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# ARTICLES

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## **DON'T ASK, DON'T SELL: The Criminalization of Business Information-Gathering in China and the Case of Peter Humphrey**

Donald Clarke\*

*The case of Peter Humphrey and Yu Yingzeng, convicted in China on August 2014 on charges of unlawful acquisition of personal information of citizens (PIC), raises important issues about Chinese law. A narrow but important issue is how Chinese law draws the line between lawful and unlawful acquisition of information, a practice routinely carried out by businesses and individuals. This article examines the trial transcript and judgment in the Humphrey/Yu case and finds that it sheds regrettably little light on what remains a murky question. The judgment ignored the issue entirely, finding in effect that the collection of PIC was per se unlawful.*

*A broader issue is whether the Chinese legal system can be counted on to operate in a fair and impartial manner. This article presents the results of a study of all reported cases in Shanghai (ninety-two cases) involving the same provision of the Criminal Law that was the basis of the Humphrey/Yu conviction. It finds that the Humphrey/Yu sentences are outliers relative to other cases with comparable facts. In particular, Humphrey's sentence of thirty months' imprisonment was by far the heaviest sentence ever meted out by Shanghai courts on this charge, even though the circumstances seem conspicuously less serious than those of many other cases where lesser sentences were imposed, thus lending support to the theory of selective prosecution.*

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## INTRODUCTION

On August 16, 2013, the husband-and-wife investigators Peter Humphrey, a UK citizen, and Yu Yingzeng, an American citizen, were arrested in Shanghai in connection with an investigation their consulting firm, ChinaWhys,<sup>1</sup> had been undertaking for the drug company GlaxoSmithKline (“GSK”).<sup>2</sup> Almost exactly a year later, on August 8, 2014, the Shanghai First Intermediate People’s Court found Humphrey and Yu guilty of violating Article 253, Paragraph 4 of China’s Criminal Law (the “Criminal Law”),<sup>3</sup> which criminalizes the unlawful acquisition (非法获取) of personal information of citizens (公民个人信息) (“PIC”).<sup>4</sup>

1. ChinaWhys is described on its web site as “a risk management consultancy” that provides, among other things, commercial investigation services to corporate clients. See *Peter Humphrey: Managing Director of ChinaWhys*, CHINAWHYS, <http://chinawhys.com/peter.htm> [https://perma.cc/RK73-RHGJ] (last visited July 29, 2015).

2. See David Barboza, *In China, British Investigator Hired by Glaxo, and Wife, Sentenced to Prison*, N.Y. TIMES (Aug. 8, 2014), <http://nyti.ms/1ShcosY> [hereinafter Barboza, *Investigator Sentenced to Prison*]; Clifford Coonan, *British Investigator Peter Humphrey “Regrets” Illegal Data Scam on China TV*, INDEP. (Aug. 27, 2013), <http://ind.pn/1f1tQ1> [https://perma.cc/Y5SV-HE9B].

3. Zhonghua Renmin Gongheguo Xing Fa (中华人民共和国刑法) [Criminal Law of the People’s Republic of China] (promulgated by the Standing Comm. Nat’l People’s Cong., Mar. 14, 1997, as amended through Feb. 25, 2011) [hereinafter Criminal Law].

4. My information about the trial proceedings comes from my review of (a) what purports to be the transcript of the trial (“Trial Transcript”) (which may or may not be complete) posted on the court’s *weibo* (similar to Twitter) feed and available in collated form at Donald Clarke, *Weibo Transcript of Peter Humphrey Trial*, CHINESE L. PROF BLOG (Aug. 8, 2014), <http://bit.ly/trialtranscript> [https://perma.cc/Y77X-PAE8] [hereinafter Clarke, *Trial Transcript*]. My information also comes from my review of (b) the text of the judgment of the Shanghai First Intermediate People’s Court, 2014

They were found to have acquired 256 items of PIC, including domicile registration information, border entry and exit records, and mobile telephone communications records.<sup>5</sup> Humphrey was sentenced to two years and six months of imprisonment and fined 200,000 yuan, while Yu was sentenced to two years and fined 150,000 yuan.<sup>6</sup> In mid-June of 2015, Humphrey was formally released seven months early, apparently on grounds of ill health.<sup>7</sup> Yu was released at about the same time, and the couple finally left China for the UK on June 16, 2015.<sup>8</sup>

The Humphrey/Yu case raises two important issues, one narrow and one broad. The narrow issue is one that is critical for foreign, or indeed Chinese, businesses engaging in the collection of information: what is the line between legal and illegal information-gathering? Some types of information-gathering would be considered legitimate, normal, and lawful virtually anywhere—for example, reading newspaper reports about a rival's business strategies.<sup>9</sup> Other types would be considered illegitimate and unlawful virtually anywhere—for example, breaking into a rival company's safe to steal secret blueprints. The Stern Hu case, in which an employee of the Australian mining company Rio Tinto was convicted of theft of commercial secrets, raised but did not resolve this issue.<sup>10</sup> The judgment spent a great deal of time showing that Hu had obtained information about Chinese steel companies with which Rio Tinto

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Hu Yi Zhong Xing Chu Zi 127 Hao, Aug. 8, 2014 [hereinafter Trial Judgment]. The latter document came into my hands from a confidential source and is not posted, as it should be, on the court's web site. I believe it is authentic. Needless to say, matters stated as fact by the prosecution, the defense, or the court in the transcript and the judgment, whether related to the allegations or to the proceedings themselves, cannot be uncritically accepted as true. As of the date of this article, my source has not authorized me to release my copy of the Trial Judgment.

5. See Trial Judgment, *supra* note 4, at 2.

6. See Barboza, *Investigator Sentenced to Prison*, *supra* note 2; Trial Judgment, *supra* note 4, at 11.

7. See David Barboza, *British Investigator Hired by Glaxo Is Freed from China Prison*, N.Y. TIMES (June 9, 2015), <http://nyti.ms/1B07A3x> [hereinafter Barboza, *Investigator Freed from Prison*]. Humphrey was in fact held incommunicado for several more days following his formal "release." See Michael Sheridan, *Inside the Chinese Gulag*, SUNDAY TIMES (July 12, 2015), <http://thetim.es/1eAP0nJ> [<https://perma.cc/6GCU-UNY8>].

8. See Sheridan, *supra* note 7.

9. Actually, even this can be problematic in China. The prosecution in the Humphrey/Yu case accused them of "monitoring" (監控) individuals but introduced no evidence as to what the "monitoring" consisted of or why it was unlawful. The defendants contended that the prosecution had read English-language material that referred to the monitoring of individuals and meant simply following news reports, but had mistranslated the term into the more sinister-sounding 監控. See Clarke, *Trial Transcript*, *supra* note 4.

10. See Michael Sainsbury, *Rio Tinto's Stern Hu Jailed for 10 Years*, AUSTRALIAN (Mar. 29, 2010, 6:53 PM), <http://bit.ly/1GWrOaf> [<https://perma.cc/47TH-U2EM>]; John Garnaut, *A Year On, Secrets, Lies and Corruption Remain at the Heart of Rio Tinto Case*, SYDNEY MORNING HERALD (July 6, 2010), <http://bit.ly/1JMPQq7> [<https://perma.cc/39QB-VGL5>].

was negotiating, and that those companies would rather Hu had not obtained such information. But it spent virtually no time showing that Hu had used *illegal* means to do so. It spoke vaguely of bribery, but Hu was not even charged with bribery, to say nothing of being convicted of it.<sup>11</sup>

The Humphrey/Yu case presented a similar issue. Although there was no question that the defendants had acquired information that fell within the definition of PIC,<sup>12</sup> the law criminalizes the acquisition of PIC only when the means used are unlawful. Governments, businesses, and individuals hold vast amounts of personal information about other citizens, and the law should not and does not criminalize such holding in all cases. Consequently, it is critical for those in the business of information gathering—not an illegitimate activity *per se*—to know where the law draws the line.<sup>13</sup> Regrettably, as will be discussed below, the Humphrey/Yu case sheds no light on this issue whatsoever; the court, the prosecution, and the defense all seem to have ignored it entirely. In addition, the prosecution and the court ignored the important issue of whether Article 253 applied to the facts of this case at all.<sup>14</sup>

The broad issue raised by the case is whether the Chinese legal system can be counted on to operate in a relatively fair, impersonal manner, or can instead be used as a tool by powerful parties to punish their enemies. One of the rumors swirling around the case held that Humphrey and Yu had, in their investigations, offended a person with former ties to GSK who had powerful connections within China's political-legal apparatus (政法系统) and that the case against them was one of selective prosecution. Similar concerns were raised in the Stern Hu case: while Hu was convicted of *receiving* bribes, no prosecutions were ever brought against those who had *given* the bribes.<sup>15</sup>

This article will not attempt to assess the truth of this rumor. What it will do, however, is examine all other reported convictions in Shanghai for the same offense to see if any features of the Humphrey/Yu case appear to be outliers. As will be shown, the sentences meted out to Humphrey and Yu appear to be disproportionately harsh when the underlying relevant facts are compared with those in other cases.

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11. The text of the judgment in Chinese, as well as an imperfect but serviceable translation, can be found at Michael Sainsbury, "*Conflict of Interest*" in *Focus in Trial of Rio Tinto's Stern Hu*, AUSTRALIAN (April 19, 2010, 5:03 PM), <http://bit.ly/1MSY2Zg> [<https://perma.cc/H7YX-YD2C>].

12. The definition of PIC is discussed in Part II.B *infra*.

13. For accounts of the difficulties and dangers of doing due diligence in China, see Jane Perlez, *In China, the Dangers of Due Diligence*, N.Y. TIMES (Sept. 13, 2013), [bit.ly/chinaduediligence](http://bit.ly/chinaduediligence); see also Gordon Chang, *China Criminalizes Collection of Information in Glaxo Case*, FORBES (Aug. 10, 2014, 12:15 PM), <http://onforb.es/1Iraake> [<https://perma.cc/H8UL-MKYB>]; Kathryn Hille, *Peter Humphrey Case Shows Effects of China's Tightened Privacy Laws*, FIN. TIMES (Aug. 29, 2013), <http://on.ft.com/1KXy-WtU> [<https://perma.cc/Z4PH-CFXD>].

14. See the discussion in Part II.A *infra*.

15. See Garnaut, *supra* note 10.

This article proceeds as follows. Part II discusses the dataset on which the analysis is based. Part III discusses legal issues in the case, in particular (a) whether Article 253 should be construed to cover the Humphrey/Yu case at all, as well as (b) the importance of the issue of unlawfulness of means when acquiring PIC and the failure of the Shanghai court to clarify, or even acknowledge the existence of, the issue. Part IV presents the results of an extensive analysis of all reported convictions in Shanghai for the crime of illegally acquiring PIC from 2009, the year this crime was written into the Criminal Law, until August 14, 2014. Part V presents a conclusion. It finds that in its disappointing failure to analyze the key legal issues in the crime of unlawful acquisition of PIC, the Humphrey/Yu case is typical of other cases involving the same crime. At the same time, however, the case is a clear outlier when it comes to the sentences imposed, given the facts alleged by the prosecution and found by the court. It is thus consistent with the suspicion that it was a matter of selective prosecution.

## I. CASE DATA

In order to understand how Shanghai courts have treated legal issues and factual circumstances in other cases involving the same charges of unlawful acquisition of PIC, I examined all reported trials in Shanghai on such charges between 2009, when the act became a crime,<sup>16</sup> and August 14, 2014. The dataset consists of ninety-two cases with over 200 defendants.<sup>17</sup> I examined only Shanghai cases because while one might not expect much consistency nationwide, it is reasonable to expect consistency within a highly developed, urban provincial-level jurisdiction such as Shanghai. Gross inconsistency in such a setting, if present, is therefore less likely to be accidental. Shanghai is also the provincial-level jurisdiction with the most cases of this crime.<sup>18</sup> The cases were examined for data about prison sentences (both fixed-term imprisonment (有期徒刑) and detention (拘留)), fines, amount of PIC acquired, the nature of the PIC, the source of the PIC, the price paid for the PIC, the means employed in acquiring the PIC, and any profits gained from the PIC.

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16. See *Zhonghua Renmin Gongheguo Xing Fa Xiuzheng An (Qi)* (中华人民共和国刑法修正案(七)) [Amendment to the Criminal Law of the People's Republic of China (Seven)] (promulgated by the Standing Comm. Nat'l People's Cong., Feb. 28, 2009) (China) [hereinafter 2009 Amendment].

17. Only one of the defendants seems to have been found innocent. The vast majority received punishment of some kind. A few were explicitly declared exempt from punishment for various reasons. For a very small number of defendants (always members of a group), the judgment mentions them at the beginning but does not state their ultimate fate.

18. During the period of time examined, there were ninety-two cases in Shanghai, thirty-seven in Zhejiang, twenty in Henan, nineteen in Beijing, and sixteen in Guangdong. Other provincial-level jurisdictions had fewer than ten each.

The cases were gathered from the Pkulaw.cn legal database maintained by Beijing University.<sup>19</sup> All cases were given an abbreviated English name, and all references to cases will use those English names.<sup>20</sup> See Appendix A for a full citation, in both English and Chinese, and the URL of the case on the ChinaLawInfo web site; see Appendix B for a summary of information about the cases.

## II. DID THE FACTS AS ALLEGED CONSTITUTE A CRIME UNDER ARTICLE 253?

### A. *Does Article 253 Apply to Humphrey and Yu at All?*

Article 253 of the Criminal Law originally criminalized misconduct by postal and telecommunications employees, such as opening or losing messages or stealing from packages. In 2009, new language labeled Article 253A was added protecting citizens' personal information more generally.<sup>21</sup> Like the original Article 253, it was aimed at persons who had access to information through their work in institutions (such as hospitals, schools, and financial institutions) that engage in the extensive collection of personal information. Thus, it is not clear that the part of Article 253 under which Humphrey and Yu were charged and convicted—that is, Article 253A—was intended to apply to people like them or to their company at all.

The new Article 253A reads in its entirety as follows:<sup>22</sup>

[3] Any staff member of a state organ or an entity in such a field as finance, telecommunications, transportation, education or medical treatment who, in violation of state provisions, sells or illegally provides to others personal information on citizens that was acquired during the organ's or entity's performance of duties or provision of services, shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and/or be fined. (国家机关或者金融、电信、交通、教育、医疗等单位的工作人员, 违反国家规定, 将本单位在履行职责或者提供服务过程中获得的公民个人信息, 出售或者非法提供给他人, 情节严重的, 处三年以下有期徒刑或者拘役, 并处或者单处罚金。)

[4] Whoever illegally acquires the aforesaid information by stealing or any other means shall, if the circumstances are serious, be punished under the provisions of the preceding paragraph. (窃取或者

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19. The website is at <http://pkulaw.cn>.

20. To avoid confusion with other sources, abbreviated case names will be presented in italics (e.g., *Mu 2014*).

21. See 2009 Amendment, *supra* note 16. Although the relevant amending documents call for the addition of a new Article 253A containing the new language, and recent amending documents confirm that it should be considered a separate article, official copies of the Criminal Law include the new language as merely additional paragraphs in Article 253. Thus, I will generally speak of the relevant language as belonging to Article 253 unless it is clearer to refer to Article 253A.

22. I have added paragraph numbers; they indicate the position of the paragraph within Article 253.

以其他方法非法获取上述信息，情节严重的，依照前款的规定处罚。)

[5] Where an entity commits either of the crimes described in the preceding two paragraphs, it shall be fined, and the person in charge who is directly responsible and other directly responsible persons shall be punished under the applicable paragraph. (单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的规定处罚。)

It seems clear that Article 253A is aimed at cases where an organization legitimately acquires information about citizens in the course of its functions, and an employee then sells that information to others behind the organization's back. That is what Paragraph 3 is about, in any case, and it applies to suppliers of information. Although the prosecution made much of Humphrey and Yu being suppliers of personal information (to their clients),<sup>23</sup> it seems quite a stretch to apply Paragraph 3 to them. First, they were not charged with unlawfully supplying PIC to anyone.<sup>24</sup> Second, the organization of which they were staff members was their own company, ChinaWhys; they cannot be said to have misappropriated information from it.

Humphrey and Yu were convicted under Paragraph 4. But note that while Paragraph 4 applies to receivers of information, it is still limited to “the aforesaid information,” i.e., *the type of information referred to in Paragraph 3*: information acquired by some organization in the course of performing its functions. Thus, it does not apply to all cases in which someone illegally acquires personal information. For example, if a burglar breaks into a house and steals the homeowner's address book, that could well be deemed the acquisition of personal information about citizens through unlawful means, but it is not “the aforesaid information.” If Paragraph 4 was meant to cover PIC in general, it is hard to understand why it does not simply say so, instead of saying “the aforesaid information.” It is of course possible that Humphrey and Yu acquired some personal information through illegal means, but neither the transcript nor the judgment show any effort by the prosecution or the court respectively to show that it was in the category of information “acquired during the organ's or entity's performance of duties or provision of services”

In 2013, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security issued a joint notice<sup>25</sup> about this

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23. See Clarke, *Trial Transcript*, *supra* note 4.

24. Somewhat troublingly, the prosecution devoted considerable time during the trial to arguing that they had done so; since the issue was entirely irrelevant to the charges brought against them, it was purely prejudicial and not probative.

25. Guanyu Yifa Chengchu Qin Hai Gongmin Geren Xinxi Fanzui Huodong de Tongzhi (关于依法惩处侵害公民个人信息犯罪活动的通知) [Notice on Punishing According to Law Criminal Activities that Infringe on Citizens' Personal Information] (promulgated by the Supreme People's Court, Supreme People's Procuratorate & Ministry of Public Security, Apr. 23, 2013, [http://www.law-lib.com/law/law\\_view.asp?id=429958](http://www.law-lib.com/law/law_view.asp?id=429958) [<https://perma.cc/UF98-9BJF>] (China).



particular crime, but it does not change the above analysis. If anything, it underscores the point that the revised Article 253 was about something quite different from what Humphrey and Yu were doing. It was about the problem of employees of various institutions that hold a great deal of personal information selling that information on a massive scale to middlemen who would then resell it to what the notice called “illegal” investigative companies for purposes such as “illegal” debt collection. (I do not know where the line between legal and illegal is in the above cases.)

Duan Wanjin, a lawyer for Humphrey, in fact argued that the source of the information did not meet the requirements of the law: that it was not “the aforesaid information” referred to in the statute.<sup>26</sup> Neither the prosecution nor the court addressed this argument, even just to dismiss it. But although this failure to address the issue is unfortunate, it does not appear to be unusual in the Shanghai court system. Even though there is very respectable scholarly support for the narrow reading of “the aforesaid information,”<sup>27</sup> Shanghai courts have never adopted this reading. Instead, they have adopted an expansive view that equates “the aforesaid information” with PIC *tout court*, and have held defendants criminally liable even where there was no finding on the source of the information.<sup>28</sup>

#### B. *What Constitutes “Personal Information of Citizens”?*

Three views exist among Chinese legal scholars as to what constitutes PIC. One view defines PIC as any information that enables one to discern the individual identity of a person—for example, name, occupation, position, age, marital status, education, professional qualifications, work experience, address, telephone number, credit card number, finger prints, or online username and password.<sup>29</sup> A second view limits PIC to information closely related to citizenship and personality, owned by the person, unrelated to public life, and unknown to the general public.<sup>30</sup> A

26. See Clarke, *Trial Transcript*, *supra* note 4, Part 20.

27. See Zhao Bingzhi (赵秉志) & Wang Dongyang (王东阳), *Xinxi Shidai Geng Ying Qianghua Renquan Baozhang* (信息时代更应强化人权保障) [We Should Protect Human Rights Even More in the Information Age], FAZHI RIBAO (法制日报) [LEGAL SYS. DAILY] (Mar. 4, 2009), <http://bit.ly/1ShxWWB> [https://perma.cc/MU5U-5JN3] (Sohu news site) (“[F]or example, if [the actor] uses web technology or other methods [to] illegally acquire[] personal information from the individual citizen, even if the amount of unlawfully acquired information is huge, it cannot be considered to constitute this crime.”).

28. For an academic view advocating this broader reading that dispenses with the inquiry into source, see Wang Zhaowu (王昭武) & Xiao Kai (肖凯), *Qinfan Gongmin Geren Xinxi Fanzui Rending Zhong de Ruogan Wenti* (侵犯公民个人信息犯罪认定中的若干问题) [Several Issues in Determining the Crime of Infringing Upon Citizens’ Personal Information], FAXUE (法学) [JURISPRUDENCE], no. 12, 2009, at 146, 149.

29. See Huang Taiyun (黄太云), *Xingfa Xiuzheng An (Qi) Jiedu* (刑法修正案(七)解读) [An Interpretive Reading of the Seventh Amendment to the Criminal Law], RENMIN JIANCHA (人民检察) [PEOPLE’S PROCURATORATE], no. 6, 2009, at 5, 15.

30. See Wang & Xiao, *supra* note 28, at 147. This view incorporates a kind of expectation-of-privacy analysis into the definition of PIC, with four theories on how the expectation could be established: (1) a pure subjective test; (2) a pure objective test;

third view is much broader: PIC is any information, existing in any format, that relates to a person and that can also identify a specific individual—that is, any information, data, or circumstances concerning a person.<sup>31</sup>

The Shanghai courts appear to have adopted the broadest definition: any information concerning a person is PIC for purposes of paragraph 4. No Shanghai case has inquired into expectation of privacy. The Humphrey/Yu case does not appear to be unusual in this respect.

### C. *The Requirement of Unlawfulness of Method*

While Paragraph 3 of Article 253 covers those who supply PIC, it does not cover those who acquire it. Only Paragraph 4 does that,<sup>32</sup> and it covers only the *unlawful* acquisition of PIC. But one of the most disturbing aspects of the proceedings is the almost complete lack of attention paid to this critical element of the crime with which Humphrey and Yu were charged. This murkiness surrounding the requirement of unlawfulness represents a significant threat to anyone engaged in the business of collecting information, even for purposes generally considered legitimate.

In the vast majority of cases in the dataset, covering 139 defendants, the PIC was acquired by purchase. Seventeen of the defendants traded PIC for other PIC., six acquired PIC by theft, four acquired PIC by stalking an individual, and three acquired PIC through some kind of trick. Thirty-one defendants were found to have “acquired” (获取) PIC without a discussion of method. In those cases, the court usually used the phrase “unlawfully acquired,” without any discussion of the unlawfulness.

Because Paragraph 4 does not criminalize the mere acquisition of PIC but attaches a condition of illegality to the method, it is necessary to determine what methods are illegal. Although Paragraph 3 makes selling PIC illegal under the conditions stated, Paragraph 4 mentions only theft, but not purchase or mere receipt.<sup>33</sup> No doubt acquiring PIC by fraud or hacking would be covered, assuming the specific acts in question were *per se* illegal.<sup>34</sup> Nevertheless, Shanghai courts have in many cases found defendants guilty of unlawful acquisition where the information

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(3) a mixed test, where there must be both an objective and actual subjective expectation of privacy; and (4) a disjunctive test, where either a subjective or an objective expectation of privacy is sufficient.

31. *See id.*

32. Paragraph 5 of Article 253 merely duplicates the effect of Paragraphs 3 and 4 as applied to entities other than individuals.

33. Two commentators have suggested that a purchaser could be liable under Paragraph 3 on a theory of accomplice or co-conspirator liability for the seller's violation, but this does not make liability under Paragraph 4 any clearer. *See* Wang & Xiao, *supra* note 28, at 152–53.

34. *See* Li Ziping (利子平) & Zhou Jianda (周建达), *Feifa Huoqu Gongmin Geren Xinxi Zui “Qingjie Yanzhong” Chu Lun* (非法获取公民个人信息罪“情节严重”初论) [A Preliminary Discussion of “Serious Circumstances” in the Crime of Unlawful Acquisition of the Personal Information of Citizens], FAXUE PINGLUN (法学评论) [JURISPRUDENCE REVIEW], no. 175, 2012, at 146, 151–52.

was purchased, without a specific finding that the purchase was in some way unlawful.

For example, although legal scholars did not expect Paragraph 4 to reach creditors seeking to locate debtors,<sup>35</sup> Shanghai courts have found private investigators engaged in debt collection activities guilty under Paragraph 4 without any inquiry into the lawfulness of their methods.<sup>36</sup> The failure of the Shanghai courts in general and the Humphrey/Yu court in particular to shed any helpful light on the issue of unlawfulness of method may be regrettable, but it is not unusual, and so the Humphrey/Yu case cannot be considered an outlier in that respect. Still, the court's treatment of the facts warrants discussion.

Although there was very little disagreement about the facts in this case, much of the trial—well over half—was devoted to establishing things that were not really in question. The critical question is what the legal effect of those facts should be. For example, the prosecution devoted some time to establishing that ChinaWhys's projects had code names. What this has to do with the charges was not made clear. The prosecution also apparently thought the following facts needed to be established and were important:

- The defendants or their agents had bought and sold information. The prosecution's main accusation was that the defendants had paid Zhou Hongbo, Liu Yu, and Cai Zhicheng from 800 to 2,000 yuan per item for a total of 256 items of PIC, including information about domicile registration, border entry and exit records, and mobile telephone numbers,<sup>37</sup> and had then compiled investigation reports and sold this information to clients.<sup>38</sup>
- The defendants or their agents had hired people to watch a target. (Note that as far as the evidence showed, the watching involved someone sitting outside the target's office for three hours.)
- The defendants had followed (跟踪) people.
- The defendants had "monitored" (监控) people. (No evidence was introduced on this point; the defense's response was that the prosecution got this idea from a misunderstanding of the term "monitoring" used in ChinaWhys's reports, where it simply meant things like tracking news about a company or individual.)
- The defendants had hired a non-mainland (境外) company to engage in following and monitoring targets. (This was part of the prosecution's legal argument and was not supported by any evidence introduced in the factual part of the trial.)
- The defendants or their agents had pretended to be relatives or clients of various people when seeking information.

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35. See Wang & Xiao, *supra* note 28, at 153.

36. See, e.g., Xue 2012, XXX 2012b.

37. See Trial Judgment, *supra* note 4, at 2.

38. Note, however, that Humphrey and Yu were not formally charged with the unlawful sale of PIC.

- The defendants had, between January 2009 and June 2013, performed consulting services for 78 clients and received almost 21 million yuan in fees. Some specific clients—not including GSK—were named in the judgment.<sup>39</sup>
- The defendants had an illegal purpose in collecting the information. (The prosecution did not say what that purpose was. The defense argued that their purpose was to conduct their business and was not illegal.)

The prosecution did not, however, make any argument or cite any authority in support of its assertion that these methods were illegal. Nevertheless, the court seems to have taken it for granted that these methods are indeed illegal. Indeed, in the judgment, the court specifically said, “The two [defendants] knew that to acquire personal information of citizens by means of purchase is unlawful.”<sup>40</sup> This is of tremendous significance. If buying and selling cell phone numbers is illegal, for example, then many individuals and companies in China are criminals.

The response of the defense to this issue of illegality of methods seemed ambivalent. In some places in the transcript, the defense argued that the defendants merely paid for investigative services, which is not prohibited by law. Thus, the requirement of illegality of method was not met. Elsewhere, though, the defense made what seem to be astonishing concessions. According to the judgment, the defense conceded that the acts in question were unlawful, but argued that the defendants did not know they were unlawful at the time and that the circumstances were not serious.<sup>41</sup> The transcript quotes one of the defendants’ attorneys, Zhai Jian, as saying, “The acts of the defendants in this case are unlawful, because neither individuals nor commercial entities have the right to acquire citizens’ personal information about their families, their entering and leaving the country, and their mobile phone communications via the method of paying for it.”<sup>42</sup> Zhai goes on to say that in pre-trial conferences with the defendants, he ascertained that in their own countries, information on entering and leaving the country as well as mobile phone communications are considered strictly private, and “therefore the defendants’ collecting of such information is unlawful.”<sup>43</sup>

This argument seems questionable in a number of respects. First and most obviously, what other countries do cannot determine Chinese law, although it may bear on whether the defendants thought they were doing something wrong. Second, this statement conflates the issue of what counts as PIC with the issue of whether collecting it is unlawful. Article

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39. See Trial Judgment, *supra* note 4, at 5–6.

40. See Trial Judgment, *supra* note 4, at 9.

41. See Trial Judgment, *supra* note 4, at 3. On the relevance of serious circumstances, see the discussion in Part III.B, *infra*. Confusingly, the judgment at one point seems to say that the defendants admitted they knew that it was unlawful to purchase PIC. See Trial Judgment, *supra* note 4, at 9.

42. Trial Transcript, *supra* note 4, Part 26.

43. Trial Transcript, *supra* note 4, Part 26.

253 criminalizes only the *unlawful* collection of PIC, so deciding that something should be considered PIC does not end the inquiry into criminal liability. Third, and most important, Zhai is as silent as the prosecution on the source for his statement about the applicable law. It is sometimes said that in China, everything not specifically permitted is forbidden, but this is really nothing more than a jest. No legal system could possibly function this way. Chinese law does not specifically permit any of the millions of actions Chinese citizens take every day, from brushing their teeth to watching Korean soap operas; that does not make these citizens criminals. A statement that it is unlawful to do something needs support. Again, if Zhai and the prosecution are right about this, China is awash in criminals whose offenses are far worse than those of Peter Humphrey and Yu Yingzeng.

### III. ARE THE HUMPHREY/YU SENTENCES EXCEPTIONAL COMPARED WITH OTHER SHANGHAI CASES?

#### A. *Introduction*

This part of the article presents the results of an analysis of the case dataset with a focus on the sentences. I conclude that while gaps in information make certainty impossible, the weight of the evidence suggests that the sentences imposed on Humphrey and Yu—Humphrey was given a heavier sentence than any other defendant in the entire dataset—were far out of line with sentences imposed on other defendants on similar facts. At the very least, the analysis supports shifting the burden of argument and proof to those who would assert that the trial was fair and the sentences proportionate.

#### B. *The Question of “Serious Circumstances”*

##### 1. In General

Even if all the factual predicates for the crime are present, it is not clear that they rise to the level of criminality under the Criminal Law. This is because Chinese criminal law has a general rule that an act is not a crime where “the circumstances are clearly minor and the harm is not great” (情节显著轻微危害不大).<sup>44</sup> In addition, both Paragraph 3 and Paragraph 4 of Article 253 explicitly contain a requirement of serious circumstances.

Sometimes the Supreme People’s Court will come up with an interpretation of what constitutes “serious circumstances” in particular crimes. Unfortunately, there is no such interpretation or other official guidance available here. Among Chinese scholars, there are varying views as to what constitutes “serious circumstances” under Article 253. Among the candidate factors are (1) a large quantity of PIC; (2) illegal purpose; (3) severe or malicious means; (4) severe harm to a person (bodily, economic, social, or emotional—for example, when suicide results); (5) multiple infringements; (6) social disruption; (7) where PIC leaves the country; (8)

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44. Criminal Law, *supra* note 3, Art. 13.

multiple victims; (9) large profits; (10) forming an illegal network for the procurement and distribution of PIC; (11) the amount paid for PIC; (12) multiple PIC-related convictions; (13) criminal use; (14) nature of PIC (for example, financial, medical, or marital); and (15) acquiring PIC of disabled persons or illegitimate children.<sup>45</sup>

## 2. “Serious Circumstances” in the Dataset

Academic analyses are one thing, judicial practice another. In practice, courts in the dataset rarely analyzed the issue of serious circumstances and offered only a conclusory statement that the circumstances were serious. Twenty-three cases, however, did mention something extra in the section of the judgment finding serious circumstances. The circumstances mentioned in these cases included joint commission, purchase, online purchase, collective purchase, purchase of a large amount of PIC, profits, and (mysteriously) “other means,” suggesting that these constitute serious circumstances.<sup>46</sup> One of the more specific cases mentioned collective acquisition and sale of PIC.<sup>47</sup> Two cases specified “violation of state law.”<sup>48</sup> Some cases mentioned the sheer volume of PIC collected.<sup>49</sup> Two mentioned illegal purchase,<sup>50</sup> although they may have been simply declaring that any purchase was illegal.

Many cases did indeed involve circumstances that might fairly be deemed serious. In several cases, the defendant made a large profit from the sale of PIC,<sup>51</sup> or the defendant was engaged in the business of collecting and distributing PIC.<sup>52</sup> In general, in cases where a large amount of PIC was involved, the courts found it less necessary to discuss other serious circumstances. Overall, the general picture that emerges from the dataset regarding the requirement of serious circumstances is that (a) judgments rarely discuss the “serious circumstances” requirement specifically, preferring to rely on conclusory statements, and (b) judgments do mention various facts about the case that might constitute grounds for finding the presence of serious circumstances, even though they are not specifically labeled as such.

The following discussion presents an analysis of the dataset in tabular form. It examines in detail only cases with prison sentences of one year or more, because the standards the Shanghai courts appear to

45. See Li & Zhou, *supra* note 34, at 146–47, and sources cited therein.

46. See, e.g., *Zhou 2014* (purchasing); *Mu 2014* (collective unlawful purchase); *Shanghai 2013a* (collective purchasing); *Chen 2014* (using other means to unlawfully purchase PIC); *Wang 2013c* (other means); *Lu 2014* (online purchase); *Chen 2013a* (large purchase); *Liu 2013a* (profit from PIC acquisition).

47. See, e.g., *Ye 2013* (collective unlawful acquisition and sale of PIC); *Zhu 2012a* (purchase and sale).

48. *XXX 2012a* (in contravention of state laws and regulations); *XXX 2012b* (same).

49. *Zhou 2010* (“The number of PIC is so large that circumstances are serious (数量之大情节严重.)”); *Lan 2011* (same).

50. *Wu 2012* (illegal purchase); *Chen 2012* (same).

51. See, e.g., *Lu 2014*; *Ye 2013*; *Zhu 2012b*.

52. See, e.g., *Wu 2013*; *Lu 2013b*; *XXX 2012a*; *Hou 2012*.

employ are clearer in those cases. Cases featuring sentences of less than one year, and especially sentences of six months or less, vary a great deal in their facts, and it is difficult to make meaningful inferences. The information, however, is all compiled in Appendix B.

Tables 1, 2, and 3 show cases where the sentence was a prison term of twelve months, thirteen to seventeen months, and eighteen to twenty-four months respectively. Although the maximum term is 36 months, no defendant other than Peter Humphrey was sentenced to more than 24 months (Humphrey was sentenced to 30 months). Table 5 shows cases involving private investigators or persons engaging in similar activities. In addition to the case name, prison term, and fine amount, each table sets forth the amount of PIC, the nature of the PIC, the means of acquisition, and any serious circumstances.

In general, when the quantity of PIC is less, there are more serious circumstances present that justify a heavy sentence. For example, *Qian 2014* involved a public official, and the PIC was used for harassment and intimidation. In *Hua 2013*, the amount of PIC involved was modest, but the profit was relatively large. On the other hand, in *Shanghai 2012*, the circumstances were not as serious, but there was a large amount of PIC involved.

Note that in *Ye 2013* and *Zhu 2012b*, Table 1 shows only accomplices sentenced to one-year prison terms, whereas the principals are found in Table 3, having each received terms of 18 months.

TABLE I: PRISON SENTENCE OF TWELVE MONTHS  
(ARRANGED IN ASCENDING ORDER OF AMOUNT OF PIC)

Case	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Qian 2014	2,000	Individuals	Information on government officials	Acquired	Acquired from public official/police officer; used for harassment and intimidation
Chen 2011b	12,000	Unclear	Real estate	Acquired	Unclear
Hua 2013	5,000	20 individuals	ID, financial, real estate, bank account #, vehicle registration, etc. of specific individuals	Purchased	50,900 yuan profit
Lai 2010	10,000	40	Individual whereabouts	Purchased	Private investigator; 40,000 yuan profit; paid for on per-PIC basis; targeted specific individuals
Huo 2012	20,000	59	Phone records; census data; hotel registration; flight information; immigration records; phone location	Purchased	Private investigator/PIC business

Case	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
XXX 2012b	2,000	195	Locational info: corporate registration; hotel registration; car registration; flight information; etc.	Purchased from illegal supplier	Private investigator/ debt collection
Liu 2014	10,000	10,153	Client info	Received	Paid 20,000 for PIC; insurance PIC.
Han 2013	20,000	40,161	ID, financial, real estate, bank account #, vehicle registration, etc. of specific individuals	Purchased	For profit
Ye 2013	15,000	83,908	Finance	Purchased	Accessory; 230,000 yuan profit
Ye 2013	15,000	83,908	Finance	Purchased	Accessory; 230,000 yuan profit
Ye 2013	15,000	83,908	Finance	Purchased	Accessory; 300,000 yuan profit
Zhu 2012b	10,000	136,727	Purchase orders	Received	Accessory; 100,000 profit
Zhu 2012b	10,000	136,727	Purchase orders	Received	Accessory; 100,000 profit
Zhu 2012b	10,000	136,727	Purchase orders	Received	Accessory; 100,000 profit
Xing 2014	5,000	198,187	Contact	Acquired	For profit
Zhou 2010	20,000	980,000	Info on wealthy individuals	Acquired	Principal; sold for profit
Chen 2014	2,000	“several million”	Unclear	Trick	Criminal sale
Shanghai 2012	5,000	90,000,000	Contact; bank; infant; consumer records	Purchased	For profit; paid 2,500,000 for PIC
Shanghai 2012	10,000	90,000,000	Contact; bank; infant; consumer records	Purchased	For profit; paid 2,500,000 for PIC

In Table 2, we see the same pattern as in Table 1. Where serious circumstances are lacking, there is generally a large amount of PIC involved. For example, *Mou 2014*, *Lan 2011*, and *Deng 2014* all involved a large amount of PIC but with seemingly no other serious circumstances. In some cases shown here, the defendants were accessories to the unlawful acquisition.<sup>53</sup> The principals in those cases received heavier sentences.

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53. See *Mu 2014*; *Shanghai 2013a*.



TABLE 2: PRISON SENTENCE OF THIRTEEN TO SEVENTEEN MONTHS  
(ARRANGED IN ASCENDING ORDER OF LENGTH OF SENTENCE)

Case	Term	Fine	PIC Amount	Nature	Means	Serious Circumstances
Mou 2014	13	5,000	50,000	Unclear	Purchased	For profit
Mou 2014	13	5,000	59,000	Unclear	Purchased	For profit
Lan 2011	14	10,000	6,246,842	Unclear	Purchased or traded	For profit; paid 3,400 for PIC
Li 2013a	14	20,000	71,158	Unclear	Purchased	Sold for profit
Deng 2014	14	4,000	250,000	Public exam participants	Purchased	For profit
Zhu 2012a	15	30,000	2,000	Finance	Purchased	20,000 profit; paid 10-100 for PIC
Zhu 2012a	15	30,000	1,000	Finance	Purchased	30,000 profit; paid 10-100 for PIC
Lu 2014 <sup>54</sup>	15	20,000	Specific individuals	Specific individuals	Purchased	Sold for 43,400 profit
Mu 2014 <sup>55</sup>	15	20,000	70,000	Telecomm client list	Received	Accessory; fraud; caused economic loss of 733,305 to 3 <sup>rd</sup> party
Mu 2014	15	20,000	70,000	Telecomm client list	Received	Accessory; fraud; caused economic loss of 733,305 to 3 <sup>rd</sup> party
Shanghai 2013a <sup>56</sup>	16	30,000	6,000,000	Frequent flier miles info	Purchased	Accessory; for profit; paid 200,000 for PIC
Han 2014	16	3,000	160,000	Unclear	Acquired	For profit; acquired from workplace
Han 2014	16	3,000	160,000	Unclear	Received	For profit
Lan 2011	17	15,000	16,823,533	Unclear	Purchased or traded	For profit

In Table 3, almost every case has serious circumstances coupled with a large amount of PIC. In addition, there are seven principals here and only one accessory. In the case of the accessory in *Mu 2014*, there were additional serious circumstances that warranted a heavy sentence. Most important, however, are the heaviest sentences. For cases where

54. The defendant here purchased PIC of specific individuals and sold them for profit on line. The PIC included the census data of Raymond Chan (陈旭明), a Hong Kong voice actor, bank information of, among others Jian Yifeng (江一峰), a prominent radiologist, and the bank account numbers of Wang Wen (王雯), a well-known singer.

55. The principal in this case was sentenced to two years of imprisonment.

56. The two principals in this case were sentenced to 18 months and 20 months of imprisonment respectively.

the prison term was twenty months or more, either the amount of PIC involved was enormous or there were very serious circumstances. There are no private investigator cases in Table 3, and the lowest amount of PIC involved is 70,000 items.

TABLE 3: PRISON SENTENCE OF EIGHTEEN TO TWENTY-FOUR MONTHS  
(ARRANGED IN ASCENDING ORDER OF LENGTH OF SENTENCE)

Case	Term	Fine	PIC Amount	Nature	Means	Serious Circumstances
Lan 2011	18	15,000	16,823,533	Purchase orders	Purchased or traded	For profit; paid 3,400 for PIC
Shanghai 2012	18	20,000	90,000,000	Contact; bank; infant; consumer records	Purchased	For profit; paid 2,500,000 for PIC
Ye 2013	18	50,000	83,908	Finance	Purchased or stolen	Principal; 1,500,000 profit
Shanghai 2013a	18	40,000	6,000,000	Frequent flier miles info	Purchased	Principal; for profit; paid 200,000 for PIC
Long 2014	18	20,000	100,000,000	Unclear	Purchased	4,000 profit; paid 4,000 for PIC
Tang 2014	18	5,000	12,857,019	Contact	Purchased	For profit
Zhu 2012b	18	30,000	136,727	Unclear	Acquired	Principal; 100,000 profit
Zhu 2012b	18	30,000	136,727	Purchase orders	Received	Principal; 100,000 profit
Deng 2014	18	5,000	450,000	Participants in public examination	Purchased	Fraud
Mu 2014	18	20,000	70,000	Telecomm client list	Received	Accessory; fraud; caused economic loss of 733,305 to 3 <sup>rd</sup> party
Shanghai 2013a	20	50,000	6,000,000	Frequent flier miles info	Purchased	Principal; for profit; paid 200,000 for PIC
Long 2014	21	20,000	100,000,000	Unclear	Acquired	4,000 profit; paid 5,500 for PIC
Zhou 2010	24	40,000	30,000,000	Info on wealthy individuals	Acquired	Principal
Shanghai 2012	24	20,000	90,000,000	Contact; bank; infant; consumer records	Purchased	For profit; paid 2,500,000 for PIC
Mu 2014	24	30,000	70,000	Telecomm client list	Purchase	Principal; fraud; caused economic loss of 733,305 to 3 <sup>rd</sup> party

### 3. “Serious Circumstances” in the Humphrey/Yu case

In the Humphrey/Yu case, the defendants’ lawyers argued that the requirement of “serious circumstances” was not met; the prosecution argued that it was. The relevant facts apparently involved how many items of personal information were acquired, the purpose for which they were acquired, whether the defendants made a lot of money, and the general social danger of their activities.

The arguments made during the trial in the Humphrey/Yu case about facts and their significance breaks down roughly as follows:<sup>57</sup>

TABLE 4

Issue	Prosecution	Defense
Amount of information acquired	A large amount: 256 items.	A small amount: 256 items.
Motivation	To make money.	1. Of course to make money; we were a business. 2. To contribute to anti-corruption efforts. In about 90% of the cases investigated, initial suspicions turned out to be accurate.
Amount of money made	“Huge” (citing gross revenues).	It is misleading to look at gross revenues; one must deduct costs.
Social danger	What kind of society would it be if people could be watched and followed 24 hours a day, with secret photos taken of them? <sup>58</sup>	There was actually very little personal information taken, that which was taken was not all passed on to clients in reports, and that which was passed on was not used for bad purposes. The defense also noted that some of the prosecution’s claims had no foundation in any evidence they brought before the court. There was, for example, a <i>single instance</i> of following someone: someone was stationed outside the target’s office for three hours. The prosecution’s evidence showed nothing else. No evidence of secret photo-taking of people was introduced.

In the judgment, the court found the following elements to constitute the necessary serious circumstances: (a) the defendants wrote their investigative reports in order to make a profit;<sup>59</sup> (b) the activity was carried on for a long time (four years); (c) the PIC involved covered a wide variety of types and was large in amount;<sup>60</sup> and (d) the PIC acquired was unlawfully<sup>61</sup> pro-

57. The source for Table 4 is the Trial Transcript, *supra* note 4.

58. The prosecution seemed to miss the irony that for those disfavored by the government, China already is such a society.

59. Neither the prosecution nor the court, in the trial transcript and the judgment, provide any figures for profits allegedly obtained by the defendants as a result of unlawful acquisition of PIC. The judgment stated that ChinaWhys had had gross revenues of approximately 21 million yuan from January 2009 to June 2013, *see supra* note 39 and accompanying text, but did not derive any profit figures from this or attribute specific profits to specific acts of unlawful acquisition of PIC. It is worth recalling here that the case was under investigation for over a year prior to the trial.

60. As noted above, 256 items are in fact a trivially small amount of PIC in the universe of Shanghai cases.

61. Note that the defendants were not charged with unlawfully providing PIC;

vided to clients inside and outside mainland China, with the result that the privacy and information security of citizens was directly infringed upon.<sup>62</sup>

When the circumstances of the Humphrey/Yu case are compared with the circumstances of Shanghai cases in the dataset, the virtually inescapable conclusion is that the sentences meted out to Humphrey and Yu are extreme outliers and do not reflect the usual judicial practice in Shanghai. The heaviest prison sentence for unlawful acquisition in Shanghai prior to the Humphrey/Yu case—in a set of over ninety cases and over 200 defendants—was twenty-four months. The maximum sentence under the Criminal Law is thirty-six months, and Humphrey was sentenced to thirty months (including the roughly one year spent in pre-trial detention). This sentence cannot be explained by the relatively paltry amount of PIC involved (256 items) or other circumstances mentioned in the trial transcript or the judgment.

This conclusion is reinforced by looking at cases involving private investigators in particular. As previously noted, Humphrey was sentenced to 30 months in prison. Prior to the Humphrey case, the longest prison sentence any private investigator in Shanghai had received was 12 months. Humphrey was found to have acquired about 250 pieces of PIC—more than in most of the private investigator cases, but far less than in any of the Table 2 or Table 3 cases involving sentences of over twelve months. The Humphrey/Yu case appears to be the first one in which the defendant was investigating corporate misconduct, but it would seem odd for the court to deem this “serious circumstances.” Certainly the court did not make anything of this fact in its judgment.

TABLE 5: PRIVATE INVESTIGATOR CASES  
(ARRANGED IN ASCENDING ORDER OF LENGTH OF SENTENCE)

Case	Term	Fine	PIC	Nature	Means	Serious Circumstances
Xue 2012	4	1,000	70	Residence, vehicle info, whereabouts, infidelity	Purchased	Private investigator/ debt collection; 10,000 profit
Lu 2013b	4	2,000	20	Residency, car, bank, cell location	Purchased	Private investigator/ PIC business; sold for profit
Liu 2013a	6	10,000	32	Residence; hotel	Purchased	Private investigator; 38,700 profit
Peng 2012	6	2,000	16	Background checks, infidelity, child behavior monitoring, business intelligence	Purchased	Private investigator

the judgment makes this assertion but does not really support it.

62. The language here is virtually a direct quotation from the text of the judgment. *See* Trial Judgment, *supra* note 4, at 10.

Case	Term	Fine	PIC	Nature	Means	Serious Circumstances
XXX 2012a	6	2,000	Targeted	Phone records, multimedia messages, WLAN records, transaction fees, financial, vehicle registration, hotel records, bank deposits	Purchased	Private investigator/ illegal PIC business; 13,000 profit
Wu 2013	10	5,000	918	Information of specific individuals	Purchased/ investigation	Private investigator/ PIC business
Lai 2010 <sup>63</sup>	12	10,000	40	Individual whereabouts, debt collection, infidelity	Purchased	Private investigator; 40,000 profit; paid for on per-PIC basis; target spec. individuals; purchased from government official
XXX 2012b	12	2,000	195	Locational info, corporate registration, hotel registration, car registration, flight information, etc.	Purchased from illegal supplier	Private investigator/ debt collection
Huo 2012	12	20,000	59	Phone records, census data, hotel registration, flight information, immigration records, phone location	Purchased	Private investigator/ PIC business
Hua 2013	12	5,000	20	ID, financial, real estate, bank account #, vehicle registration, etc. of specific individuals <sup>64</sup>	Purchased	50,900 profit

63. Lai purchased information from Zheng Xiangjun of the Shanghai Jinshan District Police Fire Brigade, paying 50 yuan for each piece of information on the whereabouts of a person and 1,000 yuan for a tip that someone had not yet checked out of a hotel. He paid Zheng a total of 270,000 yuan. More specifically, he purchased forty items of PIC from Zheng on March 3, 2009 and made a profit of 40,000 yuan.

64. One of the individuals was Gao Qiang (高强), a Chinese politician who was Minister of Health from mid-2005 to mid-2007.

## CONCLUSION

The Humphrey/Yu judgment is in many ways a disappointment. Even assuming for the sake of argument that Humphrey and Yu engaged in acts that the Chinese government has a legitimate interest in prohibiting, knew that they were doing so, and deserved to be punished, the case does little or nothing to inform others who wish to be compliant of what exactly constitutes the crime. The case does not analyze the concept of PIC; it does not analyze the concept of “the aforesaid information” in Paragraph 4 of Article 253; it does not analyze what makes acquisition “unlawful”; it does not analyze the concept of “serious circumstances”.

These problems, it should be noted, are not necessarily failings of the Humphrey/Yu judgment in particular; such vagueness pervades other judgments in unlawful acquisition cases. As a result, a legitimate industry—that of business intelligence—remains under a very threatening cloud. Indeed, any number of activities and businesses outside the realm of business intelligence are under a cloud as well, since a wide variety of activities involve the provision or collection of PIC as broadly defined, and the case offers no guidance as to when such provision or collection will be deemed illegal.

The case is even more troubling once we abandon the above assumptions. A comparison of the Humphrey/Yu case with all other cases in Shanghai provides very strong circumstantial evidence that their case was not simply an ordinary criminal case, but was indeed a case of selective prosecution. Humphrey’s sentence was by far the heaviest ever imposed in an unlawful acquisition case, and the sentences for both Humphrey and Yu were conspicuously heavy given the relatively small amount of PIC involved and the apparent absence of other serious circumstances. The sentences are also outliers when compared with those imposed on other private investigators. Even the court that tried Humphrey and Yu did not treat the case as an ordinary criminal case; although court judgments are supposed to be published on the court’s web site in the absence of specific reasons not to (none of which, such as national security, were present in this case), the court never published the judgment and is apparently guarding it as a secret.

A final disturbing aspect of the case unrelated to the defendants is that one of the witnesses was a foreign lawyer resident in China and working at a Chinese law firm. According to the judgment, the lawyer testified—I presume reluctantly, but do not know—that a certain firm had hired ChinaWhys to investigate one or more employees.<sup>65</sup> If the firm was a client of the Chinese law firm, this suggests that clients cannot expect strong confidentiality protections when dealing with Chinese law firms.

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65. The lawyer, the law firm, and the firm that hired ChinaWhys are all named in the judgment, but as I am assuming until I learn otherwise that any lawyer and firm would have been forced to do the same, no purpose other than embarrassment of those concerned would be accomplished by naming them here.

In short, the case offers little help to those who wish to comply with Chinese law other than to give up all information-gathering activities that might result in the receipt of information about individuals, and it offers little reassurance to those who suspect that the legal system can be used as a tool by those with sufficient influence and the will to wield it.

#### POSTSCRIPT

On Aug. 29, 2015, the National People's Congress Standing Committee passed a number of amendments to the Criminal Law, including revisions to Article 253 that broaden its reach considerably.<sup>66</sup> The revised language reads as follows:

Whoever, in violation of state provisions, sells or provides personal information of citizens to another, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and/or be fined. Where the circumstances are especially serious, a punishment of from three to seven years and a fine shall be imposed.

Whoever, in violation of state provisions, sells or illegally provides to others personal information of citizens that was obtained during the performance of duties or provision of services, shall be sentenced in accordance with the provisions of the previous paragraph with an emphasis on severity.

Whoever illegally obtains personal information of citizens by stealing or any other means shall be punished under the provisions of the second paragraph.

Where an entity commits any of the crimes described in the preceding three paragraphs, it shall be fined, and the person in charge who is directly responsible and other directly responsible persons shall be punished under the applicable paragraph.

The revisions remove the language that arguably limited the reach of Article 253 to specific types of persons (i.e., employees of various types of institutions) and PIC only from specific sources (i.e., information obtained by such employees in the course of their duties). Under the new law, it is unlawful for anyone to sell or otherwise provide PIC in violation of state provisions, no matter how it was obtained. Moreover, it is unlawful to obtain it illegally by theft or other means. The new language unambiguously resolves the question of whether Article 253 can be applied to defendants such as Humphrey and Yu. It does not, however, resolve the question of what counts as the *unlawful* acquisition or sale of PIC.

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66. See *Zhonghua Renmin Gongheguo Xing Fa Xiuzheng An (Jiu)* (中华人民共和国刑法修正案(九)) [Amendment to the Criminal Law of the People's Republic of China (Nine)] (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 29, 2015, effective Nov. 1, 2015).

## APPENDIX A: TABLE OF CASES

Abbreviated Case Name	Full Citation	Chinese Case Number
Beijing 2013	Beijing Moumou Dianzi Shangwu Youxian Gongsi Jaingsu Fengongsi deng Feifa Huoqu Gongmin Geren Xinxi An (北京某某电子商务有限公司江苏分公司等非法获取公民个人信息案) [In re Beijing Moumou67 E-Commerce Co., Ltd. Jiangsu Branch et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. May 21, 2013), <a href="http://www.pkulaw.cn/CLI.C.1422682">http://www.pkulaw.cn/CLI.C.1422682</a> .	(2013)浦刑初字第871号
Cao 2013	Cao Mou deng Feifa Huoqu Gongmin Geren Xinxi An (曹某等非法获取公民个人信息案) [In re Cao Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Songjian Dist. People's Ct. Jan. 7, 2013), <a href="http://www.pkulaw.cn/CLI.C.1386937">http://www.pkulaw.cn/CLI.C.1386937</a> .	(2012)松刑初字第1934号
Chen 2011a	Chen Mou deng Feifa Huoqu Gongmin Geren Xinxi An (陈某等非法获取公民个人信息、出售公民个人信案) [In re Chen Mou et al. Unlawful Obtainment, Sale of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Changning Dist. People's Ct. Dec. 8, 2011), <a href="http://www.pkulaw.cn/CLI.C.961636">http://www.pkulaw.cn/CLI.C.961636</a> .	(2011)长刑初字第672号
Chen 2011b	Chen Mou deng Feifa Huoqu Gongmin Geren Xinxi An (陈某等非法获取公民个人信息案) [In re Chen Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Putou Dist. People's Ct. Dec. 21, 2011), <a href="http://www.pkulaw.cn/CLI.C.963164">http://www.pkulaw.cn/CLI.C.963164</a> .	(2011)普刑初字第791号
Chen 2012	Chen Mou Feifa Huoqu Gongmin Geren Xinxi An (陈某非法获取公民个人信息案) [In re Chen Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Huangpu Dist. People's Ct. Sept. 24, 2012), <a href="http://www.pkulaw.cn/CLI.C.879412">http://www.pkulaw.cn/CLI.C.879412</a> .	(2012)黄浦刑初字第972号
Chen 2013a	Chen Moumou deng Zhapian, Feifa Huoqu Gongmin Geren Xinxi An (陈某某等诈骗、非法获取公民个人信息案) [In re Chen Moumou et al. Fraud, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Sept. 26, 2013), <a href="http://www.pkulaw.cn/CLI.C.2280136">http://www.pkulaw.cn/CLI.C.2280136</a> .	(2013)金刑初字第751号
Chen 2013b	Chen Mou Feifa Huoqu Gongmin Geren Xinxi An (陈某非法获取公民个人信息案) [In re Chen Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Jan. 16, 2013), <a href="http://www.pkulaw.cn/CLI.C.1386779">http://www.pkulaw.cn/CLI.C.1386779</a> .	(2013)青刑初字第53号

67. “Mou” or “Moumou” in a case name means “a certain . . . .” It indicates that part of the name is being deliberately withheld. This is common in Chinese case reports.



Abbreviated Case Name	Full Citation	Chinese Case Number
Chen 2014	Chen Moumou Feifa Huoqu Gongmin Geren Xinxi An (陈某非法获取公民个人信息案) [In re Chen Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Songjiang Dist. People's Ct. Mar. 24, 2014), <a href="http://www.pkulaw.cn/CLL.C.2609426">http://www.pkulaw.cn/CLL.C.2609426</a> .	(2014)松刑初字第487号
Deng 2014	Deng Mou deng Zhapian. Feifa Huoqu Gongmin Geren Xinxi An (邓某等诈骗、非法获取公民个人信息案) [In re Deng Mou et al. Fraud, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. June 25, 2014), <a href="http://www.pkulaw.cn/CLL.C.3041559">http://www.pkulaw.cn/CLL.C.3041559</a> .	(2014)金刑初字第413号
Du 2014	Du Mou Feifa Huoqu Gongmin Geren Xinxi An (杜某非法获取公民个人信息案) [In re Du Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Mar. 24, 2014), <a href="http://www.pkulaw.cn/CLL.C.2609412">http://www.pkulaw.cn/CLL.C.2609412</a> .	(2014)金刑初字第273号
Fan 2014	Fan Moumou Feifa Huoqu Gongmin Geren Xinxi An (范某某非法获取公民个人信息案) [In re Fan Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Mar 24, 2014), <a href="http://www.pkulaw.cn/CLL.C.2593331">http://www.pkulaw.cn/CLL.C.2593331</a> .	(2014)虹刑初字第248号
Fang 2013	Fang Mou Feifa Huoqu Gongmin Geren Xinxi An (方某非法获取公民个人信息案) [In re Fang Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Nov. 1, 2013), <a href="http://www.pkulaw.cn/CLL.C.2183194">http://www.pkulaw.cn/CLL.C.2183194</a> .	(2013)闸刑初字第1199号
Fu 2011	Fu Moumou Feifa Huoqu Gongmin Geren Xinxi An (付某某非法获取公民个人信息案) [In re Fu Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Mar. 15, 2013), <a href="http://www.pkulaw.cn/CLL.C.2005008">http://www.pkulaw.cn/CLL.C.2005008</a> .	(2013)青刑初字第253号
Fu 2014	Fu Jia deng Zhapain, Feifa Huoqu Gongmin Geren Xinxi An (符甲等诈骗、非法获取公民个人信息案) [In re Fu Jia et al. Fraud, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. July 31, 2014), <a href="http://www.pkulaw.cn/CLL.C.3194206">http://www.pkulaw.cn/CLL.C.3194206</a> .	(2014)浦刑初字第2712号
Gao 2013	Gao Mou Feifa Huoqu Gongmin Geren Xinxi An (高某非法获取公民个人信息案) [In re Gao Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Changning Dist. People's Ct. June 18, 2013), <a href="http://www.pkulaw.cn/CLL.C.2057585">http://www.pkulaw.cn/CLL.C.2057585</a> .	(2013)长刑初字第324号
Gao 2014	Gao Liang Feifa Huoqu Gongmin Geren Xinxi An (高亮非法获取公民个人信息案) [In re Gao Liang Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Mar. 13, 2014), <a href="http://www.pkulaw.cn/CLL.C.2566068">http://www.pkulaw.cn/CLL.C.2566068</a> .	(2014)青刑初字第310号

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Guangzhou 2013	Guangzhou Moumou Shangwu Fuwu Youxian Gongsì deng Feifa Huoqu Gongmin Geren Xinxi An (广州某某商务服务有限公司等非法获取公民个人信息案) [In re Guangzhou Moumou Business Services Ltd.] (Shanghai Pudong New Area People's Ct. Mar. 14, 2013), <a href="http://www.pkulaw.cn/CLI.C.2007041">http://www.pkulaw.cn/CLI.C.2007041</a> .	(2013)浦刑初字第442号
Guo 2013	Guo Moumou Feifa Huoqu Gongmin Geren Xinxi An (郭某某非法获取公民个人信息案) [In re Gu Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Baoshan Dist. People's Ct. July 18, 2013), <a href="http://www.pkulaw.cn/CLI.C.2058736">http://www.pkulaw.cn/CLI.C.2058736</a> .	(2013)宝刑初字第1063号
Han 2013	Han Mou Feifa Huoqu Gongmin Geren Xinxi An (韩某非法获取公民个人信息案) [In re Han Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Nov. 4, 2013), <a href="http://www.pkulaw.cn/CLI.C.2183190">http://www.pkulaw.cn/CLI.C.2183190</a> .	(2013)闸刑初字第1188号
Han 2014	Han Mou deng Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (韩某等非法提供公民个人信息、非法获取公民个人信息案) [In re Han Mou et al. Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Mar. 18, 2014), <a href="http://www.pkulaw.cn/CLI.C.2609230">http://www.pkulaw.cn/CLI.C.2609230</a> .	(2014)徐刑初字第222号
Hou 2011	Hou Qingbin Feifa Huoqu Gongmin Geren Xinxi An (侯庆斌非法获取公民个人信息案) [In re Hou Qingbin Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Aug. 18, 2011), <a href="http://www.pkulaw.cn/CLI.C.1006635">http://www.pkulaw.cn/CLI.C.1006635</a> .	(2011)浦刑初字第1877号
Hua 2013	Hua Mou Feifa Huoqu Gongmin Geren Xinxi An (华某非法获取公民个人信息案) [In re Hua Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Changning Dist. People's Ct. Apr. 28, 2013), <a href="http://www.pkulaw.cn/CLI.C.2053011">http://www.pkulaw.cn/CLI.C.2053011</a> .	(2013)长刑初字第170号
Huang 2013	Huang Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (黄某某等非法获取公民个人信息案) [In re Huang Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 13, 2013), <a href="http://www.pkulaw.cn/CLI.C.1385515">http://www.pkulaw.cn/CLI.C.1385515</a> .	(2013)浦刑初字第682号
Huang 2014	Huang Moumou Feifa Huoqu Gongmin Geren Xinxi An (黄某某非法获取公民个人信息案) [In re Huang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Apr. 24, 2014), <a href="http://www.pkulaw.cn/CLI.C.3075183">http://www.pkulaw.cn/CLI.C.3075183</a> .	(2014)虹刑初字第251号
Huo 2012	Huo Mou deng Feifa Huoqu Gongmin Geren Xinxi An (霍某等非法获取公民个人信息案) [In re Huo Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. June 19, 2012), <a href="http://www.pkulaw.cn/CLI.C.858513">http://www.pkulaw.cn/CLI.C.858513</a> .	(2012)浦刑初字第2092号

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Jiang 2014	Jiang Moujia deng Feifa Huoqu Gongmin Geren Xinxi An (姜某甲等非法获取公民个人信息案) [In re Jiang Moujia et al Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Aug. 21, 2014), <a href="http://www.pkulaw.cn/CLI.C.3285684">http://www.pkulaw.cn/CLI.C.3285684</a> .	(2014)青刑初字第962号
Keji 2013	Moumou Keji Youxian Gongsì deng Feifa Huoqu Gongmin Geren Xinxi An (某某科技有限公司等非法获取公民个人信息案) [In re Moumou Technology Co., Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 15, 2013), <a href="http://www.pkulaw.cn/CLI.C.1384834">http://www.pkulaw.cn/CLI.C.1384834</a> .	(2013)浦刑初字第683号
Lai 2010	Lai XX Feifa Huoqu Gongmin Geren Xinxi An (赖XX非法获取公民个人信息案) [In re Lai XX Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Jan. 29, 2010), <a href="http://www.pkulaw.cn/CLI.C.556657">http://www.pkulaw.cn/CLI.C.556657</a> .	(2009)浦刑初字第2728号
Lan 2011	Lan xx deng Feifa Huoqu Gongmin Geren Xinxi An (兰××等非法获取公民个人信息案) [In re Lan xx et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Jan. 21, 2011), <a href="http://www.pkulaw.cn/CLI.C.1990065">http://www.pkulaw.cn/CLI.C.1990065</a> .	(2011)虹刑初字第22号
Li 2014a	Li Mou Feifa Huoqu Gongmin Geren Xinxi An (李某非法获取公民个人信息案) [In re Li Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Mar. 18, 2014), <a href="http://www.pkulaw.cn/CLI.C.2583308">http://www.pkulaw.cn/CLI.C.2583308</a> .	(2014)金刑初字第249号
Li 2014b	Li Moumou Feifa Huoqu Gongmin Geren Xinxi An (李某某非法获取公民个人信息案) [In re Li Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Minhang Dist. People's Ct. Apr. 9, 2014), <a href="http://www.pkulaw.cn/CLI.C.2679496">http://www.pkulaw.cn/CLI.C.2679496</a> .	(2014)闵刑初字第846号
Li 2013b	Li Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (李某某等非法获取公民个人信息案) [In re Li Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Apr. 2, 2013), <a href="http://www.pkulaw.cn/CLI.C.1339309">http://www.pkulaw.cn/CLI.C.1339309</a> .	(2013)浦刑初字第948号
Li 2013c	Li Mou Feifa Huoqu Gongmin Geren Xinxi An (李某非法获取公民个人信息案) [In re Li Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Songjian Dist. People's Ct. Dec. 9, 2013), <a href="http://www.pkulaw.cn/CLI.C.2569832">http://www.pkulaw.cn/CLI.C.2569832</a> .	(2013)松刑初字第1933号
Li 2013a	Li Moumou Feifa Huoqu Gongmin Geren Xinxi An (李某某非法获取公民个人信息案) [In re Li Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Mar. 15, 2013), <a href="http://www.pkulaw.cn/CLI.C.1383965">http://www.pkulaw.cn/CLI.C.1383965</a> .	(2013)闸刑初字第201号

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Liang 2012	Liang Moumou Feifa Huoqu Gongmin Geren Xinxi An (梁某某非法获取公民个人信息案) [In re Liang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Mar. 18, 2014), <a href="http://www.pkulaw.cn/CLI.C.2583307">http://www.pkulaw.cn/CLI.C.2583307</a> .	(2014)金刑初字第248号
Liao 2014	Liao Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (廖某某等非法获取公民个人信息案) [In re Liao Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Apr. 2, 2014), <a href="http://www.pkulaw.cn/CLI.C.2649486">http://www.pkulaw.cn/CLI.C.2649486</a> .	(2014)徐刑初字第284号
Liu 2013a	Liu Mou Feifa Huoqu Gongmin Geren Xinxi An (刘某非法获取公民个人信息案) [In re Lui Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. May 2, 2013), <a href="http://www.pkulaw.cn/CLI.C.2002752">http://www.pkulaw.cn/CLI.C.2002752</a> .	(2013)浦刑初字第1303号
Liu 2014	Liu Mou deng Chushou Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (刘某等出售公民个人信息、非法获取公民个人信息案) [In re Lui Mou et al. Sale of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Huangpu Dist. People's Ct. Apr. 25, 2014), <a href="http://www.pkulaw.cn/CLI.C.3083486">http://www.pkulaw.cn/CLI.C.3083486</a> .	(2014)黄浦刑初字第397号
Liu 2013b	Liu Moumou Feifa Huoqu Gongmin Geren Xinxi An (刘某某非法获取公民个人信息案) [In re Liu Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Feb. 4, 2013), <a href="http://www.pkulaw.cn/CLI.C.1337933">http://www.pkulaw.cn/CLI.C.1337933</a> .	(2013)浦刑初字第443号
Long 2014	Long Mou deng Feifa Huoqu Gongmin Geren Xinxi An (龙某某非法获取公民个人信息案) [In re Long Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Feb. 13, 2014), <a href="http://www.pkulaw.cn/CLI.C.2459454">http://www.pkulaw.cn/CLI.C.2459454</a> .	(2014)浦刑初字第616号
Lu 2010	Lu XX deng Feifa Huoqu Gongmin Geren Xinxi An (陆XX等非法获取公民个人信息案) [In re Lu XX et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Apr. 16, 2010), <a href="http://www.pkulaw.cn/CLI.C.555500">http://www.pkulaw.cn/CLI.C.555500</a> .	(2010)浦刑初字第944号
Lu 2013	Lu Mou Chushou, Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (卢某出售、非法提供公民个人信息、非法获取公民个人信息案) [In re Lu Mou Sale, Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Dec. 19, 2013), <a href="http://www.pkulaw.cn/CLI.C.2413750">http://www.pkulaw.cn/CLI.C.2413750</a> .	(2013)虹刑初字第1370号

Abbreviated Case Name	Full Citation	Chinese Case Number
Lu 2013a	Lu Mou Chushou, Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (陆某出售、非法提供公民个人信息、非法获取公民个人信息案) [In re Lu Mou Sale, Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Dec. 19, 2013), <a href="http://www.pkulaw.cn/CLI.C.2277533">http://www.pkulaw.cn/CLI.C.2277533</a> .	(2013)虹刑初字第1372号
Lu 2013b	Lu Moumou Daoting Canjia Susong Feifa Huoqu Gongmin Geren Xinxi An (陆某某到庭参加诉讼非法获取公民个人信息案) [In re Lu Moumou Appearing in Court to Intervene Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jiading Dist. People's Ct. Apr. 24, 2013), <a href="http://www.pkulaw.cn/CLI.C.2052519">http://www.pkulaw.cn/CLI.C.2052519</a> .	(2013)嘉刑初字第301号
Lu 2014	Lu Moumou Feifa Huoqu Gongmin Geren Xinxi An (陆某某非法获取公民个人信息案) [In re Lu Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Changning Dist. People's Ct. Mar. 18, 2014), <a href="http://www.pkulaw.cn/CLI.C.2557225">http://www.pkulaw.cn/CLI.C.2557225</a> .	(2014)长刑初字第171号
Luo 2013	Luo Mou Chushou, Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (罗某出售、非法提供公民个人信息、非法获取公民个人信息案) [In re Luo Mou Sale, Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Dec. 23, 2013), <a href="http://www.pkulaw.cn/CLI.C.2413751">http://www.pkulaw.cn/CLI.C.2413751</a> .	(2013)虹刑初字第1371号
Mu 2014	Mu Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (穆某某等非法获取公民个人信息案) [In re Mu Moumou et al Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. July 24, 2014), <a href="http://www.pkulaw.cn/CLI.C.3194245">http://www.pkulaw.cn/CLI.C.3194245</a> .	(2014)青刑初字第847号
Peng 2012	Peng Moumou Feifa Huoqu Gongmin Geren Xinxi An (彭某某非法获取公民个人信息案) [In re Peng Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Nov. 6, 2013), <a href="http://www.pkulaw.cn/CLI.C.2168323">http://www.pkulaw.cn/CLI.C.2168323</a> .	(2013)徐刑初字第922号
Qian 2014	Qian Mou Feifa Huoqu Gongmin Geren Xinxi An (钱某非法提供公民个人信息案) [In re Qian Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jiading Dist. People's Ct. Mar. 19, 2014), <a href="http://www.pkulaw.cn/CLI.C.2804426">http://www.pkulaw.cn/CLI.C.2804426</a> .	(2014)嘉刑初字第274号
Shao 2014	Shao Moumou Feifa Huoqu Gongmin Geren Xinxi An (邵某某非法获取公民个人信息案) [In re Shao Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Jan. 23, 2014), <a href="http://www.pkulaw.cn/CLI.C.2321857">http://www.pkulaw.cn/CLI.C.2321857</a> .	(2014)金刑初字第86号

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Shanghai 2013b	Shanghai Moumou Dianzi Shangwu Youxian Gongsideng Feifa Huoqu Gongmin Geren Xinxi An (上海某某电子商务有限公司等非法获取公民个人信息、职务侵占案) [In re Shanghai Moumou E-Commerce Co., Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Aug. 2, 2013), <a href="http://www.pkulaw.cn/CLI.C.2331039">http://www.pkulaw.cn/CLI.C.2331039</a> .	(2013)浦刑初字第947号
Shanghai 2013c	Shanghai Moumou Xinxi Keji Youxian Gongsideng Feifa Huoqu Gongmin Geren Xinxi An (上海某某信息科技有限公司等非法获取公民个人信息案) [In re Shanghai Moumou Information Technology Co., Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 21, 2013), <a href="http://www.pkulaw.cn/CLI.C.1384672">http://www.pkulaw.cn/CLI.C.1384672</a> .	(2013)浦刑初字第864号
Shanghai 2012	Shanghai Luo Moumou Moumou Yingxiao Fuwu Youxian Gongsideng Feifa Huoqu Gongmin Geren Xinxi An (上海罗某某某某营销服务有限公司等非法获取公民个人信息案) [In re Shanghai Luo Moumou Moumou Marketing Services Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Dec. 28, 2012), <a href="http://www.pkulaw.cn/CLI.C.1383953">http://www.pkulaw.cn/CLI.C.1383953</a> .	(2012)闸刑初字第997号
Shanghai 2013a	Shanghai Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (上海某某等非法获取公民个人信息案) [In re Shanghai Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Changning Dist. People's Ct.) (Shanghai Changning Dist. People's Ct. Dec. 24, 2013), <a href="http://www.pkulaw.cn/CLI.C.2673522">http://www.pkulaw.cn/CLI.C.2673522</a> .	(2013)长刑初字第862号
Shanghai 2014a	Shanghai Moumou Touzi Guanli Youxian Gongsideng Feifa Huoqu Gongmin Geren Xinxi An (上海某某投资管理有限公司等非法获取公民个人信息案) [In re Shanghai Moumou Investment Management Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Jan. 15, 2014), <a href="http://www.pkulaw.cn/CLI.C.2288005">http://www.pkulaw.cn/CLI.C.2288005</a> .	(2014)金刑初字第40号
Shanghai 2014b	Shanghai You Moumou Jianshen Guanli Youxian Gongsideng Feifa Huoqu Gongmin Geren Xinxi An (上海优某某健身管理有限公司等非法获取公民个人信息案) [In re Shanghai You Moumou Fitness Management Co., Ltd. et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Jan. 23, 2014), <a href="http://www.pkulaw.cn/CLI.C.2321858">http://www.pkulaw.cn/CLI.C.2321858</a> .	(2014)金刑初字第87号
Shi 2014	Shi Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (史某某等非法获取公民个人信息案) [In re Shi Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Putou Dist. People's Ct. May 23, 2014), <a href="http://www.pkulaw.cn/CLI.C.2831960">http://www.pkulaw.cn/CLI.C.2831960</a> .	(2014)普刑初字第560号

Abbreviated Case Name	Full Citation	Chinese Case Number
Song 2013	Song Mou Feifa Huoqu Gongmin Geren Xinxi An (宋某非法获取公民个人信息案) [In re Song Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Jan. 22, 2013), <a href="http://www.pkulaw.cn/CLL.C.1386816">http://www.pkulaw.cn/CLL.C.1386816</a> .	(2013)青刑初字第98号
Song 2014	Song Moumou Feifa Huoqu Gongmin Geren Xinxi An (宋某某非法获取公民个人信息案) [In re Song Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Feb. 27, 2014), <a href="http://www.pkulaw.cn/CLL.C.2939486">http://www.pkulaw.cn/CLL.C.2939486</a> .	(2014)徐刑初字第154号
Tang 2014	Tang Moumou Feifa Huoqu Gongmin Geren Xinxi An (唐某某非法获取公民个人信息案) [In re Tang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Jan 24, 2014), <a href="http://www.pkulaw.cn/CLL.C.2286985">http://www.pkulaw.cn/CLL.C.2286985</a> .	(2013)虹刑初字第1369号
Tang 2014	Tang Moumou Feifa Huoqu Gongmin Geren Xinxi An (唐某某非法获取公民个人信息案) [In re Tang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Mar. 25, 2014), <a href="http://www.pkulaw.cn/CLL.C.2649539">http://www.pkulaw.cn/CLL.C.2649539</a> .	(2014)虹刑初字第247号
Tian 2014	Tian Moumou Feifa Huoqu Gongmin Geren Xinxi An (田某某非法获取公民个人信息案) [In re Tian Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Jan. 15, 2014), <a href="http://www.pkulaw.cn/CLL.C.2288004">http://www.pkulaw.cn/CLL.C.2288004</a> .	(2014)金刑初字第39号
Wang 2013a	Wang Moumou Feifa Huoqu Gongmin Geren Xinxi An (王某某非法获取公民个人信息案) [In re Wang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 15, 2013), <a href="http://www.pkulaw.cn/CLL.C.1384832">http://www.pkulaw.cn/CLL.C.1384832</a> .	(2013)浦刑初字第680号
Wang 2013b	Wang Moumou Feifa Huoqu Gongmin Geren Xinxi An (王某某非法获取公民个人信息案) [In re Wang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 13, 2013), <a href="http://www.pkulaw.cn/CLL.C.1385514">http://www.pkulaw.cn/CLL.C.1385514</a> .	(2013)浦刑初字第679号
Wang 2013c	Wang A Feifa Huoqu Gongmin Geren Xinxi An (王a非法获取公民个人信息案) [In re Wang A Unlawful Obtainment of Personal Information of Citizens] (Shanghai Minhang Dist. People's Ct. June 8, 2013), <a href="http://www.pkulaw.cn/CLL.C.2009229">http://www.pkulaw.cn/CLL.C.2009229</a> .	(2013)闵刑初字第776号
Wang 2013d	Wang xx Feifa Huoqu Gongmin Geren Xinxi An (王××非法获取公民个人信息案) [In re Wang xx Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. May 10, 2013), <a href="http://www.pkulaw.cn/CLL.C.1997272">http://www.pkulaw.cn/CLL.C.1997272</a> .	(2013)虹刑初字第415号

Abbreviated Case Name	Full Citation	Chinese Case Number
Wu 2012	Wu Mou Feifa Huoqu Gongmin Geren Xinxi An (武某非法获取公民个人信息案) [In re Wu Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Putou Dist. People's Ct.) (Shanghai Putou Dist. People's Ct. Nov. 11, 2012), <a href="http://www.pkulaw.cn/CLI.C.1395357">http://www.pkulaw.cn/CLI.C.1395357</a> .	(2012)普刑初字第869号
Wu 2013	Wu Mou deng Feifa Huoqu Gongmin Geren Xinxi An (吴某等非法获取公民个人信息案) [In re Wu Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Oct. 18, 2013), <a href="http://www.pkulaw.cn/CLI.C.2166908">http://www.pkulaw.cn/CLI.C.2166908</a> .	(2013)闸刑初字第1053号
Xing 2014	Xing Mougou Feifa Huoqu Gongmin Geren Xinxi An (邢某某非法获取公民个人信息案) [In re Xing Mougou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Mar. 24, 2014), <a href="http://www.pkulaw.cn/CLI.C.2804349">http://www.pkulaw.cn/CLI.C.2804349</a> .	(2014)虹刑初字第246号
Xu 2012	Xu x Feifa Huoqu Gongmin Geren Xinxi An (徐×非法获取公民个人信息案) [In re Xu X Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Aug. 15, 2012), <a href="http://www.pkulaw.cn/CLI.C.1395825">http://www.pkulaw.cn/CLI.C.1395825</a> .	(2012)虹刑初字第797号
Xu 2013a	Xu Mou Feifa Huoqu Gongmin Geren Xinxi An (徐某非法获取公民个人信息案) [In re Xu Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Apr. 18, 2013), <a href="http://www.pkulaw.cn/CLI.C.1346668">http://www.pkulaw.cn/CLI.C.1346668</a> .	(2013)浦刑初字第1087号
Xu 2013b	Xu Mougou Feifa Huoqu Gongmin Geren Xinxi An (徐某某非法获取公民个人信息案) [In re Xu Mougou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Feb. 4, 2013), <a href="http://www.pkulaw.cn/CLI.C.1385502">http://www.pkulaw.cn/CLI.C.1385502</a> .	(2013)浦刑初字第441号
Xue 2012	Xue Mou Feifa Huoqu Gongmin Geren Xinxi An (薛某非法获取公民个人信息案) [In re Xue Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Songjian Dist. People's Ct. July 26, 2012), <a href="http://www.pkulaw.cn/CLI.C.953035">http://www.pkulaw.cn/CLI.C.953035</a> .	(2012)松刑初字第1050号
XXX 2012a	XXX Feifa Huoqu Gongmin Geren Xinxi An (XXX非法获取公民个人信息案) [In re XXX Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Sept. 17, 2012), <a href="http://www.pkulaw.cn/CLI.C.1399252">http://www.pkulaw.cn/CLI.C.1399252</a> .	(2012)徐刑初字第713号
XXX 2012b	XXX Feifa Huoqu Gongmin Geren Xinxi An (XXX非法获取公民个人信息案) [In re XXX Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Sept. 7, 2012), <a href="http://www.pkulaw.cn/CLI.C.951951">http://www.pkulaw.cn/CLI.C.951951</a> .	(2012)徐刑初字第680号
Yan 2012	Yan Mou Feifa Huoqu Gongmin Geren Xinxi An (颜某非法获取公民个人信息案) [In re Yan Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Huangpu Dist. People's Ct. Sept. 9, 2012), <a href="http://www.pkulaw.cn/CLI.C.879410">http://www.pkulaw.cn/CLI.C.879410</a> .	(2012)黄浦刑初字第971号



Abbreviated Case Name	Full Citation	Chinese Case Number
Yang 2014	Yang Mou deng Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (杨某某等非法提供公民个人信息、非法获取公民个人信息案) [In re Yang Mou et al. Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. Apr. 24, 2014), <a href="http://www.pkulaw.cn/CLI.C.2810328">http://www.pkulaw.cn/CLI.C.2810328</a> .	(2014)闸刑初字第244号
Yao 2013	Yao Moumou Chushou, Feifa Tigong Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (姚某某出售、非法提供公民个人信息、非法获取公民个人信息案) [In re Yao Moumou Sale, Unlawful Provision of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Dec. 19, 2013), <a href="http://www.pkulaw.cn/CLI.C.2277534">http://www.pkulaw.cn/CLI.C.2277534</a> .	(2013)虹刑初字第1373号
Ye 2013	Ye Mou deng Feifa Huoqu Gongmin Geren Xinxi An (叶某某等非法获取公民个人信息案) [In re Ye Mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Fengxian Dist. People's Ct. July 30, 2013), <a href="http://www.pkulaw.cn/CLI.C.1976859">http://www.pkulaw.cn/CLI.C.1976859</a> .	(2013)奉刑初字第649号
Zhang 2014a	Zhang Moumou Feifa Huoqu Gongmin Geren Xinxi An (张某某非法获取公民个人信息案) [In re Zhang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Apr. 4, 2014), <a href="http://www.pkulaw.cn/CLI.C.2649539">http://www.pkulaw.cn/CLI.C.2649539</a> .	(2014)虹刑初字第250号
Zhang 2014b	Zhang Moumou Feifa Huoqu Gongmin Geren Xinxi An (张某某非法获取公民个人信息案) [In re Zhang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Jinshan Dist. People's Ct. Jan. 22, 2014), <a href="http://www.pkulaw.cn/CLI.C.2288009">http://www.pkulaw.cn/CLI.C.2288009</a> .	(2014)金刑初字第68号
Zhang 2014c	Zhang Moumou Feifa Huoqu Gongmin Geren Xinxi An (张某某非法获取公民个人信息案) [In re Zhang Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. July 23, 2014), <a href="http://www.pkulaw.cn/CLI.C.3208240">http://www.pkulaw.cn/CLI.C.3208240</a> .	(2014)徐刑初字第672号
Zhang 2013	Zhang Mou Feifa Huoqu Gongmin Geren Xinxi An (张某某非法获取公民个人信息案) [In re Zhang Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 15, 2013), <a href="http://www.pkulaw.cn/CLI.C.1338202">http://www.pkulaw.cn/CLI.C.1338202</a> .	(2013)浦刑初字第681号
Zhang 2014d	Zhang Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (章某某等非法获取公民个人信息案) [In re Zhang Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Feb. 24, 2014), <a href="http://www.pkulaw.cn/CLI.C.2321788">http://www.pkulaw.cn/CLI.C.2321788</a> .	(2014)浦刑初字第571号

Abbreviated Case Name	Full Citation	Chinese Case Number
Zhang 2014e	Zhang Yi Feifa Huoqu Gongmin Geren Xinxi, Chushou Gongmin Geren Xinxi An (张乙非法获取公民个人信息、出售公民个人信息案) [In re Zhang Yi Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Jan. 24, 2014), <a href="http://www.pkulaw.cn/CLL.C.2286984">http://www.pkulaw.cn/CLL.C.2286984</a> .	(2013)虹刑初字第1368号
Zhao 2014	Zhao Moumou Feifa Huoqu Gongmin Geren Xinxi An (赵某某非法获取公民个人信息案) [In re Zhao Moumou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Xuhui Dist. People's Ct. Aug. 29, 2014), <a href="http://www.pkulaw.cn/CLL.C.3431761">http://www.pkulaw.cn/CLL.C.3431761</a> .	(2014)徐刑初字第851号
Zhou 2010	Zhou Mou deng Feifa Huoqu Gongmin Geren Xinxi An (周某等非法获取公民个人信息案) [In re Zhou mou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Aug. 5, 2010), <a href="http://www.pkulaw.cn/CLL.C.600964">http://www.pkulaw.cn/CLL.C.600964</a> .	(2010)浦刑初字第1450号
Zhou 2014a	Zhou Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (周某某等非法获取公民个人信息案) [In re Zhang Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Feb. 20, 2014), <a href="http://www.pkulaw.cn/CLL.C.2487648">http://www.pkulaw.cn/CLL.C.2487648</a> .	(2014)浦刑初字第663号
Zhou 2014b	Zhang Yi Feifa Huoqu Gongmin Geren Xinxi An (周乙非法获取公民个人信息案) [In re Zhou Yi Unlawful Obtainment of Personal Information of Citizens] (Shanghai Hongkou Dist. People's Ct. Mar 25, 2013), <a href="http://www.pkulaw.cn/CLL.C.2585918">http://www.pkulaw.cn/CLL.C.2585918</a> .	(2014)虹刑初字第249号
Zhu 2012b	Zhu Moumou deng Feifa Huoqu Gongmin Geren Xinxi An (朱某某等非法获取公民个人信息案) [In re Zhu Moumou et al. Unlawful Obtainment of Personal Information of Citizens] (Shanghai Qingpu Dist. People's Ct. Apr. 17, 2014), <a href="http://www.pkulaw.cn/CLL.C.2683405">http://www.pkulaw.cn/CLL.C.2683405</a> .	(2014)青刑初字第440号
Zhu 2012a	Zhu Moumou deng Xinyongka Zhapian, Fanghai Xinyongka Guanli, Yanshi, Yinman Fanzui Suode, Chushou Gongmin Geren Xinxi, Feifa Huoqu Gongmin Geren Xinxi An (朱某某等信用卡诈骗、妨害信用卡管理、掩饰、隐瞒犯罪所得、出售公民个人信息、非法获取公民个人信息案) [In re Zhu Moumou et al. Credit Card Fraud, Hinderance of Credit Card Management, Concealing Criminal Gains, Sale of Personal Information of Citizens, Unlawful Obtainment of Personal Information of Citizens] (Shanghai Zhabei Dist. People's Ct. May 18, 2012), <a href="http://www.pkulaw.cn/CLL.C.1385459">http://www.pkulaw.cn/CLL.C.1385459</a> .	(2011)闸刑初字第823号
Zuo 2013	Zuo Mou Feifa Huoqu Gongmin Geren Xinxi An (左某非法获取公民个人信息案) [In re Zuo Mou Unlawful Obtainment of Personal Information of Citizens] (Shanghai Pudong New Area People's Ct. Mar. 21, 2013), <a href="http://www.pkulaw.cn/CLL.C.1338232">http://www.pkulaw.cn/CLL.C.1338232</a> .	(2013)浦刑初字第865号

## APPENDIX B: CASE DATA

The following is a compilation of all the data used in this research. The cases are arranged by date, beginning with the earliest. The amount of PIC, the nature of the PIC, and the means of acquisition are also listed. In the rightmost column, “Serious Circumstances,” certain aspects of the case that could be construed as serious circumstances or relevant for sentencing are listed. The term “EXEMPT” means that the defendant was found guilty of unlawful acquisition but for other reasons was exempted from punishment. In the *Zhou 2010* case, a number of defendants were found guilty but their sentences were not mentioned. There, the table will show a question mark. For certain cases, such as *Xu 2013b*, the court filtered the PIC for duplicates. Where this is the case, the PIC amount will have the initial number followed by a number excluding duplicates in parentheses. The full citation for the cases is found in Appendix A.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Lai 2010	2010.01.29	赖XX	12	10,000	40	Individual whereabouts.	Purch.	Private investigator; 40,000 yuan profit; paid for on per PIC basis; target spec. individuals.
Lu 2010	2010.04.16	赵XX	10	10,000	200,000	Unclear.	Purch.	2,000 yuan profit.
		陆XX	11	10,000	140,000	Unclear.	Purch.	1,500 yuan profit.
Zhou 2010	2010.08.05	周某	12	20,000	980,000	Info on wealthy individuals.	Acq.	Principal; sold for profit.
		李某某	24	40,000	30,000,000		Acq.	Principal.
		张某某	?	?	10,000,000		Acq.	Accessory.
		张某	?	?	980,000		Acq.	Accessory.
		胡某某	?	?	980,000		Acq.	Accessory.
		李某某	?	?	980,000		Acq.	Accessory.
		王某某	?	?	980,000		Acq.	Accessory.
		张某	?	?	30,980,000		Acq.	Accessory.
		陈某某	?	?	240,000		Trick.	Accessory; fraud.
余某某	Exempt	Exempt	20,000,000		Purch./trick.	Accessory.		

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Lan 2011	2011.01.21	季×	3	1,000	207,898	Info on elementary school children.	Purch./ trade.	Accessory; sold for profit.
		叶××	10	5,000	2,540,844	Info on elementary school children.	Purch./ trade.	Principal; sold for profit; paid 3,000 for PIC.
		兰××	18	15,000	16,823,533	Purchase orders.	Purch./ trade.	For profit; paid 3,400 for PIC.
		曹××	Exempt	Exempt	41,042	Purchase orders.	Purch./ trade.	Accessory; sold for profit; paid 1,000 for PIC.
		费××	11	7,000	2,767,846	Students and business owners.	Purch./ trade.	For profit.
		麻××	11	5,000	2,767,846	Students and business owners.	Purch./ trade.	For profit.
		杨××	17	15,000	16,823,533	Unclear.	Purch./ trade.	For profit.
		孟××	10.5	10,000	6,246,842	Unclear.	Purch./ trade.	3,400 profit; paid 1,000 for PIC.
		向××	Exempt	Exempt	30,449	Unclear.	Purch./ trade.	Accessory; sold for profit; paid 2,000 for PIC.
		刘××	None	3,000	42,191	Unclear.	Purch./ trade.	For profit.
		卓×	5	2,000	336,187	Unclear.	Purch./ trade.	Accessory; sold for profit.
		谷××	8	5,000	755,599	Unclear.	Purch./ trade.	For profit; paid 1,500 for PIC.
周××	14	10,000	6,246,842	Unclear.	Purch./ trade.	For profit; paid 3,400 for PIC.		
Hou 2011	2011.08.18	侯庆斌	None	5,000	550	Finance.	Trade.	
Chen 2011a	2011.12.08	陈某	7	2,000	88	Phone records.	Purch.	20,000 profit; paid 17,000 for PIC; source telecomm co.
		陆某	None	5,000	10	Phone records.	Purch.	900 profit; paid 4,100 for PIC; source telecomm co.
Chen 2011b	2011.12.21	张某	4	4,000	Unclear.	Real estate.	Acq.	None.
		辛某	4	4,000				
		陈某	10	10,000				
		阳某	10	10,000				
		赵某	12	12,000				
刘某	8.5	8,000						

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Zhu 2012a	2012.05.18	章某某	3	5,000	50	Finance.	Purch.	300 yuan profit; paid 10-100 for PIC.
		林某	4	10,000	100			1,000 yuan profit; paid 10-100 for PIC.
		王某某	6	10,000	250			4,000 yuan profit; paid 10-100 for PIC.
		陈某某	6	10,000	300			Thousands of yuan of profit; paid 10-100 for PIC.
		任某某	15	30,000	1,000			30,000 yuan profit; paid 10-100 for PIC.
		颜某某	15	30,000	2,000			20,000 yuan profit; paid 10-100 for PIC.
Huo 2012	2012.06.19	霍某	12	20,000	59	Phone records; census data; hotel registration; flight information; immigration records; phone location.	Purch.	Private investigator/ PIC business.
		沙某某	6	5,000	9			Private investigator/ accessory; PIC business.
Xue 2012	2012.07.26	薛某	4	1,000	70	Residence and vehicle info.	Purch.	Private investigator/ debt collection; 10,000 yuan profit.
Xu 2012	2012.08.15	徐×	5	2,000	Unclear	Contact.	Acq.	For profit.
XXX 2012b	2012.09.07	XXX	12	2,000	195	Locational info: corporate registration; hotel registration; car registration; flight information; etc.	Purch. from illegal supplier.	Private investigator/ debt collection.
XXX 2012a	2012.09.17	XXX	6	2,000	Targeted	Phone records, multimedia messages, WLAN records, transaction fees, financial, vehicle registration, hotel records, bank deposits	Purch.	Private investigator/ illegal PIC business; 13,000 profit.
Chen 2012	2012.09.24	陈某	6	1,000	28	Unclear.	Purch.	Sold for profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Yan 2012	2012.09.24	颜某	6	1,000	100	Unclear.	Purch.	Sold for profit.
Wu 2012	2012.11.02	武某	7	10,000	337	Financial, hotel, residence.	Purch.	For profit.
Shang-hai 2012	2012.12.28	王某	12	5,000	90,000,000	Contact; bank; infant; consumer records.	Purch.	For profit; the company paid 2,500,000 for PIC; the rest of the defendants took part in acquiring the PIC.
		孙某某	12	10,000				
		李某	18	20,000				
		崔某某	24	20,000				
		上海罗某某某营销服务有限公司	N/A	1,000,000				
Cao 2013	2013.01.07	叶某	5	1,000	200	The opinion referred to "400 data" (400数据信息), although it is unclear what this is.	Acq.	Profit unknown.
		沙某	5	1,000	2		Purch.	Hundreds of yuan of profit; paid hundreds for PIC.
		万某	6	1,000	200		Acq.	Tens of thousands of yuan of profit.
		曾某	6	1,000	6		Purch.	Thousands of yuan of profit; paid thousands for PIC.
		杨某	6	1,000	8		Purch.	Thousands of yuan of profit; paid thousands for PIC.
		曹某	8	1,000	200		Acq.	Tens of thousands of yuan profit.
		杨某	8	1,000	200		Purch.	Tens of thousands of yuan profit; paid tens of thousands for PIC.
		Chen 2013b	2013.01.16	陈某	6		10,000	20,000
Song 2013	2013.01.22	宋某	9	10,000	50,000	Contact.	Acq.	Criminal sale.
Xu 2013b	2013.02.04	徐某某	6	10,000	1,000,000 (280,000)	Purchase orders.	Purch.	Paid 400 for PIC.
Liu 2013b	2013.02.04	刘某某	8	15,000	1,000,000 (280,000)	Purchase orders.	Purch.	Paid 10,000 for PIC.
Huang 2013	2013.03.13	黄某某	6	10,000	1,000,000 (280,000)	Purchase orders.	Purch.	Paid 100 for PIC.
Wang 2013b	2013.03.13	王某某	7	10,000	1,000,000 (280,000)	Purchase orders.	Trade.	Sold for 119 profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Guangzhou 2013	2013.03.14	江某某	6	10,000	1,000,000 (280,000)	Unclear.	Purch.	The company paid 5,000 for PIC, and it was presumably for a profit.
		张某某	6	10,000				
		广州某某商务服务有限公司	N/A	30,000				
		孙某某	None	30,000				
Fu 2011	2013.03.15	付某某	5	10,000	5,000	Client info.	Theft.	For profit; caused economic loss to 3d co.; obtained from workplace.
Wang 2013a	2013.03.15	王某某	7	10,000	1,000,000	Purchase orders.	Purch.	For profit; paid 1,600 for PIC.
Keji 2013	2013.03.15	陈某某	6	10,000	1,000,000	Purchase orders.	Purch.	The company paid 500 for PIC, presumably for profit.
		王某某	7	10,000	1,000,000			
		单位某某科技公司	N/A	30,000	1,000,000			
Li 2013a	2013.03.15	李某某	14	20,000	71,158	Unclear.	Purch.	Sold for profit.
Zhang 2013	2013.03.15	张某某	7	10,000	1,000,000	Unclear.	Purch.	For profit; paid 800 for PIC.
Shanghai 2013c	2013.03.21	白某某	6	10,000	1,000,000	Purchase orders.	Purch.	For profit; paid 900 for PIC.
		上海某某信息科技有限公司	Corp.	30,000	1,000,000	Purchase orders.	Purch.	For profit; paid 900 for PIC.
Zuo 2013	2013.03.21	左某某	7	10,000	1,000,000	Purchase orders.	Purch.	For profit; paid 900 for PIC.
Li 2013b	2013.04.02	李某某	9	15,000	2,259,920 (280,000)	Unclear.	Purch.	Paid 2,000 for PIC.
Xu 2013a	2013.04.18	徐某某	6	1,000	1,000,000 (280,000)	Unclear.	Purch.	Paid 500 for PIC.
Lu 2013b	2013.04.24	陆某某	4	2,000	20	Residency, car, bank, cell location.	Purch.	Private investigator/ PIC business; sold for profit.
Hua 2013	2013.04.28	华某某	12	5,000	20 individuals	ID, financial, real estate, bank account #, vehicle registration, etc. of specific individuals.	Purch.	50,900 yuan profit.
Liu 2013a	2013.05.02	刘某某	6	10,000	32	Residence; hotel.	Purch.	Private investigator; 38,700 yuan profit.
Wang 2013d	2013.05.10	王××	4	1,000	6	Information of specific individuals re: residence, cars, hotel, family members.	Purch.	Sold for profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Beijing 2013i	2013.05.21	程某	6	10,000	1,000,000	Purchase orders.	Purch.	Purchased by company for profit.
		陈某	6	10,000	1,000,000			
		乔某某	6	5,000	1,000,000			
		北京某某创想电子商务有限公司江苏分公司	N/A	30,000	1,000,000			
Wang 2013c	2013.06.08	王a	6	10,000	53	Unclear.	Purch.	Sold for profit.
Gao 2013	2013.06.18	高某	10	3,000	special	Information on specific individuals re: location, hotel stay, residence, enter and exit records, etc.	Purch.	14,500 yuan profit.
Guo 2013	2013.07.18	郭某某	7	3,000	400	Unclear.	Acq.	For profit.
Ye 2013	2013.07.30	旷某	11	10,000	83,908	Finance.	Purch.	Accessory; 130,000 yuan profit.
		李某	11	10,000	83,908		Purch.	Accessory; 110,000 yuan profit.
		王某	11	10,000	83,908		Purch.	Accessory; 100,000 yuan profit.
		叶某某	11	10,000	83,908		Purch.	Accessory; 60,000 yuan profit.
		王某某	11	10,000	83,908		Purch.	Accessory; 80,000 yuan profit.
		谭某	11	10,000	83,908		Purch.	Accessory; 100,000 yuan profit.
		叶某某	12	15,000	83,908		Purch.	Accessory; 300,000 yuan profit.
		赵某	12	15,000	83,908		Purch.	Accessory; 230,000 yuan profit.
		叶某	12	15,000	83,908		Purch.	Accessory; 230,000 yuan profit.
		叶某	18	50,000	83,908		Purch./theft	Principal; 1,500,000 profit.



Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Shang-hai 2013b	2013.08.02	徐某	9	15,000	3,000,000 (40,000)	Vice president Xu Mou instructed the head of the information department of the company, Peng Mou, to purchase a customer list from Number One Website (“一号店网站”). Peng obtained the database account numbers, passwords, and the server’s IP address from Number One Website’s employee, Mou Moumou. Peng then on three separate occasions stole from Number One Website a total of 3,000,000 (400,000 after duplicates) pieces of PIC concerning client order information. Peng also embezzled the funds that were supposed to be used to purchase the client list. Xu Mou was held liable under a theory similar to respondeat superior.		
		彭某	9	15,000				
		缪某某	10	15,000				
		上海某某电子商务有限公司	N/A	30,000				
Chen 2013a	2013.09.25	陈某某	9	5,000	3,200	Unclear.	Purch.	Fraud.
Wu 2013	2013.10.18	吴某	10	5,000	918	Information of specific individuals.	Purch./investigation.	Private investigator/PIC business.
Wu 2013	2013.10.18	郑某	10	4,000	918	Unclear.	Purch.	For profit.
Fang 2013	2013.11.01	方某	9	1,000	1,461	Info on finance, property, infants.	Purch.	For profit.
Han 2013	2013.11.04	韩某	12	20,000	40,161	ID, financial, real estate, bank account #, vehicle registration, etc. of specific individuals	Purch.	For profit.
Peng 2012	2013.11.06	彭某某	6	2,000	16 (see note)	Background checks, infidelity, child behavior monitoring, business intelligence.	Purch.	Private investigator.
Li 2013c	2013.12.09	李某	10	10,000	10,000	Unclear.	Acq.	Sold for profit.
Lu 2013	2013.12.19	卢某	Exempt	Exempt	1,000+/4 pages	Contact.	Purch.	For profit.
Lu 2013a	2013.12.19	陆某	Exempt	Exempt	50	Contact.	Purch.	For profit.
Yao 2013	2013.12.19	姚某某	Exempt	Exempt	70	Contact.	Purch.	For profit.
Luo 2013	2013.12.23	罗某	Exempt	Exempt	100	Contact.	Purch.	For profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Shang-hai 2013a	2013.12.24	汪某	16	30,000	6,000,000	The corp. def. contracted with Xingye Bank and China Eastern Airlines to market credit cards. The general manager of the corp. def., Qiao, instructed Shen to meet with an employee of China Eastern Airlines and purchase 600 pieces of PIC on members of the "Eastern Miles Club" for 200,000 yuan. It appears the employee did not have authorization to obtain the information. The PIC was used for the telemarketing activities of the corporate defendant. Wang Moumou arranged the meeting. Yang Yi was the legal representative of the corporate defendant and authorized the purchase. Principal. Principal. Accessory.		Accessory.
		杨乙	18	40,000				
		乔某某	20	50,000				
		上海某某	N/A	200,000				
		沈某	None	None				
Tian 2014	2014.01.15	田某某	6	8,000	60,000	Unclear.	Purch.	Sold for profit.
Shang-hai 2014a	2014.01.15	刘某某	9	10,000	90,000	Unclear.	Purch.	For profit.
		上海某某投资管理有限公司	N/A	15,000	90,000	Unclear.	Purch.	For profit.
Zhang 2014b	2014.01.22	张某某	6	3,000	31,000	Contact.	Theft.	1,000 profit; obtained from workplace.
Shai 2014	2014.01.23	邵某某	6	5,000	55,000	Contact.	Purch.	For profit.
Shang-hai 2014b	2014.01.23	朱某某	6	5,000	60,000	Unclear.	Purch.	For profit.
		上海优某某健身管理有限公司	N/A	20,000	60,000	Unclear.	Purch.	For profit.
Tang 2014	2014.01.24	唐某某	Exempt	Exempt	1,500/72 pages	Contact.	Acq.	
Zhang 2014e	2014.01.24	张乙	Not Guilty	Not Guilty	1,500	Contact.	Acq.	Insurance PIC.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Long 2014	2014.02.13	杨某	5	5,000	210,000	Unclear.	Purch.	
		吴某某	7	10,000	3,000,000	Unclear.	Purch.	
		易某某	18	20,000	100,000,000	Unclear.	Purch.	4,000 yuan profit; paid 4,000 for PIC.
		龙某	21	20,000	100,000,000	Unclear.	Acq.	4,000 yuan profit; paid 5,500 for PIC.
Zhou 2014a	2014.02.20	周某某	5	1,000	7,000	Unclear.	Purch.	For profit; paid 500 for PIC.
		汪某某	5	1,000	7,000	Unclear.	Purch.	For profit; paid 500 for PIC.
Zhang 2014d	2014.02.24	杨某某	3	3,000	1,000	Unclear.	Purch.	For profit.
		章某某	3	3,000	1,000	Unclear.	Purch.	For profit.
Song 2014	2014.02.27	宋某某	6	1,000	35,000	Unclear.	Acq.	For profit.
Gao 2014	2014.03.13	高亮	4	3,000	5,000	Contact.	Purch.	For profit; caused economic loss to 3d co.
Lu 2014	2014.03.18	陆某某	15	20,000	Specific individuals	Specific individuals.	Purch.	Sold 43,400 yuan profit.
Han 2014	2014.03.18	李某某	16	3,000	160,000	Unclear.	Rept.	For profit.
Liang 2012	2014.03.18	梁某某	6	2,000	5,500	Unclear.	Rept.	Sold for 500 yuan profit.
Li 2014a	2014.03.18	李某	5+10 days	2,000	5,500	Unclear.	Purch.	Sold for profit; paid 500 for PIC.
Qian 2014	2014.03.19	钱某	12	2,000	Individuals.	Information on government officials.	Acq.	Obtained from public official/police officer; used for harassment/intimidation.
Du 2014	2014.03.24	杜某	6	4,000	21,017	Contact.	Acq.	For profit; obtained from workplace.
Fan 2014	2014.03.24	范某某	6	2,000	339,043	Contact.	Purch.	For profit.
Xing 2014	2014.03.24	邢某某	12	5,000	198,187	Contact.	Acq.	For profit.
Chen 2014	2014.03.24	陈某某	12	2,000	5,000,000 (数百万条)	Unclear.	Trick.	Criminal sale.
Tang 2014	2014.03.25	唐某某	18	5,000	12,857,019	Contact.	Purch.	For profit.
Zhou 2014b	2014.03.25	周乙	Exempt	Exempt	6,175	Contact.	Purch.	For profit.
Mou 2014	2014.04.02	廖某某	13	5,000	50,000	Unclear.	Purch.	For profit.
		尹某某	13	5,000	59,000	Unclear.	Purch.	For profit.
Zhang 2014a	2014.04.04	张某某	NONE	4,000	16,000	Contact.	Purch.	For profit.
Li 2014b	2014.04.09	李某某	4	5,000	15,360	Unclear.	Purch.	For profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Zhu 2012b	2014.04.17	龙某某	10	10,000	136,727	Purchase orders.	Rcpt.	Accessory; 100,000 profit.
		梁某某	12	10,000	136,727	Purchase orders.	Rcpt.	Accessory; 100,000 profit.
		殷某某	12	10,000	136,727	Purchase orders.	Rcpt.	Accessory; 100,000 profit.
		陈某某	12	10,000	136,727	Purchase orders.	Rcpt.	Accessory; 100,000 profit.
		朱某某	18	30,000	136,727	Purchase orders.	Rcpt.	Principal; 100,000 profit.
		徐某某	18	30,000	136,727	Unclear.	Acq.	Principal; 100,000 profit.
Yang 2014	2014.04.24	曹某	4	10,000	6,000	Public exam candidate info. In this case, Yang Mou, the vice president of an education technology company, conspired with Xu Jia to use the PIC of public exam candidates to recruit new students and make a profit. Yang used his position in the company to provide Xu Jia with about 70,000 PIC that included the names, ID number, test number, test subject, address and contact information of the candidates. Xu Jia then transferred these PIC to other companies and persons, who also engaged in recruitment. Xu Jia would take a cut of their profits.	Purch.	For profit.
		廖某	6	20,000	13,000		Purch.	For profit.
		邵某某	6	20,000	25,000		Purch.	For profit.
		陈甲	7	20,000	50,000		Purch.	Sold for profit.
		李丙	8	100,000	50,000		Purch.	Sold for profit.
		李乙	9	30,000	50,000		Purch.	Sold for profit.
		徐乙	10	50,000	70,000		Purch.	For profit.
		徐甲	10	100,000	70,000		Purch.	Sold for profit.
		上海XX网络科技有限公司	N/A	50,000	25,000		Purch.	For profit.
		上海XX管理咨询有限公司	N/A	100,000	70,000		Purch.	For profit.
		北京XXXX教育科技有限公司	N/A	100,000	50,000		Purch.	Sold for profit.
		上海XX教育信息咨询有限公司	N/A	10,000	6,000		Purch.	Sold for profit.
Huang 2014	2014.04.24	黄某某	NONE	3,000	4,619	Contact.	Purch.	For profit.

Name	Date	Def.	Term	Fine	PIC Amount	Nature of PIC	Means	Serious Circumstances
Liu 2014	2014.04.25	肖某	10	10,000	10,153	Insurance company client information. Liu M. was charged with the unlawful sale of PIC. Using his position at the China Life Insurance Company, he acquired client information PIC and gave it to the other defendants, who used the PIC to further their business. Liu took a cut of their profits. Paid 20,000 for PIC; insurance PIC.		Paid 20,000 for PIC; insurance PIC.
		海某某	12	10,000	10,153			
Shi 2014	2014.05.23	简某某	8	5,000	4,600	Real estate.	Purch.	For profit; paid 800 for PIC.
		王某某	8	5,000	4,600	Real estate.	Trade.	For profit.
		史某某	8	5,000	4,600	Real estate.	Trade.	800 profit.
Deng 2014	2014.06.25	邓某	18	5,000	450,000	Public examination participants.	Purch.	Fraud.
		鲁某某	14	4,000	250,000	Public examination participants.	Purch.	For profit.
Zhang 2014c	2014.07.23	张某某	NONE	5,000	460	Unclear.	Purch.	For profit; paid 32 for PIC.
Mu 2014	2014.07.24	李某某	15	20,000	70,000	Telecomm client list. Mu Moumou purchased the PIC	Rcpt.	Accessory; fraud; caused economic loss of 733,305 yuan to 3d co.
		徐某某	15	20,000	70,000	online and provided them to the other defendants, who used the client list to fraudulently sell cell phones.	Rcpt.	Accessory; fraud; caused economic loss of 733,305 yuan to 3d co.
		张某某	18	20,000	70,000		Rcpt.	Accessory; fraud; caused economic loss of 733,305 yuan to 3d co.
		穆某某	24	30,000	70,000		Purch.	Principal; fraud; caused economic loss of 733,305 yuan to 3d co.
Fu 2014	2014.07.31	符甲	6	1,000	200	Unclear.	Purch.	Fraud; sold for profit.
		符乙	6	1,000	200	Unclear.	Purch.	For profit.

<b>Name</b>	<b>Date</b>	<b>Def.</b>	<b>Term</b>	<b>Fine</b>	<b>PIC Amount</b>	<b>Nature of PIC</b>	<b>Means</b>	<b>Serious Circumstances</b>
Jiang 2014	2014.08.21	周某甲	8	3,000	Stalking	Location of an individual.	Stalk.	Accessory; revenge/ harassment.
		周某甲	8	3,000	Stalking		Stalk.	Accessory; revenge/ harassment.
		谢某甲	8	1,000	Stalking		Stalk.	Accessory; revenge/ harassment.
		姜某甲	9	5,000	Stalking		Stalk.	Principal; revenge/ harassment.
Zhao 2014	2014.08.29	赵某某	None	3,000	27	Unclear.	Purch.	For profit.

