





2019 Taipei District Prosecutors Office

Review and Strategic Improvement of Prosecutorial Administration and Operations¹





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1. This article was compiled by Section Chief of Documentation Section, Hu Han-Guang, and edited by Prosecutor Investigator, Chou Hui-Min, in which the part concerning current situation was supported by the Statistics Office with provision of relevant information (data), while the part concerning strategic improvement was written by Head Prosecutors Huang Kuan-Yun, Lin Tai-Li, Lin Tsung-Chih, Huang Shih-Yuan, Huang Li-Wei, Chou Ching-Hua, Hsu Hsiang-Chen, Chang Yun-Wei, Chen Shu-Yun, Hsiao Fang-Chou, Huang Hui-Ling, Huang Pei-Yu, Chen Ying-Chin, Li Yu-Suang, Chang Chih-Yao, the Prosecutors Li Chin-Jung, Liu I-Ting, the Prosecutor Investigator and team leader Hsu Jui-Ping Chief Bailiff Hsiao Ching-Wen and Division Chief, Lo Li-Fan, of the Anti-Organized Crime Division of the Criminal Investigation Bureau, NPA, MOI, respectively.

I. Preface

The Prosecutors Office was formerly known as the "Taipei District Court Procuratorate" during the Japanese colonial era. After the Nationalist government sent representative to receive Taiwan in 1945, the procuratorate was renamed as "Taiwan Taipei District Court Procuratorate" on November 1st of the year. On 22 December 1989, Court Organic Act was amended again requiring the courts and branches at all instances to be assigned with "Prosecutors Office" and thus was renamed "Taiwan Taipei District Court Prosecutors Office". In consideration of the current procuratorate name is easily misunderstood as being subordinate to the court as well as being inconsistent with the principle of independent prosecution from trial, The National Conference on Judicial Reform removed "Court" in front of each Prosecutors Office upon resolution. Thus, on 8 February 2018, the Prosecutors Office changes its name plate to "Taiwan Taipei District Prosecutors Office" ². On 23 May 2018, Presidential Order No. 10700055461 promulgated the addition of

Article 114-2 of Court Organic Act. It was officially rename as "Taiwan Taipei District Prosecutors Office" on 25 May, 2018.

After the Nationalist government sent representative to receive Taiwan on 1 November 1945, the Prosecutors Office was under the jurisdiction of Taipei City, Taipei County (currently as New Taipei City) and Keelung City. In 1981, Taiwan Taipei District Court Banqiao Branch Procuratorate established; in 1984, Taiwan Taipei District Court Shilin Branch established. After the government adjusted its administrative divisions to restructure, merge or reorganize some counties and cities or municipality into a new municipality in 2000. The prosecutors Office's jurisdiction covers seven districts (namely: Zhongshan, Da-an, Songshan, Xinyi, Zhongzheng, Wanhua, Wenshan) of Taipei City and five districts (namely: Xindian, Shijie, Shenkeng, Pinglin, Wulai) of New Taipei City; an area of 870.6269 square kilometers with population of approximately 2,064,545 people ³.

2. It was implemented by the resolution of the discussion meeting "Unassociating Procuratorial Name from Court" held by the Ministry of Justice on 12 January 2018.

3. Source: Official website of the Department of Civil Affairs, Taipei City Government (<https://ca.gov.taipei>), the Department of Civil Affairs, New Taipei City Government (<https://www.ca.ntpc.gov.tw>), and the National Development Council (<https://www.ndc.gov.tw>) concerning population density of each township and city.



Through the effort of every citizen of the country over the past 70-80 years, we witnessed economic boom, industrial and commercial development. People lived in an affluent society. The Prosecutors Office's jurisdiction is located in the political and economic center of the country, of which is filled with financial business activities. Nearly one-third of the country's approximately 900 TWSE listed companies and 723 TPEx listed companies are established in.

II. Strategic Improvement

In the trend of the democracy with the rising of citizen consciousness, everyone has high expectations and demand on the improvement of investigation quality. However, the implementation of the Ministry of Justice's "precise investigation" policy in response to the expectations of all walks of life while facing ever increasing litigation cases and limited judicial resources is no doubt a difficult challenge of all members of the Prosecutors Office. Hence, we planned to proceed from conceptual change, workflow re-creation, information innovation and other aspects, to steadily and gradually create a new generation investigation and case-solving environment and strengthen investigation effectiveness through innovative concepts, thinking and practices.

A. General criminal cases

1. DUI cases: deferred prosecution for alcohol addiction treatment

In conjunction with the Division of Addiction Science, Taipei City Hospital SongDe Branch, the Prosecutors Office planned and initiated the "DUI cases: deferred prosecution for alcohol addiction treatment program" in 2014, which is basically utilizing the Prosecutor's deferred prosecution to order those DUI defendants who repeated the offense for second or third time within five years, or repeated the offense for the third time after five years to accept an alcohol addiction treatment for at least



one year at its own expense, in order to achieve the objective of correction and prevention for repeated offenses through medical intervention treatment and continuous tracking of the Probation Officer.

Conditions for the implementation of the program: main target groups: (1) those who committed public endangerment due to repeated DUI offense of not more than three times; (2) those who have tendency of alcohol addiction or alcohol abuse; (3) those whose age, identity or financial status calls for deferred prosecution as a more suitable approach while taking education courses is still insufficient; (4) those who admit to DUI, understand the content of alcohol addiction treatment and agree to participate in alcohol addiction treatment at its own expense; (5) those who can accept treatment and counseling on a regular basis at scheduled times. The content of rehabilitation treatment are mainly divided into two parts: one is to complete a one-year rehabilitation treatment at the hospital and the other is to comply with the Prosecutor's order. The hospital's rehabilitation treatment items includes the designed alcohol hazard and health education courses, the use of questionnaire

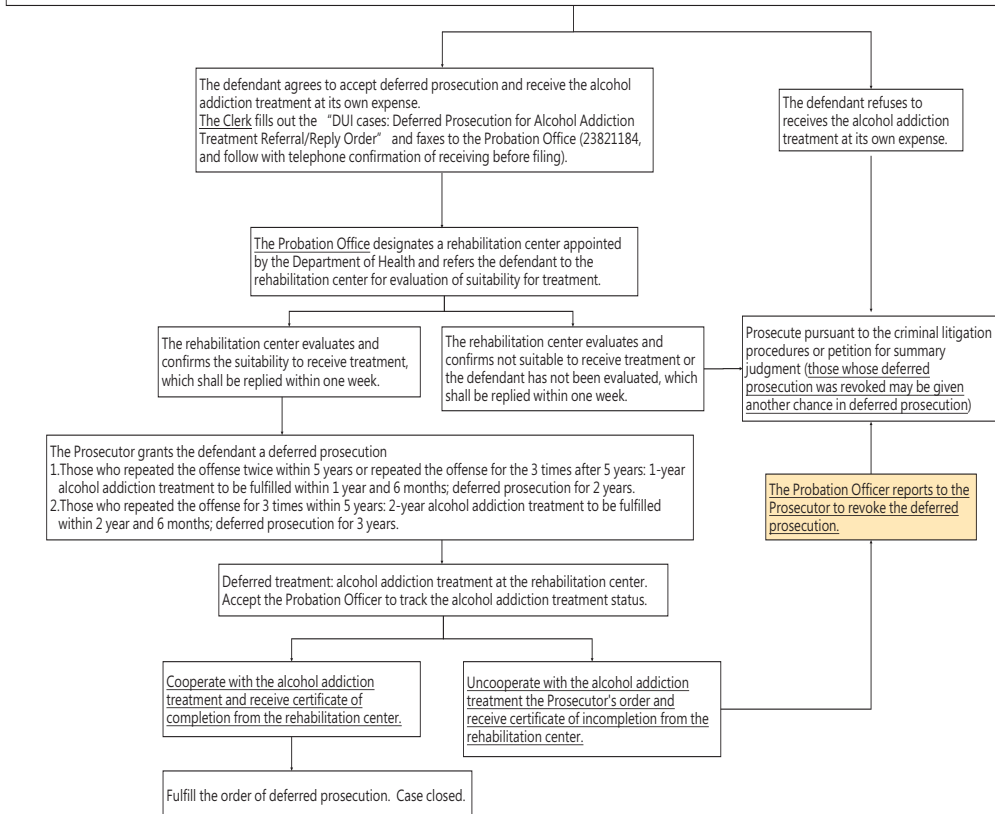
and the CAGE screening of questionnaires to understand alcohol abuse and alcohol dependence and to understand the effects of chronic alcohol use on mood, cognition, sleep, behavioral control, family, society, job, accidental injuries, common diseases or sequela of various organs, etc., as well as providing professional medical assistance for those who have reached the level of alcohol dependence (alcohol addiction). Compliance with the Prosecutor's order, on the other hand, including payment of the deferred prosecution fine, writing of repentance, education courses, regular visits at the Probation Office for interview and urine test, etc. The performance period varies from 1 to 3 years.

The correction and prevention of repeated DUI offenders involves both physical and psychological aspects. From the perspective of criminal policy, it is recognized that the issue concerning repeated DUI offenders cannot be simply solved by imprisonment. Therefore, if DUI offenses can be corrected by other community support systems, it will help alleviating the current predicament of overcrowding in the correctional institutions.



Flow of Taiwan Taipei District Prosecutors Office' s Handling of DUI cases through Deferred Prosecution for Alcohol Addiction Treatment.

For public endangerment case caused by DUI offense, the bailiff on duty shall order the offender to fill out the "Self-answering alcohol questionnaire for screening" before sending to the Prosecutor. The Prosecutor, upon the interrogation, asks the defendant who is suitable of receiving alcohol addiction treatment of its willingness to accept deferred prosecution and informs the compliance items, including bearing the expenses and receiving the alcohol addiction treatment at designated rehabilitation center.



2. Plans for medical violence and medical dispute cases⁴

With the advancement of medical technology and information networks, people's knowledge and awareness of rights rise. The expectation for many first-class hospitals within the Office's juridical area to cure illness also increases. But the medical results is uncertain by nature. Once the patient or his/her family member(s) is disappointed with the medical results, the patient usually doubts medical negligence or malpractice due to the fact that medical field is an extremely professional field, and the doctor-patient

4.Written by Head Prosecutor, Chang Yun-Wei.

have asymmetric information concerning the medical process. News on the media regarding doctor-patient conflicts, medical dispute incidents, verbal threats and/or physical violence on medical staffs, and medical violence that directly endanger personal safety of medical staffs, are commonplace.

- a. Establishment of the "Preparatory Team for Strategic Improvement on Medical Dispute Cases"

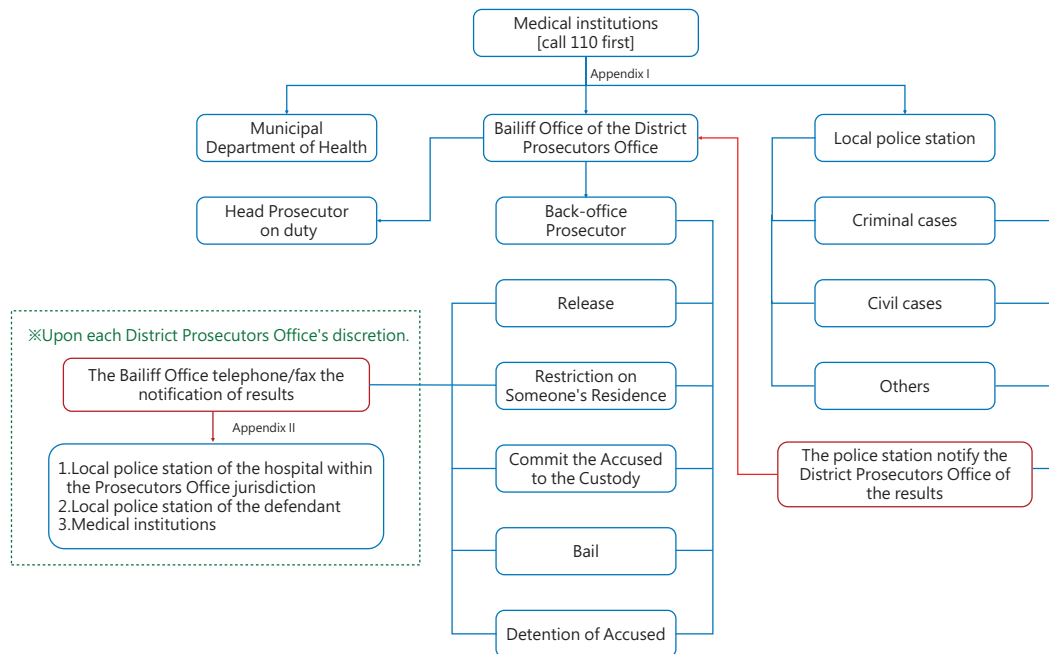
On 1 October 2016, the Head Prosecutor, Prosecutor, Prosecutor Investigator, Forensic Medical Examiner and Probation Officer jointly formed the "Preparatory Team for Strategic Improvement on Medical Dispute Cases" to discuss and determine the Prosecutors Office's response and countermeasures for medical disputes.

- b. Notification of medical violence cases

In order to prevent wide spread of medical violence, the Prosecutors Office gathered opinions from competent medical, health, police and other relevant

authorities and actively initiated cross-institutional integration. The "Guidelines for Accepting Medical Violence Incidents Notification and Back-Office Operations of Taiwan Taipei District Prosecutors Office" was implemented on 1 December 2016. Medical institutions could contact the Prosecutors Office directly. The back-office Prosecutor and responsible Head Prosecutor will promptly get a thorough understanding of the police's processing





status in order to achieve the objective of prompt elimination of the medical violence and prevention of recurrence of medical violence. We jointly safeguard safety of medical staffs and protect the rights and interests of the people in seeking medical attention.

The Prosecutors Office held a “No Medical Violence! Go Prosecutors & Police!” press conference on 30 November 2016 where Deputy Commissioner of Taipei City Police Department, Chou Shou-

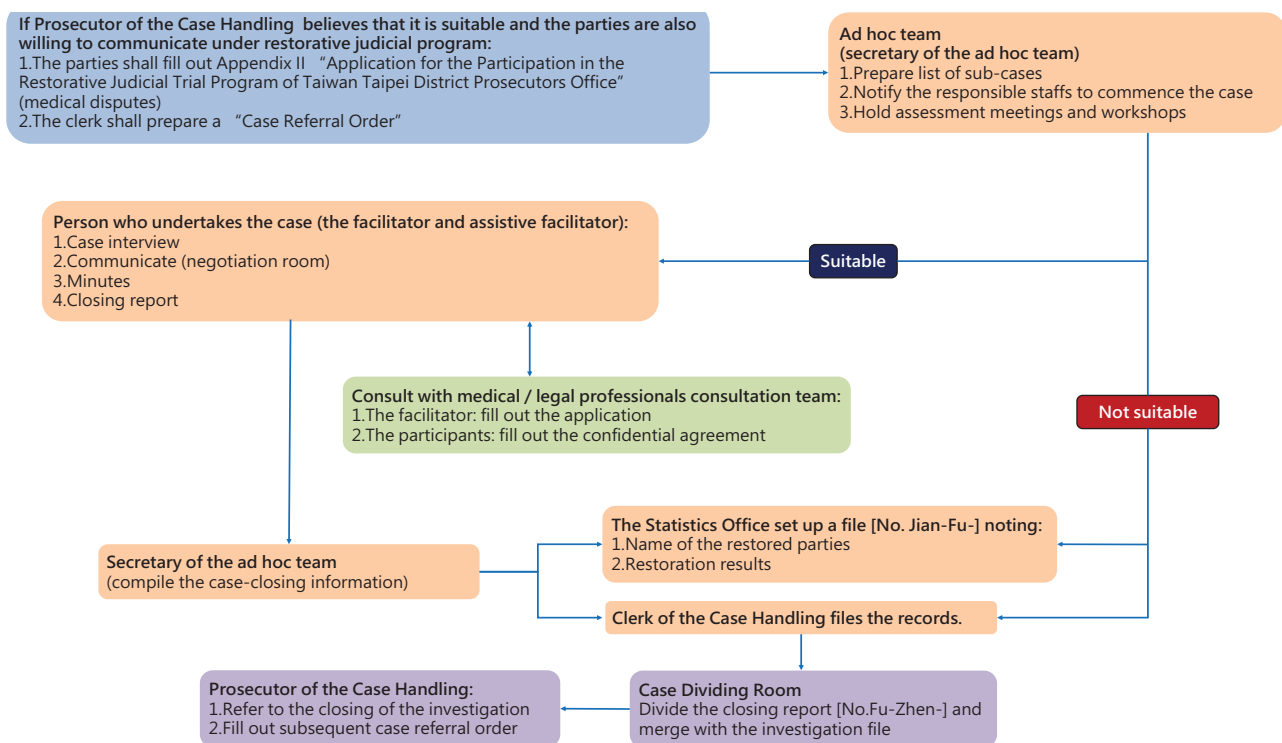
Sung, Deputy Branch Commissioner of Xindian Police Precinct of New Taipei City Police Department, Hung Wei-Shen, Section Chief of Health Care Management Section of the Department of Health, Taipei City Government, He Shu-An, Deputy Director of the Department of Health, New Taipei City, Hsu Chao-Cheng, Director of Taipei Medical Association, Peng Jui-Peng, Director of New Taipei Medical Association, Chou Ching-Ming, Director of Taiwan Society of Emergency Medicine, Fang Chen-Chung, and police, health

professionals, and many representatives of medical institutions, associations and academies, a total of nearly 100 participants attended the event. Chief Prosecutor Hsing led Head Prosecutors, Prosecutors and police representatives taking the oath “No Medical Violence! Go Prosecutors & Police!” to jointly safeguard safety of the medical staffs and the rights and interests of the people in seeking medical attention.

c. Referral procedures of restorative judicial trial program

In respond to the restorative judicial trial program and the needs of the parties to receive legal professional consultation, a legal professional consultation team was established to provide legal consultation during the restorative judicial trial program to ensure that the legal disputes are clarified and the restorative processes are carried out smoothly.

Flow of Taiwan Taipei District Prosecutors Office's Handling of DUI cases through Deferred Prosecution for Alcohol Addiction Treatment

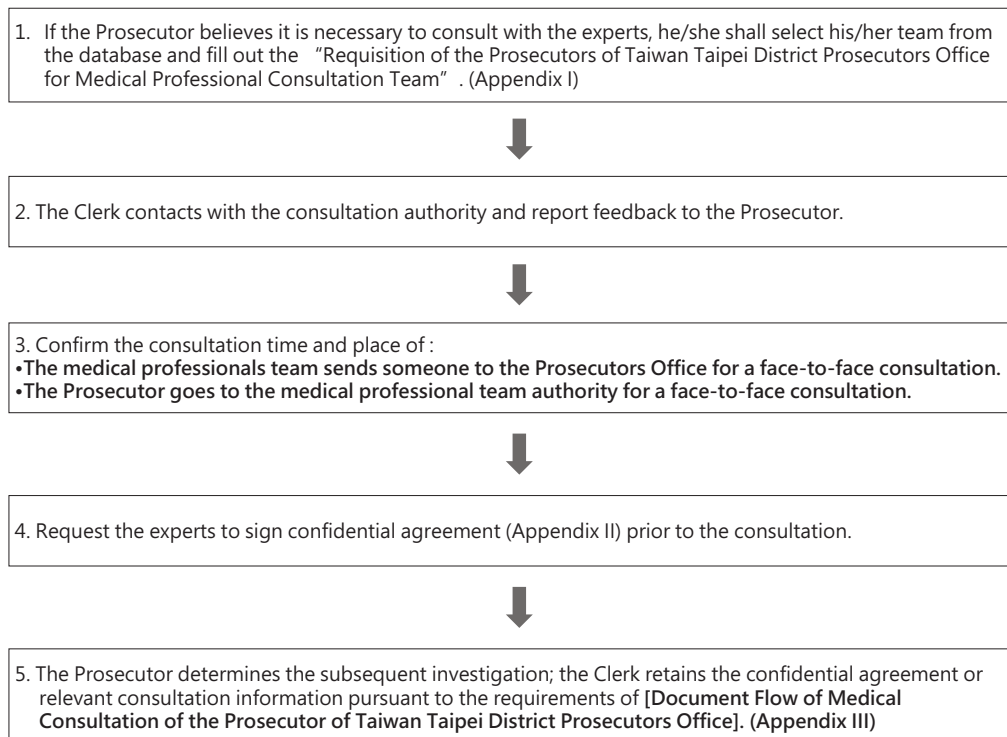




d. Prosecutor consults with medical professional team

In order to assist the Prosecutors in handling medical dispute cases, domestic medical schools of public and private medical universities, district/city/county hospitals, various specialized medical academies and medical associations were invited to serve the Office's "medical professional consultation team". They were then screened by the Office's "Preparatory Team for Strategic Improvement on Medical Dispute Cases" and been appointed with the Letter of Appointment. If prosecutors investigating a medical case believes that it is necessary to consult with an expert, he/she may consult with an expert on face-to-face basis or other similar approach pursuant to "Guidelines for Prosecutors of Taiwan Taipei District Prosecutors Office in Consulting the Medical Professional Team".

Flowchart of the Prosecutors of Taiwan Taipei District Prosecutors Office consulting with medical professional team





The medical professional consultation team was established in March 2017, which includes National Taiwan University Hospital, Cathay General Hospital, Taipei Medical University Hospital, Taipei Municipal Wanfang Hospital (commissioned to Taipei Medical University), Chang Gung Memorial Hospital, MacKay Memorial Hospital and Taipei Medical Association. In June of the same year, Taipei Chinese Medical Association and New Taipei Chinese Medical Association were invited to participate to allow Prosecutors of the Office to seek medical professional consultation in the traditional medicine field. In addition, as the number of citizens receiving orthodontic treatment and dental implants increases, dental medical dispute also increases. By the end of the same year, "Association of Hospital Dentistry", whose members are represented by directors of dental departments of domestic hospitals, also joined to provide consultation services. Furthermore, in order to strengthen the medical-legal two-way communication and enhance the medical expertise of prosecutors. Except for the

five-days "Principles of Clinical Medical Practice" courses held with National Taiwan University Hospital in 2017, experts were invited to give lectures on sexual assault forensic medical exam and assessment of medical dispute identification cases, In 2018, senior directors of stomatology departments in hospitals and professors were also invited to conduct a special seminar on dental businesses and medical disputes. In the future, advanced courses will be arranged in order to deepen and broaden the understanding of prosecutors in medical businesses, and strengthen the ability to grasp the point of conflict in medical dispute cases.

3. New generation anti-drug and drug precursors storage (destroy)
- a. New generation anti-drug strategic action ⁵

The Executive Yuan passed the "Course of Actions for New Generation Anti-drug Strategy" upon resolution on 11 May 2017 and approved on July 21st

5. Written by Head Prosecutor of the Office, Huang Shih-Yuan



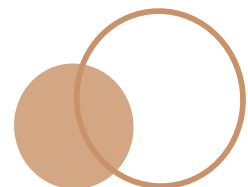
of the same year. The framework are set with two aspects: (1) reduce demand; (2) curb supply; the former one involves drug prevention & drug rehabilitation, while the latter one involves anti-drug monitoring & drug investigation cooperation. It was decided to, for a period of 4 years from 2017 to 2020, adjust focus from quantity to finding the source of drugs while targeting on "quantity" for drug elimination with cross-ministry functions. The budget intezased (a total of NT\$10,000,000,000 for 4 years to various ministries), and was the laws amended accordingly.

(1) The Prosecutors Office actively actions

Since the implementation of the "Course of Actions for New Generation Anti-drug Strategy", the Prosecutors Office has actively cooperated with the "Nationwide Regional Joint Force Anti-Drug Campaign" planned by Taiwan High Prosecutors Office during "Universiade" (July 2017) held in Taipei City, and broaden the investigation to bars, night

clubs, medium-small dealers in the community, and probable drug blind spots on the campuses according to the conclusions drew after discussion with the Dept. of Student Affairs and Special Education, Ministry of Education and Department of Education, Taipei City Government. All actions aimed to eliminate the sources. At present, the initial effectiveness of blocking out drugs has been achieved.

The core value of the "Course of Actions for New Generation Anti-drug Strategy" is "tracking down the sources to eliminate completely". At present, the specific practices were proceeded from aspects, basing on the cumulative and integrated systematic information of the national drug intelligence database established by the Prosecutors Office and High Prosecutors Office.



1	For all the cases with drug users sent to the Prosecutors Office, the prosecutor investigator on duty in back-office will first interrogate to trace the source of supply focusing on the identity and contact information (mainly the telephone number) of the person, comparing with the supplemented evidence extracted from the defendant's mobile phone after displaying in court or from forensic evidence obtained upon seizure in court. The case will be divided into sub-cases for further investigation should there be any leads.
2	Since around December 2016, the Ministry of Education and the Department of Education, Taipei City Government have forwarded information on drug cases involving secondary schools, colleges and universities students to the Prosecutors Office for verification. Then it will be divided into sub-cases before forwarding to the responsible staffs to execute the plan of tracking down the sources.
3	<p>For those who served deferred prosecution for rehabilitation treatment by Prosecutors, if the result of urine test executed by the Probation Office was found to be positive of drug (i.e., there is a possibility of recidivism in drug using), the following three approaches will be carried out:</p> <ul style="list-style-type: none"> •The Probation Office requests prosecutors of the Enforcement Section to authorize subdivided cases of drug investigation as required by law. •At the same time, prosecutors of the Enforcement Section request prosecutor of the original investigation unit to revoke the deferred prosecution order (The original investigation unit would decide whether to revoke the deferred prosecution for subsequent indictment, or complying with the Code of Criminal Procedure and Narcotics Hazard Control Ordinance, to grant the defendant another chance to deferred prosecution upon revocation and closing of the original deferred prosecution order). •After the Probation Office submitted the case to prosecutors of the Enforcement Section for approval, the case will be divided into sub-cases and forwarded to Prosecutors of the drug investigation ad hoc team to execute the plan of tracking down the sources.
4	Since February 2018, we also track down the sources from inmates of drug cases. The Enforcement Section and 2 prisons (Taipei Detention Center and Taipei Women's Detention Center) within its jurisdiction have requested the inmates to fill out investigation form at their own will. If some of the cases were considered highly believable and valuable after been verified (such as checking the age, retrieving call records, accessing the Office's database or national drug database to compare mobile phone number of drug lords and drug dealers, retrieving other investigation file, retrieving prison photos to let drug dealers identify, etc.), they would be divided into sub-cases and the undertaking prosecutor would issue an order to continue the investigation. We hope that the "zero blind spot & zero tolerance" anti-drug policy will be implemented as far as possible, which is also an important part of the implementation of the "Course of Actions for New Generation Anti-drug Strategy" .



(2) Outlook

In 2017, the Chief Prosecutor instructed prosecutors of the drug investigation ad hoc team to build closer contact with and provide supervision to the judicial police officers, in order to improve the quality and the quantity of eliminating the sources, and to establish an anti-drug practice in our style. On 19 December 2017, "2018 Guidelines for the Drug Investigation Ad Hoc Team of Taipei District Prosecutors Office in Zoning the Regional Joint Force was established". The details are as follows:

1	With reference to the "One Prosecutor One Branch" system implemented in Kaohsiung and Qiaotou District Prosecutors Office since 2015 and in conjunction with the leads developed by the Prosecutors Office, 12 prosecutors of the drug investigation ad hoc team are responsible for 12 law enforcement agencies consisting branches of Taipei City Police Department and its subordinate Juvenile Delinquency Prevention Police Brigade and Taipei Military Police Corps. One leading prosecutor and one assistive Prosecutor (act on behalf or coordination) will be responsible for, while the Head Prosecutor of the team, upon order of the Chief Prosecutor, is responsible for supervising its subordinate prosecutors in performing duties with the law enforcement agencies, coordinating to solve the proposed issues or needs, and jointly participating in cases, if necessary.
2	Each branch (investigation team) will set up 4 to 6 police officers (depending on the scale of human resources) responsible or co-responsible for drug investigation, while the investigation captain or one of the team members designated by him serves as the contact person of the undertaking prosecutor. Each police station shall arrange at least one responsible police officer for the said operation.
3	The responsible prosecutor can actively investigate the sources of drug by closely contact with its subordinate police officers who has obtained information gathered by each law enforcement agency through community chat groups and from the Prosecutors Office's existing "drug database" before communicating the maturity of evidential materials of each case. The prosecutor shall provide guidance in method of strengthening evidence and direct the investigation upon case establishment. However, the above methods shall be adjusted according to the characteristics of drug trafficking behavior in the jurisdiction to be more effective.
4	As for Juvenile Affairs Division under the jurisdiction, the prosecutor shall assign police officers to regularly (or from time to time) report the information filtered out from the reports of transferring juveniles involved with drugs to the Juvenile Court. The prosecutor may also forward the existing campus intelligence information to the police to open a case.
5	As for the Military Police Corps under the jurisdiction, if a soldier is involved with drugs and the evidence is clear, a case shall be opened and forwarded to the Corps for investigation in addition to notifying the gendarmerie within the juridical area.
6	This shall not apply if the prosecutor's existing case or self-motivated investigation on tracking down the sources involves other jurisdiction.



(3) Anti-drug monitoring

The “Course of Actions for New Generation Anti-drug Strategy” can be helpful to the procuratorate in three aspects: drug investigation, drug rehabilitation and drug prevention. The drug investigation aspect was detailed as above. As for the drug prevention aspect, the Prosecutors Office has, since 2015, organized Holistic Detox Association of the “Mindfulness-Based Stress Reduction program”, which is funded by the deferred prosecution fines, for the objective of achieving complete rehabilitation; due to its outstanding results, many of those liable to punishment have been freed from both physical and psychological addiction caused by drugs. Those anti-drug volunteers recommended by the Association have gone to various schools and place-of-concern for propaganda, whichd have been proven to be the most effective. When someone who hasn’t used drugs told the sotry, it’s like to scratch an itch through one’s boot. It’s untouching.

(4) Drug rehabilitation

The question of how the procuratorate can improve the effectiveness of rehabilitation treatment depends on the joint efforts of both public and private sectors, and the Prosecutors Office’s current practice is replying on the following three supports:

- The first support is dominated by the Probation Office of the District Prosecutors Office. It represents judiciary authority to revoke deferred prosecution order and is a undoubting law enforcement authority.
- The second support is the Division of Addiction Science of public hospitals under the local government. It is the first line of rehabilitation treatment for patients, which consists of physicians, pharmacists, nurses, clinical psychologists, counseling psychologists, senior social workers, occupational therapists and case managers. They have the most expertise in rehabilitation treatment and can carry out treatment and assessment according to different physical and mental conditions.
- The third support is professional nonprofit organizations such as private rehabilitation associations, etc. Notwithstanding their diversified service patterns, it relies mainly



on non-institutional community-based support system supplemented by institutional rehabilitation support system. Since majority defendants choose rehabilitation treatment in order to continue living in the society. On one hand is to maintain their livelihood, on the one hand is to receive family, medical and association support. The benefits of institutional rehabilitation is to segregate defendants from bad influences and to get supports from religious group, as well as taking skills courses to help join the society. However, it is also a fact that the number of beneficiaries is relatively low comparing to the amount of government subsidies.

These three supports must work closely together. The specific method is to establish a case-centered cooperative relationship, so that the rehabilitation treatment progress can be reported to the judiciary at any time, and then dynamically feedback to each execution agencies to make prompt adjustment according to the circumstances. The District Prosecutors Office will review the proposed plan of the professional nonprofit organization and subsidizes it by the deferred prosecution fines or the substance abuse control and prevention fund, while the Probation Office will provide advice and supervision on the effectiveness of its implementation. Thus, the Prosecutors Office will know whether the treatment method meets the individualized needs and repeatability of the case or not. It's to achieve the goal of the all-round personality rehabilitation process and results. Furthermore, based on gratitude towards society, defendants step out and share his/her own mental journey, helping more patients to build self-confidence and resist substance abuse, in order to achieve the objective of the Course of Actions for New Generation Anti-drug Strategy.

b. Safeguarding and destruction of drug precursors (liquid) ⁶

Section Chief of New Taipei City Field Office, Investigation Bureau, Ministry of Justice, WU HSI-CHUNG, addressed to the special motion raised in the 106th meeting of the drug investigation execute team and the Regional Joint Force communication meeting held by the Prosecutors Office on the afternoon of 21 March 2018, that: "The chemical raw materials

6. Written by Head Prosecutor of the Office Huang Li-Wei.



seized upon undertaking the MMA illegal drug factory cannot be stored by the judiciary loot storage and was left with the law enforcement agencies, causing concerns in storage space and control. Please resolve this issue.” The chairman ratified to solve the problem.

(1) Issue and current situation

New Taipei City Field Office has in its possession seized raw materials and semi-finished products from the defendant Hong in the MMA illegal drug factory in 2017. Due to the nature of the seized items, the seized loots are kept in three different premises, namely: Shilin District Prosecutors Office, Northern Taiwan Large Loot Storage, and New Taipei City Field Office.

- Northern Taiwan Large Loot Storage refused to store

Northern Taiwan Large Loot Storage is managed by a Management Committee jointly organized by the users who jointly manage and formulate management rules. Upon the resolution of the first Management Committee meeting in 2014,



Article 7-1 of the Storage and Management Guidelines of Northern Taiwan Large Loot Storage was added and prescribed a Regular Audit Record Form, in which rule number one prohibited the storage of: gaming machine, flammable materials, explosives, chemical agents and other dangerous goods. Therefore, Northern Taiwan Large Loot Storage refuses to accept chemical agents. The transferrer shall take photographs first and store it by itself or by commission to relevant authority.

Another basis for loot storage to refuse the acceptance of chemical



substances is the provision under Article 5 of Guidelines to the Management of Loots of Taiwan High Court and Its Subordinate Courts: "Loots that are explosives, flammable materials, highly toxic chemical substances, gas, gasoline and other dangerous goods shall not be accepted; the transferrer shall make proper disposal and take photographs as evidence. Loots that are not suitable (such as food) or inconvenient (such as animals and plants) for storage shall not be accepted; the transferrer shall store it by itself, or commission to suitable person to store on its behalf, or make other proper disposal, or send only the samples, or collect samples and petition for court permission to sell it through auction before transferring the consideration with the case." Apparently, the use of Northern Taiwan Large Loot Storage is not merely an issue of the prosecutors.

- Storage & control issues

Storage shall be balanced. Regardless which storage facility it is, if the control involves only "in" without "out" and is lack of method of destroying the loots, any storage space will run out of space. Taking the above case of New Taipei City Field Office as an example, after consultation with Toxic and Chemical Substances Bureau, EPA, Executive Yuan, conclusions are as follows: "If the chemical substance for chemical production is in the packaging container at the time of purchase, it is advisable to keep the original purchased packaging, wrap it with paraflim after sample collection, then bag or seal it. If the raw material in the reactor packs separately, it shall be packed in a suitable container, and then wrap or seal it with paraflim before bagging or sealing it. The storage and control method of the above case of New Taipei City Field Office are as follows:



Chemical substances	Storage & control method
Sodium hydroxide	Corrosive solid or liquid; plastic container is recommended
Magnesium sulfate	Powdery hygroscopic solid; plastic container is recommended
Magnesium sulfate	Powdery hygroscopic solid; plastic container is recommended
Propiophenone	Flammable liquid; HDPE plastic container (commonly known as chemical barrels) is recommended
Formic acid	Corrosive flammable liquid; glass or HDPE plastic container is recommended
Ethyl formate	May be a mixed liquid; glass or HDPE plastic container is recommended
Acetone	Flammable liquid; glass or HDPE plastic container is recommended
Dichloromethane	Restricted toxic chemical substances, flammable liquids; glass or iron container is recommended
Toluene	Flammable liquid; glass or iron container is recommended
Hydrochloric acid	Corrosive liquid; glass or HDPE plastic container is recommended
Ethanol	Flammable liquid; glass or HDPE plastic container is recommended

- Chemical waste treatment

Since the treatment of chemical loots involves disposal of such chemical substances, therefore, stability of the chemical substances is necessary. The control of toxic chemical substance, on the other hand, is regulated by specific law (i.e. Toxic Chemical Substances Control Act, hereinafter referred to as Toxic Chemical Act) and under the competent authority of the Toxic and Chemicals Bureau, EPA, Executive Yuan environment. According to Article 3 of Toxic Chemical Act: "Toxic chemical substances" refers to those chemical substances that are intentionally produced by human activity or unintentionally derived from production processes and that have been officially announced by the central competent authority to the following classification regulations. Toxic chemical substances shall be classified as follows. Among them, since Class 4 consists of the least toxic chemical substances, it is thus controlled by a separate "Approved Guidelines for Control of Class 4 Toxic Chemical Substances".



Class 1 toxic chemical substances	Those chemical substances that are not prone to decompose in the environment or that pollute the environment or endanger human health due to bioaccumulation, bioconcentration or biotransformation.
Class 2 toxic chemical substances	Those chemical substances that cause tumors, infertility, teratogenesis, genetic mutations or other chronic diseases.
Class 3 toxic chemical substances	Those chemical substances that endanger human health or the lives of biological organisms immediately upon exposure.
Class 4 toxic chemical substances	Those chemical substances for which there is concern of pollution of the environment or the endangerment of human health.

(2) Conclusion

- Probe into the storage space issue

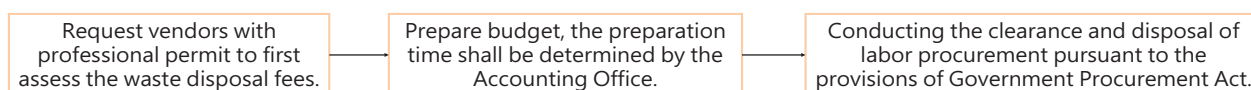
The storage condition of Northern Taiwan Large Loot Storage and the Prosecutors Office's loot storage are both better than to other existing storage environment of the judicial police officers. The existing loot storage declined the storage of liquid chemical substances mainly due to unfamiliarity and fear arising from the lack of professional know-how. For efficient management and necessity of evidence in investigation and trial stage, since the existing storage space and manpower is sufficient, it is advisable to stop seeking another storage space, but to concentrate on boosting professional handling ability.

- Probe into the professional handling issue

Since the storage of chemical substances involves chemical stability issue, certain knowledge and experience is required to truly control the risks and meet the requirements. It is advisable that the procuratorate and law enforcement agencies can team up with local environmental protection agencies or central environmental protection ministry and department in a consultation partnership to fill up the lack of profession (medicines and medical wastes are not included in the discussion). Since the disposal of chemical substance, not only involves classification of chemical substances, but also the existence of professional waste disposal permit, the Enforcement Section and General Affairs Section prepared to team up with professional environmental waste disposal companies in a consultation partnership.

- Disposal of drug precursors

Classification as the first priority (It involves the profession of Environmental Protection Agency). Those that cannot be incinerated by incinerator or buried pursuant to Article 4 & 5 of Guidelines of Controlling Wastes Approaching waste treatment Plant of the Department of Environmental Protection, Taipei City Government, shall be conducted according to the provisions of Waste Disposal Act. For the current waste disposal, it is advisable to learn from Taoyuan District Prosecutors Office's experience. The flow is roughly as follows:



(3) Suggestions for future treatment

- Complete and unused chemical substances can be processed through auction in exchange.
- As concluded from the aforementioned storage conditions comparison, Northern Taiwan Large Loot Storage seems to have the most suitable storage space for chemical substances without market value.
- If it is current unable to be placed due to the resolution of the Management Committee, it shall be reviewed for improvement in the regular management committee meeting.
- Consult with Toxic and Chemical Substances Bureau, EPA or local Department of Environmental Protection regarding storage conditions

and containers.

- If the stored chemical substances keep adding up, sooner or later it will be full. Therefore, the stored goods shall be accessed for a destruction procedure as soon as the case reached its verdict.
- The District Prosecutors Office shall submit budget plan in the annual budget according to the budgetary procedures

(4) Actively protect rights of the children and youths⁷

Taiwan had enacted "The Protection of Children and Youths Welfare and Rights Act", which aims to promote the healthy physical and mental development of children and youths and to protect their rights and welfare. According to the Protection

7. Written by Head Prosecutor of the Office, Huang Kuan-Yun.



of Children and Youths Welfare and Rights Act, the Ministry of Health and Welfare shall be charge of welfare policies, regulations and program planning for all children and youths in the country. For the prevention of major child abuse incidents, the Ministry of Health and Welfare had issued the “Plan for the Implementation of the Major Children and Youths Abuse Incidents Prevention Team” to review the cases of severe children and youths injury and death caused by the parents, guardians or other ultimate caretaker, find the shortcomings in the system, and advice a cross-professional network coordination strategy to complete the children and youths protection system. The Ministry of Justice is one of the members of the network and continues to work closely with other members to implement the child and youths protection mechanism.

However, the victimizers are usually parents and other protectors within the family in the case of child abuse. Although according to the Protection of Children and Youths Welfare and Rights Act, the competent authority can independently raise prosecution on children or juvenile victimizer serving as independent plaintiff conflicts with the role of social workers, since the competent authority in social affairs must protect the safety of the child and repair the family functions, it makes the role difficult to work with the abusive parent. In addition, the stringent procedures prior to an independent prosecution take too long for urgent cases. So, it is necessary to establish mechanisms to guide the judicial and police to make early intervention in child abuse cases to avoid disputes.

In order to implement the resolution of the National Conference on Judicial Reform and actively protect the rights and interests of children and youths, the notification and contact mechanism for the “major child abuse cases” was established and strengthened. The National Police Agency had negotiated with Taipei City Government and Child Protection Cente of National Taiwan University Hospital to combine the resources of the judicial, social, health and law enforcement administrations; it was planned to launch the “Procedures of Accepting the Investigation of Major Case of Suspected Child Abuse in Taipei City” in mid-2018, where the Domestic Violence And Sexual Assault Prevention

Center of Taipei City Government shall, upon being notified of a major child abuse case, promptly contact police to jointly conduct initial assessment, while reporting to the prosecutor to carry out early intervention in the investigation and requesting (if necessary) the Child Protection Center of National Taiwan University Hospital to conduct full physical and mental medical examinations on the abused child or youth in order to be more thorough in evidence collection and investigation.

(5) Thoughts from investigating the 2017 electoral bribery of Farmers' Association⁸

Compared with other District Prosecutors Office, the cases processed by Taipei District Prosecutors Office are indeed the most diversified and complex cases in the country. However, in recent years, Taipei District Prosecutors Office's performance in solving election cases was not as impressive as with other types of cases. The reason was that people in Taipei District Prosecutors Office's juridical area are highly educated so the traditional vote-buying practice carried out by various election candidates or

Operation launched by Taiwan Taipei District Prosecutors Office during 2017 local farmer association member representatives election campaign			
Summoned/person			65
Arrested/person			0
Detention	Apply for detention/person		0
	Detained/person		0
	Detained currently/person		0
Released on bail/person			4
Restricted from leaving ROC/person			0
Search and seizure	Judicial police lead the way with warrant /case		2
	Prosecutor lead the way/case		5
Communication surveillance	Total	Case	1
		Line	3
	Currently under surveillance	Case	0
		Line	0
Interrogated by judicial police/person			0

8. Written by the Office Head Prosecutor, Chen Shu-Yun.



its vote captains were no longer exercised. It developed to be the more fine-tuned techniques using other illegal benefit to cover up actual electoral bribery, which increased the difficulty of investigation. However, the Office still actively integrate capacities of the police and investigation authorities to fully implement the various election inspection plans. In 2017, Head Prosecutor of Unit She of Taipei District Prosecutors Office led Prosecutors of the Unit to investigate a series of electoral bribery cases of Taipei Mulan District Farmers' Association. Not only did they detected several electoral bribery cases involving the 13th representative member election of Muzha Farming Team of Taipei Muzha District Farmers' Association (hereinafter referred to as Muzha Farming Team) in 2017, but also detected electoral bribery cases involving the 12th representative member election of Muzha Farming Team in 2013. In addition to the initial luck, it is more important to catch the opportunity created by luck and combine with the efforts of teamwork to show specific results (except for the voters with deferred prosecution granted by the Office, A, B candidates and voters public prosecuted by the Office were all ruled guilty as charged). In addition to bring out the effectiveness from exercising the election inspection duty in the responsible juridical area, intelligence information was fully utilized to take the initiative of the investigation, which reflected the initiative and aggressiveness of the Prosecutors. The sufficient use of assisted manpower also gave full play to its role to achieve common goal. In addition to the initial luck, the Office was fruitful in this bribery investigation because the Head Prosecutor and Prosecutors were at the front line leading the entire investigation process, which resulted in considerable smooth operations such as the compulsory disciplinary petition, the dispatchment of and mutual cooperation between different law enforcement agencies.

6. Debriefing and strategy advancing – Operation launched by Taiwan Taipei District Prosecutors Office during 2018 local elections campaign for nine government posts⁹

9. Written by the Office Head Prosecutor, Chen Yu-Ping.

a. Operation launched in past years

Till April 2, 2019

Operation/year		2018	2016	2014
Summoned/person		452	114	46
Arrested/person		4	1	0
Detention	Apply for detention/person	13	0	0
	Detained/person	9	0	0
Released on bail/person		66	2	0
Restricted from leaving ROC, limited on designated residence/person		5	0	1
Search and seizure	Judicial police lead the way with warrant /case	11	1	0
	Prosecutor lead the way/case	2	0	0
Communication surveillance	Case	2	1	1
	Line	67	6	1
Interrogated by judicial police/person		2263	53	158
Cash seized/NTD.		2,316,500	0	0
Indicted(Including : apply for summary Judgement 、 defer prosecution 、 ex officio)/person		143	47	12
Filing invalid election lawsuit /case		8	0	0

b. Strategy Advancing

(1) Researching and tutoring the investigation skills on bribery case

Voters in our district come with a strong sense of rule of law, and most of our district is urban with highly developed politics and economy. There may be fewer cases of bribery election than in other areas, which renders certain portion of judicial police officers are in lack of experience and know-how on how to probe the possible bribery case. However, the way of bribery is evolving constantly, and the manpower available for waging in investigation activities varies from time to time. The strategy of investigating bribery is different from that of common criminal cases, such as information gathering and analyzing, grasping key point of the investigation, performing search and seizure, and acquiring the know-how of breaking through in investigation. It is always not easy for beginners to master the situation. The Chief Prosecutor of our Office thus, has visited the Criminal Investigation Police Office of National Police Agency of Ministry of the Interior as well as the Taipei City Police



Department many times for sharing of his own experience gathering from his previous investigation of bribery cases. He has also conducted seminars personally with the (head) prosecutors in old communities and remote areas where higher crime rate of election bribery are more likely to happen in our jurisdiction, aiming at the problems encountered in the investigation of bribery, such as the establishment of the "Whistle-blower Friendly Network", and as a result tried to emphasize the key point of Civil Servants Election and Recall Act, to analyze the various performing type of bribery, to tutor the skills of bribery case investigation, to share the court opinions regarding similar cases over the years, to exchange opinions with local police officers, and to help them solving the problems they've encountered on duty. The Chief Prosecutor also actively assigned (head) prosecutors to conduct the workshops on election bribery investigation and riot control at the permanent training center of Taipei City Police Department and local police stations as well, so as to pass on the experience of investigation on election bribery case. Our Office also publishes the guide book "2018 Nuts and bolts on practicing Civil Servants Election and Recall Act" which completely discusses the investigation essentials on how to practice the Act, collects also cases gone under investigation over the years, and takes the gains and losses from those cases as good example. The guide book has been passed to prosecutors and local police officers in our jurisdiction as a guideline, so as to enhance the efficiency when probing the election bribery case.

(2) Group wisdom helps resolving the mass protest event and high-profile case timely and efficiently

Our Office is located at Bo-Ai District, which is the central hub of Taiwan government. Here in our jurisdiction, we have offices for central government agencies as well as official residences for head of those agencies. It's a highly developed metropolitan area. Mass protest event always ranks the highest in Taiwan. Here we also have to deal with the largest amount of cases which attract nationwide attention. Although other prosecutors offices may have parallel jurisdiction over these high-profile cases, we are always the one with convenient forum and should be responsible for final investigation. They consume massive resources of our Office, and therefore compress our room in

dealing with general cases. Despite limited manpower of our Office, we set up still the "Violent Mass Protest Event Task Force" which is composed of 5 groups with 37 prosecutors on duty in order to launch the investigation more effectively during each election campaign. The set-up can not only deal with more and more increasingly happening mass protest event and high-profile case, it can also clarify and correct false and biased news timely. May the group wisdom demonstrated by the task force helps resolving the case more effectively.

B. Featured jurisdiction cases

1. Major economic cases
 - a. Ad hoc teams working together to investigate¹⁰

Economy is the foundation of a country. The Office's juridical area is located in the political and economic center of the country, where nearly one-third of the country's approximately 900 TWSE abbreviation for "Taiwan Stock Exchange" listed companies and 750 TPEx

(abbreviation for Taipei Exchange) listed companies are established in the Office's juridical area. In addition, 11 out of the country's 12 financial holding companies are headquartered in this juridical area, where the international financial business activities are flourishing.

Along with the generation advancement, rapid changes of society, popularity of internet information and continuous development of the financial securities market, the financial and economic crimes emerges and spreads. The Office had repeatedly investigated major cases with social attention, such as asset tunneling, related party transactions, insider trading, stock price manipulation, false financial statements, bank overlending and loan fraud, money laundering, etc. The type of crime in such major financial and economic cases are diversified with complex criminal structures, which often involve intense commercial activities and accounting expertise, derivative financial commodities, cross-border money laundering, multi-layer capital flow verification, international information exchange, offshore business unit and ultimate beneficiaries investigation.

10. Written by Head Prosecutor of the Office, Lin Tsung-Chih.



In order to safeguard Taiwan's economic development and order of the financial securities market, to enhance the investment environment and to protect people's property rights, the Office formed a professional team of specialized Prosecutors to strengthen the horizontal interaction between the Prosecutors and the financial and economic competent authorities such as FSC (abbreviation for "Financial Supervisory Commission"), the Taiwan Stock Exchange and Taipei Exchange, to enhance the emerging financial and economic know-how and improve investigation capacity. The model of investigating by team efforts can facilitate brainstorming, effective investigation and elimination of disputes to achieve not only the sophisticated investigation, but also the target of seizing more criminal proceeds and cutting off criminal profit centers. The investigations on Mega Financial scandal, XPEC illegal securities case, TransAsia Airways insider trading case, Farglory scandal, Sinopac Financial Holdings scandal and First Commercial Bank ATM Heist case in recent years, etc., have achieved remarkable results.

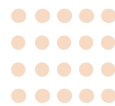
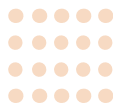
b. Integrate professional agencies to investigate criminal cases together¹¹

- Tax authorities

In order to strengthen our expertise required to investigate tax case, enhance the understanding about tax authority, and establish a close connection with the tax authority so that we can effectively control over the skills and timeliness in investigating tax case, combat illegal activities precisely based on practical needs, demonstrate quality investigation results, and protect human rights, a visit to the National Taxation Bureau of Taipei, Ministry of Finance (hereinafter referred to as Taipei National Taxation Bureau) was arranged in July 2017 to enhance and establish mutual understanding and communication.

In addition, in order to strengthen the operation of the business exchange platform between the Office and Taipei National Taxation Bureau, enhance the exchange of experiences and views between the parties, and facilitate business contacts, the Office and Taipei National Taxation Bureau have established business contact and communication platform in

11. Written by the Office Head Prosecutor, Chen Shu-Yun.



November 2017, which will hold business communication seminar every two to three months. The participants include the Prosecutors (or Head Prosecutor) of tax ad hoc team (i.e. Unit She) of the Office, Prosecutor Investigators who serves as the tax contact persons of the Office, and relevant business directors or undertaking staffs of the Bureau, in order to achieve the purpose of exchange experience and opinions and promote business communication.

The Office arranges taxation seminar from time to time to strengthen investigations practice, fine-tune case-solving skills, truly grasp the elements that construed the crimes, collect sufficient evidence, and perform due diligence before filing public prosecution, in order to prosecute crimes effectively and protect human rights.



2018.10.05 "Types of Taxation Money Laundering" conference

- Public Construction Commission, Executive Yuan

In order to strengthen the expertise required to investigate government procurement cases, the "Taipei District Prosecutors Office's "2017 Government Procurement Act" seminar" was held in April 2017. The target group was the Prosecutors (or Head Prosecutor) and Prosecutor Investigators of the Office, while allowing the Prosecutors and Prosecutor Investigators of Shilin and New Taipei District Prosecutors Office to apply for participation in order to share resources. The Prosecutors (or Head Prosecutor) and Prosecutor Investigators of the Office who undertake government procurement cases were given the priority to join. Total acceptance was 100 participants.



In order to strengthen the Office's expertise in the investigation of government procurement cases, enhance the understanding of and establish a close connection with the competent authority of the Act, so that we can effectively grasp the skills and timeliness required for investigating government procurement cases and meet practical needs, the Office obtained consent from the Public Construction Commission, Executive Yuan for the Office's Head Prosecutor and Prosecutors of the government procurement ad hoc team, other Prosecutors, Prosecutor Investigators and Intern Judges to visit them in October 2017 and to listen to the detailed briefings of the Commission and exchange views in full to enhance mutual business understanding and achieve the purpose of sharing experiences and exchanging opinions.

- Insurance Anti-fraud Institute

In order to strengthen the expertise required to investigate insurance fraud cases, the Office invited Chairman of Insurance Anti-fraud Institute, SHAO CHIH-CHUN, who has rich academic knowledge and experiences, to give speech on the topic "the Effectiveness and Prospects of Insurance

Crime Prevention and Control in Taiwan During the Past Two Years" (approximately 50 min) in the 48th Anti-Gang Team Meeting on 27 October 2017, and the content of which included the introduction and business overview of the Institute, the types and key works of insurance crime prevention, current status of insurance fraud investigations, coordination and treatment of suspected insurance crimes, and specific effects of insurance crime prevention and control; the objectives are to strengthen the Prosecutor's expertise and ability to grasp the key points and techniques required to properly and effectively investigate insurance fraud related cases.

- Financial Supervisory Commission, Executive Yuan

In order to strengthen the mutual business contact and coordination between the Ministry of Justice (and its subordinate procuratorates) and Financial Supervisory Commission, Executive Yuan (hereinafter referred to as FSC) and enhance the effectiveness in investigating major financial crime cases, the Ministry of Justice had specially formulated the "Guidelines for the Ministry of Justice to Appoint Prosecutor



Who Concurrently Serve in the Financial Supervisory Commission of Executive Yuan". Since juridical area of the Office is the location of the central government and the domestic financial and economic center, major financial and economic crime cases such as the Chinese Bank scandal, CTBC Financial Holding scandal, Mega Financial Holding scandal, Sinopac Financial Holdings scandal, etc., also mostly occurred within the jurisdiction of the Office. Therefore, a Prosecutor office was established at FSC in May 2005 until this day. The Ministry of Justice always appoints senior, excellent Prosecutors or Head Prosecutors of the Office who have experiences in the investigation of major economic and financial crimes and are skilled in communication and coordination to station at FSC to handle related affairs. In order to strengthen the business contact and coordination between headquarter of the Office (and each procuratorate) and each branch of FSC and enhance the effectiveness in investigating major financial crime cases, the Office also appoint senior, excellent Prosecutor Investigators who have financial and economic specialties and experiences in major economic and financial crime to station at FSC to assist the stationed Prosecutors in handling related affairs. Thus, the above-mentioned cases of major financial and economic crimes can all be promptly assisted to smoothly carry out investigation and prosecution due to proper contact and coordination of the Office's undertaking Prosecutors and the Prosecutors dispatched to FSC with the FSC.



2018.07.18 training course-Listing Supervision Department, Taipei Exchange



- Development and formation of the White Collar Crime Study Team

The illegally over-borrowed case of Guohua Life caused a huge loss of the company which was reported to Investigation Bureau, Ministry of Justice by Financial Supervisory Commission on January 30, 1991. 16 accused were accused by the prosecutor in 2005 and convicted in the first instance in 2015 and it took 14 years from investigation to sentence made by the court of the first instance. The conviction was affirmed by the court of the second instance on August 31, 2016 and the pivotal defendants either died or escaped.

In order to increase the understanding over the criminal class, division of work and techniques of white-collar crimes and improve the skills and know-how required in investigating such crimes to effectively combat crimes and strengthen the use of crime prevention factors, the Office formed a White Collar Crime Study Team upon consideration, to plan and carry out in-depth understanding and studies to achieve the objective of combating illegal activities and crime prevention and demonstrating judicial breadth and depth.

c. Passing on experience

Looking back at those financial crimes starting with outbreak of Tenth Credit Cooperative of Taipei financial storm incident on 9 February 1985, a number of financial cases occurred one after another, which destroyed the economic and financial order and hindered the improvement of national competitiveness. "History cannot be forgotten, experience must be remembered". The Office has selected major economic crimes cases over the years that had caused major impact on Taiwan society and economic development at the time, to study the causes and solutions from different social, economic and legal aspects, and to compile past investigated major financial crimes into a journal (Top 10 Financial Fraud Investment Records), so that judicial history can be passed on to boost judicial credibility and to inspire and gain collective efforts.



1 The defendants TSAI CHEN-CHOU et al applied loan from Tenth Credit Cooperative of Taipei in the name of nominee and TSAI CHEN-CHOU Cathay Group Company. However, the collaterals provided had insufficient value while the credit facility of NT\$6,247,050,000 acquired in 4 years was illegally applied through inflating value of the collaterals by hundreds to thousand folds.

2 The defendants John Doe SHEN et al operated banking business without permission, attracted the general public with high interest and referral bonus, and illegal acquired NT\$96,198,050,000 in 8 years with more than 160,000 victims.

3 The defendant, John Doe YANG forged commercial promissory notes of 14 companies and sold them to Taiwan bank, using the fund of NT\$ 981,614,259 fraudulently withdrawn from Taiwan bank during September 1984 to August 1995 on stock trading.

4 The defendants John Doe ZHANG brothers (2) were the responsible persons of He Feng Group, who stole NT\$25,275,340,000 from Chinese Automobile for personal and family company's capital needs, while manipulating stock price of Chinese Automobile through nominee accounts.

5 The defendants John Doe WANG et al were the chairman, general manager and branch manager of China CITIC Bank, who breached their duties by illegally granting a loan of over NT\$7,000,000,000 to the responsible person of Typhone Group, John Doe HUANG within 2 years.

6 Lee and Li Attorneys-at-Law was commissioned by SanDisk Corporation to sell stocks of United Microelectronics Corporation, who assigned the defendant John Doe LIU to keep the seals and passbooks, but the defendant took advantage its duty, withdrew and sold all of the stocks and acquired NT\$3,000,000,000.

7 The defendants John Doe HU, John Doe SUN et al were executive officers of Pacific Electric Wire & Cable Co., Ltd., who tunneled NT\$20,000,000,000 from the company for their own interests.

8 The defendants John Doe WENG et al were the responsible persons and directors of Hualon Group and Guohua Life, who falsified the appraised value to raise the collateral value before over applying a loan of NT\$5,000,000,000 illegally from Guohua Life, and then over applying additional NT\$2,000,000,000 by selling the Yuchang land to inflate the land value.

9 The defendants John Doe WANG et al (total 139 people), tunneled a total of NT\$100,000,000,000 from Rebar Group's subsidiary Eastern Multimedia Group.

10 The defendants John Doe XU et al (total 12 people) were the responsible person and executive officers of Cosmos Bank, Prince Motors, Cosmos Securities and other companies, who tunneled NT\$5,000,000,000 from Cosmos Bank and Cosmos Securities by applying loan through nominee company without.

11 The defendants John Doe P, John Doe A et al used computer system vulnerabilities to invade the bank's internal computer networks and stole a total of NT\$83,277,600.19 cash from ATM. ¹²

12 The defendants John Doe CAI et al, knowing that Mega International Commercial Bank was heavily fined by U.S. New York State Department of Financial Services NT\$180,000,000, thus sold their own stocks prior to the news announcement. In addition, they breached their duties by establishing a new company and granted NT\$7,000,000,000 from Mega International Commercial Bank to Ruentex Group to that company before leaving Mega International Commercial Bank.

12.This article was published on Global Prosecutor E-Crime Network (GPEN) website in March 2017 by International Association of Prosecutors.



2. Corruption cases

Civil service ethics is the benchmark of the rule of law. The corruption of public officials not only affects the people's trust in government administration, but may also cause major losses to the state treasury. Compared with other crimes, corruption offenders usually have a higher level of knowledge, which is the so called "white collar crime" in criminology. They took advantage of their familiarity of and expertise in the business to commit crimes, and they are good at concealing or destroying crime evidences.

In terms of case investigation, we continue to implement the "National Integrity Building Action Plan" to actively explore clues to wipe out malpractices in public works, labor and property procurement, industrial and commercial registration, urban planning, finance, supervision, taxation, customs, policing, judiciary, correction, inspection, land administration, environmental protection, medical care, education, fire-fighting,

funeral, river and earth management, social welfare subsidies and subsidies, and other important issues closely related to and affecting the people's rights and interests, national economy and people's livelihood.

The Office is particularly cautious in the investigation of corruption cases. It had also established ad hoc team consists of Prosecutors with specialized expertise to be in charge of the investigation based on the following principles: (1) clarify the outline of crime through investigative means; (2) take time to collect thorough evidence; (3) execute at the right time to avoid unnecessary disputes; (4) use teamwork to solve case and boost investigation performance; (5) comply with prescribed procedures to ensure outcome of the case, etc., to accurately collect relevant criminal evidence to investigate corruption cases, in order to bring justice and protect human rights. The YE corruption case, HSU corruption case, Meiheshi corruption case, Taipei Dome case, etc., are all controversial corruption cases investigated in recent years.



3. Cryptocurrency¹³

Due to the advancement of the Internet in recent years, cryptocurrency has become another form of financial asset, as well as criminals' favorite criminal instrument or a channel to store criminal proceeds. Since the transfer of cryptocurrency funds offers the convenience of not having to go to the financial institution in person, allowing funds to be transferred without border restrictions within shorter time, which promotes the speed of capital movement. Taipei City, the main juridical area of the Office, is where wealthy politicians and businessmen gather; the financial activities are frequent and emerging domestic crimes all occurred in this juridical area. For example, the director Huang of a listed Hong Kong company was kidnapped in September 2015 near his house located in Xindian District, New Taipei City and the criminal asked for a HK\$70,000,000 ransom paid in bitcoin; in July 2016, an European hacker organised criminal group hacked into First Commercial Bank's computer information system and obtained NT\$83,277,600 cash in the ATM, which

was planned to be transferred to Russia as bitcoins; cross-border drug trafficking (especially those who purchase marijuana seeds to grow marijuana) use bitcoin to pay for the purchase of drugs and drug trafficking fees; since the end of January until the beginning of February 2017 (lunar calendar), the websites of many domestic securities brokers were attacked and asked for ransom in bitcoin. In recent years, many countries in the world have repeatedly seen bitcoin being stolen by hackers and other bitcoin-related criminal events, which showed that various cryptocurrency-based blockchains played a very important role in both the exchange market and the history of crime. The Prosecutors serving as the front line of the Office thus must always face various new challenges.

Ever since the US government noticed the importance of cryptocurrency on the market in March 2016, it immediately announced that the profit gained (e.g. salary, payment of service, trading proceed, profit or loss of virtual currency transaction) from trading of virtual currency (such as bitcoin) is subject to taxation as long as the payment carries the same effects as made

13. Written by Head Prosecutor of the Office, Huang Hui-Ling.



by other property. In other words, cryptocurrency is deemed as an intangible financial asset with property value; and the world's largest option trading center- Chicago Board Options Exchange (CBOE) also officially launched the Bitcoin Futures trading service on 10 December 2017. In April 2017, Japan even formulated regulations on virtual currencies with bitcoin as the main targeted. The acceptance of using bitcoin, which is based on the use of blockchain technology, as a payment tool in the physical trading market has become a preferred substitute of sovereign currencies.

Since financial activities and crimes are not bound by borders, sovereign currencies bound by borders are no longer the favorite type of the criminals. The diversified money laundering channels thus make criminal investigation more difficult. Compared with the advancement in crimes, Taiwan's financial supervision and related regulations seem conservative and unable to catch up with international financial development. There are hundreds of cryptocurrencies (such as bitcoin) widely distributed on international markets. The means of legalization and control of those outstanding main cryptocurrencies (i.e. bitcoin, bitcoin cash, bitcoin gold, bitcoin diamonds, Ethereum and Litecoin) has become a new challenge for the competent authorities.

Under everyone's attention, Taiwan's "Financial Technology Development and Innovative Experimentation Act" was formulated and implemented on January 31st of this year (2018), which seemed to be a symbolic step. However, is the mechanism governing the trading platform of cryptocurrency perfect yet? Do the competent ministries of the Executive Yuan truly supervise those professionals who are most likely to assist criminals in money laundering? Do the money laundering control related regulations thoroughly cover all aspects? How supportive are the related ministries, especially the FSC? These are the issues that the law enforcement officials deeply concern about. The Banking Act and other financial laws and regulations concerning the confiscation of criminal proceeds amended and promulgated on the same day seem to be rather deviated from the confiscation recovery mechanism prescribed

in the Criminal Code, which created an invisible containment on those first line law enforcement Prosecutors and demonstrated there is still room for improvement in horizontal communication between various departments of the Executive Yuan

In the absence of a perfect statute, the prosecutor must try to detain the relevant criminal proceeds and prevent the laundering, while finding ways to break through the predicament and collect sufficient evidence to prosecute the perpetrator. But, in fact, money laundering control and seizure of criminal proceeds must be considered as related subject. Nowadays, financial products are diversified, ordinary people may not always deposit money in saving or fixed-deposit accounts; bitcoin and other outstanding cryptocurrencies, funds, bonds, structured bonds and other financial products are used by most people. Recently, criminal proceeds were even found concealed through means of car loans. Therefore, effectively seizure of criminal proceeds must cover every type of financial assets. If the Ministry of Justice can coordinate to

get access for us to inquire various types of financial products, it will be conducive to the percentage of criminal proceeds confiscation and recovery.

It is hoped that all the competent departments can take serious consideration to solve the predicaments faced by first line law enforcement Prosecutors and establish a complete inquiring mechanism on tangible and intangible financial assets to increase the possibility and proportion of seizure on criminal proceeds and improve the effectiveness of money laundering control.

4. Breach of trust cases of the Criminal Code¹⁴

The headquarters of many large enterprises or the residence of its responsible person are located in the Office's juridical area. Therefore, if the aforementioned enterprises or responsible persons are involved in illegal activities, the Office will inevitably have the jurisdiction. In recent years, the Office has successively prosecuted large-scale consortium companies such as Sinopac Financial, Mega Financial and Farglory for breach of trust.

14. Written by Prosecutor of the Office, Li Chin-Jung.



The amount of crimes is huge, usually in terms of hundreds of millions, and the criminal circumstances are complex, only those who have economic and financial expertise are able to master. In addition, compared with other property-based crimes such as larceny, fraud, etc., not only the behavioral pattern (i.e. "acts contrary to his duties") of the constituent elements of the criminal breach of trust is not clear, even the nature of the behavior (i.e. "manages the affairs of another") is difficult to identify. Moreover, the breach of trust is not a popular topic of discussion in China's doctrine; there is not much information available for reference. Therefore, the investigation and trial of the criminal breach of trust often makes the judicial practitioners fear.

In addition to the penalty provision for breach of trust in Article 342 of the Criminal Code of Taiwan, financial regulations such as Article 125-2 of Banking Act also stipulated penalty provisions for "special breach of trust", Paragraph 1 Article 57 of Financial Holding Company Act and Sub-Paragraph 3 Paragraph 1 Article 171 of Securities and

Exchange Act. As for the relationship between "breach of trust" in Criminal Code and "special breach of trust" in financial regulations in terms of practice, the latter is the special provisions of the former (see Supreme Court judgment No.Tai-Shang-6444 of 2011, No.Tai-Shang-3046 of 2013, etc.); therefore, the nature of "special breach of trust" in financial regulations must also be in conformity with the behavioral characteristics of the "breach of trust" in Criminal Code. "Acting contrary to his duties" is an act of "breach of task". The "special breach of trust" can thus refer to the interpretation on the constituent elements of "breach of trust" in Criminal Code.

a. Deficiency of the current regulations

Article 342 of the current Criminal Code stipulates the breach of trust as follows: A person who manages the affairs of another for purpose to take an illegal benefit for himself or for a third person or to harm the interests of his principal and who acts contrary to his duties and thereby causes loss to the property or other interest of the principal will be sentenced

to imprisonment for not more than five years or short-term imprisonment; in lieu thereof, or in addition there to, a fine of not more than five hundred thousand yuan may be imposed. An attempt to commit an offense specified in the preceding paragraph is punishable. This regulation has the following deficiencies:

- (1) The intent of general intentional offenses is a further violation to legal benefit comparing to the criminal result. For example, the criminal result of larceny in Criminal Code is "controlling over other's property for himself", there is a significant gap between that and the intent of "gaining illegal benefit for himself". The Criminal Code designed the "breach of trust" offense as an intentional offence and distinguishes it into intents to "causing loss" and "gaining illegal benefit". However, the result of the act of this crime is "causing loss to the property or other interest of the principal", which seem to bear no difference from the intended "causing loss to the benefit of the principal"; therefore, when the crime is committed, the intent to cause loss

is also realized. Thus, what is the point in prescribing it as an intentional offense? Secondly, "breach of trust" is an "internal" destructive behavior, which is obviously different from the "external" and "abruptly takes from another his movable property" as that of in larceny and fraud. Since the criminal breach of trust is not an offense of obtainment, it is irrelevant as to whether there is illegal benefit for himself or third person; however, since the provisions were prescribed as offense of intention, the trial procedure is often focused on the irrelevant criminal intention, and thus increased the uncertainty in rulings.

- (2) The punishment for "breach of trust" offense is to counter the internal danger of the victim, and the legal benefit. So the right protected by this provision is property. Therefore, the nature of "breach of trust" shall be within the scope of the victim's property which had been partially or completely, internally or externally, controlled by another in the name of the victim. The German doctrine called it the "internal power position",



which is quite appropriate. However, the provisions of Taiwan Criminal Code mere generally referred to as “manages the affairs of another”, which is too general and abstract, and it is impossible to highlight the eligibility of breach of trust behavior. Although the Supreme Court has restrictions on the scope of the nature (such as Judgment No.Tai-Shang-660 in 1996), but in practice, it still does not realize that the perpetrator must have an “internal power position”, which caused frequent disputes on specific judgments (such as Taiwan Kaohsiung District Court case No.Zhu-Chong-Su-1 in 2010 “the person entrusted to purchase lottery tickets”; Taiwan High Court case No.Shang-Yi-2438 in 2016 “responsible person of auto repair shop”; head of private financing group).On the other hand, “internal power position” may be based on a de facto relationship instead of legal relationship between the parties, such as the person appointed by the enforcement court to retain the seized items, but the Supreme Court advocates that “manages the affairs of another” shall be based on appointment thereto (see Judgement No.Tai-Shang-1530 in 1960; No.Tai-Shang-2295 in 1980), which is an improper restriction on the nature thereof, resulting in many loopholes in terms of punishment. For example, there is no legal relationship between a company and it actual (not nominally registered) responsible person.

- (3) The provisions merely prescribed the constituent elements of “breach of trust” as “acts contrary to his duties”, which is really simple and created dispute between the “abuse theory” and the “breached trust theory”. The former believes that the act of breach of trust is limited to external legal transaction without taking the actual acts into consideration; while the latter argues that the act of breach of trust shall take both the legal transaction and the actual acts into consideration regardless of whether it involved the relationship with a third person or the principal or not. In fact, if the perpetrator has an “internal power position”, both the legal transaction and the actual acts trust shall be taken into consideration regardless whether it is internal or external relationship. In addition, as regard to the so-called “duties”, it is puzzling as to Where does it originate? What is its scope? How is it defined? Is the



perpetrator considered “acts contrary to his duties” when violating any law? For example, a general manager violated Paragraph 3 Article 57 of the Employment Service Act due to using foreign labor of the company to serve domestic houseworks after work, but it’s dubious to determine that it is “acts contrary to his duties”. The purpose of this article of the Employment Service Act is to effectively manage foreigners who work in Taiwan instead of protecting the property of others. In addition, in order to avoid over expanding the scope of “acts contrary to his duties” in terms of practice, the U.S. “Business Judgment Rule” was introduced to set restriction (such as Highest Court Judgment No.Tai-Shang-2206 in 2016). Notwithstanding the direction is correct, but there is still lack of consensus on the nature of the judgment rule, which leads to diversified practice and hindrance to the stability of law.

- (4) Furthermore, unlike larceny or fraud, breach of trust does not have clear behavioral process; instead, it relies on referencing other regulations

to overview the overall process to understand the starting point of the constitutive behavior, while in practice, it is often the case that property loss occurs before exploring whether and what kind of obligation is violated. In other words, the obligation of breach of trust is derived from the loss. For Taiwan’s reference, the German Criminal Code does not punish the attempted offender of the criminal breach of trust due to the unclear nature of the constituent elements.

- (5) Although Taiwan had formulated “special breach of trust” in financial regulations, but its provisions is similar to the breach of trust in Criminal Code, thus, there is no need to make a separate provision; however, because there is slight difference between the two regulations, doubts on interpretation were created. For example, unlike the Banking Act or the Financial Holding Company Act, Sub-Paragraph 3 Paragraph 1 Article 171 of the Securities and Exchange Act only provides for the intent of “for himself or third person’s benefit” but not the intent to “cause loss”. Therefore, if chairman of a TWSE listed



company withdrew NT\$100,000,000 from the company account and burned them all because he felt there are too much money, it does not construe special breach of trust under the Securities and Exchange Act due to lack of intent to “cause loss”, while the same behavior would construe breach of trust for the responsible person of a bank or financial holding company. Such double-standard is indeed lack of substantial justification.

b. Means of improvement

Section 266 of Germany Criminal Code “Breach of Trust” stipulates:[Whoever abuses the power accorded him by statute, by commission of a public authority or legal transaction to dispose of assets of another or to obligate another, or violates the duty to safeguard the property interests of another incumbent upon him by reason of statute, commission of a public authority, legal transaction or fiduciary relationship, and thereby causes detriment to the person, whose property interests he was responsible for, shall be punished with imprisonment for not more than five years or a fine.] Therefore, the nature of breach of trust is

based on reason of statute, commission of a public authority, legal transaction or fiduciary relationship, which created authority for external legal transaction, or the person who manages internal interests of the property; the constituent elements include abuse of authority and breach of property management obligations, which is clearer more detailed than the regulations of Taiwan. In addition, in the past two decades, German practice has dealt with many large enterprises (such as Siemens, Volkswagen, etc.), political parties (CDU Secretary-General Kanther) or political figures (former German Chancellor Kohl) involving breach of trust. Not only was it widely debated on the media, it had also attracted many scholars' attention at the same time. Numerous journal, articles and books had formed a wave of study on the criminal breach of trust. The latest development is to categorize cases of breach of trust, such as budget-related breach of trust (Haushaltsuntreue), loan-related breach of trust (Kredituntreue), consortium-related breach of trust (Konzernuntreue), political party-related breach of trust (Parteienuntreue), secrets accounts (schwarze Kassen) and receiving of kick-backs, etc., which make the



determination of the criminal breach of trust more detailed and precise and worth learning from. For improvement, we may consider the following practices:

- (1) Complete amend the breach of trust provisions in Taiwan Criminal Code to clarify the elements that construe the breach of trust.
- (2) Learning the concept of criminal breach of trust, especially the identification and calculation of property loss, from German practice and doctrine.
- (3) Abolish the special breach of trust provisions in financial regulations to apply only the general breach of trust provisions in the Criminal Code.



2017.11.27 "Research on the practical cases and doctrines concerning breach of trust" by Prosecutor Li Chin Jung

5. Livelihood cases involving the marketing of fruits and vegetables¹⁵

a. Marketing aspect

Because agricultural products are concentrated in the south-central part of Taiwan due to the distribution of terrain, people in the north rely on the south-central origins or the agricultural product importers to transport vegetables and fruits to the first and second fruit and vegetable wholesale market operated by Taipei Agricultural Products Marketing Corporation (hereinafter referred to as Taipei Agricultural Products) to provide auction trading platform. Currently, the first and second fruit and vegetable wholesale market are the largest fruits and vegetables wholesale markets in Taiwan in terms of daily trading volume. However, since the prices of fruits and vegetables are often fluctuated rather than being static due to factors such as climate, festivals and production. The above-mentioned wholesale markets are under the jurisdiction of the Office, and Article 251 of the Criminal Code had prescribed criminal penalty for inflating the price of agricultural products, so whether penalty shall be imposed when the prices are inflated beyond the expectations of the people is worth to discuss.

15. Written by Head Prosecutor of the Office, Hsu Hsiang Chen and Chou Ching-Hua



The followings are issues of Article 251 of the Criminal Code and suggestion:

- Determination of the amount of stock refrained from selling

Pursuant to Paragraph 1, Article 251 of the Criminal Code [A person who stocks up any of the following objects and refrains from selling to the market without justification with the intention to raise the transaction price shall be sentenced to imprisonment for no more than three years, short-term imprisonment; in lieu thereof, or in addition thereto, a fine of no more than three hundred thousand yuan may be imposed: (1) Provisions, agricultural products or other consumer food and drink necessities, (2) Plant seeds, fertilizer, raw materials or other objects required for agriculture or industry.] However, at present, the Agriculture and Food Agency, Council of Agriculture, Executive Yuan only counts the estimated annual output of domestic agricultural products without accurately recording the types and quantities of agricultural products produced by farmers, let alone whom they sell to and where their storages are, making it impossible to calculate stock quantity.

Moreover, there is no relevant provision specifying just how large the quantity can be described "stock up and refrain from selling". Furthermore, there are seasonal, climate, pests and other important concerns for agricultural products. Even, some products are annual crops, if the farmers do not harvest and stock first for future batch selling, there will be nothing to sale after the harvest season. In conclusion, there is no certain basis to determine how large stock quantity is considered reasonable.

By the way, there are also imported agricultural products in addition to domestic agricultural products. Most imported agricultural products have been cleaned and lost its external protection before been imported via seafreight or airfreight, and the shelf life is obviously shorter. If it is not actively sold after imported, the quality and the price may drop. Notwithstanding it is required to declare with Customs Administration, Ministry of Finance when importing agricultural products to make the imported quantity available, there is no mandatory requirement to report to whom and for how many the products were sold. It is impossible to clearly calculate

the importer's shipments of domestic or imported agricultural products. Because it is impossible to know the reasonable stock quantity and accurately calculate the actual sales volume, which leads the above-mentioned violation of paragraph 1, Article 251 of the Criminal Code applicable to very few cases since the amendment made on 18 June 2014.

- Audit on the suppliers and demanders

Pursuant to Article 1 of the Agricultural Products Market Transaction Act [This Act has been enacted to ensure the order of agricultural product marketing, to adjust demand and supply, and to promote transaction justice. Whatever is not regulated by this Act may be regulated by other applicable legislation.] Article 2 of the same Act [Responsible government authorities for this Act: at central government level shall be the Council of Agriculture, Executive Yuan, henceforth Central Competent Authority (CCA); at municipal level shall be the municipal governments; at county/city level shall be the county or city governments.]. Paragraph 1, Article 18 of the same Act [One of the following may go to the

agricultural product wholesale market to register as an agricultural product wholesale market supplier: (1) Farmers, (2) Farmer's organizations, (3) Agricultural corporations, (4) Agricultural product producer approved by municipal city, or county/city competent authority, (5) Shipper, (6) Agricultural products importer.] In addition, pursuant to Paragraph 3, Article 8 of the "Guidelines to the Registration Application and Management of the Suppliers of Taipei City's First and Second Fruit and Vegetable Wholesale Markets of Taipei Agricultural Products" [First offense of lending supplier code to others will be banned from supplying for 10 days, the second offense will result in being banned from supplying for 1 month, and the third offense will result in the revocation of supplier qualification]. Pursuant to Paragraph 3, Article 37 of the Agricultural Products Market Transaction Act [The one meets any of the following situations shall be subjected to a fine of more than NT\$3,000, but less than NT\$18,000; also cancel the permit if applicable: Allow the others to use her/his shipper's permit or demander's permit.]

As seen from the above regulations, Taipei City Government and Taipei Agricultural Products are the competent authorities and supervisors of agricultural product market



transactions. They are obliged to strictly audit the qualifications of suppliers and demanders, to allow the duly applied and approved suppliers and demanders to trade in the wholesale market; for those who borrowed and traded in the wholesale market under other people's name are punishable according to the above regulations. If the suppliers and demanders are allowed to borrow their codes, the quantity supplied and undertaken will become misleading, causing the quantity supplied and undertaken cannot be correctly calculated.

Furthermore, although Article 20 of the Agricultural Products Market Transaction Act prohibited the supplier and demander undertake and supply in the same market, but it didn't prohibit relatives or spousal from applying as supplier or demander, which makes it seem to be free of "the supplier and demander are the same person", and the rights are use by one person". In order to prevent "the supplier and demander are the same person" and unclear division of responsibilities, the relevant authorities shall amend and implement the law.

- Set up a platform with complete information

From the above description, it is clear that the quantity and sales of agricultural products are the keys to the rise or fall of agricultural products prices. In other words, if we can: (1) thoroughly investigate the types, quantities and storage location of agricultural products produced by domestic farmers, then supplemented by the impact of natural disasters and other relevant factors at that time to come up with a reasonable stock quantity, (2) implement the audit on supplier and demander's qualifications to prevent "the supplier and demander are the same person" and price inflation, (3) accurately keep abreast of the quantity, price and sales flow of the agricultural products importers, (4) have information platform jointly set up by the relevant authorities to integrate all of the data and information, then, the reason of price fluctuation can be understood within the shortest time. If any criminal responsibility is involved, the judiciary can immediately take control over the situation and promptly conduct investigations, so that the agricultural

products wholesalers cannot manipulate the prices and the consumers can be free of impact by price fluctuations. In this way, the vegetable prices fluctuation that people concern about can be solved completely.

b. Company management related aspect

Agricultural Taipei Agricultural Products is a public offering company with a capital of NT\$200,000,000. Although it is not TWSE or GTSM listed company, but its established to provide producers, suppliers, demanders and consumers with a fair, open and just selling environment. In addition, the Council of Agriculture, Executive Yuan and Taipei City Government accounted for 45.22% of the company's public shares, and Taipei Agricultural Products also receives high subsidies from the aforementioned two government agencies every year, therefore, its existence is rather public welfare in nature.

Based on the above-mentioned purpose of establishment and ownership structure, Taipei Agricultural Products shall be more effective in corporate governance in order to benefit more Taipei citizens. However, in the past few years, various means have been exercised to fight over the director, supervisor or general manager position between the

government shares (even among different government shares) and private shares, which created ambiguity in terms of whether Taipei Agricultural Products is operated based on a chairman system or a general manager system. It has weakened the company's public welfare provider image and been suspected by the public on multiple counts.

Since the fruits and vegetables trading volume of Taipei Agricultural Products accounts for the largest proportion in the country, if the principle of corporate governance always varies and biased from person to person, it is indeed not a blessing to the citizens of Taipei. Therefore, it is advisable that the company adopts the following business governance related strategy:

- The charter, internal regulations or tiered responsibility schedule of Taipei Agricultural Products shall clearly define whether it adopts chairman system, general manager system, or board of directors system, and their authority and responsibility.
- It is advisable to set up a legal unit within the company to quickly solve doubts concerning the laws or the charter in order to avoid violating the law.
- The company's internal accounting



principles shall be more explicitly specified to avoid listing accounting expenses under inappropriate categories for the purpose of evading audits by Taipei City Government.

- It is advisable that the Prosecutors Office establishes a horizontal contact channel with the Council of Agriculture of Executive Yuan and the Market Management Office of Taipei City Government, so that it can maintain close contact to determine whether to launch criminal investigation or not when Taipei Agricultural Products encounters social challenges.

6. "Terrorism Financing Prevention Act" - new field in national security cases¹⁶

It is a new field in investigating national security cases upon the promulgation of Terrorism Financing Prevention Act. The objectives of Terrorism Financing Prevention Act are to complete prevent the spread of terrorism and proliferation of weapons of mass destruction and to actively prevent terrorist activities and the outbreak of war, which is also the responsibility of Taiwan citizens. Therefore, we support United Nations Security Council's resolution based on the objective in combating terrorism and preventing the proliferation of weapons of mass destruction to sanction individual, jurisdic person, group or country who or which carried out related activities in the direct or indirect way of prohibition of property.



The controlled vessels traded oil with North Korean vessels on the high seas



The satellites or the drones filmed controlled vessels trading anthracite

16. Written by Head Prosecutor of the Office, Hsiao Fang-Chou.



In line with the legislative intent of the Terrorism Financing Prevention Act, the Prosecutors Office investigated suspect JIANG on 28 January 2018, who were suspected of violating the United Nations Security Council's sanction resolution in August and September 2017 by hiring a freighter through a mainland Chinese to ship anthracite coal from North Korean port while purchasing a false certificate of origin and falsifying the sailing log by shutting down the satellite positioning to the sea outside of Vietnamese port and sell it to others. After filtering relevant information and collecting evidence and the court issued the search warrant, the defendants and witness were arrested and summoned to clarify the case. After interrogation, suspect JIANG was strongly suspected along with possibility of destroying evidences and conspiring with witnesses, and the prosecutor petitioned to detain with restriction and granted by the court. The case is currently under active investigation. This is the first case in Taiwan that defendants for the violation of the Terrorism Financing Prevention Act was filed to detain and granted by the court.

There are three strategic improvements for investigating the violation of the Terrorism Financing Prevention Act: (1) the competent authority shall issue more interpretations on the elements construing the crime, because this is an emerging type of crimes; (2) it is imperative to strengthen our own investigation techniques, because such crimes mostly occurs outside the country and are secretive where satellite search are often required; (3) it is necessary to establish an international cooperation model, because such cases often require cross-border information exchange.

17.Extracted from content of the special report reported by Section Chief Lo Li-Fan of the Anti-Organized Crime Division, Criminal Investigation Bureau, NPA, MOI on 21 March 2018 for the 49th Action of the Office's anti-gang team.



7. Strategies against criminal organization involvement in urban renewal and gravel related industries¹⁷

Since the implementation of “Organized Crime Prevention Act” amended on 21 April 2017 and 5 January 2018, criminal organizations have expanded to include violent (e.g. rape, coercion, intimidation) and non-violent (e.g. fraud, crime subject to more than 5 years short-term imprisonment) types of criminal organizations. However, since construction, urban renewals, earthworks and public construction related crimes are prone to involved violent crimes due to the huge interests involved and a public sense of poor law and order. Therefore, this article will focus on violent criminal organizations (i.e. what Taiwanese called “gangs”).

a. Criminal techniques

Forcibly occupy house (land) to gain benefits from urban renewal	A gangster has forcibly occupied uninhabited old houses and lands which fall within urban renewal plan, then pretending to have obtained the right to rent and power of attorney from the landlord to sell the uninhabited house to the construction company. Others would mistake suspects for the owner of the premises, and the gangster then intimidate the construction company for money. After the victim filed a lawsuit against the suspects on the ground of occupying premises without permission, the suspects still refused to leave and continued occupying premises, so that they can subsequently extort both the victim and the construction company a high brokerage upon the completion of land urban renewal. (case filed at Taipei City Police Department on 9 November 2011)
Destroy urban-upgrade exhibition center	A gangster demonstrated his muscle through the participation of gang members in public funeral. It was suspected that they were unsuccessful in gaining interests from urban renewal, thus sent their members to destroy the exhibit center of new urban renewal construction project. (case filed at Taipei City Police Department on 5 February 2015)

Waste soil dumping	A gangster ordered his members to dump illegal construction waste soil in the name of public construction to earn illegal benefit. If there is uncooperative vendor, the gangster would order gang members to take photograph of the waste soil dumping, intimidate with violence coercion and notify EPA personnel to conduct audit, while demanding repayment of debt from quarry, blocking mixed concrete plant, destroying weighbridge of Taipei Port Terminal and intimidating backhoe repair shop and committing other crimes. (case filed at Taipei City Police Department on 13 February 2014)
	A gangster, who is concurrently the responsible person of several environmental protection companies, undertakes construction waste disposal projects in the name of his environmental protection companies and requiring other construction site in the area to hand over the earthwork projects to him. If the site director refuses, gang members will crown and assault him, even force him to quit. In addition, notwithstanding the company operated by the gang has waste disposal license, it did not dump the construction waste at legal spoil ground as agreed, instead, the construction waste was illegally dumped on private land and public riverside, damaging homeland security and ecological conservation environment. (case filed at New Taipei City Police Department on 11 August 2015)
Obtain earthwork or construction contract via violent coercion and forcibly collect site protection fees	A gangster in Nangang District forcibly undertakes earthwork projects from major construction companies in the area. The construction companies gave up half of the earthwork to the gangster to make peace for business concern. However, the gangster forcibly occupied the earthwork site to raise the disposal fees, or caused the construction company's breach of contract and assaulted the construction company who requested for an negotiation before extorting for high disposal fees. And if there is any refusal to cooperate, the smashed the company and surrounding of the construction site. (case filed at Taipei City Police Department on 17 October 2014)
	A gangster in Taishan District was jealous that the victim was the responsible person of an urban land consolidation and readjustment association in charge of the development, construction and other major projects. After being rejected to undertake the related projects by the victim, the gangster jointed hands with other gangs and ordered their members to smash the consolidation and readjustment association and assault the victim and its employees. (case filed at New Taipei City Police Department on 2 March 2015)



b. Countermeasures

(1) Sector coordination and management

Since December 2016, the Prosecutors Office has worked with the competent authority of the patent industry to seek and formulate relevant countermeasures. On 24 March 2017, a cross-ministry conference was held on “Prevention of the gangster involvement in the industry through sound industry management”, hoping to introduce the concept of “third-party policing” in jointly reviewing and refining industry regulations and measures to effectively reduce the chance of gangs parasitizing lawful industries and the risk of gangs infiltrating into various industries. Those related to urban renewal, earthwork and other related industries are as follows:

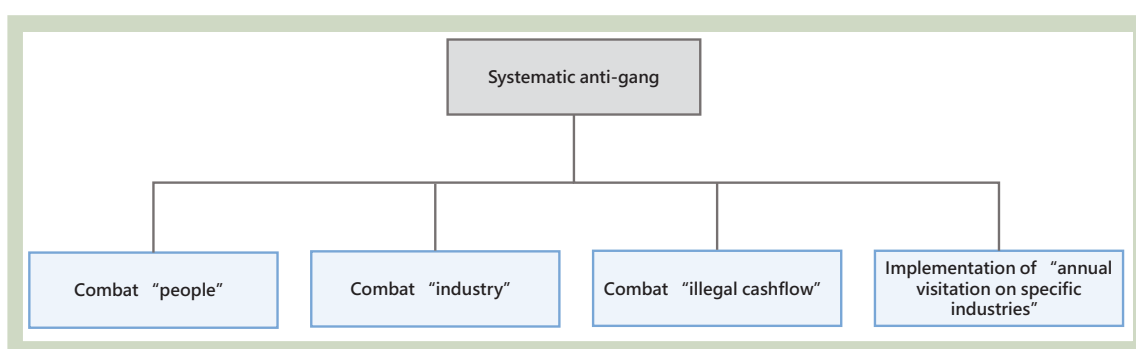
Type of industry	Practices	Law amendment plans
Construction industry	At central level shall be the Ministry of the Interior (i.e. Construction and Planning Agency); at local level shall be the municipal, county or city government (i.e. Public Works Department). Those who violated relevant provisions of the “Construction Industry Act” (i.e. rent permit, lent permit, etc.) and the “Government Procurement Act” (i.e. bid rigging, bid collusion, etc.) shall be subject to the currently laws (i.e. Criminal Code, Construction Industry Act, Government Procurement Act).	The Construction and Planning Agency, Ministry of the Interior believes that the current practice of implementing the Criminal Code, the Construction Industry Act and the Government Procurement Act is still applicable. Therefore, there is no plan for other amendments or additions.
Urban renewal industry	The urban renewal industry is not a patented industry. There is no regulation for revocation of business license. After the business plan is approved, it shall be subject to the supervision and management of the competent authority pursuant to the Urban Renewal Act. The requirements for the private sector urban renewal shall refer to the provisions governing the establishment and dissolution of the urban renewal group, and the provisions of Company Act.	The Construction and Planning Agency, Ministry of the Interior has agreed to take permit and other “positive qualifications” into consideration on amending the Urban Renewal Act.
Recycling industry	Pursuant to relevant provisions of the “Waste Disposal Act” [Enterprises that engage in waste clearance or disposal and recycling industry of a certain scale shall submit permission applications to the municipality, county or city government, and only after the permission is granted shall the organization be in operation.] In addition, the same Act stipulated that [Those who authorize clearance and disposal without permit or providing land refilling or waste piling without permission from the competent authority, construed the administrative punishment element] as prescribed under Article 46 and the offenders can be directly transferred to the prosecutor and police for investigation. In order to avoid gangs from forcibly winning the bidding or conducting bid rigging and then transferring the waste to other qualified business owner through coercion, the Act also clearly stipulates that the waste removal and treatment agency can not subcontract after receiving disposal.	The “Waste Disposal Act” amended on 16 January 2017 on provisions governing “joint responsibility of the enterprise commissioning the waste disposal” and “increased penalty and fines” .

(2) Police enforcement efforts

After the amendment, the "Organized Crime Prevention Act" formed a systematic prevention covering "people", "industry" and "illegal income". "Criminal organization" is the core of the "Organized Crime Prevention Act", therefore, "elements that construed the criminal organization" and "systematic anti-gang implementation" are the main axe in combating thereof, supplemented with assessment and visitation systems to guide the police authorities.

(3) The Prosecutors Office's information collection efforts

The Office has established the "Urban Renewal Crimes Joint Investigation Team" and set up a 24-hour reporting hotline on 24 October 2012 for people to report illegal matters relating to urban renewal. Chief Prosecutor ordered Chief Prosecutor Investigator at the time to designate 9 Prosecutor Investigators to form the urban renewal team to answer the 24-hour hotline. Upon receiving telephone report, the rotating staff must fill out the "Register of Accepted Hotline Reporting" and report to the Chief Prosecutor through the Head Prosecutor.





c. Conclusion

The existence of gang criminal organizations is characterized by profitability. Due to the desire to gain the lucrative profits in urban renewal, earthwork and related industries, they often actively impose infringement. Since it is observed that crimes or investment operations were highly concentrated in Taipei City and New Taipei City, law enforcement authorities shall keep abreast of the activities of those industries and premises within their jurisdictions at all time to be preventive. The dual importance of "managing the industries" and "criminal investigation" can also be derived from the study of relevant criminal techniques. In addition to uphold the "third party policing" strategy and coordinate with relevant competent authorities, the National Police Agency also continues to promote the measures to systematic investigations in line with the "Organized Crime Prevention Act" and provides its greatest support and guidance to the law enforcement agencies to jointly "wipe out" criminal organizations of gangs so that all industries can operate smoothly.

8. The application of strategies and countermeasures for protest incident – based on payoff matrix analysis¹⁸

Dealing with sudden protest and resistance incident during the election period is one of the important aspects of the procuratorate's election inspection job. In order to make the best decision at the critical moment, this article will try to analyze counterstrategy and formulate application method through payoff matrix.

a. Game theory and payoff matrix overview

In game theory, the predictive behavior and actual behavior of individuals in the game are taken into consideration, and their optimization strategies are studied.

18. Written by Head Prosecutor of the Office, Lin Tai-Li.

The most famous application example is the prisoner's dilemma. Behaviors that are competitive or confrontational are called game behaviors, in which the parties involved in the struggle or competition have different goals or interests. In order to achieve their respective goals and interests, all parties must consider the various possible action plans of their opponents and try to choose the most favorable or most reasonable solutions for themselves, such as playing chess and playing cards in daily life. The game theory is to study whether the parties struggling in the game have the most reasonable behaviors, and the mathematical theory and method of finding this reasonable behavior.¹⁹

The payoff matrix is to explain the loss and gain of the contestants from each result of the game²⁰. It is a quick and simple judgment tool. In addition to summarizing the incentives of the contestants in the game, it also depicts the strategic link between the games. Each payoff matrix will show: (1) Who are the contestants; (2) The actions available for each contestant; (3) Possible outcomes, depending on the action chosen by the contestants; (4) How the contestants evaluate and compare these possible outcomes (i.e. loss and gain of the contestants²¹).

b. Counter strategy for protest incident based on payoff matrix analysis

- Strategy

Ultimate objective: prevent occurrence of conflicts; dissolve conflicts.²²

Secondary objective: face conflicts; avoid using enforcement

- Tactics

Basic payoff matrix of the sudden protest incident

19.Reference : <https://zh.wikipedia.org/wiki/%E5%8D%9A%E5%BC%88%E8%AE%BA>, Query date : 2016 / 10 / 11

20.P16 of "Game-changer", written by David McAdams, translated by Chu Tao Kai, Jonesky Limited, published on 1 July 2015.

21. Same as Note 3 on page 18

22.That is to avoid the formation of "illegal assemblies" and construe of "a person in flagrante delicto".



Law enforcement / Police

		Disband	Don't disband
Crowd	Confront	Block A Police: • Quickly disband the crowd. • Establish "effectively law enforcement" image. • Prone to create "inappropriate use of law enforcement" controversy. Crowd: • Highlight the request and promote it. • Physical conflict to distract. • Facing criminal prosecution.	Block B Police: [WORST] • Drag on to drain the crowd's energy? • Inciting negative comment of "being chicken" Crowd: • Continue to impose pressure. • Faced with the problem of how to sustain the momentum.
	Don't confront	Block C Police: • Quickly disband the crowd. • Possible violation of the principle of proportion. Crowd: [WORST] • Losing advantages, unable to attract the original supporters in the future, the petition failed.	Block D Police: • Back off a bit / being a chicken? • Reduce "inappropriate use of law enforcement" controversy and future process. Crowd: • Accomplished partial request. • Exit at the right time to maintain momentum.

According to the above matrix, the law enforcement party and the crowd will avoid the decision-making model that is most unfavorable to itself (i.e. Block B and Block C); in the above strategy, decision-making model is most likely to fall in Block D²³; however, even if it is inclined to use block D as the decision, it may evolve into block B or block C (that is, the worst decision-making model of "police are useless") due to the error in execution, which will affect the mutual trust between the parties and causing the conflict model to be taken (i.e. Block A) in the future for resolution.

Requirements for adopting the Block D decision-making model:

23. Research Opinion No. Ting-Xing-Yi-1669 issued by the Judicial Yuan on 12 September 1987: the constituent elements of the offense prescribed in Article 149 of the Criminal Code is based on the refusal against at least three public officials' dismiss orders. The so-called "at least three dismiss orders" is only the minimum limit, if the crowd is dissolved after four or more dismissal orders, then, there is no ground for this offense. The purpose of prescribing this offense is to maintain order. Moreover, the public officials continues to give dismiss orders after he had already given three dismiss orders because he considered of the number of people involved, that is, dissolution shall not be rushed and or else there may be a major change in the situation, instead, tolerance and persuasion was used. When the social order is restored after the dissolution of the crowd, there is no need for punishment. Judging from the above-mentioned research opinions, judicial practice prefers to use Block D decision-making model for such illegal assemblies.

- Mutual trust: The most important condition for adopting this decision-making model is that there is mutual trust between the parties. Therefore, establishing communication channel and mechanism as fast as possible is the prerequisite in adopting Block D.
 - Time pressure: Simply put, the time that the parties can stay “inactive”. Whether the two sides can reach a consensus on the “endurance threshold” is also a key factor to the success of this model. The subject matter of assembly or protest is often an important consideration factor in determining such endurance threshold (such as the “reality walkthrough” described below).
 - Revenge: In order to successfully promote Block D, it is necessary to create “motivation” to allow the other party to abide by the agreement. As mentioned above, in order to prevent the other party from breaking the promise and cause our side to fall into the worst model, it is necessary to have the determination and ability to take revenge; that is, we must have the capacity to “start a war to end all wars”. As indicated by the above-mentioned payoff matrix, if the crowd did not “dismiss automatically” upon the time is up, we shall immediately adopt Block A model to avoid falling into Block B outcome of “police are useless”.
- c. Procuratorate’s decision-making
- Timing of intervention: The time when the procuratorate must face the decision-making process is the “occurrence” of criminal acts. In the face of illegal assembly and protest activities at the procuratorate, it is advisable to abide by the “Nulla poena sine lege” (no penalty without a law) and strictly examine the constitutional elements of the crime to avoid early intervention in disputes when there is “non-existent” of criminal acts.
 - Identification of “a person in flagrante delicto”: Once participated in the decision-making, the procuratorate must first decide whether the criminal act construes a person in flagrante delicto. According to the Research Opinion No.Ting-Xing-Yi-1669 issued by the Judicial Yuan on 12 September 1987 concerning Article 149 of the Criminal Code, no dismissal upon third warning may not immediately construe an offense. In another words, if a dismissal upon third warning is required (i.e. the view of Article 29 of the Assembly and



Parade Act), the time interval between the warnings shall be taken into consideration; that is, the time interval would be unreasonable if a crowd of hundreds of people is required to be dissolved within three minutes. Therefore, when Block D model is adopted, there may be a “tacit understanding” on the time interval between the warnings to avoid “a person in flagrante delicto”.

- Arrest a person in flagrante delicto: Paragraph 1 Article 88 of the Code of Criminal Procedure stipulates that “A person in flagrante delicto may be arrested without a warrant by any person”. Although someone claims that the arrest of the a person in flagrante delicto is not a statutory obligation, yet, from Paragraph 2 Article 92 of the Code of Criminal Procedure, it can be inferred that arresting a person in flagrante delicto shall be a “statutory obligation” of the first line law enforcement police rather than a discretionary decision except for certain circumstances²⁴. In addition, if it is interpreted as “a person in flagrante

delicto may be exempted from been arrested”, then one of the conditions of the aforementioned Block D decision-making model, the “revenge” model, would be self-restricted and unable to let the other party think that the law enforcement party has the capacity to adopt Block A decision-making model, which will further make the other party lose the motivation to comply with the agreement and cause the situation to fall into the dilemma of Block B (police are useless).

Therefore, as mentioned above, the person controlling and maintaining the power struggle when the procuratorate adopts the Block D decision-making model shall be interpreted as the constituent elements and a person in flagrante delicto of the offense.

- d. Case Study – Taking the “candidate's campaign headquarter got surrounded by opponent’s crowd” as an example
 - Choosing the model: Block A or Block D? It depends on whether the “surrounding”

24. According to the relevant case concerning setting free or facilitates the escape of a suspect / criminal, it is inferred that the police has no discretion for the arrest of a person in flagrante delicto; if there is room for discretion, then setting a person in flagrante delicto free shall not be construed as violating Paragraph 1 Article 163 of the Criminal Code. Relevant rulings: Taiwan New Taipei District Court Judgment No.Su-462 in 2011 and Supreme Court Judgment No.Tai-Shang-1716 in 2015.

crowd had construed an offense (such as Article 306 of the Criminal Code) or not. If it can still be interpreted as a non-criminal behavior, there is room for Block D model; otherwise, forcing Block D model on an offense or a person in flagrante delicto may lead to the situation of Block B.

- The establishment of mutual trust between the three parties: This game does not only consist of the law enforcement party and the crowd as the contestants, but also have “victims” (that is, the candidate whose campaign-headquarter was occupied). Therefore, it is very difficult to obtain mutual trust between the two campaigning parties to resolve the incident amidst fierce election campaign. Furthermore, since the law enforcement party shall be strictly neutral during the election inspection period, is it appropriate for it to serve as a “mediator”? There is no room for discretion. However, if there are other channels that can facilitate communication between the parties or all three parties, Block D model may also be adopted.
- Time pressure : As mentioned above, it is already difficult to obtain mutual trust between the two campaigning parties amidst fierce election campaign, thus it is more difficult to form a “departure consensus”. The “endurance threshold” of both the crowd and the “victims” are very close (especially on the eve of the election). Both parties may lack the “take a step back” patience required by Block D model.

As mentioned above, since it is impossible to “take a step back”, should Block A model be immediately adopted? However, as stated in 1, adopting Block A model requires precise judgment as to whether it had construed an offense and who is the person in flagrante delicto; if the situation is not clear, it is advisable to still make an effort to create an opportunity to solve the problem by Block D model.

e. Conclusion

According to The Art of War by Sun Tzu: “Don't expect the enemy will not come to invade, but shall be well-prepared for the enemy to come”. Peace and tranquility during the election period is the highest goal of security maintenance during the election inspection period. However, avoiding war cannot stop the war. Formulating strategies



and analyzing tactics in order to make the most appropriate judgment when the crisis comes is the most appropriate approach

9. Mutual international judicial assistance²⁵

In recent years, the number of cross-border criminal offences has increased rapidly. Criminal perpetrators have utilized the advantage of geographical divisions and differences in legal systems of different countries, which made it difficult to prosecute cross-border crimes through law enforcement authorities. In the course of processing various financial, counter-terrorism, drugs and money laundering cases that involved the need for cross-border investigation, evidence collection, and recovery and seizure of exported criminal proceeds, the Office is quite extensive and mature at the application of using the cooperation mechanism network among countries on evidence collection and information exchange. The Office also established "foreign-related cases ad hoc team" for cases with mutual judicial assistance request from various countries and forwarded to the Office through the International Affairs Department of Ministry of Justice; Prosecutors with foreign experiences are responsible for undertaking mutual assistance requests from various countries and keep close contact with procuratorates of various countries to jointly combat crimes through evidence collection procedures.

Take the case of the La Fayette-class frigate and Mirage military procurement scandal of the WANG family as an example. Since December 2001, the Supreme Court Prosecutors Office has successfully carried out cross-border seizures of approximately 60 bank accounts of WANG family and its controlled companies spreading across 6 countries including Switzerland. Subsequently, the confiscation regulations in Taiwan's Criminal Code was substantially amended on 1 July 2016, which recognized that confiscation is not a subordinate punishment, but a system of equity measures on illicit gains. On the day of the implementation of the new law, the Special Investigation Division of the Supreme Court Prosecutors Office immediately sent a separate order to Taipei

25. Written by Prosecutor of the Office, Liu I-Ting.

District Court, declaring the confiscation of criminal proceeds of WANG family for the La Fayette-class frigate case²⁶. Since the Special Investigation Division was abolished due to the amendment, therefore, the case was forwarded to the Office on 1 January 2017. After receiving the case, the Office immediately assigned responsible Prosecutor and Prosecutor Investigator to follow up the case in a timely manner, continue to provide mutual judicial assistance to various countries, request various mutual assistance countries to provide the latest present value information of the seizure account, update the amount of the request for confiscation and assign undertaking Prosecutors to go to Switzerland and other countries to contact the judicial authorities and discuss about the case. On 21 July 2017, the court ruled that the total amount of confiscated criminal proceeds is US\$900,146,887.18 and the interest derived therefrom at the time of execution, of which a small amount of the interest was dismissed. The Office filed an appeal according to law; on 28 November 2018, Taiwan High Court ruled that the total amount of confiscated criminal proceeds was increased to US\$953,324,920.6 and the interest derived therefrom at the time of execution. In the future, once the case is confirmed, the Office will continue to abide by the means of mutual judicial assistance to confiscate illicit gains from overseas in order to implement the intent of the amended laws "no one can hold criminal proceeds" to show the profession and determination of the Office in the investigation of foreign-related cases.



The commissions related to cases of Lafayette and Mirage flew through 16 countries

26. For those perpetrator's crimes that cannot be prosecuted or cannot be ruled as guilty due to de facto or legal reasons, a separate confiscation of their criminal proceeds may be declared.



C. Prosecutorial Business

1. Case Filing Review Center²⁷

On 19 December 1997, the Code of Criminal Procedure was amended. Besides the detention authority was back to the court, it added case filing review system under Article 231-1, that [If a public prosecutor considers that the case sent or reported by the judicial police officer or judicial policeman has not been investigated completely; the case file and evidence may be returned for more information or be sent to other judicial police officer or judicial policeman for investigation. The judicial police officer or judicial policeman shall send or report the result after completing supplementary investigation.] The Prosecutor lost the detention authority but obtained the right to review filed case, which totally reversed mentality of “detaining for evidence” and opened the gate of sophisticated and scientific investigation.

At the beginning of the system, the Prosecutors Office had prescribed guidelines, which focused on case control. As the experience accumulated, the use

of the system became more sophisticated. In order to achieve the prosecutor’s case-filing standard, the police and investigating authorities continuously improve their ability in collecting evidence and forensic identification such as fingerprint comparison and DNA identification. Furthermore, the establishment of surveillance systems has effectively prevented larceny and other crimes, and played a considerable role in solving the First Commercial Bank ATM Heist case.

However, along with the improvement of collecting evidence and forensic identification, here came new challenges. Dark figure of crime, such as taking away other people’s umbrellas after the meal or keeping other people’s lost belongings, have greatly increased. On the other hand, due to advancing technology, new types of crimes such as cybercrime have also increased. The Prosecutors Office is even more short of manpower than before. In addition to the standard requirements for sophisticated investigation and be able to uptake even greater challenges, the Prosecutors Office will adopt the concept of the Case Filing Review Center of Ministry

27. Written by Head Prosecutor of the Office, Lu Chien-Hsing.