

Recent Analysis on Crime Trends and Observations on Policy Development in Taiwan

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Abstract

In terms of crime prevention and criminal policy, their relevant regimes, enforcement and social trends have changed considerably over recent years. This paper illustrates these changes based on crime statistics presented in the “2018 Crime Situations and Analyses”, which was published by the Academy for the Judiciary, Ministry of Justice. Focal points in this paper vary depending on the stage of a criminal case: 1) detection and prevention of offenses against public safety and fraud related offenses during the stage of investigation conducted by police agencies; 2) investigation outcomes of sexual harassment and implementation of the new confiscation regime during the stage of investigations led by prosecutors; 3) improvement of the parole system, observations on criminal reoffending, and the level of performing community-based treatment during the stage of correctional measures and community-based treatment.

Furthermore, there are other key topics also addressed in the paper, including: 1) data analysis on elderly offenders, drug offenses, and cybercrimes from an overall perspective of criminal disposition; 2) draft provisions associated with at-risk juveniles and distribution of various at-risk juveniles prior to the amendments of the Juvenile Delinquency Act, as well as an analysis on issues concerning juveniles with fraud convictions in the context of increasing institutional treatment; 3) discussions from the angle of criminal policies to explore the relationship between public perceptions of more high-profile homicide and criminal dismemberment cases and the level of support for capital punishment. The data collected from May to June in 2018 constitutes an essential part of the big data used to assess this relationship. In addition, the role of the government in promoting diverse and rational thinking in the public and media around criminal cases is also covered in this section. Finally, this paper summarizes the above issues and proposes detailed recommendations with the aim of seeking clear future direction on crime prevention and criminal law-related issues in a contemporary society where most relevant regimes and policies have changed.

Keywords: Fraud, Drugs, Cybercrime, Sexual Harassment, Confiscation, Reoffending, Juvenile Delinquency, Capital Punishment

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Table of Content

1. Introduction : Retrospective Review of 2018 Crime Situations and Analyses - Crime Trend Reports.....	1
2. Criminal cases received by police agencies.....	2
2.1. The number of crimes and suspects.....	2
2.2. Cross-national comparisons of crime rates.....	4
2.3. Victims of crime.....	5
3. Investigation and execution of court rulings led by prosecution agencies...6	6
3.1. Analysis of outcomes made after investigations.....	6
3.2. Analyzing characteristics of enforcing court rulings in criminal cases – enforcement of confiscation pronouncements.....	10
4. Correctional facilities and community-based treat.....	11
4.1. Analysis of the number of inmates in correctional facilities in 2018.....	11
4.2. The parole system and trends in success rates of paroles.....	11
4.3. Analysis of community-based treatment.....	13
5. Analysis on key issues across multiple stages of the crime justice system...16	16
5.1. Elderly offenders.....	16
5.2. Drug offenses.....	17
5.3. Cyber crimes.....	20
6. Juvenile delinquency.....	21
6.1. Analysis of juvenile and child protection matters.....	22
6.2. Analysis of criminal cases involving juveniles.....	23
6.3. The context in which the term for high-risk juveniles was revised and analysis of revised relevant risk factors.....	23
7. Issues concerning society.....	25
7.1. Juveniles involved in fraud related offenses.....	25
7.2. Analyzing relations between news about homicide cases on the internet and the level of public concern about death penalty from April to June in 2018.....	27
8. Conclusions and recommendations.....	29
8.1. Criminal cases received by police agencies.....	29
8.2. Investigation and execution of court rulings led by prosecution agency..	29
8.3. Correctional facilities and community-based treatment.....	30
8.4. Analysis on key issues across multiple stages of the crime justice system..	31
8.5. Issues concerned individuals within society.....	33

1. Introduction : Retrospective Review of 2018 Crime Situations and Analyses - Crime Trend Reports

In terms of crime prevention and criminal policy, their relevant regimes, enforcement and social trends have changed considerably over recent years. Three noticeable changes have been: 1) more proactive measures of detecting and preventing offenses against public safety and fraud related offenses when police agencies engage in criminal prevention; 2) variations in investigation outcomes of criminal related conduct, and practical operation of the new confiscation regime during the stage of investigations led by prosecutors; 3) issues on planning and implementation of the correctional system aligning with the purpose of the reintegration and rehabilitation of inmates back into society when correctional facilities execute correction orders.

More recently Taiwan has taken analysis of the above-mentioned stages into consideration in order to address issues related to certain crimes (such as gender, drug, elderly and cyber crimes). Through differentiating offenders based on age, at least two eye-catching concerns in juvenile delinquency were found, including changes in approaches of juvenile delinquency and increasing numbers of juvenile middlemen involved in fraud schemes over recent years. In 2018 several high-profile homicide and criminal dismemberment cases also captured public interest and further raised a public debate on whether capital punishment could be an effective tool to maintain social safety. These topics are associated to various aspects of criminal issues, including system design, practical enforcement, theoretical discussions and social observations. Among other things, data-based analysis of crime and criminal law-related issues has been the critical methodology adopted by government agencies in Taiwan to better understand the crime situation and criminal justice system. To a certain extent, the accuracy of data interpretation also has an impact on crime prevention and development of criminal policy.

Based on crime statistics presented in the “2018 Crime Situations and Analyses - Crime Trend Reports”, which was published by the Academy for the Judiciary, Ministry of Justice, this paper analyzes and reviews key crime problems and criminal policy issues by following the stages of criminal procedure. In the final part of this paper, we propose recommendations and envision a clearer direction on crime prevention and criminal law-related issues in a contemporary society where most relevant regimes and policies have undergone change.

2. Criminal cases received by police agencies

For most crimes committed by adult offenders, the initial stage commences as soon as police agencies receive crime reports. During this stage, criminal data collected by police comprises the types of crime, features of suspects and victims, trends of domestic and international crime rates and classification of methods used to commit crimes. In addition to overall trends of total crimes, offenses against public safety and fraud related offenses and victims have become issues under the spotlight in recent years. More details on these issues are discussed in the following sections.

2.1. The number of crimes and suspects

2.1.1. Analysis of total crime numbers, suspect numbers and the age distribution of suspects

In 2018, the number of total crimes amounted to 284,538, of which property crimes and violent crimes were 72,822 and 993 respectively. In the light of study on crime trends, property crimes and violent crimes are always of keen interest to government agencies and academia. However, the ratio of property crimes against total crimes declined from 51.51% (198,848/386,075) in 2009 to 25.59% (72,822/284,538) in 2018. A similar trend was observed in violent crimes, which decreased from 1.75% (6,764/386,075) in 2009 to 0.35% (993/284,538) in 2018. As the statistics indicate, property crimes and violent crimes have not featured largely in recent crime trends. Changes over time in the proportions of each crime type to total crimes are examined further in this paper. For example, offenses against public safety are discussed further in subsection 2.1.2.¹

In 2018, the number of suspects in total crimes was 291,621, of which suspects in property crimes and violent crimes respectively accounted for 60,993 and 1,666. While the total number of suspects increased every year from 2014 (261,603), the number of total crimes declined from 306,300 in 2014 to 284,538 in 2018. There are two observable trends in suspect classification. First, the ratio of male suspects in property crimes to total suspects in property crimes decreased from 80.94% (31,368/38,573) in 2014 to 74.60% (45,503/60,993) in 2018. Second, in 2018 the number of suspects aged between 30 and 39 was 70,003 representing the largest share of total suspects. The second and third largest categories were 67,127 suspects aged between 40 and 49 and then 46,284 suspects aged between 50 and 59. One phenomenon in analysis of the age distribution is that the ratio of alleged elderly offenders (i.e. more than 60 years old) to total suspects grew from 8.26% (22,256/269,296) in 2015 to 10.16% (29,622/291,621) in 2018.²

¹ Table 1-1-2, Section 1, Chapter 1, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

² Table 1-1-3, Section 2, Chapter 1, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

2.1.2. Trends in offenses against public safety

In 2018, the number of offenses against public safety was 64,153 and the number of suspects in public safety crimes was 65,176. This represented the most significant shares of crimes and total suspects in violation of the Criminal Code in the year. Offenses against public safety have exceeded offenses of larceny in number since 2015, and the number of suspects in public safety crime has contributed the largest proportion of total number of suspects in violation of the Criminal Code in each of the last ten years. Of these criminal violations in relation to public safety, the most common type in 2018 was drunk driving (57,834), the second was hit-and-run (4,939), and the third was arson (304). However, since 2014 the annual number of drunk driving cases has decreased from 67,772 while the annual number of hit-and-run cases has increased from 3,820 (See Chart 1).³

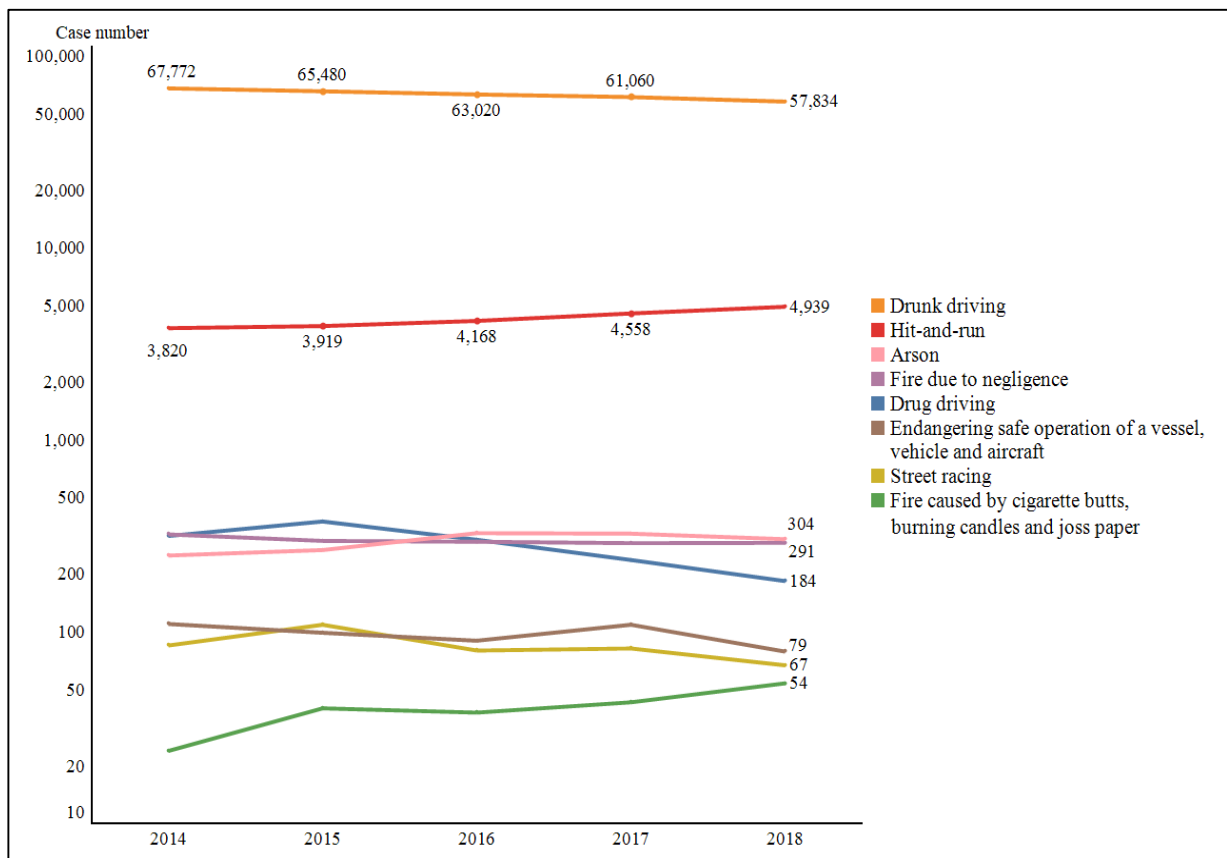


Chart 1 Trends in different categories of offenses against public safety over the past five years

³ Table 1-1-2, Table 1-2-3 and Table 1-2-6, Section 3, Chapter 2, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

2.1.3. Trends in fraud related offenses

Fraud cases totaled 23,470 in 2018, which involved 27,237 suspects. In the case of fraud related offenses, to a greater extent, Taiwan's government has put the accent on prevention and rigorous enforcement of such crimes in response to public concerns on transnational fraud and communications fraud in recent years. Although it did not show any significant increase or decrease in the number of fraud related offenses in the past five years, the number of suspects increased year on year from 15,518 suspects in 2014. Considering the emerging phenomenon of fraud syndicates, and recent amendments to the Organized Crime Prevention Act in association with certain types of fraud, in the future it may require follow-up observations to see whether the number of fraud cases remains stable but the number of persons committing fraud increases considerably.

2.2. Cross-national comparisons of crime rates

In addition to studying domestic crime statistics, comparing trends in crime rates in Taiwan and those in other countries can offer another perspective to observe the crime situation in Taiwan. It is important to bear in mind that the sources of crime data may vary from country to country. For example, data in connection to crime rates used in Taiwan and the UK (only including England and Wales) mainly comes from the reports of total crimes received by police agencies at each level. In Japan, the crime rate data only refers to the reports of violations under the Criminal Code, and in the United States, the crime rate (at the federal level) simply reflects the data of property crime and violent crime.

As mentioned above, the data source of crime rate in each country may differ from the other and the scope of criminal offenses governed by criminal law in every jurisdiction is not quite the same. In this regard, it is not appropriate to determine the level of safety in a country by directly comparing crime rates in different countries when analyzing crime data. Despite this, crime trends in a single country can serve as a starting point to explore potential issues behind these numbers. For example, the crime rate in Taiwan declined from 1,309 cases per 100,000 persons in 2014 to 1,207 cases per 100,000 persons in 2018. Likewise, similar downward trends in the last five years can be observed respectively in Japan and the United States - from 953 cases per 100,000 persons to 646 cases per 100,000 persons in Japan, and from 2,962 cases per 100,000 persons to 2,568 cases per 100,000 persons in the United States. The UK is an exception where its crime rate increased from 7,317 cases per 100,000 persons to 9,923 cases per 100,000 persons year on year between 2014 and 2018 (See Chart 2). A growing number of crimes in the UK may mirror deteriorating safety, but it may be simply the consequence resulting from amendments to

criminal law or other factors, which require further examination.⁴

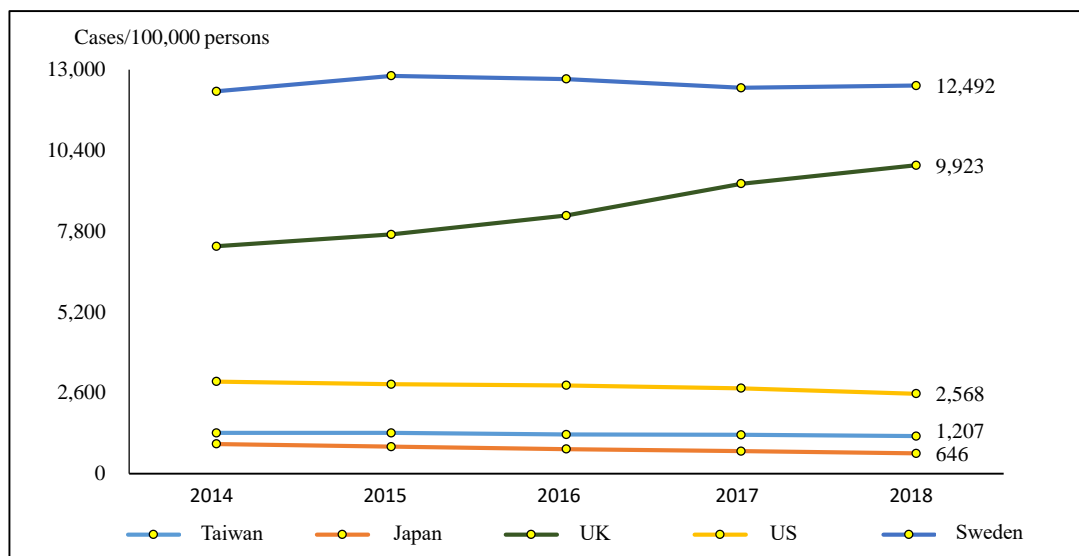


Chart 2 Trends in crime rates in five countries over the past five years

2.3. Victims of crime

2.3.1. Trends in victimization types and victim age

Apart from information regarding offenders, police agencies also collect data about victims. Based on criminal reports received by police agencies, the number of total victims declined from 209,752 in 2014 to 186,936 in 2018. Victims of the following four crimes, however, increased during the same period: victims of negligent driving increased from 15,033 to 17,572; victims of offenses against freedom grew from 6,555 to 9,103; victims of offenses against reputation and credit increased from 4,922 to 8,021; and victims of offenses against public safety (excluding drunk driving) grew from 5,213 to 6,225.⁵

The crime type involving the highest number of victims in each age group can vary from each other. In 2018, 1,410 victims were children aged between 0 and 11, and 6,248 victims were teenagers aged between 12 and 17. In these two age groups, victims of sexual offenses showed the largest numbers, respectively 526 children and 1,505 teenagers. In terms of youths aged between 18 and 23, 23,130 persons were harmed as a result of crimes, of whom 6,215 persons were harmed by fraud related offenses, representing the most significant share of victims in this age group. Offenses of larceny were the most frequent crime type for victims in three age groups, ranging from 24 to 39 (adults), from 40 to 64 (middle-aged persons) and over 65 (elderly persons): 66,266 victims ranged in age from 24 to 39, of which 18,349 victims suffered from offenses of larceny; 74,152 victims ranged in age from 40 to 64, of which 23,079 victims suffered from offenses of larceny, and 14,763

⁴ Table 1-4-1, Section 1, Chapter 4, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

⁵ Table 5-1-1, Section 1, Chapter 1, Part 5, the 2018 Crime Situations and Analyses - Crime Trend Reports.

victims were over 65 years old, of which 3,854 victims suffered from offenses of larceny.⁶

2.3.2. Analysis of multiple crime reporting mechanisms

It is important to note that crime victimization outlined by police agencies may not necessarily reflect the actual victimization situation, particularly in a case chargeable upon complaint made by victims or where victims may choose to not report to police agencies, or they are required to report to other specific agencies in accordance to special laws other than criminal law. Child abuse is one example of high concern to the general public in recent years. In such cases, instead of police agencies, child abuse incidents are likely to be first reported to dedicated authorities in cities or counties where children experience abuse in order to enable children to receive timely and adequate protection and placement under the Act of Protection of Children and Youth Welfare and Rights. Comprehensive data on child abuse can be of great help to a robust policy of child protection. Building on relatively complete data of victimization, government agencies and non-government organizations are able to take further measures to prevent victimization and improve the quality of relevant research by identifying types of criminal offenses relating to child abuse, integrating databases set up by agencies of health and welfare and police agencies as well as facilitating inter-agency collaboration.⁷

3. Investigation and execution of court rulings led by prosecution agencies

A prosecution agency has the power to launch investigations ex officio or upon case referral from judicial police or other prosecution agencies, complaints, reports and voluntary surrender (confessions), and then determine outcomes resting on findings of investigations pursuant to applicable legal requirements. The prosecution agency is also empowered to enforce final court rulings. More detailed analysis on investigation outcomes and execution of final court rulings are set out below.

3.1. Analysis of outcomes made after investigations

3.1.1. Trends in category-level distribution of overall outcomes made after investigations

Four categories of outcomes can be made by prosecutors after investigations under the Code of Criminal Procedure. These include decisions to prosecute under general procedures, motions filed for summary judgments, decisions of non-prosecution and decisions of deferred prosecution. There was a total of 584,350 alleged offenders involved in investigations closed by prosecutors in 2018, of whom 156,272 alleged offenders received non-prosecution decisions (representing the largest share of total defendants), followed by motions filed for summary judgments (109,312 alleged offenders), and prosecutions under

⁶ Table 5-1-2, Section 2, Chapter 1, Part 5, the 2018 Crime Situations and Analyses - Crime Trend Reports.

⁷ Chapter 4, Part 5, the 2018 Crime Situations and Analyses - Crime Trend Reports.

general procedures (104,543 alleged offenders). In respect of alleged violations of the Criminal Code, the number of alleged offenders that prosecutors decided not to prosecute represented the largest share of total defendants in each of the past five years, rising from 145,888 in 2014 to 178,478 in 2018. Over the same period, for alleged violations of particular criminal law, decisions to prosecute under general procedures involved the largest number of alleged offenders in each of the last five years. With the exception of 2016-2017, the number of alleged offenders who were prosecuted grew from 38,165 in 2014 to 44,917 in 2016, and then continued to increase from 44,769 in 2017 to 48,846 in 2018.⁸

3.1.2. Prosecution and non-prosecution rates of main crimes

In this paper, the number of prosecutions is equal to the aggregate number of “prosecutions under general procedures” and “motions for summary judgments”. The prosecution rate is the ratio of the number of alleged offenders being prosecuted by prosecutors over the number of total alleged offenders involved in investigations closed by prosecutors in the current year. The non-prosecution rate is the ratio of the number of alleged offenders not prosecuted by prosecutors over the number of total alleged offenders involved in investigations closed by prosecutors in the current year. On the basis of investigation outcomes in 2018, the following paragraphs give a general description of crimes with high prosecution rates and crimes with high non-prosecution rates.

First, the average prosecution rate of all crimes in 2018 was 40.14% (238,568/594,320), of which the average prosecution rate of crimes subject to the Criminal Code was 36.67% (163,604/446,190), and the average prosecution rate of crimes subject to particular criminal law was 50.61% (74,964/148,130). Crimes with more than a 50% prosecution rate in 2018 included: 1) for the Criminal Code, 69.76% of offenses obstructing an officer in discharging duties (1,790/2,566) were prosecuted, 63.94% of offenses against public safety (56,959/89,078) were prosecuted, 56.15% of offenses of abrupt taking, robbery and piracy (776/1,382) were prosecuted and 54.27% of offenses of larceny (26,140/48,168) were prosecuted; 2) for particular criminal law, 79.62% of crimes (3,410/4,283) were prosecuted under the Organized Crime Prevention Act, 61.46% of crimes (1,161/1,889) were prosecuted under the Civil Servants Election and Recall Act, 58.09% of crimes (2,118/3,646) were prosecuted under the Controlling Guns, Ammunition and Knives Act, 53.62% of crimes (2,101/3,918) were prosecuted under the Domestic Violence Prevention Act and 52.02% of crimes (399/767) were prosecuted under the Forestry Act.⁹

Second, the average non-prosecution rate of all crimes in 2018 was 36.22%

⁸ Table 2-1-7, Section 4, Chapter 1, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

⁹ Table 2-1-8, 2-1-9 and 2-1-10, Section 5, Chapter 1, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

(215,272/594,320), of which the average non-prosecution rate concerning the Criminal Code was 40.00% (178,478/446,190), and the average non-prosecution rate concerning particular criminal law was 24.84% (36,794/148,130). In cases where alleged offenders were not prosecuted in according to the Criminal Code, the non-prosecution rates of the following offenses exceeded 50%: 78.91% for offenses of perjury and malicious accusations (4,497/5,699); 78.21% for offenses of malfeasance in office (244/312); 74.04% for offenses of breaching trust, taking, and usury (3,699/4,996); 72.20% for offenses against reputation and credit (12,593/17,442); 68.57% for offenses against marriage and family (12,903/19,605); 65.81% for offenses against freedom (12,903/19,605); 61.39% for offenses of embezzlement (10,639/17,329); 61.21% for offenses of destruction, abandonment and damage of property (10,639/17,329) and 50.76% for offenses of extortion and kidnapping for ransom (1,338/2,636). Regarding violations of particular criminal law, the non-prosecution rates of five major offenses were higher than 50%. Offenses of the Personal Data Protection Act had the highest non-prosecution rate of 72.05% (807/1,120). Moreover, 70.57% (3,774/5,348) of alleged offenders under the Copyright Act, 55.97% (516/922) of alleged offenders under the Act Governing Relations between the People of the Taiwan area and the Mainland area, 55.72% (882/1,583) of alleged offenders under the Child and Youth Sexual Exploitation Prevention Act and 52.15% (303/581) of alleged offenders under the Tax Collection Act were not prosecuted.¹⁰

3.1.3. Investigation outcomes of sexual assault

While society and government agencies have acknowledged the magnitude of issues regarding sexual crimes over recent years, there is limited information on sexual assault that is subject to the Sexual Harassment Prevention Act. Below are a few observations particularly put forward by this paper.

For prosecution agencies, data on investigation outcomes of various sexual crimes can be used as an informative index to review trends of the disposition of such crimes and identify relevant factors, as well as link these observations to problems of judicial processes for sexual crimes. Sexual assault is one type of these sexual crimes, which is defined as “a person intends to kiss, hug or touch the bottom, breast, or other physical private parts of the other person when he/she cannot resist in a timely manner” under Paragraph 1, Article 25 of the Sexual Harassment Prevention Act. Considering that sexual assault is a relatively common type of sexual crime, data on investigation outcomes of sexual assault needs to be studied further.

The number of total alleged offenders involved in closed investigations of sexual

¹⁰ Table 2-1-11, 2-1-12 and 2-1-13, Section 6, Chapter 1, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

assault increased from 613 in 2014 to 912 in 2018. The ratio of female offenders to total alleged offenders was insignificant in comparison with the ratio of male offenders. The highest number of female offenders involved in closed investigations of sexual assault was 15 in 2017 and the lowest was 8 in 2018. In this regard, the current data analysis of sexual assault may prioritize investigation outcomes of sexual assault over gender difference in such crimes. Of the 912 alleged offenders, the offenders who were not prosecuted and prosecuted after investigations respectively represented the highest number (450) and the second highest number (324). The non-prosecution rate was 49.34% (450/912) and the prosecution rate was 35.53% (324/912) in 2018. The 2018 result was consistent with the observations between 2014 and 2017. In other words, the percentage of alleged offenders in sexual assault cases who received the disposition of non-prosecution was the largest share of the total alleged offenders in each of the past five years. The largest share was 49.73% (453/911) in 2017 and the smallest share was 45.93% (367/799) in 2016. The prosecution rate decreased from 39.31% (241/613) in 2014 to 33.04% (301/911) in 2017. It can be found that the non-prosecution rate in every year between 2014 and 2018 remained the most significant investigation outcome in sexual assault cases and the prosecution rates showed a downward trend over the past five years. At the inception of enactment of the sexual harassment legislation, sexual assault overlapped legal elements of forcible obscenity and the legal elements of sexual assault were unclear. Given this, a possible topic for future study or policy making may be empirical research on legal elements and case studies of sexual assault and offenses of forcible obscenity in order to facilitate sexual harassment prevention step by step through observations of such crimes and analysis of the criminal sanction regime (Chart 3).¹¹

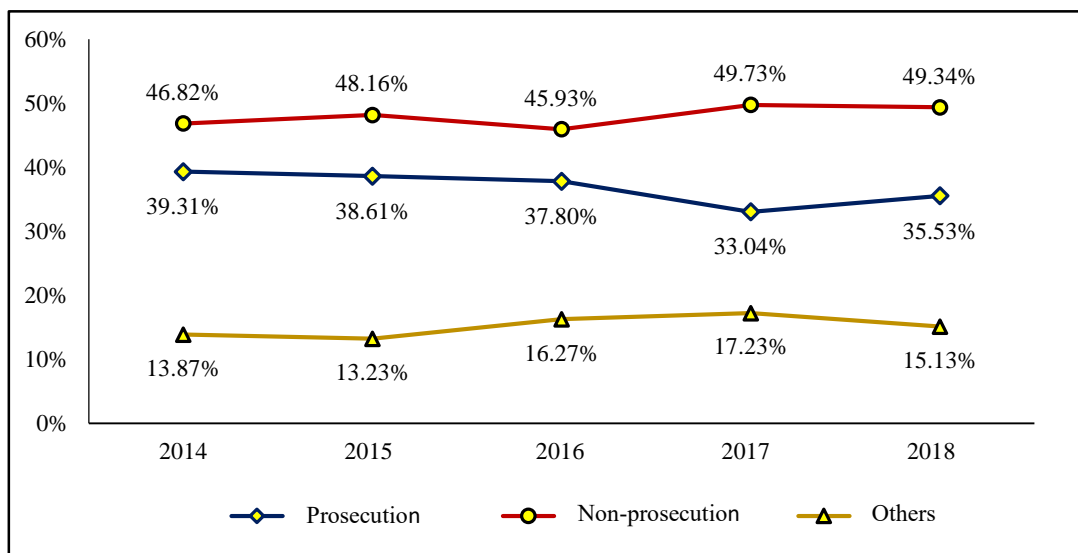


Chart 3 Investigation outcomes of sexual assault over the past five years

¹¹ Chapter 6, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

3.2. Analyzing characteristics of enforcing court rulings in criminal cases - enforcement of confiscation pronouncements

Following new confiscation related provisions in amendments to the Criminal Law, which came in to force in 2016, the Code of Criminal Procedure and particular criminal law were revised accordingly. It is crucial to review and examine results of enforcing criminal confiscation pronouncements in practice, particularly based on relevant data analysis after the amendments to the Criminal Law in order to determine whether the new confiscation regime contributes to the goal of depriving criminals of their illicit gains.

By comparing data before and after the new confiscation regime, the total value of confiscated illicit gains was NTD\$ 484.31million in 2015, of which the largest amount was confiscated from violations of the Anti-Corruption Act (NTD\$ 143.28 million). After the new regime was introduced into criminal law, the total value of confiscated illicit gains grew to NTD\$ 11,282.84 million in 2018. The value of confiscated illicit gains due to fraud related offenses represented the highest amount of the total value in 2016 and 2017. In 2018, the value of confiscated illicit gains from violations of the Banking Act was NTD\$ 3392.22 million, which represented the largest share of the total value of confiscated illicit gains in that year, followed by fraud related offenses (NTD\$ 3105.78 million).

Illicit gains confiscated from offenders in 2018 amounted to NTD\$ 10,941.16 million (96.97% of the total confiscated illegal gains), and the illicit gains confiscated from third parties contributed NTD\$ 341.68 million (3.03%). In respect of confiscation pronouncements on third parties, each rate of confiscated illegal gains in the following violations to the total confiscated illicit gains was higher than the average percentage (3.03%): 1) 19.65% (300/1,526) for violations of the Money Laundering Control Act; 2) 7.70% (2,003/26,031) for violations of the Anti-Corruption Act; 3) 6.61% (9,829/148,785) for offenses of forging instruments or seals, and 4) 5.49% (1,500/27,339) for violations of the Securities and Exchange Act.

The initial observations found that no specific type of crime played a dominant role in confiscated illicit gains after the new confiscation related provisions came into effect. The 2018 data also showed that confiscation pronouncements on offenders made by courts constituted an overwhelming part of the total confiscation pronouncements in contrast to confiscation pronouncements on third parties. In the future, it may require a further study on the gap between the intended purpose of confiscation pronouncements on third parties and enforcement results in real cases, and the potential factors attributing to the gap.¹²

¹² Table 2-3-7, Section 5, Chapter 3, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

4. Correctional facilities and community-based treatment

The correction stage, which includes prison-based treatment and community-based treatment after discharge from prison or correction facilities, starts when an (alleged) offender obtains a deferred prosecution granted by a prosecution agency or a final conviction granted by a court, or when the offender is put on probation. Such treatment under the correctional program is essential for inmates to successfully reenter society and be able to support themselves in an appropriate manner. Data in connection with prison-based treatment and community-based treatment are respectively set out in the following sections.

4.1. Analysis of the number of inmates in correctional facilities in 2018

There were 44,767 new entrants in correctional facilities in 2018, of which 36,162 inmates served their sentence in prisons, representing the largest share of total new entrants, followed by 5,011 inmates at rehabilitation centers. The data in 2018 showed that the number of total prisoners exceeded official prison capacity (57,573 in total) by 10.0% (5,744). In 2018, 10,527 inmates who newly entered prisons were aged between 40 and 49. The age group constituted the majority of new inmates in prisons. The second largest ten-year age group was between 30 and 39 (9,850 inmates) and the third largest was between 50 and 59 (6,892 inmates). Regarding differences in sentence length for new prisoners in 2018, 18,686 prisoners were sentenced for up to six months imprisonment, 6,060 prisoners were sentenced to six months to less than one year imprisonment and 4,022 prisoners were sentenced to one to less than three years imprisonment. By contrast with the distribution of sentence length for total prisoners (58,059) in 2018, 10,847 inmates were sentenced to six months to less than one year imprisonment, which was the most common sentence length, followed by 9,707 inmates with more than fifteen years imprisonment and 7,818 inmates with ten years to less than fifteen years imprisonment.¹³

4.2. The parole system and trends in success rates of paroles

Along with recommendations made by the National conference on Judicial Reform in 2017 and proposed amendments to the Prison Act, transparency and institutionalization of the parole system has raised public concern over recent years. Data on parole review results is of help to provide a general picture of the current parole system and contemplate further direction of future improvement.

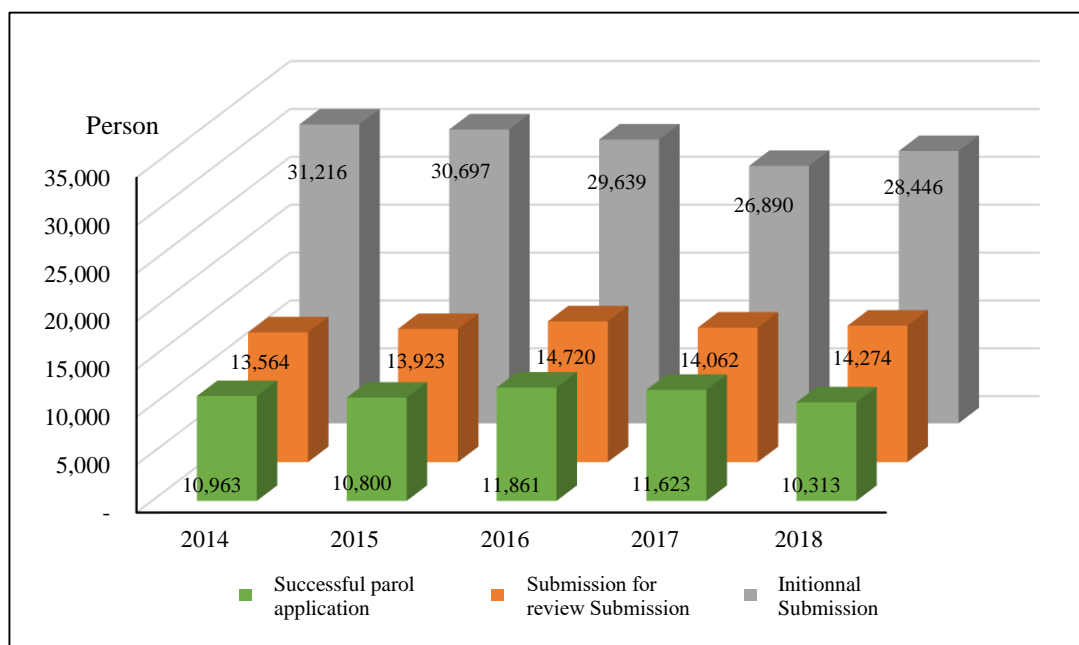
The parole review system comprises two stages – an initial decision made by parole boards in prisons and detention centers as the first stage and then a confirmed decision made

¹³ Table 2-0-1, 2-4-4 and 2-4-8, Section 1, Chapter 4, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

by the Ministry of Justice as the second stage. The relevant statistics include the success rate of initial parole applications at the level of parole boards, the success rate of parole review by the Ministry of Justice, and the average success rate of parole applications. The trends in each rate are as follows:

- 1) First, the success rate of initial parole applications at the level of parole boards in 2018 was 50.18% (14,274/28,446). The success rate had increased from 43.45% (13,564/31,216) in 2014 to 52.29% (14,062/26,890) in 2017.
- 2) Second, the success rate of parole review by the Ministry of Justice in 2018 was 72.25% (10,313/14,274). The success rate had increased from 77.57% (10,800/13,923) in 2014 to 82.66% (11,623/14,062) in 2017.
- 3) Last, the average success rate of parole applications was 36.25% (10,313/28,446) in 2018. The success rate had increased from 35.12% (10,963/31,216) in 2014 to 43.22% (11,623/26,890) in 2017.

Each rate showed a similar change over the past five years, which was an upward trend between 2014 and 2017, and a decline from 2017 and 2018. To link success rates with the effectiveness of the parole system rather than simply compare the changes in success rates themselves, it requires a more transparent and institutionalized parole system to facilitate data screening and identify whether such changes were due to criteria used to approve parole applications (Chart 4).¹⁴



Chat 4 The number of prisoners who submitted parole applications in the past five years

¹⁴ Table 2-4-9, Section 1, Chapter 4, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

4.3. Analysis of community-based treatment

4.3.1. Analysis of reoffending incidents for “prisoners released after completing sentences” and “prisoners released on parole”

Assessment of the effectiveness of the parole system is underpinned by two pillars – whether there is a refined and sophisticated set of parole requirements in place, and outcomes of former prisoner reentry programs. The latter is the key to evaluate if parole decisions can achieve their intended purpose. A comparison between the recidivism rate of prisoners released after completing sentences (hereinafter referred to as “former prisoners”) to total released prisoners and the recidivism rate of prisoners released on parole can also be taken as an indicator to review whether the purpose of reentry into society can be fulfilled through the parole system. Therefore, data on recidivism rates of prisoners released after completing sentences and prisoners released on parole over the past five years is used as the basis for the following analysis. Given that investigations are time-consuming processes, data that is closer to the finish date of collection may not fully reflect the actual situation. In particular, the recidivism rate of former prisoners who repeatedly commit crimes four years after release may not necessarily be equal to the actual number of recidivists.

The recidivism rate of former prisoners who repeatedly commit crimes within six months after release increased from 14.8% in 2014 to 18.5 % in 2017 and then declined to 11.1% in 2018. The recidivism rate of prisoners released on parole within six months after release showed a similar trend - an increase from 8.4% in 2014 to 10.0% in 2017 and a decrease to 6.5% in 2018. In terms of the recidivism rate between six months and one year after release, the highest rate (13.2%) for former prisoners occurred in 2016 and the lowest rate (12.5%) occurred in 2017. The recidivism rate of prisoners released on parole between six months and one year after release remained stable (at around 11.5% to 11.6%) from 2014 to 2017. By examining data on the recidivism rates of total released prisoners who committed crimes repeatedly within 6 months and between six months and one year after release, the results show that the recidivism rate of prisoners released on parole was lower than the recidivism rate of former prisoners in each of the last five years. This analysis suggests that the parole system may be of benefit to reintegrate criminal offenders back into society. This is to say that the adequate resources devoted by the Taiwan government to strengthen the probation regime and the rehabilitation and protection system can offer substantial assistance in lowering crime rates and creating a safer society (Chart 5).¹⁵

¹⁵ Table 2-4-12, Section 1, Chapter 4, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

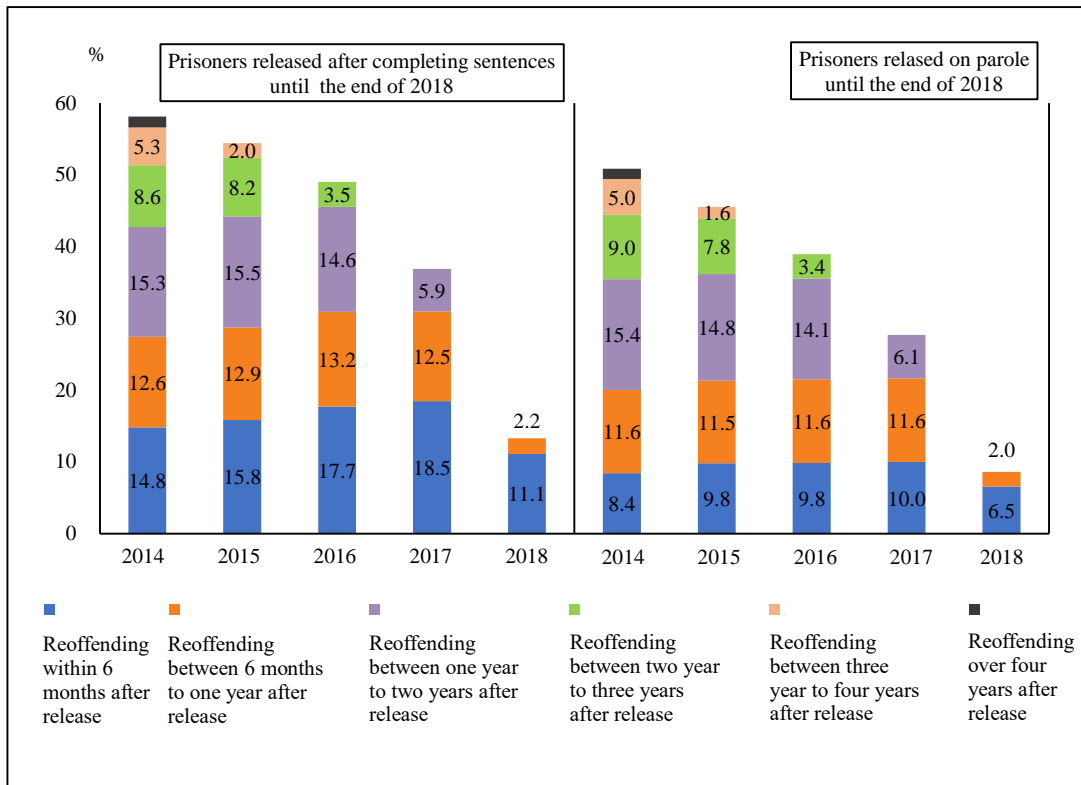


Chart 5 Recidivism rates of total released prisoners in the last five years

4.3.2. Difference between the proportion of prisoners with criminal records and the recidivism rate

The proportion of prisoners with criminal records and the recidivism rates need to be differentiated in assessing the effect of prison-based treatment through monitoring reoffending incidents. According to official statistics published by government agencies, the recidivism rate is equivalent to the number of released prisoners being investigated by prosecutors in a given year divided by the number of total released prisoners in the same year. The proportion of prisoners with criminal records means the share of new entrants in prison in a given year that were convicted previously to the share of total inmates in the same year.

The proportion of prisoners with criminal records and the recidivism rate can be used for different purposes of criminal policies. For example, the proportion of prisoners with criminal records increased from 75.91% in 2014 to 79.85% in 2018. This trend can serve as a basis for study on reasons why released prisoners return to prison. When planning inmate-oriented treatment programs and considering parole applications, such data on individual prisoners can also be taken into account. However, it is not suitable to link the proportion of prisoners with criminal records before entering prison with the performance of prison administration. This type of data cannot accurately reflect the relation between prison-based treatment and an overall situation of prisoner reentry into society on the part

of assessing prison administration or make dynamic predictions on recidivism. In this regard, the broader recidivism rate can be a more objective index used to evaluate the effectiveness of prison-based treatment.¹⁶

4.3.3. Analysis of community-based treatment with conditional deferred prosecution and commutation to community sentence

A broader correctional system encompasses institution-based treatment (prisons) and conditional deferred prosecutions subject to Article 253-2 of the Code of Criminal Procedure, as well as commutation to community sentence subject to Article 41 and 42-1 of the Criminal Code. Instead of prison sentences, conditional deferred prosecutions and commutation to community sentence provide an alternative treatment plan for offenders. Reviewing how offenders fulfilled conditions of deferred prosecutions and served community-based sentences is one method to assess whether alternatives to incarceration can minimize unintended effects of social isolation that may occur through prison and assist released prisoners to successfully reintegrate into society.

There were 28,818 conditional deferred prosecutions in 2018. Offenders fulfilled obligations imposed by prosecutors in 20,048 deferred prosecutions, and failed to fulfill obligations in 7,710 deferred prosecutions. The percentage of the number of deferred prosecutions where offenders failed to fulfill obligations to the number of total deferred prosecutions increased in each of the past four years from 13.74% (3,042/22,143) in 2015 to 27.35% in 2018. In the case of commutation to community, 13,053 community-based sentencing decisions were made by courts in 2018, where offenders served their punishment in 5,788 decisions, and failed to serve sentences in 6,663 decisions. Since 2015, the rate of the number of community-based sentencing decisions where offenders failed to serve sentences to the number of total community-based sentencing decisions in each of the past four years has been higher than 50%. The highest rate was 51.27% (6,849/13,359) in 2017 and the lowest rate was 50.07% (7,393/14,766) in 2016. In 2018, the rate was 51.05%. The increasing rate of non-performance of obligations imposed by deferred prosecutions and community-based sentencing decisions may call for a further study on factors that impact on the fulfillment of obligations and potential solutions in order to better align outcomes with the policy direction of the recent reintegration and rehabilitation scheme and relevant monitoring programs.¹⁷

¹⁶ Table 4-5-1, Section 1, Chapter 4, Part 2, and Chapter 5, Part 4, the 2018 Crime Situations and Analyses - Crime Trend Reports.

¹⁷ Table 2-4-16, 2-4-19 and 2-4-21, Section 2, Chapter 4, Part 2, the 2018 Crime Situations and Analyses - Crime Trend Reports.

5. Analysis on key issues across multiple stages of the crime justice system

As noted earlier, the scope of crime data analysis and prevention approaches includes pre-arrest investigation conducted by police agencies, prosecution-led investigation conducted by prosecution agencies and enforcement of judgments as well as correctional regimes and community-based treatment. Several issues in certain types of crimes involve various stages of the crime justice system rather than a single stage. Accordingly, such issues across multiple stages may require an integrated approach to the analysis. In consideration of recent crime statistics, the following sections focus on three key topics: elderly offenders, drug offenses, and cybercrime, and present their data trends through multiple stages of the crime justice system.

5.1. Elderly offenders

Elderly offenders in this paper are those criminals aged over 60 in each stage of the crime justice system. The number of convicted elderly offenders and the number of elderly offenders who receive institutional-based treatment has grown considerably. The upward trend indicates a path for further data analysis and policy making in the future.

5.1.1. A rise in the number of convicted elderly offenders

The growing number of alleged elderly offenders noted in 2.1.1 of this paper is reflected in cases where aging defendants were found guilty of crimes in the final judgments and accordingly were sent to corresponding institutions by district prosecution offices. In final convictions with regard to the Criminal Code, the number of elderly defendants was 13,325 in 2018, representing 9.78% of total defendants (136,181) under the same category of crimes. The number of elderly defendants increased from 11,913 in 2014 to 13,544 in 2017. Furthermore, the rate of the number of elderly defendants (2,015) to total defendants (56,374) who were found guilty of the same violations of particular criminal law by final convictions was 3.06% in 2018. The number of elderly defendants involved in final convictions was higher than in 2014 (1,181).¹⁸

5.1.2. Aging issues in various treatment services

Issues concerning elderly offenders also emerged from various treatment options, including deferred prosecutions, prison sentences and protective measures. First, the number of elderly defendants in deferred prosecutions amounted to 5,644 in 2018, representing 12.40% of total defendants in deferred prosecutions. The proportion had increased from 9.80% (4,741) in 2013 to 11.47% (5,851) in 2014. In the following years to 2018, the proportion of the elderly defendants to total defendants in deferred prosecutions

¹⁸ Table 4-2-1, Section 2, Chapter 2, Part 4, the 2018 Crime Situations and Analyses - Crime Trend Reports.

remained above 10% every year. Second, the share of new elderly inmates to total new inmates in 2018 was 6.62% with the number of new elderly inmates increasing from 1,666 to 2,395 in the last five years. In respect of other age groups, the shares of new inmates aged between 40 and 50 and aged between 50 and 60 grew from 27.41% (9,306/33,952) in 2015 to 29.11% (10,527/36,162) in 2018, and 16.32% (5,645/34,586) in 2016 to 17.40% (6,292/36,162) in 2018. The share of new inmates aged between 30 and 40 decreased from 32.99% (11,365/34,446) in 2014 to 27.24% (9,850/36,162) in 2018. Third, the rate of the number of elderly offenders placed under protective measures to the number of total offenders placed under protective measures was 8.46% (1,386/16,387). The rate increased from 6.65% (1,169/17,590) in 2014 to 8.18% (1,433/17,509) in 2015. The rate has stayed above 8% in the following years to 2018.¹⁹

In sum, the statistics show rising shares of elderly suspects and convicted offenders to total suspects/convicted offenders. A similar trend was also found in defendants granted deferred prosecutions, new inmates in prison and offenders placed under protective measures, which all showed an increase in the number of elderly or a shift in age distribution of offenders towards older age groups. Such data demonstrates how important it is to design investigative techniques, correctional strategies and reentry programs specific to elderly offenders during stages of the crime justice system.

5.2. Drug offenses

Since the New Generation Anti-drug Strategy was adopted by the Executive Yuan and a narcotics prevention fund established under the Narcotics Hazard Prevention Act in 2017, issues on drug-related crime prevention have been stressed by academics and policy makers. Analyzing relevant data across multiple stages of the crime justice system enables stakeholders to stay abreast of trends and their linkage with adequate policies as well as approaches to further improvement.

5.2.1. Trends in drug offenses and suspects of drug offenses

The total number of drug offenses increased from 38,369 in 2014 to 58,515 in 2017, but declined to 55,588 in 2018. Offenses of the second drug category accounted for the most significant portion. The number of offenses of the second drug category grew from 24,625 in 2014 to 42,501 in 2017 and decreased to 39,388 in 2018. A similar trend was observed for suspects of drug offenses. The number of suspects who were charged of using drugs under the second drug category accounted for the largest part of total suspects for drug offenses in each of the past five years. The total number of suspects of drug offenses increased from 41,265 in 2014 to 62,644 in 2017, and declined to 59,275 in 2018. Similarly,

¹⁹ Table 2-4-4, 2-4-16 and 4-2-4, Section 1, Chapter 4, Part 2 and Section 3, Chapter 2, Part 4, the 2018 Crime Situations and Analyses - Crime Trend Reports.

the number of suspected second drug category users grew from 17,523 in 2014 to 28,455 in 2017 and decreased in 2018 to 25,947.

Regarding the age distribution of total suspected second drug category users, in 2018, the number of such suspects aged between 30 and 39 (8,777) represented the largest percentage (33.83%). The percentage decreased from 39.50% in 2014 (6,921/17,523) in every year to 2018, while the rates of suspected second drug category users in the two age groups (40 to 49 and 50 to 59) both increased. For the 40 to 49 year age group, the rate of suspected second drug category users to total suspected drug users in the same category increased from 20.25% (3,549/17,523) in 2014 to 26.87% (6,972/25,947) in 2018. For the 50 to 59 year age group, the rate of suspected second drug category users increased from 6.17% (1,081/17,523) in 2014 to 8.87% (2,302/25,947) in 2018 (Chart 6).²⁰

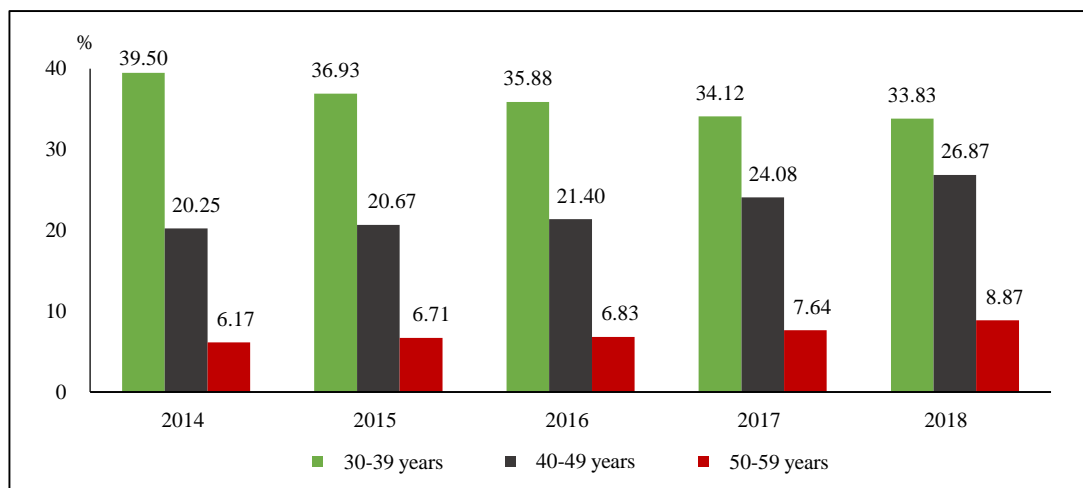


Chart 6 Age distribution of total suspected second drug category users in the last five years

5.2.2. Trends in convictions for drug offenses

The total number of defendants convicted of drug offenses increased from 34,672 in 2014 to 44,541 in 2018. Of the total convicted defendants, those convicted of using drugs under the second drug category and the first drug category respectively accounted for the largest portion (26,767 convicted defendants) and the second largest portion (10,163 convicted defendants). The number of defendants convicted of using drugs under the second drug category increased year on year, from 17,941 in 2014. The number of defendants convicted of using drugs under the first drug category increased from 9,254 in 2014 to 10,358 in 2017.²¹

²⁰ Table 1-3-2 and 1-3-3, Section 1, Chapter 3, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

²¹ Table 4-3-2, Section 2, Chapter 3, Part 4, the 2018 Crime Situations and Analyses - Crime Trend Reports.

5.2.3. Drug crimes in various treatment services

This section presents data trends in connection with institution-based treatment for drug offenses:

- 1) In 2018, there were 433 convicted offenders for first category drug offenses who were sent to drug abstention and rehabilitation centers, while there were 4,578 convicted offenders for second category drug offenses. The number of convicted offenders for first category drug offenses who were sent to drug abstention and rehabilitation centers decreased from 2016 (when there were 700 convicted offenders for first category drug offenses). Similarly, the number of convicted offenders for second category drug offenses who were sent to drug abstention and rehabilitation centers decreased from 2016 (when there were 7,014 convicted offenders for second category drug offenses).
- 2) The number of convicted first category drug offenders incarcerated in a drug abuser treatment center had decreased from 297 in 2016 to 187 in 2018. Data on convicted second category drug offenders showed a similar downward trend, from 413 offenders in 2016 to 294 offenders in 2018.
- 3) The number of new drug offenders under probation and supervision decreased from 6,253 offenders in 2016 to 5,740 offenders in 2018. By contrast, the number of new prisoners who were convicted of drug offenses had increased from 9,723 in 2014 to 11,797 in 2017. The number of total new prisoners who were convicted of drug offenses decreased to 11,060 in 2018.

Statistics in 5.2.1-5.2.3 show growing numbers related to drug offenses. The number of suspected offenders who were charged of using the second category drug accounted the largest share of total suspected drug offenders. The number of drug offenders in older age groups increased in each of the five years to 2018. Furthermore, there was a greater number of defendants convicted of using drugs under the second drug category in the five years to 2018. Regarding institution-based treatment for drug offenses, the numbers of new convicted offenders who were sent to drug abstention and rehabilitation centers, convicted drug offenders incarcerated in a drug abuser treatment center and new drug offenders under probation and supervision decreased in each of the last three years. Despite this, an increase in new prisoners was observed. Consequently, it is crucial for the government to provide various treatment services in connection with drug rehabilitation available for the increasing number of drug offenders in order to implement the Executive Yuan's New Generation Anti-drug Strategy.

5.2.4. Issues on female drug offenders

It is also worth considering issues related to female drug offenders in drug crimes. When reviewing drug crimes, it has been difficult to identify noticeable differences in gender over recent years. However, standalone observations about female criminals shows that drug offenses have become the main crime type among crimes committed by women. In particular, based on data about female defendants in final convictions enforced by district prosecution offices, the number of female drug offenders increased from 4,458 in 2015. Since 2017, the number of female drug offenders has accounted the largest portion of total female offenders. In 2018, there were 5,800 female drug offenders in total.

By contrast, the number of female drug offenders sent to drug abstinence and rehabilitation centers followed a downward trend, decreasing from 1,060 in 2016 to 751 in 2018. Similarly, the number of female drug offenders incarcerated in a drug abuser treatment center decreased from 121 in 2012 to 66 in 2018. Following 2012, the number of such female drug offenders remained less than 100. In the context where the number of female defendants found guilty of drug offenses has increased in recent years, it is important to take female drug offenders into account and deliver appropriate and various treatment services.²²

5.3. Cyber crimes

Cyber crimes can be defined as crimes set out in “offenses against the computer security” under the Criminal Code, which mainly refer to a crime where its object is a computer. However, from practical viewpoints of law enforcers (i.e. police agencies) and the judicial system, a broader term of cybercrime comprises various crimes committed through computers or via the internet. Generally speaking, recent issues on crimes, include internet fraud, online trafficking of illegal narcotics and online defamation typically involving the use of computer or internet as a tool to commit an offense. Therefore, this paper adopts the broader concept of cybercrime to analyze relevant data and then apply it to suitable policies, particularly focusing on the number of cybercrimes/cybercriminals or applicable ratios in different stages of the crime justice system.

5.3.1. Pre-arrest investigation conducted by police agencies

In view of crimes through cyber methods, during the stage of pre-arrest investigation conducted by police agencies, the ratio of intellectual property crimes through cyber methods to total intellectual property crimes in 2018 was 43.61% (1,999/4,584), representing the highest ratio in comparison to other crime types. This ratio had increased

²² Table 4-1-2, 4-1-3 and 4-1-4 , Section 2 and 3, Chapter 1, Part 4, the 2018 Crime Situations and Analyses - Crime Trend Reports.

from 40.57% (1,981/4,883) in 2015 to 45.63% (2,146/4,703) in 2017. It is also worth considering the trend of online gambling. The ratio of online gambling to total gambling crimes increased from 4.98% (309/6,204) in 2014 to 25.75% (1,587/6,164) in 2018.²³

5.3.2. Investigations led and closed by prosecution agencies

Among investigations led and closed by prosecution agencies, the ratio of intellectual property crimes through cyber methods to the total intellectual property crimes in 2018 was 41.22% (582/1,412), representing the highest percentage in comparison to other crime types. This ratio increased from 35.28% (531/1,505) in 2016 in each of the following three years. During this stage, the ratio of online gambling to total gambling crimes also showed an upward trend, increasing from 4.16% (369/8,872) to 25.75% (1,587/6,164) in 2018.²⁴

5.3.3. Final convictions executed by prosecution agencies

During the stage of executing final convictions, the ratio of child and youth sexual exploitation through cyber methods to total cases of child and youth sexual exploitation in 2018 was 50.16% (161/321), representing the highest ratio in comparison to other crime types. This ratio increased in each year from 43.94% (116/264) in 2014 to 2018. During this stage, the ratio of online gambling to total gambling crimes has increased from 3.73% (330/8,836) in 2014 to 19.78% (1,068/5,400) in 2018.²⁵

Given the overall situation of the crime justice system in the recent five years, there were higher percentages of intellectual property crimes and child and youth sexual exploitation committed through cyber methods. As planning of investigation into and treatment for cyber crimes (perpetrated by means of internet or computer), these two types of crimes should face particular emphasis. Furthermore, in consideration of the increasing ratios of online gambling to total gambling crimes in each stage of the crime justice system, online gambling also requires additional attention in cybercrime prevention.

6. Juvenile delinquency

Depending on the age of criminal responsibility, adult offenders who break criminal law are typically dealt with under the general criminal process while juvenile offenders are subject to a system of criminal justice that is separate to the adult system. In a word, procedural and substantial issues concerning juvenile offenders and high-risk juveniles need to be reviewed in the context of the Juvenile Delinquency Act. According to Article

²³ The unit used herein for calculation is “a crime”. Table 1-5-1, Section 2, Chapter 5, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

²⁴ The unit used herein for calculation is “a criminal”. Table 1-5-2, Section 2, Chapter 5, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

²⁵ The unit used herein for calculation is “a criminal”. Table 1-5-3, Section 2, Chapter 5, Part 1, the 2018 Crime Situations and Analyses - Crime Trend Reports.

1-1 and 3 of the Juvenile Delinquency Act, this paper discuss the following three topics in relation to the juvenile justice system: juvenile (children are included herein) protection matters, juvenile criminals, and high-risk juveniles. Given limited Judicial Yuan statistics, the analysis scope of juvenile and child protection matters is limited to juveniles put under protective measures only.

6.1. Analysis of juvenile and child protection matters

In 2018, 8,115 juveniles and children involved in cases were ordered to receive protective measures by court decisions, of which 2,017 juveniles and children committed offenses causing injury. When looking into the number of juveniles and children subject to protective measures, offenses causing injury was the most common type of crime, followed by offenses of larceny (1,321), fraud related offenses (1,115) and offenses against public safety (722) and sexual offenses (675).

We further analyzed the number of juveniles and children subject to protective measures divided by different age groups. The statistics show the following most common types of crimes for each age group²⁶:

- 1) In 2018, among 224 juveniles aged over 12 but under 13 years of the age, the most common type of crime related to offenses of larceny (107 juveniles), and the second most common related to sexual offenses (35 juveniles).
- 2) Among 467 juveniles aged over 13 but under 14 years of the age, the most common type of crime related to offenses of larceny (182 juveniles), and the second most common related to sexual offenses (84 juveniles).
- 3) Among 901 juveniles aged over 14 but under 15 years of the age, the most common type of crime related to offenses causing injury (367 juveniles), and the second most common related to offenses of larceny (244 juveniles).
- 4) Among 1,312 juveniles aged over 15 but under 16 years of the age, the most common type of crime related to offenses causing injury (367 juveniles), and the second most common related to offenses of larceny (244 juveniles).
- 5) Among 2,092 juveniles aged over 16 but under 17 years of the age, the most common type of crime related to offenses causing injury (635 juveniles), and the second most common related to fraud related offenses (336 juveniles).
- 6) Among 2,944 juveniles aged over 17 but under 18 of the age, the most common type of crime related to offenses causing injury (808 juveniles), and the second most common related to fraud related offenses (537 juveniles).

²⁶ Table 3-2-5 and 3-2-7, Section 4, Chapter 2, Part 3, the 2018 Crime Situations and Analyses - Crime Trend Reports.

6.2. Analysis of criminal cases involving juveniles

In 2018, the total number of juvenile offenders was 325, of which 182 juveniles committed drug related offenses, representing the largest share of this group. The second largest share referred to 37 juveniles that committed sexual offenses, followed by offenses of forging instruments or seals (28 juveniles). Statistics for the most common types of crimes for each age group are as follows²⁷:

- 1) In 2018, among 19 juveniles aged over 14 but under 15 years of the age, the most common type of crime related to sexual offenses (12 juveniles).
- 2) Among 54 juveniles aged over 15 but under 16 years of the age, the most common type of crime related to drug offenses (30 juveniles), and the second most common related to sexual offenses (13 juveniles).
- 3) Among 95 juveniles aged over 16 but under 17 years of the age, the most common type of crime related to drug offenses (62 juveniles), followed by robbery (8 juveniles) and homicide offenses (8 juveniles).
- 4) Among 157 juveniles aged over 17 but under 18 years of the age, the most common type of crime related to drug offenses (84 juveniles), and the second most common related to offenses of forging instruments or seals (20 juveniles).

6.3. The context in which the term for high-risk juveniles was revised and analysis of revised relevant risk factors

Amendments to the Juvenile Delinquency Act were passed on June 19, 2019. The amendments have been considered as relatively significant changes since 1997. Provisions in relation to the criteria of high-risk juveniles were also revised in these amendments, where legislators proposed to solve problems about an overbroad concept of high-risk juveniles and clarify its criteria in response to the Interpretation No.666 issued by the Constitutional Court. In addition, the revised provisions took the United Nations Convention on the Rights of the Child into account and excluded any conduct that constituted a violation simply because of the offender's status as a minor, (which would otherwise not be considered as a crime if it were committed by an adult).

Considering the historical context of the amendments, one of the legislative purposes aimed to narrow the concept of "high-risk juveniles" to "juveniles exposed to risk factors". In other words, juveniles used to be regarded as "high risk" in seven circumstances under Article 3 of the Juvenile Delinquency Act. The revised provision removed four circumstances, including where a juvenile "frequently associates with habitual criminals", "frequently goes to unsuitable places for juveniles", "frequently skips school or runs away

²⁷ Table 3-2-13 and 3-2-15, Section 4, Chapter 2, Part 3, the 2018 Crime Situations and Analyses - Crime Trend Reports.

from home” and “participates in a gang”. The remaining circumstances where juveniles are exposed to risk factors are: “when a juvenile frequently carries knives or weapons without a lawful excuse”, “when a juvenile smokes, sniffs or injects hallucinogenic drugs other than opiate or narcotic drugs” and “when a juvenile intends or attempts to commit an offense that is not punishable under criminal law”.²⁸

In 2018, there were 675 high-risk juveniles in total, of whom 399 juveniles were categorized under the risk factor of smokes, sniffs or injects hallucinogenic drugs other than opiate or narcotic drugs, accounting for the highest percentage (59.11%) of total high-risk juveniles. The second most common circumstance was where a juvenile intends or attempts to commit an offense that is not punishable under criminal law, accounting for 17.93% (121/675) of total high-risk juveniles. Over the five years to 2018, the number of “juveniles smoking, sniffing or injecting hallucinogenic drugs other than opiate or narcotic drugs” was the largest proportion of total high-risk juveniles, although the ratio declined from 85.56% (1,801/2,105) in 2014 to 59.11% in 2018.

It is worth noting that the ratio of “juveniles intending or attempting to commit an offense that is not punishable under criminal law” to total high-risk juveniles increased from 4.47% (94/2,105) in 2014 to 17.93% in 2018. Since 2017, the ratio of “juveniles intending or attempting to commit an offense that is not punishable under criminal law” to total high-risk juveniles has exceeded the ratio of “juveniles frequently skipping school or running away from home” and become the second most common circumstance where juveniles are considered “high-risk”. After looking at trends in relation to the number of high-risk juveniles, “juveniles smoking, sniffing or injecting hallucinogenic drugs other than opiate or narcotic drugs”(Subparagraph 2(2), Article 3 of the 2019 amendments) and “juveniles intending or attempting to commit an offense that is not punishable under criminal law” ”(Subparagraph 2(3), Article 3 of the 2019 amendments) represented significant proportions, and the ratio of the latter increased in each of the last five years to 2018 (Chart 7).²⁹

²⁸ This paper analyzes data between 2014 and 2018. The following paragraphs discuss changes in the data of “high-risk juveniles” based on the statistics and the provision regarding high risk circumstances prior to the 2019 amendments. In this regard, please note that the term “high-risk juveniles” remained unchanged.

²⁹ Table 3-2-21, Section 4, Chapter 2 and Chapter 4, Part 3, 2018 Crime Situations and Analyses - Crime Trend Reports.

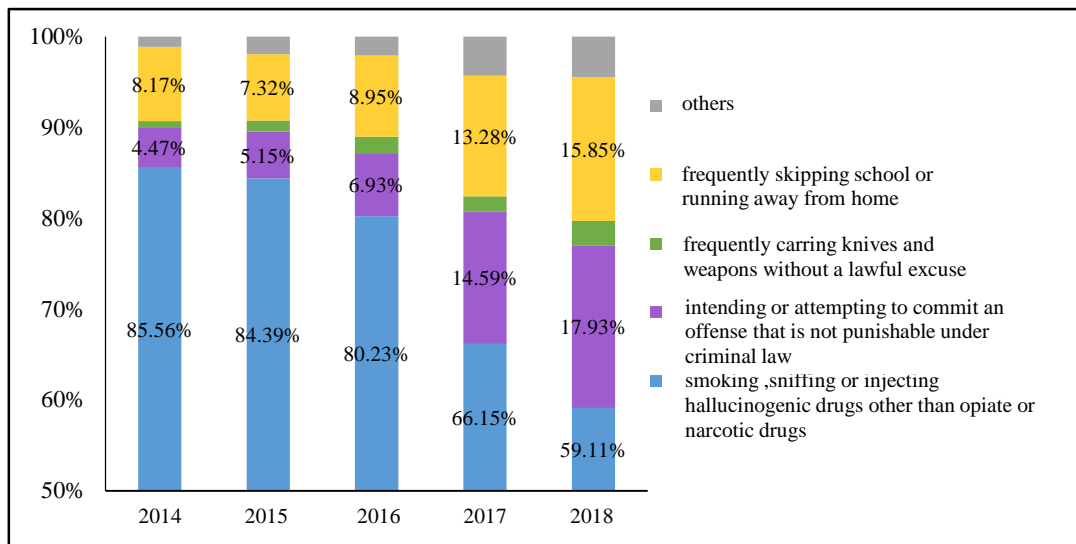


Chart 7 The circumstances where juveniles are considered “high-risk” over the recent five years

During the transition period from the application of the old legislation to the application of the new legislation, this paper suggests that children and juvenile protection agencies, which are delegated to engage into new mandates under the new amendment, may establish a monitoring mechanism to trace high-risk juveniles in different circumstances. By doing so, we can observe how different perspectives of treatments and institutional design may impact on juvenile delinquency and facilitate assessments to develop a system benefiting physical health and mental wellbeing for children and youths.

7. Issues concerning society

7.1. Juveniles involved in fraud related offenses

Fraud related crimes have been one of the most significant social problems over recent years. To minimize the occurrence of fraud, the Legislative Yuan not only passed additional provisions of the Criminal Code and imposed more severe punishment on fraud related offenses, but also expanded the scope of applying fraud related offenses to the Organized Crime Prevention Act and Money Laundering Control Act. In practice, police agencies have played a critical role to advocate further and detect fraud related crimes. At the same time, “a trend toward younger age distributions of fraud related offenses” and “juvenile middlemen involved in fraud schemes” have gradually become noticeable issues in association with fraud related offenses. To address these issues, society as a whole and relevant policy makers used to focus on prevention of juvenile involvement in fraud related offenses, but there were less in-depth discussions on treatments for juvenile offenders convicted of fraud related offenses. Given that the treatment of juvenile delinquency plays a crucial role in improving rehabilitation and the healthy development of juvenile offenders, in addition to harsher punishments, dealing with juvenile delinquency (treatment approaches) requires further consideration to ensure a more balanced juvenile justice

system where juveniles committing fraud offenses can receive appropriate treatment services other than criminal sanctions.

Statistics concerning institution-based treatments shows the number of juveniles detained at juvenile detention houses as a result of fraud related crimes increased from 205 in 2014 to 520 in 2017, and slightly declined to 510 in 2018. Regarding protective measures for juvenile offenders, the ratio of juveniles under corrective education to total juvenile offenders under protective programs decreased from 6.35% (662/11,721) in 2015 to 5.02% (441/8,790) in 2018. On the contrary, the ratio of juveniles who committed fraud crimes under corrective education to total juveniles who committed fraud crimes under protective programs increased from 2.87% (19/284) in 2014 to 22.45% (99/1,115) in 2018. Moreover, the number of juveniles sent to reformatory school as a result of fraud related crimes grew from 29 in 2014 to 109 in 2017, with a significant decline to 52 in 2018.

Overall, in the five years to 2018, along with a trend of harsher punishment on fraud related crimes, statistics show increases in the number of juvenile offenders ordered to receive institution-based treatments as a result of fraud related crimes and/or its share of total juvenile offenders ordered to receive institution-based treatments. Notwithstanding, two questions remain unanswered and require further discussion on criminal policy and institutional design for juveniles who commit fraud offenses:³⁰

- 1) whether such increases in juvenile offenders ordered to receive institution-based treatments as a result of fraud crimes have a positive correlation with more severe punishment, or from another point of view, if the increases demonstrate that only juvenile justice institutions are able to improve the physical health and mental wellbeing of youths and cannot be replaced by non-judicial alternatives without compulsory power.
- 2) With further juvenile offenders ordered to receive institution-based treatments as a result of fraud crimes, whether the treatment model for juveniles involved in drug offenses to juveniles that commit fraud related crimes can be taken into account when developing treatment approaches and programs as well as subsequent guidance and follow-up for juvenile offenders ordered to receive institution-based treatments as a result of fraud crimes.

³⁰ Chapter 1, Part 6, 2018 Crime Situations and Analyses - Crime Trend Reports.

7.2. Analyzing relations between news about homicide cases on the internet and the level of public concern about death penalty from April to June in 2018

During late May and June 2018, several homicide and criminal dismemberment incidents occurred and were then disclosed by the media to the public. Since then, such news reports have given an impression to the general public about an increasing number of homicide cases, and have aroused public support for enforcement of the death penalty. However, criminal statistics released by the National Police Agency, Ministry of the Interior did not show a continuous upward trend of intentional homicide cases (including attempted intentional homicide cases). This paper presumes that the source of public perceptions of crime was TV and online information. Based on this assumption, two research topics in this subsection were set as follows: 1) Did public perceptions of a rising number in homicide cases come from actual occurrences? Or did media releases contribute to development of public perceptions? 2) How can the government treat and respond to such public concerns and debates which mainly arise from general impressions of an increase in homicide cases?

To explore the above topics, this paper first compares the duration when news articles about homicides were released and the duration when public impressions of more homicide cases were created. In the “2018 Crime Situations and Analyses - Crime Trend Reports”, we collected 9,596 homicide-related news items from the internet (including commentaries) through searching keywords of homicide-related news headlines through the KEYPO “big data key engine”. Such internet news included 138 types of single homicide cases from April 2018 to June 2018 and one type of multiple homicide case. These were categorized as old cases (that occurred before April 2018) and new cases (that occurred between April and June 2018) depending on the time the reported homicide incidents occurred. These two categories were further divided into two subgroups- “first-read news” in each type of homicide cases, which was published on the first day when a homicide incident was found, and “follow-up stories”. Secondly, the reports also collected search results of public opinions about death penalty during the same period and compared such search results with the fluctuation in the number of homicide-related news on the internet. The comparison showed that the fluctuations of internet news about homicide cases during a certain period were similar to the fluctuations in search results of public opinions on the death penalty, with a peak number of 3,000 recorded opinions during certain period. Follow-up stories about old or new news covered the majority of internet news about homicide cases. To verify the above relationship, we considered relevant data in relation to public opinions about the death penalty. During specific time periods in May to June 2018, public opinions about the death penalty was highly relevant to homicide incidents, and presented similar fluctuations in the number of follow-up stories about old news or new news. The finding demonstrated a positive correlation

between the amount of internet news about homicide cases and the level of public opinions about the death penalty during specific time periods (Chart 8).

Furthermore, by observing the distribution of public opinions, the data showed that the amount of internet news about homicide cases in mid- and late June was lesser than the amount in late May, while the level of public opinions about the death penalty in mid- and late June was higher than the level in late May. In a word, there appeared to be a time lag between the changes of these two phenomena. By comparing internet news in each time period and applying criminal policy of penal populism and the cultivation theory in journalism, we inferred that occurrence of several homicides and criminal dismemberment with follow-up stories stirred up public discussions about the death penalty. Another inference was that sensational follow-up stories about the homicide incidents in late May and widespread media coverage of the criminal dismemberment in early June provided the general public with an impression of an increasing number of homicide incidents. Consequently, the general public had more active discussions or debates over the death penalty and objected to the government’s stance that the “death penalty cannot solve problems and its execution required a more thoughtful assessment”.

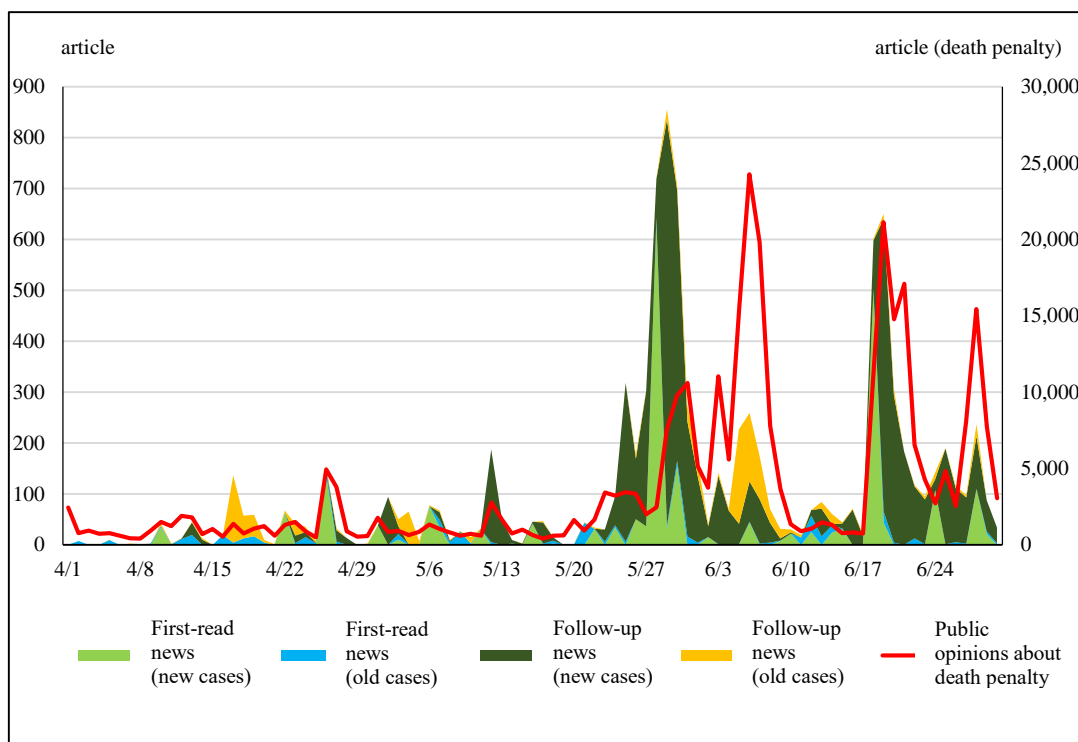


Chart 8 Distribution of internet news about homicide cases and public opinions about the death penalty during April to June 2018

In respect of developing criminal policies, it must be borne in mind that public perceptions of crime may not be same as the actual number of crimes, particularly where the public bases its awareness of criminal incidents through mass media. It is also important to recognize the uncertainty of when the death penalty emerges as an issue, to particularly acknowledge that the timing of the death penalty issues emerging may not necessarily be associated with criminal incidents that occurred at the same time. Therefore, to promote more inclusive discussions among the general public and the media, rather than appeal for more severe punishment simply resting on impressions of an increasing number in homicide cases, we suggest that government agencies consider more proactive approaches to communicate with the general public in addition to responding to public concerns in a passive way. For example, dialogue seminars and in-depth discussions on social issues held currently by private organizations are possible methods for the general public to rationally consider beyond the standpoint of news released by the media.³¹

8. Conclusions and recommendations

This paper focuses on various issues on crimes and criminal justice and analyzes recent crime trends as well as monitors policy development by examining data across multiple stages of the crime justice system or criminal policies and theories. As a consequence, this paper proposes the following recommendations:

8.1. Criminal cases received by police agencies

8.1.1. The gap between the number of fraud related crimes and the number of offenders who committed fraud related crimes may reflect the emerging phenomenon of fraud syndicates, and recent amendments to the Organized Crime Prevention Act in association with certain types of fraud. In the future it may require follow-up observations to see whether the number of fraud cases remains stable but the number of persons committing fraud increases considerably.

8.1.2. Regarding cross-national comparisons of crime rates, the growing number of crimes in the UK may mirror deteriorating safety, but it may be simply the consequence resulting from amendments to criminal law or other factors. The fact behind a rising rate requires further examination.

8.1.3. For certain crimes (for example, child abuse), data published by the National Police Agency cannot reflect actual situation of child victimization. We propose an inter-agency collaboration between agencies of health and welfare and police agencies government agencies by integrating respective databases. In doing so, government agencies and non-government organizations are able to prevent victimization and

³¹ Chapter 2, Part 6, 2018 Crime Situations and Analyses - Crime Trend Reports.

improve the quality of relevant research on the basis of relatively complete data of victimization.

8.2. Investigation and execution of court rulings led by prosecution agencies

8.2.1. Statistics showed that the non-prosecution rate in every year between 2014 and 2018 remained the most significant investigation outcome in sexual assault cases and the prosecution rates showed a downward trend over the past five years. At the inception of enactment of the sexual harassment legislation, sexual assault overlapped legal elements of forcible obscenity and the legal elements of sexual assault were unclear. Given this, a possible topic for future study or policy making may be empirical research on legal elements and case studies of sexual assault and offenses of forcible obscenity in order to facilitate sexual harassment prevention step by step through observations of such crimes and analysis of the criminal sanction regime.

8.2.2. The initial observations found that no specific type of crime played a dominant role in confiscated illicit gains after the new confiscation related provisions came into effect. The 2018 data also showed that confiscation pronouncements on offenders made by courts constituted an overwhelming part of the total confiscation pronouncements in contrast to confiscation pronouncements on third parties. In the future, it may require a further study on the gap between the intended purpose of confiscation pronouncements on third parties and enforcement results in real cases, and the potential factors attributing to the gap.

8.3. Correctional facilities and community-based treatment

8.3.1. Each rate showed a similar change over the past five years, which was an upward trend between 2014 and 2017, and a decline from 2017 and 2018. To link success rates with the effectiveness of the parole system rather than simply compare the changes in success rates themselves, it requires a more transparent and institutionalized parole system to facilitate data screening and identify whether such changes were due to criteria used to approve parole applications.

8.3.2. The statistics show that the recidivism rate of prisoners released on parole was lower than the recidivism rate of former prisoners in each of the last five years. This analysis suggests that the parole system may be of benefit to reintegrate criminal offenders back into society. This is to say that the adequate resources devoted by the Taiwan government to strengthen the probation regime and the rehabilitation and protection system can offer substantial assistance in lowering crime rates and creating a safer society.

- 8.3.3. Statistics of the proportion of prisoners with criminal records and the recidivism rate can be used for different purposes of criminal policies. The proportion of prisoners with criminal records can serve as a basis of studies on reasons why released prisoners return to prison. When planning inmate-oriented treatment programs and considering parole applications, such data on individual prisoners can also be taken into account. However, it is not suitable to link the proportion of prisoners with criminal records before entering prison with the performance of prison administration. This type of data cannot accurately reflect the relation between prison-based treatment and an overall situation of prisoner reentry into society on the part of assessing prison administration or make dynamic predictions on recidivism. In this regard, the broader recidivism rate can be a more objective index used to evaluate the effectiveness of prison-based treatment.
- 8.3.4. The increasing rate of non-performance of obligations imposed by deferred prosecutions and community-based sentencing decisions may call for a further study on factors that impact on the fulfillment of obligations and potential solutions in order to better align outcomes with the policy direction of the recent reintegration and rehabilitation scheme and relevant monitoring programs.

8.4. Analysis on key issues across multiple stages of the crime justice system

8.4.1. Elderly offenders

The statistics show rising shares of elderly suspects and convicted offenders to total suspects/convicted offenders. A similar trend was also found in defendants granted deferred prosecutions, new inmates in prison and offenders placed under protective measures, which all showed an increase in the number of elderly or a shift in age distribution of offenders towards older age groups. Such data demonstrates how important it is to design investigative techniques, correctional strategies and reentry programs specific to elderly offenders during stages of the crime justice system.

8.4.2. Drug offense

The number of drug offenses has increased over recent years. Suspected offenders who were charged of using narcotics under the second drug category accounted the largest share of total suspected drug offenders. The number of offenders using narcotics under the second drug category in older age groups increased in each of the last five years. Furthermore, there was a greater number of defendants convicted of using drugs under the second drug category in the five years to 2018. Statistics for female defendants who were convicted of using narcotics also show an upward trend. Regarding institution-based treatment for drug offenses, the numbers of new convicted offenders who were sent to drug abstention and rehabilitation centers,

convicted drug offenders incarcerated in a drug abuser treatment center and new drug offenders under probation and supervision decreased in each of the last three years. Despite this, an increase in new prisoners was observed. Consequently, it is crucial for the government to provide various treatment services in connection with drug rehabilitation available for the increasing number of drug offenders in order to implement the Executive Yuan's New Generation Anti-drug Strategy.

8.4.3. Cyber crimes

Given the overall situation of the crime justice system in the recent five years, there were higher percentages of intellectual property crimes and child and youth sexual exploitation committed through cyber methods. As planning of investigation into and treatment for cyber crimes (perpetrated by means of internet or computer), these two types of crimes should face particular emphasis. Furthermore, in consideration of the increasing ratios of online gambling to total gambling crimes in each stage of the crime justice system, online gambling also requires additional attention in cybercrime prevention.

8.4.4. Juvenile delinquency:

Trends of high-risk juveniles indicate that “juveniles smoking, sniffing or injecting hallucinogenic drugs other than opiate or narcotic drugs” and “juveniles intending or attempting to commit an offense that is not punishable under criminal law” represented respectively the most and second largest proportions of total high-risk juveniles, and the ratio of the latter increased in each of the last five years. Such trends can be taken into account when handling high-risk juveniles after revising the Juvenile Delinquency Act. During the transition period from the application of the old legislation to the application of the new legislation, this paper suggests that children and juvenile protection agencies, which are delegated to engage into new mandates under the new amendment, may establish a monitoring mechanism to trace high-risk juveniles in different circumstances. By doing so, we can observe how different perspectives of treatments and institutional design may impact on juvenile delinquency and facilitate assessments to develop a system benefiting physical health and mental wellbeing for children and youths.

8.5. Issues concerned individuals within society

8.5.1. Overall, in the last five years, along with the trend of harsher punishment on fraud related crimes, statistics showed increases in the number of juvenile offenders who were ordered to receive institution-based treatments as a result of fraud related crimes and/or its share of total juvenile offenders who were ordered to receive institution-based treatments. With further juvenile offenders ordered to receive institution-based treatments as a result of fraud crimes, it is important to consider the treatment model for juveniles involved in drug offenses to juveniles that commit fraud related crimes can be taken into account when developing treatment approaches and programs as well as subsequent guidance and follow-up for juvenile offenders ordered to receive institution-based treatments as a result of fraud crimes. Such approaches and programs can help juveniles who committed crimes in specific circumstances get back on track.

8.5.2. By observing online news about homicides and criminal dismemberment and public opinions about death penalty during late May and June in 2018, it was found that public perceptions of crime may not be same as the actual number of crimes, particularly where the public bases its awareness of criminal incidents through mass media. It is also important to recognize the uncertainty of when the death penalty emerges as an issue, to particularly acknowledge that the timing of the death penalty issues emerging may not necessarily be associated with criminal incidents that occurred at the same time. Therefore, to promote more inclusive discussions among the general public and the media, rather than appeal for more severe punishment simply resting on impressions of an increasing number in homicide cases, we suggest that government agencies consider more proactive approaches to communicate with the general public in addition to responding to public concerns in a passive way. For example, dialogue seminars and in-depth discussions on social issues held currently by private organizations are possible methods for the general public to rationally consider beyond the standpoint of news released by the media.