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Author
Keane, Merril

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CHINA'S NATIONAL RESIDENT IDENTITY CARD: IDENTITY AND POPULATION MANAGEMENT IN TRANSITION

Merril Keane*

INTRODUCTION

On June 28, 2003, the Standing Committee of the National People's Congress, China's highest legislative body, promulgated the Resident Identity Card Law (hereinafter, the "2003 ID Card Law"). The 2003 ID Card Law represents another step in the reform of China's hukou (household registration) system. China’s modern hukou system, by which the citizenry is registered with the government according to “household,” has deep roots in China’s tradition of social governance extending back over two thousand years. The hukou system is a powerful method of defining an individual’s status in Chinese society, associating a person with a certain place and group of people (e.g., family), and conferring benefits and restrictions on citizens according to hukou status. Unlike the ancient system, which was developed to implement taxation and conscription, the modern hukou system is used to effect control over internal migration and management of certain classes of “targeted people,” and more recently, to provide Chinese citizens with convenient means of proving their identity.

* UCLA School of Law, Juris Doctor Candidate (May 2006). Many thanks to Lynn LoPucki, Randall Peerenboom, Nancy Tomasko, and Wang Bin for their helpful comments and guidance.


3. Wang, supra note 1, at 35, 49. The “targeted people” classification will be discussed in more detail below.

4. Zhonghua Renmin Gongheguo jumin shenfenzheng tiaoli [Resident Identity Card Regulations] (promulgated by the Standing Comm. Nat’l People’s Cong., Sept. 6, 1985, effective Sept. 6, 1985) (P.R.C.) (hereinafter, the “1985 ID Regulations”) (One of the goals of the identity card, as set forth in Article 1 of the 1985 ID Regulations, is to “prove the identity of residents.”). Prior to the enactment of the
As China modernizes and its population becomes more mobile, the *hukou* system is gradually transforming from a collective-based system that registers and manages citizens in groups, to a system oriented around the individual. The resident identity card system, first implemented in 1985 and modified by the 2003 ID Card Law, is the basis for this transformation. While the *hukou* system, especially as it relates to migration control, has been extensively explored in recent scholarship, the function of the resident identity card within this system has been largely glossed over. I hope to show that, with the enactment of the 2003 ID Card Law, identity cards are no longer "of marginal importance in Chinese life," and to elaborate on Michael Dutton's claim that identity cards "augment the household registration system by offering a convenient means by which to carry out many of the non-territorially based policing functions of the [hukou system]."


5. See, e.g., Tingting Zhang, Guest Editor's Introduction, *Chinese L. and Gov't*, May-June 2001, at 8 ("[The identity card's] use has changed the unit of administration of registration. In the prereform period, the unit was one book per household in cities and towns, and one book per village in the countryside. Today every person has an ID card regardless of his *hukou* status.").


7. Davin, supra note 6, at 46.

8. Dutton, supra note 6, at 334.
The recent changes in the resident identity card regime have
two primary functions, each stemming from the identity card's role in the greater hukou system, and both of which are impor-
tant to China's continued stability. First, the new identity card offers a standardized and more reliable method for citizens to prove their identity, which will benefit individuals, businesses, and, ultimately, the Chinese economy. Second, the new identity card represents another step away from the use of the hukou sys-
tem to regulate internal migration and toward the use of hukou information primarily for public safety policing purposes. How-
ever, without adequate safeguards against arbitrary police use of identity information, the new identity card system could lead to police abuses.

Part I of this paper provides an overview of the hukou sys-
tem of identity information, examining how an identity is estab-
lished within the system and what personal information is ultimately stored there. Part II explores the new resident identity card regime and how it facilitates determination of identity in a society rife with identity fraud. Part III focuses on the public security functions of the hukou system and discusses how the new identity card regime represents further progression toward the use of hukou information for policing purposes. From this analysis, I conclude that the resident identity card's use in confirming identities can help businesses and individuals in China more confidently undertake daily economic activities. Furthermore, while the new identity card regime may consolidate control and facilitate police access to identity information, its attempts to curb police discretion may be effective. It is too soon to tell whether the new identity cards will exacerbate police abuses.

I. THE HUKOU SYSTEM OF IDENTITY REGISTRATION: PERSONAL INFORMATION COLLECTION AND OVERSIGHT

The modern hukou system is embodied in the 1958 Hukou Registration Regulations and the 2003 ID Card Law. It is over-
seen by the Ministry of Public Security and implemented by local public security organs (generally police stations, or paichusuo) across the country.9 Since its introduction, the hukou system has

been the Chinese government’s primary means of collecting and managing identity information.\(^{10}\) Two other purposes of the *hukou* system, which are discussed *infra* in Part III, are to control internal migration and to manage “targeted people,” a classification that includes people suspected of endangering national security or engaging in criminal activity, violent individuals, ex-convicts, and narcotics users.\(^{11}\) Although the system is governed predominantly by internal directives unavailable to the public,\(^{12}\) recent scholarship provides a great deal of insight into its inner workings.\(^{13}\)

Under the *hukou* system, every Chinese citizen is required to register for a permanent *hukou*\(^ {14}\) and a resident identity card.\(^ {15}\) Essentially, a permanent *hukou* is “where one officially has residence” in the eyes of the Chinese government.\(^ {16}\) A person’s place of permanent *hukou* registration is not necessarily the place in which he or she actually resides.\(^ {17}\) For example, a person who works for a state-owned work unit will have a *hukou* that is located at the address of the work unit, even though he or she may not live at that address. Unlike the resident identity card, which is issued on an individual basis, the *hukou* registers people together by “household.” A “household” can be a family (related by blood and living together), an individual (living alone), or a collective unit (such as a work unit, dorm, military unit, or religious entity such as a temple).\(^ {18}\) In the example above, the “household” would be the person’s work unit, and everyone em-

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10. Wang, *supra* note 6, at 117. The *hukou* system is also utilized by the government to manage internal migration and “targeted people,” as discussed *infra* Part III. *Id.*


13. Wang, *supra* note 1, provides an excellent overview of the *hukou* system and its functions.


15. 2003 ID Card Law, *supra* note 9, art. 2 (“All Chinese citizens over the age of 16 who are living within the People’s Republic of China must apply for a resident identity card in accordance with this law.”). The resident identity card is discussed in greater detail *infra* Part II.


17. Wang, *supra* note 1, at 70.

18. *Id.* at 65.
ployed at the work unit would be registered together under that “household.”

A person’s permanent hukou is obtained within a month after birth. It is issued upon presentation of a hukou registration application, the baby’s birth certificate (or a certificate by residents corroborating the circumstances of the baby’s birth), and the parents’ certificate of permission to give birth (zhunshengzheng). The location of either parent’s place of permanent hukou registration determines the baby’s hukou location.

The birth registration is an individual’s first registration within China’s hukou system, and the primary items of information registered with the police at that time are name, birth date, and ethnicity (minzu). Additionally, a citizen identity number, the unique numeric identifier for each Chinese citizen, is issued to each person at the time of birth registration. When a person’s permanent hukou is registered with the police, the police create a hukou file that is kept in the police station.

Over the course of a citizen’s life, the hukou file expands to include additional information, such as personal data, family relations, migration, and changes or corrections. In addition to the basic information on the permanent hukou registration form, information is also collected on “current behavior includ-

19. Regulations on Hukou Registration, supra note 14, art. 7 (“Within a month after a baby is born, the head of the household, relatives, guardians, or neighbors shall register the birth with the hukou registration organ in the place of the baby’s permanent residence.”).  
21. 8 yue 31 ri shi Renkou Jisheng Wei guanyuan jiedu “Beijing shi renkou yu jihua shengyu tiaoli” [Aug. 31 Local Population and Family Planning Commissioner Explains “Beijing’s Population and Family Planning Regulations”], Interview with Zhou Xinru, Beijing’s Justice Bureau website, http://www bjjsf.gov.cn/bjpf/zjsfl t20050902_120339.htm. The certificate of permission to give birth, which is issued by the public security organ of the mother’s or father’s place of permanent hukou registration, is the document providing the basis for the baby’s hukou location. Id.  
25. WANG, supra note 1, at 69.  
26. Id.  
27. “Basic information” includes: “type of household, family name and given name of the head of household, relationship to the head of household, family name and given name, gender, previously used names, ethnicity, date of birth, custodian(s), custodial relationships, place of birth, date of issuance of citizen’s birth cer-
ing political attitude and activities, family and personal financial status and standard of living, personal friends and relations including love relations, physical features including body size and shape, accent and slang use, personal character and hobbies, daily associations, and other consequential past activities.\textsuperscript{28}

Thus, depending on how complete a hukou file is, access may provide its reader with detailed and revealing personal information.

Over 300,000 specialized hukou police officers patrol assigned neighborhoods (hukou zones) collecting, updating, and verifying hukou information for a certain number of households.\textsuperscript{29} Generally, there should be one hukou officer for every 500-700 households, but many officers are in charge of over 1,000 households, with some officers responsible for as many as 2,500 people.\textsuperscript{30} Although hukou officers are supposed to collect detailed information on every resident in their zone, limited resources restrict police ability to monitor the general population and cause them to focus primarily on "targeted people."\textsuperscript{31} This means that the average citizen's hukou file may include only a copy of his or her hukou registration application,\textsuperscript{32} while those suspected of criminal activity, violence, or drug use, or who are otherwise targeted by the government, might have expansive profiles.

Since 1986, the Ministry of Public Security has been working to computerize China's hukou information, which includes information associated with both hukou and resident identity cards.\textsuperscript{33} An electronic hukou information database was initiated in major cities in 1992.\textsuperscript{34} By 2001, more than 30,000 police stations maintained computerized, rather than paper, hukou files; approximately 1,180 cities and counties were linked by regional computer networks that shared 1.07 billion people's hukou files;
and 250 cities had instantaneous shared access to 650 million people's hukou information for verification. The computerization of hukou information is important because it facilitates access to and sorting of citizens' identity information, thereby improving both private citizens' ability to prove their own identity in everyday transactions and police ability to categorize and monitor the population. The new resident identity cards, which can be electronically scanned, link easily to computerized information. The next section of this paper explores the resident identity card system and how identity information from the hukou system is currently being used to establish citizens' identities in routine transactions.

II. PROVING IDENTITY IN MODERN CHINA: UNIQUE ID NUMBERS AND HIGH TECH CARDS

Under the pre-1985 hukou system, citizens who traveled outside the area of their permanent hukou registration relied on a variety of non-standardized documents, such as letters of introduction and work unit identification cards, to prove their identities. The Chinese government, recognizing that a system of identification based on such easily forged items was untenable as population movement increased during the economic reforms of the 1980s, added resident identity cards to the hukou system in 1985. Although the cards introduced pursuant to the 1985 Resident Identity Card Regulations (hereinafter, the “1985 ID Regulations”) were more counterfeit-proof than prior methods of identification, they did not pose much of a barrier to enterprising criminals, and fake resident identity cards were soon widely available. While the purposes of the 1985 ID Regulations were “to prove residents’ identities, facilitate citizens’ social activities, protect social order, and guarantee citizens’ lawful rights and interests,” the cards issued under the 1985 ID Regulations proved ineffective in achieving these goals.

Responding to the need for more trustworthy and uniform means of establishing identity, the government issued the Deci-

35. Id.
36. DUTTON, supra note 6, at 334.
37. See Zhang, supra note 5, at 8 (stating that, “[The identity card], better suited to the new circumstance of population mobility, reflects the state’s de facto recognition of millions of peasant migrants and the failure of the hukou system.”).
38. Chan & Zhang, supra note 6, at 833.
39. Fei-Ling Wang cites an example of rampant fake ID use where police in Shenzhen Airport caught approximately 1000 individuals attempting to board airplanes with fake IDs over a ten-month period in 1993. WANG, supra note 1, at 223 n.41.
40. 1985 ID Regulations, supra note 4, art. 1.
sion on Implementing a Citizen Identity Number System (hereinafter, the "CIN Decision"), established the National Citizen Identify Information Center (NCIIC) under the Ministry of Public Security in 2001, and promulgated the 2003 ID Card Law. Together, these provide the foundation for China's new regime of identity verification.

A. Citizen Identity Numbers

In 1999, the State Council, China's highest executive body, issued the CIN Decision. The stated purposes of the CIN Decision were to facilitate the change toward information-based administration of society, further socialist economic reform, and protect citizens' legal rights and interests. The CIN Decision states that each citizen of the People's Republic of China will have a single, unchanging, life-long representative citizen identity number ("CIN"), much like a U.S. Social Security number. The CIN Decision is significant because it appears to mandate that all organizations accessing and storing personal information utilize CINs for all citizens.

The new CIN does not differ greatly from the fifteen-digit identity card number that appeared on cards issued under the 1985 ID Regulations. The new eighteen-digit CIN consists of four number groupings. The first through sixth digits represent the code for the administrative region of the citizen's place of

41. CIN Decision, supra note 23.
42. Id. at introduction (setting forth that the ID number system will be "an important method for realizing society's change toward information-based administration and will have an important effect on furthering China's work modernizing socialism and undertaking economic reform, easing the lives of the masses and protecting citizens' legal rights and interests.").
43. Id. at ¶ 2 ("Citizen ID numbers are the country's sole, unchanging, life-long representative numbers of identity compiled at the date of every citizen's birth. . . .").
44. Id. at conclusion (calling for bureaus and industries that use the CIN, ranging from sanitation to tax and insurance, to work with public security organs to develop and promote the citizen identity number). Although there is no explicit mandate that everyone use the CIN as an identifier, independent actions by other governmental bodies seem to confirm that the CIN will be the standard method of identification. Anticipating the promulgation of the CIN Decision by three months, the Ministry of Labor and Social Security General Office issued a notice calling for the end of "social security numbers" and "resident identity card numbers" as personal identifiers and for adoption of the CIN. See Laodong He Shehui Baozhang Bu Bangongting guanyu zai laodong he shehui baxian guanli xinxi xitong zhong shiyong gongmin shenfen haoma de tongzhi [Notice by the Ministry of Labor and Social Security General Office on Using Citizen Identity Numbers in the Labor and Social Security Information Management System] (promulgated by the Ministry of Labor and Social Security General Office, June 24, 1999, effective June 24, 1999) (P.R.C.), ¶ 1.
45. CIN Decision, supra note 23, at ¶ 1.
permanent hukou.46 This code may represent anything from a small neighborhood in a large city to an entire town in a more rural part of the country. For example, the generic code for Beijing (110000) varies according to the specific district of Beijing in which the citizen resides.47 The seventh through fourteenth digits represent the citizen's birth date according to the Gregorian calendar, and are listed with the four-digit year first, then the two-digit month, then the two-digit day.48 The "sequence number" comprises digits fifteen through seventeen.49 Sequence numbers are assigned according to the number of people born in the same administrative region code area on the same date (year, month, and day).50 Sequence numbers end with odd numbers for males and even numbers for females.51 Finally, the eighteenth digit is a verification number, randomly generated by a computer for the purpose of checking the validity of the identity number and card.52 Verification numbers range from 0 through 10, with 10 represented as an “X” so that the card number does not surpass eighteen digits.53 The addition of the verification number is the only significant difference between the CIN and the old resident identity card number.54

The change in the identity number format alone does not mean much. However, the CIN Decision is significant because its apparent mandate that the CIN be used to identify individuals in databases overseen by other governmental organizations. The


49. CIN Decision, supra note 23, at ¶ 1.


51. Id.


54. Questions and Answers on Hukou Administration Knowledge, supra note 52.
old identity card number was not used as a citizen’s sole method of identification; various governmental bodies developed their own identification number systems for citizens whose information they stored. As will become clear in the next two sections, by encouraging widespread use of the CIN, the CIN Decision provides a foundation for China’s new system of identity verification.

B. THE 2003 ID CARD LAW

The 2003 ID Card Law went into effect on January 1, 2004. Since then, some cities, including Beijing and Shanghai, have begun switching over to new “second-generation” resident identity cards. Nationwide issuance of these new cards began in 2005, with the goal of a complete transition by 2008.

The 2003 ID Card Law was enacted to “prove the identity of citizens residing within the People’s Republic of China,” a change from the purpose of the 1985 ID Regulations, which was to “prove residents’ identities.” Because of the hukou system’s traditional association with residence and emphasis on the collective over the individual, some view any change from “resident” to “citizen” as a move toward protection of fundamental rights. However, the change more likely reflects the fact that the identity card regime is not focused as much on residence as on identity, and “citizens” is simply more accurate than “residents” as a

55. See Notice by the Ministry of Labor and Social Security General Office on Using Citizen Identity Numbers in the Labor and Social Security Information Management System, supra note 44, at ¶ 1.


57. Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards, supra note 56. During the transition period, both old and new cards will be valid. Id.

58. 2003 ID Card Law, supra note 9, art. 1.

59. 1985 ID Regulations, supra note 4, art. 1.

60. New ID Card Stresses Constitutional Rights, CHINA YOUTH DAILY, posted on China Daily, Nov. 11, 2002, http://www.china.org.cn/english/2002/Nov/48422.htm (“Residence is not a constitutional concept, as it refers only to a person who resides in a certain area, while citizenship is a person who has full-fledged constitutional rights.”).
description of who may obtain resident identity cards. Furthermore, the card itself is still referred to as a resident identity card, showing that the government is not yet willing to entirely abandon the card's connection with the *hukou* system of migration control. While the 2003 ID Card Law differs from the 1985 ID Regulations in this one respect, its other purposes remain the same: guaranteeing citizens' lawful rights and interests, facilitating social activities, and maintaining the public order. To achieve these goals, the 2003 ID Card Law makes a number of important changes to the identity card regime.

1. *The Old Resident Identity Card Regime*

The legal framework of the old resident identity card regime consisted of the 1985 ID Regulations and the 1999 Resident Identity Card Detailed Implementing Rules (hereinafter, the "1999 Implementing Rules"). The 1985 ID Regulations established general provisions as to card issuance and use, and the 1999 Implementing Rules fleshed out areas that needed elaboration. Under the 1985 ID Regulations, certain classes of people could not obtain resident identity cards. Specifically, the 1985 ID Regulations did not allow citizens younger than sixteen, active soldiers and armed police, or citizens serving criminal sentences to hold resident identity cards. If a citizen already held a resident identity card at the time of criminal sentencing, the authorities would confiscate the card and return it only upon the citizen's release. The old regime also required that a new identity card be obtained every time a citizen moved outside his or her place of permanent *hukou* registration.

As to identifying information, the 1985 ID Regulations provided only that a citizen's name, sex, ethnicity, birth date, and address of permanent *hukou* registration be registered with the

63. 1985 ID Regulations, *supra* note 4, arts. 2, 9, 10.
64. *Id.* arts. 2, 9, 10 (Article 2 provides that citizens over the age of sixteen must obtain identity cards; Article 9 provides that citizens enlisted in active military service must relinquish their identity cards during active duty; and Article 10 provides that citizens sentenced to criminal detention or imprisonment be divested of their identity cards until release.).
66. *Id.* art. 11 (providing that "citizens who leave the areas of their city of original permanent residence or county of *hukou* registration must exchange resident identity cards at the same time they apply for new *hukou* registration").
police and associated with the card. As part of his or her resident identity card application, a citizen was required to submit two recent standard photos, which could be (and generally were) black and white. To obtain a card, a citizen had to fill out a Permanent Resident Registration Form. While only name, sex, ethnicity, birth date and address were officially "registered," the Permanent Resident Registration Form additionally requested information on the registrant's place of birth, place of family origin, previously used names, religious belief, identity card number and date of issuance, level of education, marital status, height, blood type, occupation, work unit, two family relations (including name, relationship, and address), dossier number, and telephone number (see fig. 1 below). By collecting information that was not officially associated with the identity card, the identity card regime under the 1985 ID Regulations and 1999 Implementing Rules appears to have additionally served as a method of updating hukou files.

Prior to the enactment of the 2003 ID Card Law, resident identity cards were simple laminated paper cards (see fig. 3 below). These were written and registered with the police using standard simplified Chinese characters, although some regions typed information onto the cards while others filled them out by hand. The front of the card stated the cardholder's name, sex, ethnicity, birth date, and address and the card's issue date and period of validity. Cards issued before the enactment of the 1999 Implementing Rules listed the cardholder's fifteen-digit resident identity card number; cards issued after the enactment of those

67. 1985 ID Regulations, supra note 4, art. 3. Although the 1985 ID Regulations only specify that "address" must be registered, police handbooks interpreted "address" to mean "address of permanent hukou registration." The Residence Registration System, supra note 20, at 21.

68. 1999 Implementing Rules, supra note 62, art. 10 ("Citizens applying for resident identity cards must fill out the Permanent Population Registration Form and hand over their resident hukou booklet and two recent standard photographs."); Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards, supra note 56, at § 5 (stating that black and white photos were fine for first-generation resident identity cards).

69. 1999 Implementing Rules, supra note 62, art. 10 (requiring that a Permanent Resident Registration Form be filled out when applying for a resident identity card).

70. See 1985 ID Regulations, supra note 4, art. 3 ("The items to be registered for a resident identity card shall be name, sex, ethnicity, birth date, and address.").

71. For another example of a Permanent Residence Registration Form, see The Residence Registration System, supra note 20, at 13.

72. 1999 Implementing Rules, supra note 62, art. 3 ("Resident identity cards use polyurethane film seal, single page card style.").

73. 1985 ID Regulations, supra note 4, art. 3 ("The registered items shall be filled out using standardized language."). Standard Chinese is required for all cards and registrations, but autonomous areas may also adopt the commonly used local language depending on local conditions. Id.
Permanent Resident Registration Form

<table>
<thead>
<tr>
<th>Name*</th>
<th>Sex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previously used names*</td>
<td>Ethnicity*</td>
</tr>
<tr>
<td>Date of birth*</td>
<td>Year</td>
</tr>
<tr>
<td>Place of family origin*</td>
<td>Religious belief</td>
</tr>
<tr>
<td>Citizen identity card number*</td>
<td>Date of issuance of resident identity card*</td>
</tr>
<tr>
<td>Level of education*</td>
<td>Marital status*</td>
</tr>
<tr>
<td>Height*</td>
<td>Blood type</td>
</tr>
<tr>
<td>Name of work unit*</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Family relations*</th>
<th>Name</th>
<th>Relationship</th>
<th>Home address or work unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>-------------------</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Dossier number of registrant*</th>
<th>Phone number of registrant*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application date</td>
<td>Year</td>
</tr>
</tbody>
</table>

Notice on filling out the form: Items marked with "*" are required, please be sure to fill them in accurately; two relatives with different home addresses must be provided for the "family relations" item.

Figure 1: Example Permanent Resident Registration Form used under the 1985 ID Regulations, as posted by the Beijing Foreign Enterprise Human Resources Service Co., Ltd. at http://www.fesco.com.cn/download/12259-1.doc. Although there may be some variety as to format (e.g., some forms do not differentiate the “required” items) the general content of the forms is the same.

rules listed the cardholder’s eighteen-digit CIN. Cards were stamped with the official mark of the issuing public security bureau (e.g., Jiandu City Public Security Bureau) and contained the PRC country seal, the country name written out in characters, and the words “resident identity card.”

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74. 1999 Implementing Rules, supra note 62, art. 2 (“Resident identity card numbers shall become citizen identity numbers.”).
Figure 3: Old identity card. The front of the card states the cardholder's name, sex, ethnicity, birth date, and address the card's issue date and period of validity, and the resident identity card number; the red stamp is the official mark of the issuing public security bureau. The back of the card shows the country seal, with writing that reads: "People's Republic of China" and "resident identity card." Images obtained from http://www.wsqj.com/shenfenzheng.jpg, http://library.minghui.org/victim/i91.htm, http://www.newgx.com.cn/staticpages/20050725/newgx42e3c8a0-412354.html.

2. The New Resident Identity Card Regime

The new resident identity card regime is based on the 2003 ID Card Law, which is much more detailed than the 1985 ID Regulations, and on a number of other governmental directives
regarding the change over to new identity cards. Unlike the old regime, which excluded certain citizens from obtaining identity cards, the 2003 ID Card Law provides that every Chinese citizen may obtain a resident identity card. Under the 2003 ID Card Law, all citizens age sixteen and older, including active soldiers and military police, must get resident identity cards, and citizens younger than sixteen may apply for and obtain cards if desired. Although the new law is silent on prisoners and other convicted persons, it is likely that at least those persons being reformed through labor and reeducation will be issued new cards. The 2003 ID Card Law also does not speak directly to the situation of a person sentenced after obtaining an identity card, but the situation will probably be handled as formerly provided by the 1999 Implementing Rules.

The 2003 ID Card Law provides that all Chinese citizens shall obtain resident identity cards within three months after their sixteenth birthday. Citizens younger than sixteen must have a guardian apply for a card on their behalf. While card applications are made to the public security organ (generally the local police station) at the place of the citizen's permanent hukou registration, county-level public security departments associated with the government at the place of permanent hukou registration actually issue the cards. This provides for greater standardization of cards, which should help reduce the prevalence of counterfeit identity cards.

75. For example, the Official Response by the State Council on Problems Associated with Changing Over to Second Generation Resident Identity Cards, supra note 9, elaborates on the format of the card and future goals for card use (one goal being to make possible the use of cards as both identification and credit cards).

76. 2003 ID Card Law, supra note 9, art. 2 ("Chinese citizens over age sixteen that reside in the PRC shall apply for and obtain resident identity cards in accordance with the provisions of this law; citizens who are younger than sixteen may apply for resident identity cards in accordance with the provisions of this law.").

77. Id., arts. 2, 21. However, soldiers and military police are subject to specific rules for obtaining cards provided by the State Council and the Central Military Commission. Id. art. 22.

78. The Standing Committee of the National People's Congress suggested as much in its 2002 Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)", which implied that the language requiring all citizens over age sixteen to obtain resident identity cards included criminals being reformed through labor and reeducation. Guanyu "Zhonghua renmin gongheguo gongmin shenfenzheng fa (cao'an)" de shuoming [Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)"] (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 25, 2002, effective Oct. 25, 2002) (P.R.C.), § 1.


80. 2003 ID Card Law, supra note 9, art. 7.

81. Id.

82. Id. arts. 7, 8.
New items of personal information are registered under the 2003 ID Card Law. In addition to the cardholder’s name, sex, ethnicity, birth date, CIN, and photo, the card’s dates of validity and the government organ that issued the card are also registered with police. The ability to register citizens’ photos is an important change and a byproduct of the computerization of China’s hukou identification system. Accessibility of citizens’ photos through the hukou information database allows those who can access the database to verify whether the person presenting the card is actually the person registered under the card. This function is discussed in greater detail infra. Although the 2003 ID Card Law requires registration of a photo, it does not explicitly require citizens to submit photos with their identity card applications. However, other government guidance documents mandate that resident identity cards have color digital photos. How citizens acquire the photos varies from one jurisdiction to another. In some places, pictures are taken by the police at the time of identity card registration; in others, the registrant must obtain the photos in advance from a state-approved photo shop. The photo, along with the six other registered items on the new identity cards, is not only printed on the surface of the card, but also

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83. 2003 ID Card Law, supra note 9, art. 3.


85. See, e.g., Beijing Takes the Lead, supra note 57 (discussing an especially busy local police station where the process of issuing second generation cards involved taking the cardholders’ pictures); Guangdong: Shantou shi 10 ri qi quanmian qidong huanfa di’erdai jumin shenfenzheng [Guangdong [Province]: From the Tenth Shantou City Begins Full Efforts for Changing Over to Second-Generation Resident Identity Cards] (posted by Ministry of Public Security, Shantou Public Security Bureau, Aug. 12, 2005) http://www.mps.gov.cn/webpage/shownews.asp?id=9277&biaoshi=bitLocalNews (alerting Shantou residents who will be obtaining new resident identity cards that they must get digital photos from a state-approved photo shop to submit with their card application).

Where photos are obtained from private photo shops, scams that provide photos that do not meet national standards are common. Li & Ji, supra note 84. To combat the practice, some regions have set up online resources through which citizens may authenticate a photo before going to the police station. For example, the PRC Card Photo Digital Picture Quality Testing Center (at http://www.rzzx.com.cn/) can check photos for citizens whose permanent hukou are registered in the cities of Shenzhen and Zhuhai.
stored on an electronically scannable IC (integrated circuit) card located in the center of the card (discussed further infra). 86

Like the old resident identity card regime, the 2003 ID Card Law requires that every citizen fill out a registration form when applying for a card. 87 Interestingly, the new Resident Identity Card Application Registration Form gathers far less information than did the old Permanent Resident Registration Form. Beyond the items registered with police under the 2003 ID Card Law, 88 the new form includes only administrative information, such as the reason for the application, the time the card was received by the processing organ, the receipt number, the person in charge of the application, the applicant's phone number and signature, the time for picking up the new card, a delivery address in case the applicant prefers that the card be sent by express delivery, and a signature upon pick-up (see fig. 2 below). The form also includes a receipt given to the applicant to bring back for in-person pick-up of the card. Resident identity cards can only be obtained by presenting a valid hukou. 89

The Resident Identity Card Application Registration Form is submitted not only when applying for a new resident identity card, but also when exchanging or replacing a card. 90 When a card has expired, been lost, or undergone serious damage, the cardholder's name has changed, or there are errors in the registered items on the card, the card must be replaced. 91 Unlike the old regime, under which a new resident identity card had to be obtained when one moved away from one's place of permanent hukou registration, under the 2003 ID Card Law, any change in permanent hukou registration, such as a transfer of hukou registration from one city to another, is simply recorded on the card's

87. 2003 ID Card Law, supra note 9, art. 10 (stating that a Resident Identity Card Application Registration Form shall be filled out and turned in when applying for a resident identity card).
88. See 2003 ID Card Law, supra note 9, art. 3 (registered items include name, gender, ethnicity, birth date, address, citizen identity number, photo, valid dates, and issuing agency).
89. Id. art. 10 ("When applying for a resident identity card, fill out [a form] and present your hukou booklet for inspection."). Interestingly, while resident identity cards are obtained and validated by presentation of a citizen's hukou, they later become the verifying document for hukou, and are produced to verify identity when changes to items on permanent hukou registration are made. Id. art. 14.
90. Id. art. 12.
91. Id. art. 11.
92. 1999 Implementing Rules, supra note 62, art. 11.
internal IC card (discussed further *infra*).\(^93\) When a citizen submits his or her Resident Identity Card Application Registration Form, the public security organ has sixty days within which to issue a card.\(^94\) A temporary resident identity card is issued upon application by a citizen waiting for a new, exchange, or replacement card.\(^95\)

Even though the law requires that all Chinese citizens obtain a resident identity card,\(^96\) the card is not free.\(^97\) Getting a new card costs twenty Chinese yuan (approximately $2.50 in U.S. dollars), a replacement card costs forty yuan (about $5.00 in U.S. dollars), and a temporary card costs ten yuan (about $1.25 in U.S. dollars).\(^98\) Many citizens cannot afford these fees.\(^99\) In the interest of wide, uniform distribution of the cards across the population, fees can be waived or reduced for urban and rural poor.\(^100\) For the card to truly be effective in preventing counter-
feitng and allowing citizens across the country equal access to services that require identity verification, the government must ensure that even the poorest members of society can obtain an official resident identity card.

Like the old cards, the new cards use standard Chinese characters and standard numerals. Unlike the 1985 ID Regulations, however, the 2003 ID Card Law places the State Council’s public security department in charge of the cards’ format and mandates centralized production of the cards. This will avoid inconsistencies among cards (such as handwritten and typed cards) and may make cards more difficult to replicate. Except for the PRC country seal, the country name written out in characters, and the words “resident identity card,” which appear on the back of the cards, all of the information on the new resident identity cards is officially registered information: cardholder name, sex, ethnicity, birth date, address, citizen identity number, and photo, and the card’s period of validity and issuing agency (see fig. 4 below). The cards are no longer stamped by the issuing police bureau, making it less apparent on the face of a card where its holder is from. The unified card system may therefore help reduce division and discrimination among citizens based on residence.

One of the most important provisions of the 2003 ID Card Law states that the registered information on the new resident identity cards is to be both printed on the surface of the card and stored electronically on its internal IC card. An IC card is essentially a microchip that can store a limited amount of information, and it can be electronically scanned to retrieve the

101. 2003 ID Card Law, supra note 9, art. 4 ("Resident identity cards shall be filled in with standard Chinese characters and national standard numeric symbols."). Similarly, like the 1985 ID Regulations, the new law provides that local language may additionally be utilized on the card in autonomous regions. Id.

102. Id. art. 6. Although the format of the old cards was similar generally, different areas used different fonts and spacing, and some even handwrote the card information. Furthermore, the 1985 ID Regulations never explicitly required uniformity in the cards, simply stating that “public security organs shall be responsible for printing, issuance, and control of resident identity cards.” 1985 ID Regulations, supra note 4, art. 5.

103. 2003 ID Card Law, supra note 9, art. 3.

104. Chan & Zhang, supra note 6, at 834 (noting that the stamps placed on resident identity cards by local police bureaus can aid in the immediate identification of outsiders).

105. 2003 ID Card Law, supra note 9, art. 6. Once again, registered items include name, gender, ethnicity, birth date, address as registered on the cardholder’s permanent hukou, citizen identity number, photo, period of validity of the card, and issuing agency. Id. art. 3.
Figure 2: Example Resident Identity Card Application Registration Form utilized under the 2003 ID Card Law, as posted by the South China University of Technology at www2.scut.edu.cn/security/security/table/siform.doc.

Prior to the promulgation of the 2003 ID Card Law, the State Council issued a document discussing "second generation" identity cards and suggesting that the IC card would store the cardholder's fingerprints and record of card application,
exchange, and replacement, the chip manufacturer's number, and other information to protect against forgery.\textsuperscript{107} Currently, fingerprints are not stored on the card,\textsuperscript{108} but it may be simply a matter of time before they are required to be registered along with the other card information.

Figure 4: New identity card. The front of the card includes the cardholder's name, sex, ethnicity, birth date, address, citizen identity number, and photo. The back of the card shows the country symbol with characters to the right reading “People’s Republic of China” and “resident identity card.” At the bottom are listed the issuing agency and the validity dates for the card. Images obtained from http://www.china.org.cn/chinese/zhuanti/sfz/528649.htm.

The 2003 ID Card Law includes a number of provisions intended to help combat identity fraud. First, it expands legal liability for forging or falsely obtaining a resident identity card. Using false information to get a card, renting, loaning, or trans-

\textsuperscript{107} Official Response by the State Council on Problems Associated with Changing Over to Second Generation Resident Identity Cards, \textit{supra} note 9, § 2 (“[M]achine-readable information refers to [the registered information appearing on the front of the card], the cardholder’s fingerprints, a record of the card's application, exchange, or replacement, the chip’s manufacturer’s number and information on digital protection against faking.”).

erring one's own card, or illegally confiscating someone else's card is punishable by a fine of 200 yuan (about $25 in U.S. dollars) plus any illegal profits.109 Falsely using another person's card, using a card obtained by deceit, or buying, selling, or using a falsified card is punishable by a fines between 200 yuan and 1000 yuan (around $125 in U.S. dollars) plus illegal profits, or up to ten days' detention.110 Any of these activities will be investigated for criminal liability, as will forging or falsifying documents.111

The 2003 ID Card Law also extends liability to the police, who are in charge of issuing resident identity cards. Police are now liable for corruption stemming from the production, issuance, and oversight of cards. The 1985 ID Regulations merely stated that public security personnel who abused their authority by carrying out the regulations for the benefit of their friends, or in such a way as to infringe on a citizen's lawful rights and interests, would be criminally investigated.112 The 2003 ID Card Law lists specific examples of abuse, including: using production, issuance, or examination of cards to get money or property or to pursue other interests; illegally altering a citizen identity number, registering information beyond the information legally required to be registered, or intentionally registering false information; failing, without proper reason, to issue a resident identity card within the legally stipulated period; or examining or detaining a resident identity card in violation of the rules.113 If these new provisions expanding liability for identity fraud can deter such behavior, they will go a long way toward making the resident identity card a more reliable method of identity verification.

The 2003 ID Card Law also states that public security organs and police shall keep confidential any personal information obtained from the production, issuance, examination, or detention of a citizen's resident identity card.114 It provides that disclosing

109. 2003 ID Card Law, supra note 9, art. 16.
110. Id. art. 17.
111. Id. art. 18. A recent case from Shanghai suggests that forging documents is not a strict liability crime. The defendant, a divorcée who moved from her original place of permanent hukou registration and then lost her resident identity card, hired someone to forge an identity card for her when she was unable to obtain a new hukou or identity card. The court found that the defendant, who used her true name, picture, address, and identity card number on the forged document, lacked intent, and was therefore innocent of any crime. Shanghai Jing An Qu Renmin Jianchayuan su Zhang Meihua weizao jumin shenfenzheng an [Shanghai Jing An District People's Procuratorate Case Against Zhang Meihua for Forging a Resident Identity Card], CHINALAWINFO (find at http://chinalawinfo.com) (Shanghai Second Interm. People's Ct., July 22, 2004).
112. 1985 ID Regulations, supra note 4, art. 17.
113. 2003 ID Card Law, supra note 9, art. 19.
114. Id. art. 6.
personal information obtained through any of these means is a violation of the citizen’s lawful rights and interests and may be criminally investigated.\textsuperscript{115} The old legal framework had no such provision. The new stipulation on confidentiality is interesting in that it shows a tendency toward recognition of personal privacy rights and may imply that China will ultimately adopt identity information controls similar to those in the United States, where identity information is protected from disclosure. However, as discussed further below, China’s approach to storing and accessing identity information for the purpose of proving identity in everyday transactions (such as obtaining a loan or credit card) is still developing. Thus, the restriction on police disclosure of identity information may not be indicative of what the future will bring.

C. USING THE RESIDENT IDENTITY CARD TO PROVE IDENTITY

As discussed above, one of the goals of both the 1985 ID Regulations and the 2003 ID Card Law is to allow individuals in the PRC to prove their identity. While there are only a few differences between the 1985 ID Regulations and 2003 ID Card Law, these innovations may prove important. Most important is the foundation of the National Citizen Identify Information Center (NCIIC or “Center”), established on March 27, 2001 under the Ministry of Public Security.\textsuperscript{116} This section discusses the differences between the 1985 ID Regulations and the 2003 ID Card Law, then examines the role of the NCIIC in facilitating identity verification.

Under the old resident identity card regime, the 1985 ID Regulations provided that the identity card could be used in situations affecting rights and interests related to the citizen’s political, economic, and social life; nowhere did it require acceptance of the card as proof of identity.\textsuperscript{117} The 1999 Implementing Rules provided a list of specific situations in which a resident identity card could be used to establish identity, including: voter registratio-

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{115} Id. art. 19.
\item \textsuperscript{117} 1985 ID Regulations, supra note 4, art. 14 (“When undertaking matters related to rights and interests associate with political, economic and social life, the resident identity card may be presented to certify identity.”). The 1985 ID Regulations only provided that a unit could not confiscate a person’s identity card but did not require that the card be accepted as identification. Id.
\end{itemize}
\end{footnotesize}
tion, hukou registration, military registration, school enrollment, work application, and "other activities."\textsuperscript{118}

The 2003 ID Card Law unequivocally establishes the resident identity card's status as the national identity verification mechanism. Since the enactment of the 2003 ID Card Law, Chinese citizens may use their resident identity card to prove their identity for any purpose, and the card cannot be refused as proof of identity.\textsuperscript{119} Although the National People's Congress anticipated recodifying the 1999 Implementing Rules' list of specific situations in which to use the resident identity card,\textsuperscript{120} it ultimately opted for the general proviso that the identity card must be accepted as proof of identity and a list of five specific situations in which the resident identity card is required.\textsuperscript{121} The five situations in which an identity card must be presented to the public security authorities (i.e., the police) are: when changing items on a permanent hukou registration, when registering for military service, when registering for marriage or adoption, when applying to leave the country, and in other situations as required by law.\textsuperscript{122} In other words, the 2003 ID Card Law only codifies specific times when the card must be presented to the police and provides that in other situations it must be accepted as identification if presented.\textsuperscript{123}

Even where the resident identity card was accepted to verify identity, until the establishment of the NCIIC, there was generally no publicly available means of confirming whether the individual presenting a card was who he claimed to be (short of going to the police station where the individual's hukou information was registered). The NCIIC was established in response to de-

\textsuperscript{118} 1999 Implementing Rules, supra note 62, art. 20. Other listed activities include: notarization, departure from a border administrative area, application to leave the country, litigation, driver's license application, business license application, hotel registration, and social assistance enrollment. Id.

\textsuperscript{119} 2003 ID Card Law, supra note 9, art. 13 ("When citizens are undertaking relevant activities and need to prove identity, they have a right to use their resident identity card, and the card cannot be refused by any unit or person as proof of identity.").

\textsuperscript{120} Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)," supra note 78, § 2.

\textsuperscript{121} 2003 ID Card Law, supra note 9, arts. 13, 14. The law also provides that those citizens who have not obtained identity cards may use other means of proving identity. Id. art. 14.

\textsuperscript{122} Id. art 14.

\textsuperscript{123} The Ministry of Public Security elaborates on other activities and transactions for which the card may be used, such as registering for school entrance exams, undertaking banking and insurance activities, completing forms for family planning/taxes/employment/customs, signing up for cultural/athletic competitions, registering private household property rights, undertaking printing activities, and identifying and picking up a lost child or lost property. Regarding the Policies and Rules on Resident Identity Cards, supra note 24, ¶ 15.
mands by the increasingly frustrated banking and information industries, which needed to quickly and accurately verify customers' identities and experienced a great deal of fraud in day-to-day operations.\textsuperscript{124} Charged with developing, managing, and maintaining a "national citizen identity information system" that stores Chinese citizens' identity information for access by businesses and individuals across the country, the NCIIC began to develop a national program of identity verification immediately upon its establishment in 2001.\textsuperscript{125}

By 2003, the NCIIC's software development process was substantially complete, and public security \textit{hukou} administration organs began sending identity data to the NCIIC for storage.\textsuperscript{126} The NCIIC's system is separate from the \textit{hukou} system, which is directly managed by the police, but because the \textit{hukou} system is the basis for managing identity in China, it is the source from which the NCIIC system must obtain its information. As the NCIIC system progressed, the NCIIC partnered with a number of telecommunications companies, such as China Mobile, to develop online and mobile access to the system.\textsuperscript{127} By the end of 2003, the NCIIC system included data for 210 million people in forty-two cities, and by March 2005, the system held data for 320 million people in seventy cities.\textsuperscript{128} While these numbers represent impressive achievements, the NCIIC system's usefulness is limited because its database is still far from complete, lacking identity information for hundreds of millions of citizens. The timeline for completion of the NCIIC database will likely depend upon the timeline for implementation of the new identity card, since the NCIIC database relies on information associated with the new card, such as the cardholder's photograph and CIN.

The NCIIC system allows three types of identity information searches: verification, inquiry, and statistical analysis.\textsuperscript{129} For ordinary citizens' purposes, the most important function is verification.

To perform a verification, one sends the citizen's name and CIN to the NCIIC via the Internet or a mobile phone. The

\begin{itemize}
\item \textsuperscript{124} About NCIIC, \textit{supra} note 116; Speech by Director Gao Haimin of the NCIIC, \textit{supra} note 116.
\item \textsuperscript{129} About NCIIC, \textit{supra} note 116.
\end{itemize}
NCIIC checks its database for a match.130 If the name and CIN are an exact match with a coupled name and CIN in the NCIIC system,131 the NCIIC returns a message that says “match” and shows the requested individual’s name, CIN, and photograph.132 The photo allows the person making the verification to ascertain whether the person standing in front of him or her is actually the person associated with the card.133 If the submitted CIN is in the NCIIC database, but the name provided does not match that associated with the CIN in the database, the user will receive a message that says “no match.”134 In this case, the NCIIC recommends that the user seeking the verification further research the person’s identity by going to the police station at the place of the person’s permanent hukou registration.135 If the submitted CIN is not in the NCIIC database, the user will receive a message that says “please go to the place of the hukou to investigate further.”136

The verification function is the NCIIC’s response to the complaints of companies and organizations losing money because of their inability to confirm the identities of customers and employees. The service is aimed at the areas of telecommunications, employment services, rental services, financial services, travel services, and education (hiring someone else to take one’s college entrance exam is one of the most prevalent forms of identity fraud).137 The Center has entered into a number of agreements with banks and car financing companies (including Volkswagen and Toyota) to allow these companies to perform


131. While English names might be difficult to match in this kind of system because of a nickname or the use or omission of a middle name, Chinese names do not present these problems. Chinese characters are monosyllabic and do not lend themselves to shortening. Chinese surnames are generally one (sometimes two) characters, and given names are one or two characters that cannot be shortened into different spellings. Nicknames are generally not used except among family and friends.


134. Id.

135. Id.

136. Id.

137. See, e.g., http://id5.cn, which is the official access website for verification searches and advertises that these industries can save money by verifying the identities of their users.
verification searches to check customers' identities for credit card and financing services.\textsuperscript{138}

It appears that identity verification will also be available to average citizens. According to the NCIIC website, ordinary citizens who have China Mobile cellular service have been able to perform identity verifications since February 2005 via text messaging.\textsuperscript{139} If an individual is unable to access the system via cell phone, the NCIIC has verification website (http://id5.cn) where one can set up an account to check identity. This could be an enormously important way for businesses to attain a higher level of security in their everyday transactions, and it will be especially important for financial institutions. The credit card industry is beginning to take hold in China,\textsuperscript{140} and, if the industry adopts the practice of in-person credit card applications, the ability to verify identity from a reliable central database that offers photo identification could stem credit card fraud. Depending on how widespread it becomes, the verification function could be important for individuals, as well, and may help them avoid the rampant identity theft experienced in the United States and Europe.

The other two services provided by the NCIIC are identity inquiries and statistical analysis. Unlike the verification function, inquiries, which are only available to public security organs and other authorized users, allow the user to access information on more than one citizen.\textsuperscript{141} To perform a search, the user simply enters a name.\textsuperscript{142} A screen pops up showing information on a number of citizens with that name, and the user can access a fairly complete information dossier on each individual.\textsuperscript{143} It appears that, at least at this point in time, the inquiry function will not be made accessible to the public. Similar access to identity information was made publicly available in Jilin province, draw-
ing criticism from proponents of privacy rights.\textsuperscript{144} However, the Jilin program does show a willingness to make such information public, and given that the NCIIC system is so new, it will be interesting to see if inquiries, or any information beyond the limited information available via verifications, will be made publicly accessible.

The statistical analysis function, which is not currently available, can provide the user with a number of different kinds of population statistics.\textsuperscript{145} The information available through this function is general census-type information. Based upon the example posted on the NCIIC website, it appears that users will be able to access statistics such as male/female ratios, age statistics, and population growth statistics, for areas ranging in size from provinces to local police stations.\textsuperscript{146} Statistical analysis is meant for users who are attempting to understand population demographics and seems to be aimed at organizations looking for a good location to do business.\textsuperscript{147}

III. THE IDENTITY CARD AND POLICE POWER: EASED ACCESS TO IDENTITY INFORMATION AND POTENTIAL POLICE ABUSE

As mentioned above, in addition to its identity-proving function, the modern hukou system is used to control internal migration and manage certain classes of "targeted people," including those suspected of endangering national security or engaging in criminal activity, violent individuals, ex-convicts, and narcotics users.\textsuperscript{148} The hukou system's identity verification function has become stronger with the advent of the resident identity card and recent changes allowing greater standardization and accessibility of identity information. Because the hukou system's strict controls over internal migration, which are beyond the scope of this paper, have resulted in deep inequities between urban and rural Chinese and a floating population of over 110 million,\textsuperscript{149} the general consensus seems to be that this function will inevitably be

\begin{itemize}
\item \textsuperscript{144} Access to ID Details Arouses Controversy, CHINA DAILY, July 3, 2004.
\item \textsuperscript{147} Tongji hangye yingyong [Statistical Industry Uses], http://www.nciic.com.cn/yingyong-8.htm.
\item \textsuperscript{148} WANG, supra note 1, at 35, 49, 108.
\end{itemize}
abolished. However, the system’s other function, managing “targeted people” and facilitating the policing of the population, will likely be enhanced by the identity card even as the hukou system loses its power to restrict residence.

With its new high-tech functions, the identity card will allow police more access to individuals’ information. For example, when people travel in China, they must register with their hotel by providing an accepted form of identification. Currently, “all hotels, inns, and guesthouses with more than fifty beds must have scanners and computers directly linked to local police stations to instantaneously scan and transmit the photos of all guests who have completed the check-in registration.” Now that identity cards can be scanned electronically, police will be able to track each person’s whereabouts and activities more quickly and efficiently than they could under the old system. In this way, the identity card “augments the household registration system by offering a convenient means by which to carry out many of the non-territorially based policing functions of the [hukou system].” With easy access to information about where people are located or traveling, police can profile people based upon actions that may be innocuous. This could lead to police abuse and arbitrary detentions of citizens who have done nothing wrong.

Although the speed with which police can gather information and profile individuals using the new identity cards may be a concern, ultimately, it may not have much effect on ordinary citizens who are not among the “targeted people.” Because the police force is generally stretched very thin, unless a citizen is already on its watch list, it seems unlikely that this use of the identity card will greatly affect the liberty of the general public.

Furthermore, “there is much popular support for tough policing in China,” and individuals simply may not perceive that these sorts of uses of the identity card infringe on their personal rights.

150. Recent reports cite plans by the Chinese government to abolish certain migration restrictions in eleven provinces. See Joseph Kahn, *China to Drop Urbanite-Peasant Legal Differences*, N.Y. TIMES, Nov. 3, 2005, at A8. See also Wong & Huen, *supra* note 6, at 992 (1998) (discussing the effects of hukou-based migration policies as generally placing the best, brightest, and wealthiest in the major cities, while leaving rural residents no access to the benefits of urban life).

151. Lüguanye zhi’an guanli banfa [Hotel Industry Public Safety Oversight Rules] (promulgated by the Ministry of Public Security, Nov. 10, 1987) (P.R.C.) art. 6 (“When hotels receive guests, they must register them and review their identification.”).

152. *Wang*, *supra* note 1, at 201.


A far greater concern associated with identity cards is the random exercise of police discretion to check cards and detain citizens based on such checks. For example, in 2003, a young man from Hubei Province named Sun Zhigang was arrested in Guangzhou Province because he did not present identification to the police.\textsuperscript{156} He was later beaten to death while in custody.\textsuperscript{157} Sun's case caused a public outcry in China,\textsuperscript{158} and the 2003 ID Card Law contains provisions responding to concerns arising from his death. In particular, the 2003 ID Card Law specifies four circumstances in which the police may examine a citizen's resident identity card: where someone is suspected of criminal activity, where the police are lawfully taking control of a scene, where an incident severely threatens societal order, and other situations according to the law where identity must be established.\textsuperscript{159} These restrictions are an enormous change from the 1985 ID Regulations, which gave police vast power to examine identification, providing that "a public security organ has the right to examine citizens' resident identity cards when performing its duties, and citizens may not refuse to be examined."\textsuperscript{160}

The enactment of more restrictive provisions limiting the right of the police to examine citizens' identification may imply that, under the 2003 ID Card Law, citizens have a right to be left alone if they can show that none of the four situations apply to them. However, the provision allowing examination of identification in "other situations according to the law" is broad and seems prone to creative police interpretation; depending on actual oversight of police, the provision could simply result in the continuation of the status quo. It remains to be seen whether these provisions will actually affect police behavior.

CONCLUSION

The resident identity card is now the most common and accepted method of establishing identity in China and will only gain prominence in the lives of Chinese citizens in years to come. The card's new format and ability to store identity information in

\textsuperscript{157} Id.
\textsuperscript{159} 2003 ID Card Law, supra note 9, art. 15. Both the old and new identity card regimes require that police present their police identification before examining citizens' identification. 1985 ID Regulations, supra note 4, art. 13; 1999 Implementing Rules, supra note 63, art. 36; 2003 ID Card Law, supra note 9, art. 15.
\textsuperscript{160} 1985 ID Regulations, supra note 4, art. 13.
an electronically-readable chip provides better safeguards against forgery than were previously available. Furthermore, the NCIIC system of identity verification provides a generally-accessible means for individuals and businesses to verify identity, which will assist in the further growth of China’s economy by preventing fraud in areas such as banking and financing.

Besides promoting standardized identity verification, the resident identity card represents one more step in the *hukou* system’s transformation from a system primarily concerned with controlling migration to a system that aids in policing the population. While the resident identity card gives police greater access to identity information and may ultimately lead to abuses of police discretion, the 2003 ID Card Law does adopt some checks on police power. However, in the current climate of mass support for tough measures against crime, these provisions may be meaningless as far as actually changing police behavior.