



Combating Crimes against Developing the Green Energy Industry

Ke, I-Ju*

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I. Preface

To implement the government's policy objectives for a "nuclear-free homeland and green energy" and achieving public policy goals for energy security, environmental sustainability, and green economy, the government is committed to interdicting unscrupulous civil servants, legislators, and mobsters from blackmailing construction companies and seriously obstructing development of the green energy industry. The Taiwan High Prosecutors Office (THPO) held a joint meeting on August 30, 2021 for "Combating Crimes against Developing the Green Energy Industry". The THPO invited the Department of Prosecutorial Affairs, MOJ, Bureau of Energy, Ministry of Economic Affairs, Against Corruption Office and IB, MOJ, the Criminal Investigation Bureau, NPA, MOI, the Coast Guard Administration, OAC, and prosecutors of the first instance from key zones for Green Energy Development to attend the meeting. At the meeting, the THPO announced the establishment of the Liaison Platform for Combating Crimes against Developing the Green Energy Industry to eradicate related crimes and purify the investment environment.

II. The establishment of the Liaison Platform for Combating Crimes against Developing the Green Energy Industry will serve to enhance effectiveness in investigating related cases and to deter illegal activities

- (I) In April 2021, the Agency Against Corruption (AAC), Investigation Bureau, MOJ, Bureau of Energy, Ministry of Economic Affairs, and Criminal Investigation Bureau, NPA, MOJ were invited to participate in the discussion about combating crimes against developing the green industry

During the meeting, we discussed the diversity and geographical differences in renewable energy and the need to detect them differently from traditional crimes. This Office coordinates with the District Prosecutors Offices to direct the Judicial Police Officers to actively plan investigations. This Office's Chief Prosecutor is the convener of the Task Force for Combating Crimes against Developing the Green Energy Industry, which actively strengthens investigations and joint efforts to combat all kinds of illegal acts hindering development of the green energy industry.

1. Strengthening information with the existing resources of the civil service ethics and public integrity against corruption systems.
 2. Understanding energy policy and discussing possible crime patterns according to different directions in renewable energy development in different localities (for studying the possibility of establishing standard operating procedures for cases).
 3. Building a platform to coordinate a case information database and resources.
 4. Developers' initiatives.
 5. Preventing crime before it happens and proactively taking the initiative - using detected cases for promoting crime deterrence.
- (II) Held a joint meeting on August 30, 2021 for " Combating Crimes against Developing the Green Energy Industry "

The THPO invited the Department of Prosecutorial Affairs, MOJ, Bureau of Energy, Ministry of Economic Affairs, Against Corruption Office and IB, MOJ, the Criminal Investigation Bureau, NPA, MOI, the Coast Guard Administration, OAC, and prosecutors of the first instance from key zones for Green Energy Development to attend the meeting. At the meeting, the THPO announced the establishment of the Liaison Platform for Combating Crimes against Developing the Green Energy Industry to eradicate related crimes and purify the investment environment. And meeting green energy industry requirements results in differences for the establishment process and administrative procedures depending on the local government, so this platform operates in a two-track process. The convener of this Office establishes a contact window and platform with the chief prosecutors of each District Prosecutor's Office to elucidate problems and immediately detect crimes.

Each District Prosecutor's Office assigns dedicated prosecutors to work with the Green Energy Project Office in each county and city government and other relevant local authorities, as well as the District Field Office, IB, MOJ, and the police departments in each county (city) government to establish the Liaison Supervision Unit for Combating Crimes

against Developing the Green Energy Industry, responsible to fully collect intelligence, strengthen collecting evidence for various types of crime, and handling cases in sophisticated teams to enhance investigative effectiveness and deter illegal activities.

III. Organizing the "Liaison Seminar for Prosecutors and Green Energy Enterprises"

On October 18, 2021, this Office and the Bureau of Energy, Ministry of Economic Affairs held a "Liaison Seminar for Prosecutors and Green Energy Enterprises". During the seminar, participants interacted with the enterprises and listened to their perspectives on difficulties they're facing in developing industry regarding criminal cases and the need for government assistance and protection. Through multidimensional communication and exchange of opinions among industry, the administration and judiciary, we are assisting enterprises and manufacturers in understanding this Office's platform for different channels of information provision, the direction of investigation and detection of crimes against developing the green energy industry, and protection mechanisms provided to manufacturers. We also aim to strengthen industry trust in the judicial police agencies, for effectively Combating Crimes against Developing the Green Energy Industry and creating a favorable investment environment. This Office and its District Prosecutor's Offices offer a hotline for strengthening the liaison platform for addressing "green energy crooks" seriously and quickly.



IV. Strengthening skills in detecting these type of cases

On November 25 and 26, 2021, the National Chief Prosecutor Conference was held in Changhua, with the Chief Prosecutors from Tainan, Changhua, and Yunlin presenting briefings on preventing green energy crimes and exchanging ideas with prosecutors of the first and second instance from other regions. The meeting was held to recognize outstanding officers in detecting green crimes in recent years, and among those receiving recognition, the Chief Prosecutors of Changhua, Yunlin, and Miaoli shared their experiences in detecting and applying the law, and discussed how to strengthen evidence collection and enforcement in cases.

Also, to make Chief Prosecutors nationwide understand the green energy equipment and industry chains, site visits were arranged to Taiwan Port Corporation in Taichung Port, Offshore Wind Power Heavy Machinery Assembly Terminal, Operation and Maintenance Port, Siemens Gamesa's Taichung nacelle assembly plant, and Orsted and green power manufacturers were invited to have face-to-face discussions with the nationwide Chief Prosecutors. The meeting ensured the nationwide participating Chief Prosecutors further appreciate difficulties encountered by the green energy industry in the process of their industry development.

V. Promotion

This Office has established a nationwide crime prevention platform for the development of the green energy industry, and is actively supervising the establishment of platforms by District Prosecutor's Offices. Besides proactively releasing news to promote crime prevention through media coverage, we also offer a hotline for reporting to facilitate immediate response to information from manufacturers, and exchange information through platform members to ensure a complete picture of the situation. Also, this Office has proposed the following measures to address the possible types of crimes.

- (1) In addition to the general criminal cases impacted by excessive public protests, this Office will strengthen intelligence collection and coordination on whether there is any organized involvement (unscrupulous civil servants and legislators with such organizational

backgrounds) encouraging protesters with ulterior motives. During the meeting, we discussed the diversity and geographical differences in renewable energy and the need to detect them differently from traditional crimes. This Office coordinates with the District Prosecutors Offices to direct the Judicial Police Officers to actively plan investigations. This Office's Chief Prosecutor is the convener of the Task Force for Combating Crimes against Developing the Green Energy Industry, which actively strengthens investigations and joint efforts to combat all kinds of illegal acts hindering development of the green energy industry.

Upon receipt of protest information from District Prosecutor's Office prosecutors, in addition to the general evidence collection by the local judicial police, the criminal police brigades in each region are assigned to check the identities of the local self-help associations and protests. After determining whether there are outsiders present in the protest structure and whether there are local civil servants or elected representatives involved in the protest, the local police officers will check the identity of the protesters, and the District Prosecutor's Office will compile and report the case to this Office's task force, where we will cross-reference whether there is any pan-regional integration of organization members.

- (II) The local platforms are tasked to ensure detailed understanding of the investment projects of green energy enterprises within their jurisdictions and the administrative processes that may be encountered, such as land evaluation, grid review, power industry preparation, administrative procedures, site construction, grid trial operation, power industry license registration and official power sales, and grid review by the Taiwan Power Company.
- (III) This Office takes responsive measures for the applicable law for new forms of contracts arising from the green energy industry to ensure correct directions in case investigating and evidence collecting activities.





Environmental Crime

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Hsu, Hsiang-Chen*

Kuo, Ching-Wen

Environmental crime cases are not only highly specialized, but also highly complex. Thus, beside revising the "Enforcement Plan for Environmental Crime Cases by Prosecutorial Entities" in December 2017, the THPO also established the "Environmental Crime Knowledge Base" in early 2021, which will serve as a reference for prosecutorial entities to improve the investigation of environmental crimes. The contents of the database are linked to the environmental protection laws and regulations of the Environmental Protection Administration, Executive Yuan, and the related databases (including the Environmental Enforcement Management System, Environmental Management System,

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Toxic and Chemical Substances Information System, Industrial Waste Report and Management System, Water Pollution System, and Stationary Air Pollution Sources). In addition to a brief description of the facts of the case, verdicts, and future improvement strategies, the District Prosecutor's Offices were asked to provide reference cases of successful or unsuccessful investigations of environmental crimes, which will serve as an important reference for the prosecutors in charge at each District Prosecutor's Office when investigating the relevant cases.

The THPO, in accordance with the resolution of the 3rd meeting of the Ministry of Justice held on June 11, 2020 to discuss the prevention and detection of environmental crimes, issued a directive in July, 2020, ordering all District Prosecutor's Offices to establish environmental crime investigation teams. The Chief Prosecutor will be the convener and the Head Prosecutor will be the executive secretary and contact window. In addition, the Police and Prosecutors Environmental Liaison platform was set up to give effect to the pre-investigation stage. Also, an emergency notification system was created, to ensure alacrity in grasping the quickest opportunity to intervene in the case. This includes a cross-agency (i.e.: the Department of Environmental Protection, the Seventh Special Police Corps, and tax authorities) teamwork model and combines the power of civil environmental groups to enhance the capacity for investigating and detecting environmental crimes.

In view of the continuous evolution of the types and methods of environmental crimes, prosecutorial entities must keep up with the times in their investigation of environmental crimes. The THPO expects that after the establishment of the Police and Prosecutors Environmental Liaison platform, the District Prosecutor's Offices can deepen their investigation and discuss countermeasures through cross-agency cooperation and the accumulation of actual experience in investigating cases, which have already proven efficacious in combating such crime. For example, the District Prosecutor's Offices have set up task forces and assigned special prosecutors to investigate crimes of air pollution caused by non-compliant emissions. Concomitantly, the Bureau of Environmental

Inspection, EPA of the Executive Yuan has also developed an inspection plan to investigate and detect illegal operators in the region by collating their reporting and tax information. Several cases have already been successfully investigated and detected in which the emission limits of hazardous air pollutants were exceeded. The prosecutors' teams, in conjunction with the Police and Prosecutors Environmental Liaison platform, also took the initiative to investigate the illegal disposal of waste wood due to the lack of removal channels, detected the use of legal reuse organizations, together with removal agencies, transport fleets, landlords and brokers, which formed an environmental crime syndicate. In the name of composting, a large amount of waste wood, which should be industrial waste, was disposed of in various agricultural fields and fish farms in south and central Taiwan. Also, through the operation of the Police and Prosecutors Environmental Liaison platform, after learning that there is a suspected untreated electroplating factory containing heavy metal waste water in the area of territorial jurisdiction, a prosecutor was assigned to direct and coordinate with the Department of Environmental Protection, Bureau of Environmental Inspection (EPA), to conduct a scientific investigation with instrumentation to monitor wastewater discharge with scientific instruments 24 hours a day. After gaining mastery over the discharging habits and related evidence, the THPO launched a joint inspection and detection operation and detected on the spot the case of clandestine discharge of wastewater containing high concentrations of heavy metals into the drainage channel outside the plant.

The THPO believes that through the strengthening of the cooperation between the Police and Prosecutors Environmental Liaison platform, the knowledge base of environmental crimes and technological investigations to trace the sources, enhancement of the value of illegally obtained seizures, with rapid enforcement and stringent penalties, and rewarding the meritorious officers for speedy detection, the number of environmental crimes in the future will decline year by year, which will help protect Taiwan's ecological environment and return a better environment to future generations of Taiwan's people.





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Investigation of Guns, Ammunition and Knives Act Violations

Sun, Chih-Yuan*

I. Preface

II. Questions raised

III. Proposed Solutions

IV. Conclusions

* The author, who wrote this Chapter in 2021, then serving as a Head Prosecutor of this offices.



I. Preface

The Controlling Guns, Ammunition and Knives Act was amended and promulgated on and took effect as of June 10, 2020. The main reasons for these amendments are: current seizures of illegal firearms with lethal force are mostly of non-standard firearms,¹ which can cause death and injury at a distance, and their lethal force is no less than with standard firearms, posing danger to people's lives, bodies, freedom and property interests that are no different from those by standard firearms. Hence, there is no rationale to distinguish between standard and non-standard firearms,² or to punish them distinctly. The cost of acquiring non-standard firearms is much lower than that of purchasing standard firearms and the manufacturing technology threshold is not high, as it is easy to obtain modification information on the Internet, resulting in a serious situation of excessive non-standard firearms. If the distinction between standard and non-standard firearms is made, and the penalties under Section 7 or Section 8 of the Controlling Guns, Ammunition and Knives Act are applied respectively, then lawbreakers will be more inclined to use non-standard firearms. This means they will engage in unlawful acts in order to circumvent the heavier criminal liability under Article 7, which is tantamount to incentivizing lawbreakers' using non-standard firearms in large numbers. Also, some domestic manufacturers are trying to circumvent the pre-amendment requirement that imitation guns must have the constituent elements of a pinfire, and manufacture toy guns that resemble real guns in form and material, referring to them as "operational guns", which circulate in physical stores or online shopping malls in the form of general merchandise, allowing lawbreakers to easily purchase and obtain them. And using simple machinery or tools one can penetrate the gun barrel and fill in the firing pin, transforming it into a lethal weapon

1. According to the statistical data from 2015 to the first half of the year in 2019, there were 597 cases of crime with firearms. Among them, 537 cases were committed with non-standard guns, accounting for about 90%. There were 48 cases, or only 10%, which were committed with standard firearms. It is obvious that the proportion of crimes committed with non-standard firearms is much higher than that with standard firearms. Non-standard firearms have become the main tool of choice in gun crimes. (See the general description of the draft amendments to the Controlled Guns, Ammunition and Knives Act).

2. The judicial practice is related to the opinion that standard firearms refer s to "firearms manufactured in legal factories and registered by the government". The term "non-standard firearms" refers to "firearms not manufactured in a legal factory, which was not registered by the government". The "non-standard guns" refer imitation guns (imitation manufactured guns), modified guns (modified signal guns, modified toy guns), and various kinds of homemade guns (such as steel barrel guns).

with gunpowder. They are easy to buy and modify, with cost of acquisition much lower than a standard gun. As a result, the "operational gun" has become the main base material for modified firearms, leading to serious crimes committed by lawless elements and creating loopholes for practical control. We must really suppress illegal firearms and effectively control imitation guns that can be modified into lethal weapons, and reduce the possibility of illegal modified guns appearing. Thus, legislation amending the definition of firearms under the Controlled Guns, Ammunition and Knives Act, should ensure the scope of control of specific types of guns are clearly applicable to all standardized and non-standardized guns, and to amend the imitation gun elements to control the operational guns. If we cut off the root of the problem from the source, we can achieve the objectives of maintaining public safety and protecting people's rights.

II. Questions raised

After implementing the amendments to the Controlling Guns, Ammunition and Knives Act, it seems that the number of unlawful shooting cases has not decreased, and some legislators have even questioned "Am I the only one left without a gun?"³ The National Police Agency, MOI, recently released a statistical data, indicating police agencies have compiled statistics for the period from June 2020 to April 2021, for detention of criminal suspects in possession of firearms alone, demonstrating the percentage of suspects held in court-ordered custody is low.

III. Proposed Solutions

On April 27, 2021, Chief Prosecutor Hsing of the Taiwan High Prosecutor's Office (THSO) presided over a meeting to understand, review and improve the difficulties encountered in the current practice of seeking custodial confinement when handling cases of violating the Controlling Guns, Ammunition and Knives Act, and invited Deputy Chief Prosecutors and Head Prosecutors from Taipei, Shilin, New Taipei, Taoyuan, Hsinchu, Taichung, Tainan, Kaohsiung, Taitung, Yilan, and Keelung to attend. The following problems were identified and solutions were proposed after a thorough discussion:

3. Apple news editorial: "Am I the only one left without a gun ?" is not a joke.

<https://tw.appledaily.com/headline/20210310/2OPJ6QR42NEGPK2LHCXWT7F2XI/>

(I) Statistical distortion

The reason for the low percentage of detentions as determined by the court is found in the statistics provided by the National Police Agency of the Ministry of the Interior. The data is distorted due to the deduction of special circumstances such as the suspects not being transferred with the case, re-sending, deceased, and aboriginal possession of hunting rifles, which could not properly be subject to orders of detention by the courts anyway.

(II) Reports to the prosecutor for investigating to strengthen evidence collection

The legal penalty for simple possession of a modified firearm does not meet the requirements of Article 101(3) of the Code of Criminal Procedure for eligibility for detention (i.e., for a crime involving the most severe statutory penalty of the death penalty, life imprisonment, or where the least severe penalty is imprisonment for a term of 5 years or more). The Judicial police agencies only provide preliminary forensic examination reports of the firearms when referring such cases, and there is no definite firearm identification report to confirm the lethality of the seized firearms, which compounds the difficulty for prosecutors to seek pretrial custody for defendants.

The statutory penalty for the mere possession of a modified firearm does not meet the requirements of Article 101(3) of the Code of Criminal Procedure warranting pretrial custody. However, these cases are often accompanied by matters violating the Offenses Against Abandonment, Narcotics Hazard Prevention Act, and Organized Crime Prevention Act.⁴ If the accompanying offenses meet the requirements for detention and preventive detention, the case will be referred to the prosecutor's office. Then the prosecutor will be able to expand the scope of the investigation, enhance the quality of the case through careful evidence collection, and request wiretaps or search warrants from the court to consolidate the facts and prove the legal elements of the crime. Then, the goal of detaining the defendant and combating crime can still be effectively achieved. The Taiwan

4. According to the Ministry of Justice, in the past five years from 2016 to May 2021, there were 13,040 persons suspected of violating the Controlled Guns, Ammunition and Knives Act. Among them, 4,972 persons were involved in other crimes, accounting for 38.1%. The other crimes were mainly obstruction of liberty (20.6%) and violation of the Drug Hazard Prevention Ordinance (19.4%). https://www.rjsd.moj.gov.tw/rjsdweb/common/WebListFile.ashx?list_id=1761

High Prosecutor's Office has also written to all prosecutor's offices to actively request Judicial police agencies to take the initiative to report cases of violating the Controlling Guns, Ammunition and Knives Act to prosecutors to strengthen collecting evidence.

(III) Provide fast and accurate forensic reports

According to the statistics of the prosecutor's offices, the percentage of cases of violating the Controlling Guns, Ammunition and Knives Act, which were not prosecuted due to insufficient evidence for probable cause, ranged from 17% to 27%. It is clear that the preliminary forensic examination reports provided by Judicial police agencies when referring cases still have a considerable degree of discrepancy with the final gun identification reports submitted by the Criminal Police Bureau of the Ministry of the Interior. As a result, prosecutors are reluctant to request custody and judges are reluctant to grant custodial detention, so as to avoid future wrongful criminal compensation cases. It is important to provide prosecutors with the correct forensic identification report quickly. Nowadays, the identification of seized firearms is sent to the Forensic Science Center, CIB, NPA, MOI for identification, which may take several months to complete, causing much delay. Thus, it is recommended that the Criminal Investigation Bureau, NPA, MOI create rapid firearms identification units in the North, Central, South, and East to provide fast and accurate identification reports.

(IV) Adopt a real name registration system for purchase and sale of model guns

In order to effectively prevent a plethora of modified guns, it is recommended that the competent authorities adopt a real-name registration system for the purchase and sale of model guns, and list the serial numbers of guns and establish a unified database. This will facilitate seizure of such modified firearms, as the authorities can actively trace the source of the firearms to their origins, which can be investigated and dealt with strictly to achieve the goal of cutting off supplies at the source. Also, we must put an end to the current chaotic practice in which defendants seized often falsely accuse the source of the firearms as being other deceased defendants.

IV. Conclusions

There must be no tolerance for firearms. To ensure the public safety, prosecutors must represent the nation to prosecute and punish crimes in accordance with law, and it is their unshirkable responsibility to maintain public order and protect the safety of the public. According to the Ministry of Justice, from 2016 to May 2021, out of 17,382 persons who violated the Controlling Guns, Ammunition and Knives Act, the number of prosecutions , covering 15,000 defendants, was the highest, at 60.4%. The prosecution rate is 21.1 percentage points higher than that for general criminal cases (39.3%), and the conviction rate was 94.3%.⁵ This demonstrates prosecutors have been extremely diligent in investigating these cases without any laxity. We expect prosecutors to continue to use their investigative experience and professionalism to cooperate effectively with Judicial police agencies to fight crime, uphold judicial equity and justice, assure public safety and protect people's rights.



5. Same as Note 4.

6. [pexels-cottonbro-3926747 /www.pexels.comphoto3926747](https://www.pexels.com/photo/3926747/)



Preventing Racketeering Organization Crime

Cho, Chun-Chi *

I. Preface

II. Challenges and Difficulties

III. Actions to be taken

* The author, who wrote this Chapter in 2021, then serving as a Head Prosecutor of this offices.



I. Preface

In recent years, the accelerating pace of globalization and the emergence of the Internet have led to development of criminal organizations evolving to corporatization, multinationalization and sophisticated technology entities. Criminal groups are striving to find low-risk, high-reward criminal environments. For example, fraud syndicates have relocated their operations overseas to protect their members from law enforcement agents and reduce the costs and risks from detection of their illegal activities. The low-cost and high-density stealth nature of the Internet meets the needs of criminal organizations for concealing illegal transactions and provides a platform for criminal organizations to gain greater illicit wealth. One example is provided by how the gaming industry on both sides of the Taiwan Strait are profiteering through online games. During the COVID-19 epidemic, Taiwan's livelihood was greatly affected in all industries, while racketeering gangsters' profits grew by 8%, with huge profits coming from telecom fraud and online gaming. To conceal illicit proceeds, criminal organizations hired a large number of financial experts to conduct money laundering operations using their financial scheduling acumen to prevent law enforcement officers from pursuing them and to conceal the criminal activity. Likewise, criminal organizations no longer need to develop and train their own Internet technicians, as they can easily hire experts from a hacking community or the Dark web to efficiently commit crimes and reap illicit profits.

II. Challenges and Difficulties

The seriousness of trans-border organized crime has expanded from a national to an international security threat, and transnational crime also endangers national security, especially when it merges with hostile forces or terrorism, making it necessary for nations to work together to combat criminal organizations, and Taiwan cannot afford to stay away from it. According to the 2019 report "Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact" published by the United Nations Office on Drugs and Crime (UNODC) on July 18, 2019, large criminal organizations and their financial backers based in Macau, Hong Kong, China, and Thailand, working in conjunction with criminal networks and drug makers from Taiwan, are the main force behind the manufacture and trafficking of methamphetamine and other drugs in Southeast Asia. There is also evidence that some of the acetic anhydride

exported from China is used to make heroin in Afghanistan, indicating the growing influence of China's drug organizations in Southeast Asia. Trans-border crimes, such as drug trafficking, often involve multiple countries and regions, and the current telecommunication network fraud industry has crossed national boundaries and established illegal telecommunication platforms (boiler rooms) in various nations, and through the network and communications transmission technology to layer by separate layer carry out fraud, forming breakpoints impeding investigation.

III. Actions to be taken

To break through the aforesaid dilemma, international cooperation is imperative to share investigative experience, cooperate and exchange information on criminal organizations, jointly trace the sources, block the money laundering pipelines and seize the illegal proceeds to completely dismantle criminal racketeering organizations. To effectively combat organized crime, it is also necessary to break through traditional legal enforcement organization and establish an effective law enforcement mechanism to combat organized crime, provide government with a comprehensive strategic framework to combat organized crime, and assiduously participate in international cooperation. Thus, to solve the above dilemma, the Taiwan High Prosecutor's Office has taken the following measures:

(I) "Coordination and Liaison Platform for Combating Criminal Racketeering Organizations"

The Taiwan High Prosecutor's Office has established the "Coordination and Liaison Platform for Combating Criminal Racketeering Organizations ", which is expected to coordinate information collection, database construction, and international information exchange among judicial and police agencies against criminal organizations, strengthen informal cooperation in information exchange, and formulate effective preventive measures and investigative strategies for responsiveness, instead of just one-time raids and short-term deterrence efforts.

(II) Supervisory Center for the Investigation of Cybercrime

Considering telecom fraud and online gaming have become the emerging profit source

trend of today's criminal racketeering organizations, and cryptocurrency has become an emerging criminal tool, so the "Regulations Governing Anti-Money Laundering and Countering the Financing of Terrorism for Enterprises Handling Virtual Currency Platform or Transaction" are being implemented, to clarify the scope of lawful virtual currency platform and transaction business. The Taiwan High Prosecutors Office established the Supervisory Center for the Investigation of Cybercrime to strengthen cooperation with Judicial Police Officers, the Financial Examination Bureau, the Ministry of Economic Affairs, and NCC. To establish a big data database for new emerging types of crimes, we collect information on suspects with relevant criminal backgrounds and build a database, and then conduct big data analysis according to the characteristics of illegal traders such as the length of time of entry and exit, location, and passenger manifests to plan the investigation.

(III) Trans-Border Electronic and Telecommunication Fraud Proceeds and Evidence Tracing Platform

The Taiwan High Prosecutor's Office established the "Trans-Border Electronic and Telecommunication Fraud Proceeds and Evidence Tracing Platform" to effectively intercept trans-border telecommunication frauds and recover the proceeds, and completely dismantle these criminal organizations.

(IV) International Mutual Assistance Center

On January 28, 2014, the Ministry of Justice officially joined the Asset Recovery Inter-Agency Network of Asia/Pacific (ARIN-AP), and became a member state. The Taiwan High Prosecutor's Office used ARIN-AP as a platform to establish the International Mutual Assistance Center (IMAC) to enhance global cooperation through international mutual legal assistance in seizing proceeds of crime.





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On National Security cases' investigation

Hsiao, Fang-Chou *

I. Preface

II. Emerging infiltration patterns and responsive approaches

III. The dilemmas of investigating and trials of national security cases and actions to be taken

IV. Conclusions

* The author, who wrote this Chapter in 2021, then serving as a Head Prosecutor of this offices.



I. Preface

In the investigation of national security cases, one may often feel quite lost at sea. The reason is that the defendant or suspect's criminal footprints may travel across the Taiwan Strait, to Hong Kong, Macau, or other places. Law enforcement officers certainly try to piece together the full picture of the crime through surveillance, evidence collection, search and seizure, or filtering the flow of money and deploying the full panoply of investigative skills. However, due to the fact that a large amount of criminal evidence is located extraterritorially, it is not easy to investigate and very arduous achieve all the needed investigative results. We thus propose a future strategy and outlook for the investigation of these types of cases for serious consideration.

II. Emerging infiltration patterns and responsive approaches

Recently, with the serious spread of the COVID-19 infectious disease epidemic, cross-strait travel, whether for tourism, business, or official activities, has been greatly reduced, making it more difficult for the Chinese to legally dispatch intelligence officers and agents to Taiwan to spy and gather intelligence. Some attempt being smuggled in as their means of infiltrating Taiwan, which is a low risk tactic, and if they succeed they can hide their activities and engage in acts of sabotage; if they fail, it also causes Taiwan to undergo exhaustive preventive defense measures and consumes substantial interdiction efforts. In response to the mainland Chinese smuggling incidents, the Taiwan High Prosecutor's Office has assigned special prosecutors to investigate and clarify in detail their smuggling motives as to whether they were instigated by the Chinese Communist Party to test our naval defense provisions and elucidate loopholes, to carry out military and intelligence training, or to engage in search and sabotage. The capabilities, time and destination of their smuggling efforts, and actual disembarkation activities also need to be clarified. We work under no presuppositions and investigate all possibilities in detail. Then, we also deploy actual verification through the investigation, police and coast guard units to assess the motives of smuggled persons and the veracity of their statements.

Also, in recent times, China has greatly expanded their qualitative information warfare from

the old method of "producing false information and then dissemination" to the mode of "producing false information and then subsidizing a certain domestic unit or individual as a penetration point for dissemination". The threat from this modality is that after tracing back to the middleman, it may be difficult to trace the source of the infowar deception attack further upwards. In the long run, this will lead to cognitive bias among the citizenry, and reveal cracks in the democratic communication mechanisms at all levels. Thus, since May 19, 2021, the Taiwan High Prosecutors Office (THPO) established a Detecting Fake Information Crimes during the Epidemic supervision unit. This effort investigates the crimes of spreading fake information during the epidemic. In addition, on January 21 of the same year, the Bureau of Investigation of the Ministry of Justice and the Criminal Investigation Bureau of the National Police Agency of the Ministry of the Interior completed creation of the Liaison Platform for Detecting Fake Information Crimes during the Epidemic and the window for criminal cases of spreading fake information about the epidemic, for assiduous investigation to ferret out and prevent dissemination of fake information.

Some commentators believe that promoting the Foreign Influence Transparency Act (or the Chinese Communist Proxy Act), the Chinese Communist buyout mechanisms can be brought to light and made transparent in order to disrupt their "united front" infiltration efforts. And some commentators believe that the Anti-infiltration Act can be more effective if it targets those tasked with infiltration missions, and include a criminal penalty for those who disseminate rumors that affect public peace, as provided in Article 63, Section 5 of the Social Order Maintenance Act.

III. The dilemmas of investigating and trials of national security cases and actions to be taken

Due to the aforesaid inherent environment, if the national security case officer in charge cannot obtain results through those investigative means, they often focus on the acquisition and consolidation of confession evidence, developing the case on this insecure basis, and eventually it becomes difficult to obtain a satisfactory outcome of both investigation and trial. Moreover, the number of national security cases is rather small, and if the investigating and trial prosecutors and judges are frequently changed to other duties, they may only handle

a few such cases in their entire careers. Hence, it may be extremely difficult to grasp the sensitivity of a case, the proper interpretation of the law and the precision of the criminal sentence to be imposed, and make appropriate judicial judgments.

In this regard, the THPO's strategies are as follows:

(I) Enhance communication among and strengthen the professional skills of the entire investigative team

In order to strengthen the investigative power in national security cases, the Taiwan High Prosecutor's Office has been communicating with the Chung-Shan Institute of Science & Technology and other entities generating classified information. In the event of a leak, we hope damage can be controlled to a minimum and the leaker can be smoothly revealed.

Additionally, we provide education and training to our investigative team and establish guidelines for staff to adhere to when working on these cases. Also, every quarter, national security cases that are not prosecuted by the prosecutors of the first and second instance are referred to the prosecutors of the Taiwan High Prosecutor's Office for a case-by-case analysis, and recommendations are made for the team's consideration. In addition, for high-profile cases in which the court found the defendants not guilty, a review meeting on the not guilty verdict is held, with the expectation that efforts will be further strengthened and that the reasons for the court's not guilty verdict will be identified to prevent the same mistakes from occurring in the future.

The use of encrypted communication software and digital currency to conceal such crimes has made their investigation even more difficult. In response to this, the Taiwan High Prosecutor's Office has established the Supervisory Center for the Investigation of Cybercrime, aiming to enhance our technical capacity for handling cases. With the help of technology, we can identify and disrupt the flow of people and money of the offenders in order to respond to this new type of crime.

(II) Proposal to establish a national security court to exclusively try national security cases

At present, in the investigation and handling of national security cases, both police investigation units and even prosecutors are operating through special teams to handle cases, which aids our cultivation of professional ability and experience. Moreover, our courts have already created dedicated financial divisions, intellectual property and commercial courts to hear professional cases as appropriate. However, at present, there is no mechanism for a special division to hear national security cases under prosecution. This will not be an easy task as accumulated professional acumen and experience are lacking, leading to divergent legal opinions among different judges, and impeding consistent sentencing standards. To avoid the problems of inadequate professional ability to determine the facts, divergent legal opinions, and imbalance in sentencing, the Taiwan High Prosecutor's Office advocates for establishment of a dedicated court to hear such cases.

IV. Conclusions

The responsibility for investigating national security cases is deep and heavy, and we must face the current issues and challenges frankly and honestly, then propose appropriate strategies and actions to respond to them in order to ensure our success.





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