistle-blower, and the decisions are made under the name of the entire committee other than the Case Leader.\textsuperscript{66}

\textsuperscript{60} Ibid.
\textsuperscript{61} Dinner with all interviewed CDI officials of the X-city CDI in April 2014 by the authors in X province.
\textsuperscript{62} Ibid.
\textsuperscript{63} Dinner with all interviewed CDI officials of the X-city CDI in April 2014 by the authors in X Province.
\textsuperscript{64} Many public positions only recruit Party members, excluding non-Party members.
\textsuperscript{65} Ibid., at p. 63.
\textsuperscript{67} Article 383, China's Criminal Law.
\textsuperscript{68} Interview with the Case Leader, anonymous, of the X-city CDI by the authors in March 2014.
\textsuperscript{69} Ibid.
Leader, which likely creates a ‘responsibility hole’ similar to that created by the judicial committee of the court, as analyzed by Professor Xin He.\(^\text{70}\) Current reforms having the superior CDI review the case resolution and strengthening the superior CDI’s control over the lower CDI make the resolution of cases transparent to the superior CDIs but still have problems. Similarly as in the information division stage, cases may be dismissed to protect party interests, and incomplete laws leave room for wrongful dismissals. Additionally, such reforms still cannot rectify the problems of confidential, passive preliminary investigations that cause an insubstantial response to a corruption claim. This is also consistent with a careless comment by the CDI Case Leader about having the power to ‘help’, which jumped out at us: when we first go out to investigate cases, we could easily control them. But the suspects do not worry. After we actually discover something, the suspects realize the seriousness and find supporters to influence the resolution, which is useless because then we can do little to help.\(^\text{71}\)

**Stage 5. Joint investigations (联合调查)**

Once a case is docketed, joint investigations are frequently used due to the limited resources of the CDIs. In joint investigations, Shuanggui must be approved by higher-level CDIs and operates as a platform for other parties to perform their respective investigations. Unlike during preliminary investigations, the X-city CDI has no final say on the resolution when investigations are jointly performed by multiple agencies. The collected information and the interrogative results are shared, breaking the secrecy of the earlier stages within the CDI. However, the breadth and depth of interrogations and confessions are controlled and kept secret from the public.

Here, room for arbitrariness also exists. For example, we found that corrupt officials were normally punished only for accepting bribes. De Ma, a former city-level Party Secretary, was punished for corruption crimes and sentenced to the death penalty with two years’ reprieve. Only his acceptance of bribes was investigated and punished. It was not until Guizhi Han, De Ma’s superior, was punished for accepting De Ma’s bribes that De Ma’s giving of bribes was disclosed and confirmed.\(^\text{72}\) Obviously, in De Ma’s case, the information regarding Guizhi Han’s potential corruption was intentionally omitted. The interviewed CDI officials admitted to the selective use of information obtained from investigations. They provide several factors on the selection of information.

1. Sometimes, the suspects give selective confessions. An admission of giving bribes would further aggravate a suspect’s case and drag down other officials, particularly higher-level officials, which would destroy the outside network that could possibly help the suspect both inside and outside prison. Therefore, the suspect will avoid confessing to giving bribes.

2. When the case involves almost all officials of an agency or even a geographic area, the breadth of the case may be controlled by investigators, and only certain high-level officials will be punished—considering the stability of local society, the ordinary function of that agency and the preservation of confidence in the local government. For example, in the Yinguo Luo case, Xinguo Luo disclosed the illegal activities of over 100 local officials, but only a few of them were further investigated and punished.\(^\text{73}\) Frequently, in corruption judgments where several officials are involved, the investigations of officials other than the convicted ones are marked as ‘resolved in other cases’. However, no judgments related to them could be found.

3. Sometimes, plea bargains between the prosecutors and the suspects can result in selective omissions. During corruption investigations, it is difficult to obtain sufficient evidence because many corrupt transactions are made in cash. Conviction relies heavily upon

\(^{70}\) He, ‘Black hole of responsibility’, p. 681.

\(^{71}\) Interview with the Case Leader, anonymous, of the X-city CDI by the authors in March 2014.

\(^{72}\) For detailed discussions regarding the two cases, please see Fenfei Li, ‘Why do corrupt officials only accept and never give bribes? ’ [Tan guan wei he zhi shou bu song], Fangyuan Magazine [Fangyuan lvzheng] 4, (2013).

confessions of the bribed and the briber. Thus, prosecutors frequently offer to give up prosecutions of certain activities in exchange for confessions of other activities to secure the conviction of those other activities. The security of conviction is important for local prosecutors’ internal evaluations and promotions.

However, these factors are not guided or established by any regulations or internal documents. The investigations are well controlled and isolated from the public. The inclusion or exclusion of information cannot be reviewed or challenged. The selective omission remains arbitrary and unsystematic.

In addition, no law or published rules govern the performance of joint investigations or Shuanggui. However, consistent with Professor Sapio’s study, we were told that there are internal informal rules, but they basically only recognize the different roles of each agency and roughly outline the process. They are insufficient to prevent the abuse of power during Shuanggui. Several cases are exposed by social media in which the interrogated officials died abnormally during Shuanggui. Laws should be reformed to regulate this process, but high pressure exists to prevent legal regulation.

By contrast, the law can affect the activities of the prosecutors and, through them, affect some aspects of Shuanggui investigations. Having prosecutors in a Shuanggui investigation can secure the admissibility of evidence attained during Shuanggui, particularly testimonies and confessions. On one hand, laws that set time limits and other requirements for interrogations conducted by prosecutors are circumvented during Shuanggui investigations. On the other hand, prosecutors know evidence illegally obtained cannot be used in court, so they will try to prevent illegal and useless activities of investigators from other agencies during Shuanggui. Following the Rules on Exclusion of Illegal Evidence in Criminal Cases (2010), it is clear that evidence obtained through torture is inadmissible, and once the defendant raises such a defense, it is the burden on the prosecutors to prove the non-existence of torture and the legality of such evidence. During a joint Shuanggui investigation, the prosecutors apply their knowledge of law on what activities are admissible to guide interrogations so that the confessions and testimonies obtained therein are legal. The easier it is to realize the defense of evidence obtained by torture and the more trouble it causes in court, the stronger the role the prosecutors could play during Shuanggui in leading the investigations away from illegal interrogation measures. Among difficulties in running this defense, the major ones are the law’s vagueness about what types of activities constitute torture and violence and the standard of proof sufficient to find the legality of such evidence. Thus, the law should be clarified.

Moreover, prosecutors can decide whether and how to prosecute suspects and to make effective plea bargains in exchange for confessions and testimonies. The law should be reformed to regulate the exercising of this power to decrease the arbitrariness of prosecutors’ decisions during investigations. For example, China’s anticorruption law is asymmetric and focuses on the bribed. When a briber’s conduct could constitute a crime, the prosecutors often dismiss the prosecution of the briber to obtain his testimonies to secure the conviction of the bribed officials. However, the non-prosecution or weak punishment of bribers’ activities obviously affects the efficiency of anticorruption. If the law can be reformed to emphasize the prosecution and punishment of bribers, the prosecutors would be less arbitrary when dismissing the bribers’ cases.

**Conclusion**

As shown by our study, under recent high-pressure anticorruption plans, mid-level CDIs have obviously played an important role in combating corruption of low-level public officers. However, because both

---

76 Articles 1, 7, the Rules on Exclusion of Illegal Evidence in Criminal Cases, issued by the Supreme Court, the Supreme Procuratorate, the Public Security, the National Security and the Judicial Ministry jointly on 30 May 2010.
78 Zhao, ‘On the improvement of criminal rule of law on China’s anticorruption’, p. 53.
the finances and the personnel of CDIs continue to be controlled by the same-level Party leaders, current effective anticorruption is due to the high anticorruption pressure from the Party center, and the reforms brought in to have the superior CDI lead case investigations, not because the CDI is more independent. In some places, the corruption is so entrenched and systematic that the recent high pressure and reforms are insufficient to make the CDI actively investigate cases. In some cities, the direct higher-level government is largely captured by or involved in lower-level corruption; so, the direct higher-level CDI still fails to investigate corruption at even a lower level. Then, there are reforms in some places that require the CDI two levels higher to investigate the corruption. For example, the provincial CDI is concerned with county-level corruption through direct or indirect investigations under instruction, and the city-level CDI is concerned with village-level corruption. In the absence of fully independent supervisory agencies, China relies upon level differences to combat corruption.

Moreover, the reforms that allow higher-level CDIs to lead investigations and establish a new CDI inside the CCDI to investigate local CDIs have further strengthened higher-level CDIs' control. Thus, even while investigating cases of corruption at the same level of government, the CDIs' decisions are more influenced by higher-level CDIs. Certainly, the effectiveness of these reforms depends upon how much case information and how many resolutions are actually reported, how well the new national reporting system is established and practiced, and whether higher-level CDIs are capable of reviewing the information and resolutions. Local-level CDIs still have considerable power during preliminary investigations. If the proposed reform on higher-level CDIs nominating Vice Secretaries of lower-level CDIs is implemented, local CDIs would be less controlled by their corresponding local governments. However, because finances and resources are still provided by the same-level government, the government still largely influences CDIs.

After recent reforms, local CDIs have little room for individual arbitrariness or local individual interests during the decision-making based upon preliminary investigation results and the performance of joint investigations; but they can still influence the information division and manipulate the performance of preliminary investigations. Recognizing these reforms, we are concerned that local governors would seek to influence local CDIs' case work at the information division stage, or in the beginning of preliminary investigations. Generally speaking, local CDIs are much more effective in combating local corruption now but could be strengthened if preliminary investigations become more regulated and transparent.

Although no law governs CDIs' work, it is not entirely arbitrary or controlled by local governments. Transparency within the Party largely restricts local arbitrariness. Laws can further decrease the arbitrariness if they can explicitly criminalize certain activities and regulate prosecutors' behaviors during joint investigations.

That said, most current CDIs' anticorruption work remains heavily controlled by 'man', not 'law': The internal decision-making system concentrates the power within the CDI leadership, then in the CCDI leadership and finally in the Party center. With no other supervisions, the high-level arbitrariness can hardly be regulated. Some local corruption may also be dismissed, if it is against the interest of the Party leadership in the area. Although such dismissals may have politically clear standards within the Party, they are not fixed in any rule or law. The anticorruption law is incomplete and asymmetric.

Because the work is largely controlled by the CCDI, we are concerned that in the long term, without further reforms, corruption may start to spread up, higher-level CDIs themselves might become corrupt, and the CDI system might become wholly ineffective. The CCDI also realized the potential corruption within CDIs and established the internal supervision department. However, without independence or outside supervision and with limited personnel, such departments can barely combat internal corruption or regulate CDIs' activities effectively. Thus, in future reforms, current processes and ways of working should at least be fixed in published rules, i.e. legal rules or Party disciplinary rules. Furthermore, preliminary investigations could be reformed to become more transparent and

---

79 According to our interviews with several businessmen, before the current new leadership, the CDI Secretary was not considered an important political figure and thus was not a corruption target. But now, since the CDI has greater power, they have become the second most important figure in the area. Informal interviews with several businessmen separately from mid-March to mid-June of 2014 by the authors in both X and Y provinces.
accountable, at least within the Party. Next, decisions on the resolution of cases could become legally reviewable and capable of being challenged in court by the general public; investigations could be open to the general public; investigations and interrogations could be audio or video recorded; and laws could be reformed accordingly. All these measures are necessary to further decrease the arbitrariness of CDIs in anticorruption work and institutionalize their work. Otherwise, the effectiveness of anticorruption work in the CDI system will not last long.

Acknowledgements
The authors are very grateful for the assistance and suggestions provided by Alexandra Grey at Macquarie University, Australia, in editing this article, and also wish to thank Professor Yanan Shi at Renmin Law School and the anonymous reviewers for their valuable insights and suggestions. The views presented here are the authors’ alone.

Funding
This article is supported by the Fundamental Research Funds for the Central Universities and the Research Funds of Renmin University of China, 12XNK005, ‘The Instructional Case System in Mainland China—A Collision among Chinese Legal History, Western Case Law and Current Chinese Legal System’ and the Youth Funds in the General Research Program of Humanity Social Sciences of China’s Ministry of Education, 14YJC820011, ‘Theoretical and Empirical Research on Deciding the Ratio of China’s Guiding Cases’. 

Notes on contributors
Fenfei Li is an Associate Professor of Renmin Law School and a Researcher at the Criminal Law Science Study Center of Renmin University.
Jinting Deng is an Assistant Professor of Renmin Law School. Her research fields include corruption, evidence, judicial system and laws in society.