

Information paper on
14 November 2002

**Bills Committee on
Registration of Persons (Amendment) Bill 2001**

Identity Card and Driving Licence Checks

INTRODUCTION

At the Bills Committee meeting held on 28 October 2002, Members asked how the introduction of the smart identity card (ID card) will affect the operation of identity card and driving licence checks conducted by the Police, including the maintenance of and access to records of such checks. This paper provides the relevant information.

EXISTING PRACTICE

Identity Card Checks

2. Police officers are empowered under Section 17C of the Immigration Ordinance, Cap.115, to demand and inspect proof of identity from every person who has attained 15 years of age and who is the holder of an ID card, or who is required to apply for registration under the Registration of Persons Ordinance, Cap.177.

3. To ascertain whether a person is holding a valid ID card when exercising the powers under Section 17C, police officers may use their beat radio to contact their Regional Command and Control Center (RCCC) to request an ID card check. Upon receipt of requests for such checks and before performing such enquiries through the terminal of the Police's Enhanced Command and Control Computer System (ECACCS), the RCCC operator is required to establish the bona fide of the requesting officer and to enter into their ECACCS terminal the requesting officer's unique identification (UI) number and posting, reason for the enquiry and the stop location (if any) or the file reference (if any). On obtaining the

result of the computer search (which is a code to confirm whether the ID card is a valid one, a suspected forgery or a reported lost/missing card), the operator will respond to the requesting officer with that particular code. No other ROP data will be disclosed to the requesting officer since the sole purpose of an ID card check is to ascertain whether an ID card held by a person is valid.

Driving Licence Checks

4. Police officers are empowered under Section 43 of the Road Traffic Ordinance, Cap. 374, to demand and inspect driving licences.

5. Apart from inspecting a driving licence, police officers may use their beat radio to contact their RCCC to request a check on Transport Department's Vehicle and Drivers Licensing Integrated Data III (VALID III) to obtain additional information which may be accessed through the Police's ECACCS. In practice, about 90-95 % of driving licence checks conducted by the Police involve backend checking. Similar to ROPS checks, upon receipt of requests for driving licence checks, the RCCC operator will enter in their ECACCS terminal the requesting officer's UI number and posting, reason for the enquiry and the stop location (if any) or the file reference (if any). Once the results of the computer search are obtained, the operator will respond to the officer confirming whether it is a valid driving licence, whether the driving licence is licensed to the one being checked and whether the holder is qualified to drive the class of the car in question.

Measures taken by the Police to Prevent Abuse

6. For the exercise of statutory powers, police officers have to comply with the Personal Data (Privacy) Ordinance (PD(P)O) when conducting ID card or driving licence checks. Besides, they are required to follow clearly laid down procedures governing such checks. The procedures cover and provide adequate safeguards on the use, retention and disposal of data obtained. For example, there are clear restrictions regulating access to the data obtained to ensure that the data are only made available to police officers on a "need to know" basis. When making the request for data, the officer has to provide reasons for the

enquiry and shall satisfy himself that the data sought are required for the lawful execution of duties. He should also be able and ready to justify his checks in court.

7. To ensure proper accountability of police officers to their checks conducted, audit trails of ID card checks and driving licence checks are maintained in the ECACCS. The audit trails maintained in the ECACCS contain such information as ID card or vehicle registration number checked, time and date of the check, terminal number, user code, operator's UI number, requesting officer's UI number and posting, stop location (if any), file reference (if any), reason for and result of the check. These audit trails are only accessible by limited authorized officers and strictly for internal audit purposes. They are handled in compliance with PD(P)O and will not be disclosed to any parties outside the Police Force.

FUTURE PRACTICE WITH SMART IDENTITY CARDS IN PLACE

Identity Card Checks

8. Introduction of the smart ID card will not have any substantial impact on the way in which the Police maintain records relating to ID card checks. In most of the cases where an ID card check is considered necessary by a police officer, it is expected that the officer concerned, just like now, would use the beat radio to confirm whether the card is a valid one, a suspected forgery or a reported lost/missing card. The same procedures and standards against abuse as now applicable would apply and audit trails of each such check will continue to be maintained in the ECACCS. The main difference with the smart card in place is that, through the use of an appropriate reader with secured access to the digital finger print template stored on the chip, a police officer will be able to very quickly and accurately tell, in situations where a reasonable suspicion arises, whether a person found in possession of a smart ID card is indeed its rightful holder.

9. It is our assessment that the use of the reader to match a cardholder's finger print image with the digital finger template stored in

the chip embedded in the card in his possession will not be required every time an ID card check is conducted on the street. In the vast majority of cases, checking through the RCCC, coupled with physical examination of the security features of a smart ID card with trained eyes and, if necessary, the putting of a few appropriate questions, will provide sufficient assistance to a police officer and allow him to tell whether the cardholder is indeed its rightful holder. It is only in specific cases, where a reasonable suspicion still lingers on despite the above processes, that a verification through the use of smart card reader will be necessary.

10. Against the above, it is also our assessment that the number of smart card readers that will be acquired by the Police for law enforcement purposes will be relatively small. We definitely do not see a need, for example, for each frontline police officer or each police vehicle on routine patrol duties to be equipped with a reader. At this stage, it is envisaged that such readers will mainly be used for special operations targeting illegal immigrants and that some readers will be installed at selected police stations. The Police will review the use of the smart card readers from time to time to ensure that it is PD(P)O consistent and strikes the right balance between facilitating law enforcement and causing the minimum interference to the daily lives of the law abiding public.

Driving Licence Checks

11. The use of card readers is not relevant at all to driving licence checks as the chip embedded in the smart ID card contains no driving licence related data.

12. The introduction of the smart ID card will not cause any change to the current operation of the driving licence checks. The existing procedures for driving licence checks as set out in paragraph 5 above will remain unchanged until drivers are given the option of not carrying a paper driving licence in 2005/06 when Transport Department's system is upgraded to VALID IV and the Police's beat radio system is enhanced as part of the new Command and Control Communications System. In that event, a police officer can use the ID card number instead of the driving licence number as a key code to request through the ECACCS a check of the relevant data held in VALID IV (*note: It is*

important to note that the ID card number and the driving licence number are the same, and that the production of an unexpired driving licence even now does not demonstrate conclusively that its holder is legally allowed to drive, since suspension is not shown on the licence and such information can only be ascertained through checking with the backend system). Again, audit trails regarding such checks will, like they are now, be maintained by the Police's ECACCS. The checks will also be subject to procedures and safeguards against abuse just like now. To nitpick, the only difference may lie in that, instead of a 90% to 95% ratio, in future "driving licence" checks involving access to VALID IV may be closer to 100%. But even this is speculative as we do not know yet the number of people who, for their own reasons, will still choose to carry a paper licence with them whilst driving in Hong Kong. In any event, we do not see how the introduction of smart ID cards will bear adversely on the protection of privacy insofar as driving licence checks are concerned, particularly as citizens are given a choice.

Security Bureau
12 November 2002