



Management of Sexual Assault Offenders

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The Sexual Assault Crime Prevention Act, the Domestic Violence Prevention Act, and the Sexual Harassment Prevention Act form the three main set of legal protections for women in Taiwan. Of these, the Sexual Assault Crime Prevention Act was passed by the ROC

legislature on 31 December 1996, and was promulgated on 22 January 1997. The purpose of this Act is to prevent sexual assault and to protect victims of sexual assault; for the purposes of this Act, sexual assault is defined as crimes defined in Articles 221 to 227 of

1. These include rape (Article 221), aggravated rape (Article 222), forced obscenity (Article 224), taking advantage of a victim for sexual intercourse or forced obscenity (Article 225), punishment for aggravated circumstances that result in the death or serious injury of the victim (Article 226 Section 1), and sexual intercourse or obscenity involving minors (Article 227).



the Criminal Code¹, as well as Article 228 (taking advantage of one's authority for sexual intercourse), Article 229 (sexual intercourse through fraudulent means), Article 332 Section 2 Item 2 (forcing sexual intercourse as part of a robbery), Article 334 Section 2 Item 2 (forcing sexual intercourse while committing piracy on the sea), Article 348 Section 2 Item 1 (forcing sexual intercourse as part of a kidnapping), and those guilty of committing crimes defined in separate laws on specific crimes. The Sexual Assault Crime Prevention Act has been amended six times to date, helping to reinforce prevention of said crimes and enhance protection of victims, and demonstrating the ROC government's concern for sexual assault crimes.

Prosecution authorities are vital in the prevention of sexual assault crimes. From the perspective of the rule of the vital few, most crimes are committed by a minor set of repeat offenders; furthermore, sexual assault crimes have always seen underreporting and low



A meeting of the community monitoring and guidance task force, 13 Jun., 2013

conviction rates². If repeat offenses can be prevented, a greater number of innocent victims may be spared from both first or repeat offenses.

In 2001, the Taipei District Prosecutors Office commenced cooperation with the Ministry of Justice in a trial guidance program for inmates convicted of major sexual assault crimes, forming dedicated task forces to discuss the circumstances of said inmates after their release. After the Sexual Assault Crimes Act was amended in 2005, the Ministry of Justice further took the diamond monitoring model used in Vermont as a reference³, and established

2.Hsu Fu-Sheng, "Sexual Assault Crimes and Their Circumstances, with a Focus on Using Technology in Monitoring", *Studies in Criminal Policy and Crime* (9) (in Chinese).

3.Source: <http://www.moj.gov.tw/ct.asp?xItem=48091&ctNode=27518&mp=095>.

the “Plan for Establishing a Community Monitoring and Guidance Network for Sexual Assault Offenders on Probation, Centering on the Probation Officer System”. This Plan involved local prosecutors’ offices holding regular community monitoring and guidance task force meetings, which brought in expertise from the police, social welfare, health-care, prosecutors’ offices, probation officers, rehabilitation organizations, and experts in academia, to discuss methods in handling medium-to-high risk sexual assault offenders on probation.

Furthermore, the Taipei District Prosecutors Office has led the way in establishing a manual process involving monitoring technology to monitor sexual assault offenders on probation, in conjunction with prosecution and correctional authorities from the Ministry of Justice, to enhance monitoring and guidance procedures in sexual assault and sexual harassment cases. Moreover, the Taipei District Prosecutors Of-

fice has continued in using monitoring technology to seamlessly suspend probation of repeat offenders.

I. Plan for Establishing a Community Monitoring and Guidance Network for Sexual Assault Offenders on Probation, Centering on the Probation Officer System

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In September 2001, following directions issued by the Ministry of Justice, the Taipei District Prosecutors Office set up a task force for monitoring an offender surnamed Yang, who was released on probation from the Taipei Prison. The Office began monitoring procedures ahead of release, the first time this was done, in order to establish a good rapport with Yang for guidance, and to efficiently connect with society at large.

Yang had committed 34 acts of rape and robbery between 1994 and 1995, with each act following in close succession, the most frequent being two

4. Authored by Probation officer Ke Jia-Hui.



Liberty Times, 16 October, 2001

Year	Number of meetings	Comments
2001	2	1. Guidance and counseling team included head prosecutor Liu Cheng-wu, head prosecutor of enforcement Huang Chao-yang, probation director Lin Mei-jing, probation officers Wu Yong-da, Tsao Guang-wen, Huang Jin-dao, Huang Chih-chung, honorary probation officer Yin Hong-di, and several intern judges and university interns.
2002	10	
2003	10	
2004	8	
2005	12	
2006	12	
2007	9	
Total	63	2. In-prison meetings held between 1 November 2001 and 17 September 2007.

法部 重大性侵害假釋犯 行蹤列管

離開指定管轄區域須告知警方 再由前往目的地之警察機關接續監管

【記者賴仁中／台北報導】法務部最近與相關單位人員開會作成決議，今後重大性侵害假釋犯，只要離開指定管轄區域，即須主動告知監管他的警方單位，再由警方通知其前往目的地之警察機關，由後者接續執行監管等處遇工作；此外，假釋犯的行蹤也要同時通知相關檢察機關。

法務部官員說，譬如考取台大的楊姓受刑人日後假釋出獄就學，若由台北地檢署執行其觀護工作，如他想要在寒暑假期間返回花蓮家鄉，就須主動將行蹤告知台北市警局，台北警方將其行蹤通報花蓮警政處，以延續保護管束執行，同時也將此事通報北檢，北檢也會函知花蓮地檢處。

官員並說，如果個案對象違反所應遵守的事項，會視情節輕重加以處置，情節輕者給予告誡，重者呈報法務部撤銷假釋。

此外，現行法對於性侵害加害人，是以戶籍所在地決定性侵害防治中心的管轄權，惟實務上發覺，相當比率之性侵害加害人出獄後，往往二、三個月即遷移戶籍，藉以逃避法律規範，故法務部決定，主管機關可基於特殊考量，對有必要之個案指定管轄機關，如指定台北市性侵害防治中心為管轄機關，觀護作業就由台北地檢署王其真

而當個案住所變動時，也和離開指定管轄區域一樣，主管警察機關要通知個案新住處所在地的警察機關及相關檢察機關。

會議作成的決議，還包括對於重大性侵害假釋犯，組成「觀護專案小組」，針對個案情況擬定處遇計劃，加入小組的相關單位及人員有性侵害防治中心、相關醫療院所和學校、相關民間團體、警察機關刑責區偵查員、警勤區員警、里鄰、榮譽觀護人等，然後對假釋人施以密集觀護複數監督。

各相關單位與人員，都要就其主管業務，擬和執行相關的監管等處遇作業，如刑責區偵查及警勤區員警，即要負起複數監督工作，協助解個案生活適應，遇有前述到指定管轄區外活情形時，執行相關通知作業等。

法務部於本月九日邀集相關單位人員與學者家舉行前項會議，原本主題是討論楊姓受刑人釋出獄後之相關配套措施，但也議論結認為，出的決策日後應通案辦理，也就是今後所有重大性侵害罪犯假釋出獄時，均將採取前項配套方案處理。

Liberty Times, 8 July, 2003

他山之石／美國佛蒙特州經驗

鑽石方案 啟動觀護等四大機制

另施以醫療、警察及社區支援系統 防制性罪犯再犯

【記者賴仁中／台北報導】楊姓受刑人若獲准假釋，法務部等相關權責單位將仿美國佛蒙特州對性罪犯處遇執行的「鑽石方案」，啟動觀護、醫療、警察及社區（同時包含校方、家人、社工等）支援網路系統，對楊姓受刑人施以密集觀護與複數監督。

鑽石方案是指鑽石的菱形四個角，前述四大系統各代表一個角，相互結合形成綿密的社會資源網路，共同防護防制性罪犯再犯。

法務部與各相關單位當初依此架構，對楊姓受刑人防止再犯擬定的配套，在台北監獄方面，將協調楊某將戶籍遷至台北市（就學地），以配合台北市性侵害防治中心及醫療院所的身心治療及輔導教育。

台北地檢署則要邀集性侵害防治中心、台大、醫療院所、更生團契、台北市警局、里鄰長、榮譽觀護人等，共組觀護專案小組，執行密集觀護和複數監督等。性侵害防治中心將成立評估小組，對個案擬出身心狀況評量表與處遇書，及負責通知楊某接受身心治療、輔導教育；衛生署將協助指定治療或輔導的醫療院所。市警局方面，依防制性人口相關規定將個案列管，刑責區及警勤區員警探視監督，協助了解個案生活適應，遇狀況即通知北檢。

楊姓受刑人本人若有住所變動，或到觀護地轄區外活動，也應通知相關警察機關，警方再通知北檢。

台大多也同意成立專案輔導小組，擬訂輔導區安全維護措施，安排專業老師給予追蹤輔導協助，紓解楊某就學可能產生的不適應等情事，更生保護會將就個案情況，了解學費或生活費方面是否需協助等。

前述共同防制再犯方案，與美國鑽石方案稍有差異之處在於，美方警察系統係執行「預防性測謊」作業，我方則以強化警方監督的作法取代。

acts of crime in a single week. Yang was eventually convicted and sentenced to 16 years in prison. As Yang submitted an application for probatory release, the Ministry of Justice met and reviewed his case several times as a precaution, bringing in officials from numerous agencies and authorities to discuss necessary procedures after his release.

Upon receiving this assignment, the Taipei District Prosecutors Office immediately requested the Taipei Prison for copies of Yang's court judgement and other related information, to gain a preliminary understanding of Yang's situation and draft a monitoring and guidance plan. His criminal record showed that he had a more serious risk repeating sexual crimes, with the crimes he committed mimicking acts seen in pornographic films; this showed that he had a mistaken conception of sexual relations, and a malignant obsession regarding sex and sexual mimicry.

The Office held a probation officers' meeting on 10 September 2001, which resolved that all staff members in the

department held a personal stake in this case as members of the guidance and counseling team, and each division could provide suggestions at any time in helping to produce a more concrete plan for this case; moreover, the plan would involve visiting schools, church groups for rehabilitating offenders, and the Beitou Branch of the Tri-Service General Hospital at a future date, as well as forming a network with professors and student associations at Yang's school, police officers at local precincts, and the suicide prevention hotline.

Before Yang was released on probation, the Office first went to Taipei Prison to meet with Yang to establish a rapport with him. Goals, strategies, basic requirements, and concrete methods were set as follows:

- (1) Goals: To guide Yang in repenting and improving himself, and become a model for rehabilitated ex-offenders.
- (2) Strategies: Establish a tight monitoring mechanism to prevent dangerous and/or malicious acts, and suspend probation before any danger occurs.
- (3) Basic requirements: If danger does



unfortunately occur, such circumstances should be minimized, in accordance with the responsibility the government owes toward society at large.

(4) Methods:

i. Prior commencement of probation activities: Before Yang is released from prison, officers should visit Yang in prison to establish a preliminary rapport; in addition, relevant segments of society should be engaged in advance, so that upon release Yang will receive full support from external authorities.

ii. Probation task force: Dedicated personnel will be assigned to each specific task, in a collaborative team effort.

iii. Concrete plans for guidance and monitoring: Focusing on counseling, connecting with society, and judicial monitoring, with an aim of systematically covering all required aspects.

iv. Making meetings concrete and professional: As outlined in relevant plans, meetings with Yang were set up prior to his release in addition, authorities in such meetings could include probation officers, honorary probation officers,

honorary counselors who have received continued guidance, and other professional counselors within society, who met with either Yang himself, or with Yang's relatives or classmates. Therefore, suitable forms and papers should be designed for each counseling session.

Meetings with Yang at Taipei Prison began in November 2001; those involved included head prosecutor Liu Cheng-wu, former probation officer Wu Yong-da (now director of the Crime Prevention Center at the Ministry of Justice), and former honorary probation officer Ms. Yin Hong-di (head instructor and part-time lecturer at the Taipei County Suicide Prevention Hotline). Meetings were conducted monthly, with each meeting lasting roughly two hours. A total of 63 meetings were conducted over a span of six years.

Since this case received particular attention from women's rights groups and public opinion at large, after a probation task force was established at the Taipei District Prosecutors Office, the Ministry of Justice also held meetings chaired by the Administrative Vice Min-

ister of Justice, to discuss how serious sexual assault offenders should be handled after being released from prison. This case was to serve as a model for future cases, with relevant authorities following the examples set in this case.

In 2003, the District Prosecutors Offices in Taipei, Taoyuan, and Hualien respectively issued plans for monitoring serious sexual assault offenders on probation. In this specific case, the Taipei District Prosecutors Office invoked the spirit of the diamond model of monitoring sex offenders used in Vermont, Colorado, and California, and proposed detailed tasks for community psychological therapy and probational counseling, social support networks, and local police authorities. Major issues in probational counseling, how to connect into probation, and how to collaborate in probation monitoring were discussed, to prevent gaps in probation monitoring and potential danger to society.

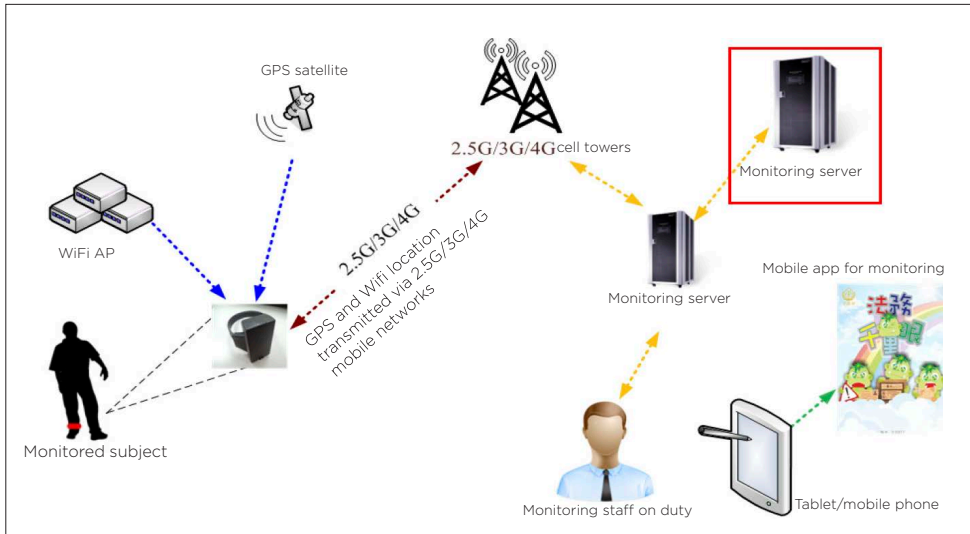
This case was the first to utilize advance probation procedures and

teamwork, with those involved including social workers, teachers, doctors, counselors, and probation officers; this was a major departure from conventional methods in probation monitoring, where each client was assigned to a single probation officer. This case was also a landmark in setting a precedent for the seamless connection from prison detention to probation as now outlined in the Ministry of Justice's "Action Plan for Prosecutors Offices and Correctional Authorities in Enhancing Monitoring and Guidance of Sexual Offenders on Probation". In future cases, the Ministry of Justice directed district prosecutors offices to set up community monitoring and guidance networks, holding regular meetings over the internet to discuss the circumstances of each sexual assault case.

II. Monitoring equipment and manual monitoring procedures used by the Taipei District Prosecutors Office⁵

High-tech monitoring equipment is used in the ROC to monitor sexual of-

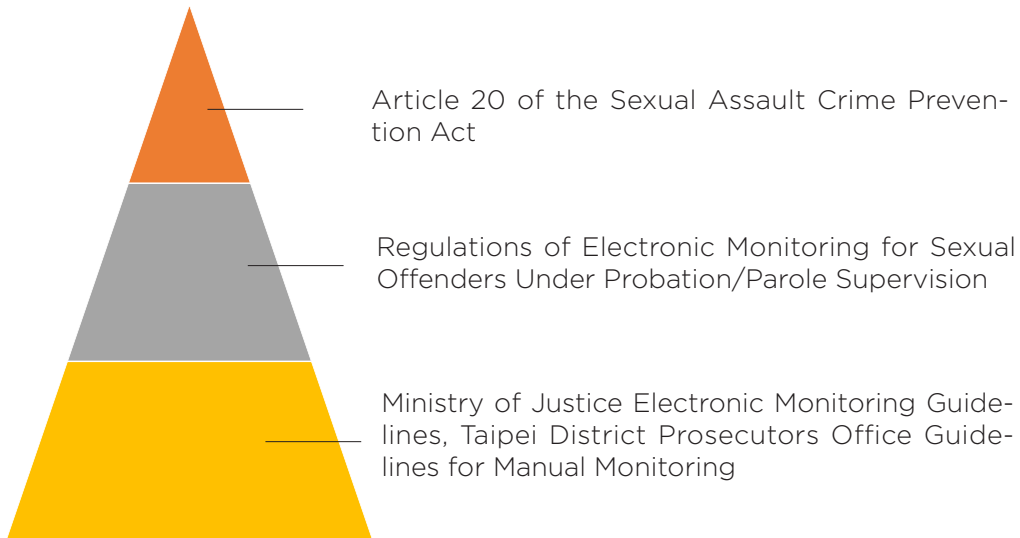
5. Authored by Probation officer Lin Yi-Chun.



fenders on probation, with the equipment providing both at-home and outdoor monitoring capabilities. When the subject is monitored at home, the transmitter worn by the subject will directly transmit to a reader, or transmit to a reader through a signal amplifier; the reader will then transmit via mobile network to a server cluster in the monitoring system. When the subject leaves home, the transmitter will communicate with GPS systems, and transmit the subject's position to the server cluster via mobile network. The probation officer can monitor the subject's position through a geographic information system or through a dedicated Ministry of Justice mobile app, and determine if

the subject is inside or near a prohibited zone.

The Taipei District Prosecutors Office has two staff members for sexual assault probation cases, and one clerk who is tasked with assisting in administration and maintaining monitoring equipment. The monitoring equipment is monitored by probation officers on rotation, with each officer on duty for one week at a time. If the system sends an alert, the bailiff's office will notify the probation officer on duty, to doubly confirm the alert. If the probation officer on duty determines that a violation has occurred and a visit to the site is necessary, the officer will request the



bailiff's office to contact local police, who will then visit the site or warn the subject of the infraction. Tight teamwork between probation officers and the bailiff's office ensures the efficacy of such high-tech monitoring.

However, the technology has its limits; the Office's high-tech equipment experienced a severe instability problem in October 2011 with equipment frequently malfunctioning, which rendered monitoring equipment entirely nonfunctional during curfew periods. Manual monitoring was required under these extraordinary circumstances; because the Office did not have a set of unified guidelines for manual monitoring,

and since the Office previously assumed that such a switch to manual monitoring could be accomplished in real time in the event of equipment failure, the incident demonstrated that concrete guidelines pertaining to such an event are required. With this in mind, the Taipei District Prosecutors Office has been the first in the nation to issue a separate set of Guidelines for Manual Assistance of Technological Equipment in Monitoring Sexual Assault Offenders on Probation. This is to fill in gaps in the regulations governing electronic monitoring, allowing monitoring to continue in the event of equipment failure.

This set of guidelines was the first in



the nation, not only ensuring the proper use of high-tech equipment in monitoring, but also allowing manual monitoring in tandem with technology in the event of equipment malfunctioning. This then allows seamless monitoring of subjects at risk of repeating serious offences, by having clear knowledge of their locations at any given time.

With technological advances in telecommunication equipment, the Taiwan High Prosecutors Office has also improved its equipment. As 2G cell towers have been rapidly coming down since 2016, causing assisted 4G devices to frequently malfunction across the nation, manual monitoring can greatly assist in keeping track of each subject.

When technological systems fail, manual monitoring must continue to keep track of offenders on probation, so as to eliminate gaps in monitoring and prevent repeat offenses. Meanwhile, when keeping track of each subject, the Office should also avoid visiting the subject too often, to ensure the basic rights of the subject. If the monitoring system completely fails, officers on duty must be trained to handle related

problems, and details of the malfunction, as well as how the situation is handled, must be detailed in the requisite log books, stating that full knowledge of each subject's whereabouts is not possible due to equipment failure; such records can also help in determining responsibility.

The legal basis for these guidelines are Articles 7 and 12 of the Regulations of Electronic Monitoring for Sexual Offenders Under Probation/Parole Supervision; these guidelines supplement the original set of instructions for electronic monitoring, and are administrative guidelines pertaining to administrative authorities (shown in the following diagram).

The scope for manual monitoring is defined as when electronic equipment ceases to function properly and cannot be immediately brought back in service; under such circumstances, manual monitoring should immediately come into effect according to the guidelines. When the electronic equipment has returned to its normal functions, electronic monitoring should immediately come back into effect.

When electronic systems fail, monitoring should generally be via phone. If a phone call can determine that the subject is within designated boundaries and is not in violation of any rules, a physical visit by local police should not be allowed. The probation officer on duty must request the probation officer in charge of the subject in question to place the phone call, or someone who can identify the subject's voice. When required, the probation officer on duty may request assistance from the bailiff on duty. Such phone calls are categorized by frequency (both regular and irregular); the probation officer on duty should determine the number of times of both regular and irregular calls, as well as what time to place each call. When required, SMS messages can be used to notify the probation director, the probation officer on duty, and the probation officer in charge of the subject. If a police visit is determined to be necessary during manual monitoring, the probation officer on duty should request the bailiff to notify the relevant police precinct; high alert mechanisms

can be initiated at any time, to ensure effective real-time monitoring.

III. Case study: seamless revoaction of parole⁶

To ensure the safety of society at large, if sexual offenders at medium-to-high risk of repeat offenses are involved in crimes or serious violations during their parole (including cutting off ankle bracelets or destroying monitoring equipments), this will automatically initiate seamless revoaction of parole.

The guidelines for seamless revoaction of parole are issued by the Ministry of Justice: the district prosecutors office last in charge of the parole requests that the parole be revoked, followed by the prison notifying the Agency of Corrections. After the Agency of Corrections has approved the revocation, the district prosecutors office last in charge of the parole is notified. Throughout the process, all relevant personnel should communicate through phone calls to expedite the process, and ensure that the subject in question be returned to

6. Authored by Probation officer Cheng Chia-Hsiu,



prison on the same day.

The subject of the present case study was a young man in his early 20s. Prior to his incarceration, he was frequently involved in fights; his crime of sexual assault was committed out of anger stemming from troubles in a relationship, and he was later approved for release on parole. He was evaluated to be at high risk for recidivism, and was thus subjected to electronic monitoring. However, the subject did not adhere to rules, and tended to commit acts that threatened to violate regulations. After two cautions (once for not returning after curfew, once for leaving boundaries without permission), his behavior still did not change; he severely violated his curfew a third time in violation of the prosecutor's orders, and refused to return to his designated domicile in violation of the probation officer's orders. After a visit from the local police precinct requested by the probation officer on duty proved ineffective, in accordance with the aforementioned guidelines, the subject must be re-

turned to prison on that day. Due to the possibility that the subject might resist, engage in violent confrontation, or flee, the probation officer requested the prosecutor to issue an arrest warrant, and immediately went with the bailiff and local police officers to rearrest the subject. Since the subject rented a private room in an apartment, an engineer also came to dismantle the monitoring equipment, to ensure that this government property was not destroyed. This case also served to remind other sexual offenders on probation that they must adhere to orders issued by the prosecutor.

IV. Conclusion⁷

The internet conferencing platform used by the community monitoring and guidance task force at the Taipei District Prosecutors Office has successfully assisted a mentally impaired sexual offender under the Office's jurisdiction: after a prolonged period of electronic monitoring and counseling, the subject in question has shown im-

7. Authored by Probation officer Huang Ching-Hui.

provement, and because his probation period was nearing its end, the Office referred him to authorities in the Taipei City Government to assist him in rehabilitation and employment, allowing him to reintegrate into society. Under the joint efforts of the Taipei District Prosecutors Office, the Taipei City Center for Prevention of Domestic Violence and Sexual Assault, the Taipei City Foreign and Disable Labor Office, and The First Social Welfare Foundation, the subject has found employment and has demonstrated exceptional conduct. Another subject was sentenced to life imprisonment for sexual offences, but was allowed probation; since he was in financial trouble due to amassing large debts, the Taipei District Prosecutors

Office used the same internet conferencing platform to notify relevant authorities in raising an alert, to prevent him from repeating the offense. The subject was also brought into the Office's reemployment program, and also referred him to After-care Association and employment service station, to ensure that he could integrate himself into society, find work, and lessen his financial burden. This internet platform has allowed members of the community network to communicate and exchange suggestions through internet conferencing, thereby allowing real time communication and adjustment during emergency circumstances, and ensuring security in the community.



Xinbeitou Historic Station/Pan Chun-Lin