

No Exit: China's State Surveillance over People Who Use Drugs

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Abstract

In China, although drug use is an administrative and not criminal offense, individuals detained by public security authorities are subject to coercive or compulsory “treatment,” which can include community-based detoxification and rehabilitation and two years of compulsory isolation. Individuals are also entered into a system called the Drug User Internet Dynamic Control and Early Warning System, or simply the Dynamic Control System. The Dynamic Control System, run by the Ministry of Public Security, acts as an extension of China’s drug control efforts by monitoring the movement of people in the system and alerting police when individuals, for example, use their identity documents when registering at a hotel, conducting business at a government office or bank, registering a mobile phone, applying for tertiary education, or traveling. This alert typically results in an interrogation and a drug test by police. This paper seeks to summarize, using published government reports, news articles, and academic papers, what is known about the Dynamic Control System, focusing on the procedures of (1) registration; (2) management; and (3) exit. At each step, people subject to the Dynamic Control System face human rights concerns, especially related to the right to privacy, rights to education and work, and right to health.

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Introduction

In China, drug use is an administrative and not criminal offense; however, individuals detained by public security authorities are subject to coercive or compulsory “treatment.” This approach has been subject to widespread condemnation, including repeated calls over the past decade by United Nations (UN) agencies, UN human rights experts, and human rights organizations for the country to close compulsory drug detention centers and increase voluntary, community-based alternatives. Nonetheless, between 2012 and 2018, the number of people in compulsory drug detention centers in China remained virtually unchanged, and the number enrolled in compulsory community-based treatment rose sharply.¹

In addition to these approaches, the government enters all people detained by public security authorities for drug use in China into a system called the Drug User Internet Dynamic Control and Early Warning System, or Dynamic Control System (DCS). This is a reporting and monitoring system launched by the Ministry of Public Security in 2006.² Individuals are entered into the system regardless of whether they are dependent on drugs or subject to criminal or administrative detention; some individuals who may be stopped by public security but not formally detained may also be enrolled in the DCS.

Once entered into the DCS, registered individuals’ personal information is shared within the national public security apparatus.³ When individuals who are in DCS use their identity documents—for example, when registering at a hotel, conducting business at a government office or bank, registering a mobile phone, applying for tertiary education, or traveling—the DCS alerts the police, typically resulting in an interrogation and a drug test.⁴

The DCS first came to public notice in a government news story.⁵ In the article, the system was described as an important initiative to reduce demand for drugs, maximize education and access to treatment to “rescue” persons who use drugs, reduce criminal activity, and maintain social harmony and stability. In 2012, a State Council report

on anti-drug laws cited the DCS as an innovative measure that “enhances the detection and control of drug-users.”⁶ As a part of the launch of the DCS, public security authorities conducted a comprehensive sweep of individuals suspected of drug use; by the end of March 2007, 785,900 individuals had been entered into the system.⁷ According to data released by the Ministry of Public Security, as of 2019, there were 4.7 million people registered in the DCS, including 2.2 million identified as current drug users and 2.5 million identified as former drug users (\geq three years without drug use).⁸

Prior to the establishment of the DCS, China’s surveillance management of people suspected of drug use relied, like other forms of social management, on the household registration system (*hukou*). The *hukou* system was viewed by government authorities as inadequate, however, because it did not effectively restrict persons who use drugs from changing their residence, which many did because of the discrimination from having been arrested. To address this, the DCS combined online databases with new information technologies such as cell phone apps and facial recognition, with an emphasis on real-time updating of information and around-the-clock tracking of people’s movements.⁹

Five years after the launch of the DCS, in 2011 the State Council published the Regulation on Drug Rehabilitation, which gave the system legal authorization.¹⁰ Yet the legal provisions in the regulations regarding the DCS are simplistic and vague. For an administrative and policing system that affects millions of people who live and work in China, the legal provisions stipulate only the registration criteria and the implementing institutions for the DCS, as well as the general exit criteria. Specific operational procedures are not identified.

This paper provides an in-depth description of the DCS, drawing on published laws and policies, national and local government reports, and Chinese academic journal articles, and describes the system’s shortcomings and impact.

Registration, management, and exit

The DCS system can be best understood in terms

of how individuals are registered, how they are managed once enrolled, and the legal requirements—and realities—around being unregistered, or exiting, from the system.

Registration

All individuals identified by police as having used drugs (often via a positive urine test) are entered into a database of the National Drug Control Information System.¹¹ Article 4 of the Regulation on Drug Rehabilitation stipulates that public security departments at the county level or above are responsible for testing suspected drug users and registering persons who use drugs in accordance with the law.¹²

The DCS draws information from the National Drug Control Information System and includes basic demographic characteristics, as well as the types of drugs allegedly used, where and how individuals reportedly consume them, and individuals’ drug treatment history.¹³ However, the system reportedly takes time to update, and from time to time there are problems with it being unresponsive or inefficient in executing its functions, with a low processing capacity for large-scale data.¹⁴ These problems make the DCS inconvenient for users at the local level, and many localities have developed their own information management systems that may have specific components that go beyond the core DCS information.

For example, the Yunnan Provincial Drug Enforcement Headquarters commissioned Shandong University to develop a local DCS in Yunnan Province. The system’s functions include registration management, compulsory isolation detoxification management, and community-based detoxification management.¹⁵ Similarly, in 2016, Ningxia Hui Au-

tonomous Region launched the Ningxia Socialized Service Management System for Drug Users. The system includes information on community-based detoxification and rehabilitation, drug testing monitoring, home visit records, and risk assessment, and it integrates information from the Ningxia household registration system, Department of Justice drug treatment centers, and health and medical institutions. In addition, the system was designed to provide policy analysis and early warning alerts.¹⁶

Management

Specific management of individuals in the DCS is determined by risk levels.¹⁷ The main determinants of how individuals are classified are whether the person poses a danger to society and whether they have undergone drug rehabilitation. Risk levels can be adjusted at the local level by the antinarcotics office and public security authorities.¹⁸ Risk levels then determine the degree of surveillance and management activities. For example, Huizhou City, Yuanzhou Township, determines the frequency of counseling (“education and persuasion”) and drug testing according to risk level (Table 1).¹⁹ After implementing control measures for more than six months, authorities are required to reassess risk levels.²⁰

With this information, the DCS seeks to create a system of enhanced control and management, purporting to effectively identify “warning signs” of relapse and opportunities for family and health care and social workers to continuously track the behavior and movement of persons who use drugs. To achieve this, the DCS is complemented by *investigation work*, including obligatory meetings of persons who use drugs with security personnel and unscheduled inspections (including drug tests)

TABLE 1. Huizhou City, Yuanzhou Township, management measures for drug users

Risk level	Counseling	Urine test
Extreme risk	At least once every two weeks	At least once every two weeks
High risk	Once a month	Once a month
Medium risk	Once every three months	At least twice a year
Low risk	At least once every half year	At least once a year

at their home or place of employment. Alongside these efforts is ongoing *maintenance work*, which involves the real-time updating of online information about individuals registered in the system. Finally, there is *enforcement work*, which includes active surveillance to detect unlawful activity and reduce drug-related crime.²¹

A drawback to such extensive monitoring is that for local police officers, responding to DCS alerts occupies a great deal of time and energy. The use of identity documents by individuals registered in DCS will trigger an alarm, and police are expected to respond regardless of the specific situation. The police are required to investigate alerts within a specified time limit and log results of their response into the database. Often, police arrive after the person triggering the alert has left. One study calculated that within a period of 10 months, the district police had responded to 3,640 DCS alerts, an average of 12 per day. However, police were able to make contact with the subject of the alert only 26% of the time, and only 51 alerts were identified as being related to drug use.²²

Efforts to manage persons who use drugs are also impeded by data errors, encouraged by the DCS's strict requirements for prompt data entry and quotas for monthly meetings and investigations.²³ This can result in, for example, errors in identifying information (names or identity document information), resulting in people who have no history of drug use being entered into the DCS and requiring people affected to file complaints or lawsuits.²⁴ Errors may also be more common during specific periods of heightened security, which can include expanded, or mass, drug testing of registered drug users.²⁵

The level of scrutiny of individuals in the DCS is increased for those undergoing community-based detoxification. For example, Zibo, Shandong Province, has introduced a community-based detoxification mobile management and service platform that provides staff, persons who use drugs, and family members with a cellphone app. The app includes GPS tracking and provides for the real-time monitoring of routine drug screening tests and clinical notes by detoxification staff.

The app automatically sends alerts and pushes real-time location information to program staff if the individual misses appointments or deviates from approved routines.²⁶

Another example of a mobile app-based electronic management system for individuals in community-based rehabilitation was piloted in Hongkou and Pudong districts of Shanghai. Persons who are registered are required to log on to the app every day and take mood surveys. The app provides information on drugs and relaxation techniques and helps them locate a nearby hospital if necessary. The core features of the system include a "positioning fence" and "voice recognition login" to validate the identity and location of individuals enrolled in the system. Social workers have access to the information in the app, theoretically to improve the efficiency of their oversight and determination of relapse risk. However, studies have found that the system fails to make substantive changes in addiction levels.²⁷

Yet another electronic management system tested in Qingyang District, Chengdu, has been designed with an app with surveillance and management tools for social workers, family members, and doctors. Individuals undergoing detoxification are required to report their emotional state and provide their location and other information, including a photo and a voice recording. Social workers and family members can view the information uploaded by individuals in the system at any time to track their status. The system claims to use artificial intelligence to identify mood and provide early warning of the risk of relapse. It also purports to use blockchain technology to build a chain of evidence, integrating every event that occurs during the management process into the block chain to form a "scientific basis" for assessing rehabilitation.²⁸

Since 2015, increasing emphasis has been put on the integration of DCS at a community level. This approach is consistent with "grid management" initiatives promoted by the Chinese government, which divides urban and rural administrative jurisdictions into "grid" segments and, using digital and traditional surveillance (such as patrols and site

visits), conducts “granular, informed and dynamic community service management” of households, organizations, and businesses within the grid.²⁹ This integrated approach was first piloted in September 2015, when the Central Public Security Comprehensive Management Commission and the National Narcotics Control Commission selected three cities and prefectures and seven counties and urban districts in the provinces of Jilin, Hubei, Guangdong, and Yunnan to carry out a pilot project on grid-based service management of persons who use drugs. Based on the results of the pilot, the government adopted a goal of nationwide coverage by 2018.³⁰ The objectives of grid management and dynamic control are essentially the same: to maintain social order and stability and to prevent and curb unlawful and criminal behavior.³¹

Under the grid-management model, persons who use drugs are under surveillance by committees responsible for geographically defined grids, which are adjusted according to terrain, urban density, or management needs. For example, Jiangsu Province, with a population of over 80 million, reportedly has 300,000 grid workers overseeing 120,000 grids, with each grid composed of an average of 670 people.³² Grid workers include individuals specifically recruited as grid officers, as well as social workers, police officers, cadres, and others.

In practice, the grid-management approach is a fleshing-out and deepening of the DCS. In Huangfu, Shanxi Province, for example, the responsibilities of the town’s grid-management of persons who use drugs include the following:

- Assessment: develop rehabilitation plans for persons who use drugs.
- Inspection: conduct weekly visits to “drug associated” persons in the district.
- Promotion: implement anti-drug use publicity campaigns.
- Investigation and registration: investigate reports of drug use, log information into the DCS, and complete the corresponding paper ledger registration.

- Assistance and mediation: collate, analyze, discuss, and consult on drug-related issues.³³

In some locations, more advanced systems and training for grid-management personnel allow for even more sophisticated grid-based management. For example, the Wuhan Fengpu Technology Company has customized a grid-management system for people undergoing community-based detoxification (rehabilitation) for many cities and counties in Hubei Province, purportedly using “big data” and artificial intelligence to establish a comprehensive control platform that includes “real-time data, transmission of location, statistical analysis, and research and judgment guidance.”³⁴

Exit

According to article 7 of the Regulation on Drug Rehabilitation, “Dynamic control shall no longer be applied to persons who have abstained [from drug use] for three years without relapse.”³⁵ This is the only provision in the regulation that deals with an exit mechanism for the DCS.³⁶ The main basis for determining whether a person has abstained from drug use for three years is regular drug testing. Typically, individuals in community-based detoxification programs undergo no fewer than 22 drug tests, and those under community-based rehabilitation undergo no fewer than 12 drug tests in a three-year period. Those who have no positive urinalysis tests and no record of drug-related criminal cases are deemed abstinent or rehabilitated.³⁷

While the criteria for exiting dynamic control are relatively clear, there are no operational guidelines on how dynamic control is actually suspended or lifted. As a result, many people enrolled in DCS find it difficult to exit the system. Initially, exiting the DCS required high-level authorization.³⁸ However, even as DCS has become localized, the procedures for exit remain unclear for many local public security departments.³⁹ Despite nominal “control” over the system, local public security departments are often authorized only to enter information into the DCS but not to modify or delete it; only provincial-level public security departments have this

authority.⁴⁰ When some kind of system error or human error occurs, the local public security office has to write to a higher-level authority to apply for modification, which can be time consuming.⁴¹

As a result of the difficulty exiting the DCS, two nongovernmental organizations have applied to public security departments to release information on how to exit the DCS. In August 2011, the Beijing Aizhixing Health Education Institute submitted an information request to the Ministry of Public Security, asking it to release information about the specific operational methods for releasing individuals from the DCS, the specific departments handling the process, and the documents that need to be submitted.⁴² The ministry replied that no application needs to be submitted, as people who use drugs are automatically released from dynamic control after three years of abstinence.⁴³ In October 2020, the Kunming Chunyu Tongxin Studio requested that the Yunnan Provincial Public Security Bureau disclose similar information. The response was similar: no application is required to exit the DCS, and there are no local regulations in Yunnan on the subject.⁴⁴

In practice, it appears that the requirement of three years of abstinence without relapse and no record of drug-related criminal cases is insufficient for release from dynamic control in some (if not most) cases. According to some accounts, people who are in the DCS can be partially released, meaning that they are no longer subject to surveillance alerts but still subject to community-based control and risk assessment. In areas where the authorities determine the drug situation to be serious, no one is released from dynamic control; instead, dynamic control is ongoing regardless of one's period of abstinence. In other places, the continued implementation of dynamic control on people who meet the exit requirements is most likely because information has not been updated in a timely manner.⁴⁵

Other administrative problems also cause people to remain in dynamic control for long periods. For example, people who are apprehended by the police but are not deemed to be dependent on drugs will not be ordered to undergo community-based detoxification and will generally be sentenced only

to administrative detention and then released. Since they lack a record of regular drug tests, these people are likely to remain under dynamic control for a long time.⁴⁶

Ultimately, having achieved the criteria required to exit DCS does not mean that the person's information is deleted from the system: the system no longer sends out an alert when an individual uses his or her identity card, but the individual's record of drug use, and some degree of monitoring (or "dynamic control"), is apparently permanent.⁴⁷ According to data released by the Ministry of Public Security, the number of people who have abstained for three years without relapse has now surpassed the number of existing drug users. By the end of 2019, the government reported that there were 2.2 million drug users in China and 2.5 million people who had not been found to have relapsed after three years of abstinence.⁴⁸ The state does not provide public data on how many of these 2.5 million "rehabilitated" individuals are still under dynamic control.

The effect of China's Dynamic Control System on persons who use drugs

When China's policy makers established the DCS, their objective was to prevent relapse through ongoing monitoring. However, there is little evidence that the DCS prevents relapse and ample evidence of the system's negative effects on the health of individuals enrolled in DCS and their integration into society. Research shows that persons who use drugs in China receive little social support during the detoxification process and that the social ostracism they face is the chief cause of relapse into drug use.⁴⁹ What empirical evidence exists on the impact of DCS shows the constraints that the DCS imposes on nearly every aspect of life.

A study in 2011 found that the interrogations, identity checks, and urinalysis imposed under the DCS have a significant effect on all aspects of life for persons who use drugs. The survey found that DCS is felt most frequently when obtaining accommodations (92%), followed by processing various documents (88%), travel (85%), and renting a home

(72%).⁵⁰ Survey respondents reported that DCS surveillance made them reluctant to advocate for their rights in disputes (73.5%) and that it triggered bias against them (96.5%), a loss of privacy (93.5%), fear that taking medication will affect urinalysis (90%), and negative effects on work and marriage (88.5%). Respondents also said that it affected family relations, with the constant examinations under DCS making family members suspicious of relapse and also creating bias against family members (including children) and affecting opportunities for family members to work outside the home.

A survey conducted in 2018 similarly found that the DCS had a negative impact on family relationships and that household visits and unannounced home drug tests, combined with interviews with neighbors and neighborhood committee members, violated the privacy of those registered in the DCS.⁵¹ Other components of the DCS, involving interrogation and drug tests in public venues such as train stations, hotels, airports, banks, and highway toll booths, also are likely to result in the disclosure of personal information. The DCS can also affect the employment of persons who use drugs, as public security officers may subject individuals to drug testing at work or during business trips, if individuals registered in the DCS are even able to get approval for work-related travel. The study concluded that the DCS exacerbates both stigma and the marginalization of those who are registered.

Human rights concerns

The DCS and the impacts described above relate to several key human rights, including the rights to privacy, to education, to work, and to health.

Privacy

The International Covenant on Civil and Political Rights, which China signed but has not ratified, provides that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence and that everyone has the right to the protection of the law against such interference.⁵² Any interference with the right to

privacy, including the collection, retention, and use of an individual's personal data, must be necessary and proportionate for a legitimate aim, and subject to a clear and public legal framework.⁵³

Furthermore, China's domestic Civil Code stipulates that everyone enjoys the right of privacy. No organization or individual may infringe on the privacy of any other person by spying, invading, harassing, or disclosing one's personal information. It also notes that state institutions must keep private and confidential personal information that is collected during the performance of duties.⁵⁴

In 2021, China passed new legislation, modeled after the European Union's General Data Protection Regulation, regulating the protection of personal information. The law provides explicit requirements related to consent, data localization and deletion, the transfer of personal information, and compliance in general. While the law regulates both private and government agencies, it provides government authorities a broad exception when acting in accordance with administrative regulations. However, the 2011 Regulation on Drug Rehabilitation specifically requires keeping the personal information of persons who use drugs confidential and includes penalties for the disclosure of such information.⁵⁵

Though both international and domestic legal obligations are meant to set standards of protection for personal information, in practice there are significant privacy concerns that make the personal information of individuals registered in the DCS broadly available.⁵⁶ For example, provincial and municipal public security departments seek to strengthen control over individuals registered in the DCS by sharing information with a wide range of security, health, social work, and neighborhood cadre workers.⁵⁷ Records are shared not only within the national public security apparatus but also with other major data systems for cross-checking purposes, such as the motor vehicle databases, aviation industry, hotel industry management system, banking and financial system, and railway system.⁵⁸ This has led to interrogations and drug tests of individuals registered in the DCS in public venues such as train stations, hotels, banks, airports, and other

locations, which inevitably result in the disclosure of personal information.

Human rights bodies have also found that mandatory testing itself violates an individual's right to privacy.⁵⁹ However, compulsory drug testing is a key DCS tool, and China's Anti-Drug Law provides that a person may be forcibly tested with the approval of the head of a public security authority at or above the county level.⁶⁰

Education and work

China is a state party to the International Covenant on Economic, Social and Cultural Rights, which commits state parties to respect the right to education and the right to work.⁶¹ The realization of the right to education not only includes ensuring that education is available, accessible, acceptable, and adaptable but also encompasses a requirement of nondiscrimination.⁶² The right to work means that individuals are provided the opportunity to gain their living by work that they are able to freely choose.⁶³

The practices under the DCS, and the various education and employment policies within China, raise concerns around violations of these rights. On education, for example, in 2018, Chongqing Municipality announced that an administrative and criminal offense disqualifies the person concerned from admission to colleges and universities.⁶⁴ The 2020 national-level Regulations on Admission to General Colleges and Universities also state that candidates who have a record of a criminal penalty, public security administration penalty, or other disciplinary measures must provide full and accurate information on the infraction and actions taken to correct it. Failure to provide this information could affect an individual's eligibility to take the college entrance examination.⁶⁵

A history of drug use can also be a barrier to obtaining employment. Although only persons who have committed criminal offenses are restricted from applying for the national civil service exam, some provinces explicitly restrict people with records of drug use.⁶⁶ Moreover, even where someone with a history of drug use was eligible to apply for the national or local civil service, or

even where a family member had a history of drug use, China's strict political vetting system for civil service positions would likely prevent hiring.⁶⁷ For these reasons, while drug use itself is not a crime in China, a history of drug use presents a significant barrier to certain types of employment.

Health

The right to health is also enshrined in the obligations under the International Covenant on Economic, Social and Cultural Rights.⁶⁸ As a party to the treaty, China should ensure the availability, accessibility, acceptability, and quality of health services, as well as ensure that services are provided in a nondiscriminatory manner, especially for marginalized groups.⁶⁹

While the 2008 Anti-Drug Law is progressive in that it recognizes individuals who use drugs as patients and calls for treatment, in practice China's drug treatment system operates as a system of monitoring and punishment.⁷⁰ It does not operationally acknowledge drug use as a public health issue that requires evidence-based, community supported long-term treatment. In the current treatment regime, detection of a relapse leads to harsher restrictions on personal rights and freedoms, without meaningfully addressing the right to health.⁷¹ China suffers from a severe lack of specialized drug treatment resources and a reliance on ineffective detoxification approaches dominated by restrictions on personal freedom.⁷²

China's punitive approach to drug dependency treatment also affects the ability of individuals who use drugs to address other health problems. For example, many of China's current national and local laws and regulations exclude persons who use drugs from occupational injury insurance and medical insurance.⁷³ Moreover, some local governments, such as in the cities of Nanping, Lanzhou, Urumqi, and Liuzhou, have enacted legislation that excludes medical expenses incurred as a result of drug use from the scope of urban and rural medical assistance.⁷⁴ These exclusions raise serious concerns about violations of the obligation to provide nondiscriminatory health services.

Conclusion

China has a binary legal system that differentiates between criminal offenses and administrative violations. Drug-taking behavior has never been designated a criminal activity, is not regulated by criminal law, and is not subject to trial by the courts, but it is an unlawful act punishable by the public security authorities. The Anti-Drug Law enacted in 2008 established a system of drug treatment divided into four categories: voluntary detoxification, community-based detoxification, community-based rehabilitation, and compulsory detoxification. Although distinct in the 2008 law, community-based detoxification and rehabilitation are operationally identical.

Apart from compulsory detoxification, the other measures are noncustodial and purportedly nonpunitive measures. However, in practice, China's drug treatment system, which is dominated by community-based detoxification and rehabilitation and by compulsory detoxification, is coercive in nature and provides limited evidence-based treatment or social support. Within this system, the DCS reinforces, and extends, an approach to drug use that is fundamentally punitive.

From the moment a person is apprehended by the police and his or her information is entered into the system, the DCS penetrates the entire process of punishment, treatment, and control, with the aim of ensuring that they are unable to evade a comprehensive system of social control. The DCS is not just a database but has become the main approach to China's anti-drug efforts, channeling individuals into a system from which exit is nearly impossible.

Individuals entering the system because of illicit drug use may be punished by up to five days in detention or a fine of up to 500 yuan. More serious offenses may require up to 15 days detention or a fine of up to 2,000 yuan. Yet that is nowhere near the end of it. For example, in Zhahua District, Guangyuan City, Sichuan Province, persons who use drugs but are not considered dependent at the time of their initial arrest are nonetheless required to undergo urinalysis every two months.⁷⁵

Alternatively, persons who use drugs can voluntarily enter a drug detoxification facility for

treatment. According to the Anti-Drug Law, public security authorities will not punish individuals who enter voluntary detoxification facilities.⁷⁶ Yet this voluntary step will result in long-term monitoring by local public security authorities.⁷⁷ Subsequent positive drug tests can result in individuals being sent to compulsory detoxification for two years.

The DCS in China has not been developed in isolation. State surveillance and control has been a feature of China's response to COVID-19 and has long targeted ethnic and religious minorities.⁷⁸ China has also used its health system as a means of monitoring and detaining dissidents.⁷⁹ Dynamic control systems track not only persons who use drugs but also individuals suspected of online fraud or labeled as fugitives, using software developed by private companies that can access individuals' online accounts, information on people they are related to, and information on their ethnicity, occupation, and education level.

The integration of DCS into existing compulsory detoxification and rehabilitation extends surveillance and control of persons who use drugs from local to national levels. Although information management and control systems are not officially punitive, in practice systematic monitoring imposes limitations on the personal freedom of persons who use drugs and restricts a wide range of fundamental rights. Rather than investing in evidence- and rights-based treatment of drug dependency, the Chinese government has created a comprehensive detention and surveillance network that ultimately fails to provide the medical support, community engagement, and legal assistance that individuals in China with drug dependency need.

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