

A Research on Public Satisfaction with Prosecutors' Offices and Feelings of Social Safety: Cases from Taipei City and New Taipei City

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Abstract

Recently, some amendments of law and order were caused by public demand. Therefore, in order to understand public expectations of prosecutors' offices and social safety, this paper focuses on the topics on public satisfaction with the prosecutors' offices and feelings of social safety by having 4 focus groups and 28 interviewees, including 8 lawyers, 6 prisoners, 7 chiefs of villages, and 7 family members and officers of victims. This paper aims to understand issues of the topics from different groups, and tries to make suggestions for the government to plan for public needed policy

Although prosecutors' offices have made effort to turn the impression from untouchable authority to familiar one, there are still distances from public satisfaction. Therefore, in addition to revise executions process, the most important factor to raise satisfaction is to increase practitioners' compassion and empathy, which may create a more humane and positive experience for the public.

Keywords: Satisfaction, Social Safety, Prosecutors' Offices, Qualitative Research, Field Study

Note:

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I. Introduction

In recent years, the public has raised their voices to demand the government to reform the criminal code and court proceedings for the creation of an environment that better meet people's expectation of public safety and the judiciary. It is therefore crucial for criminal and judicial policy studies to understand public opinions on the judicial system and public safety. In light of this, this paper conducted a qualitative research that interviewed various groups of people with different experiences residing in Taipei City and New Taipei City to understand their level of satisfaction toward the judicial practice of prosecutors' offices and their perception about public safety. The levels of satisfaction toward the judicial practice of the prosecutors' offices recorded in this paper was the respondents' subjective opinion on the investigation, public prosecutions, enforcement and other practices of the prosecutors' offices, while the perception about public safety discussed in this paper reflected the respondents' subjective perception toward the government's measures in crime prevention and victim protection.

II. Research Design

This qualitative field research included mostly interviews with focus groups in addition to in-depth interviews with individuals. Four focus groups were established. With 6 to 8 people in each focus group, a total of 28 participants were invited to discuss planned topics led by the moderator. The focus groups are as follows:

1. Lawyers: This focus group consisted of 8 lawyers who were registered with the Taipei Bar Association for at least 5 years and currently practiced law in Taipei City or New Taipei City.
2. Prisoners: This focus group consisted of 6 prisoners who were trialed and/or sentenced in Taipei City or New Taipei City with a minimal sentence of 1 year of imprisonment and had served less than one year in prison.
3. Village chiefs: This focus group consisted of 7 village chiefs in Taipei City and/or New Taipei City.
4. Victim's family members and victim protectors: This focus group consisted of 7 person including family members of the victims of violent crimes in the past five years and staff at the Association for Victim Support (AVS) who has worked at the association for at least 3 years and resided in Taipei City and/or New Taipei City.

The overarching question for all four focus groups was their level of satisfaction toward the judicial practice of the prosecutors' offices, supported by further questions such as "what about a prosecutor/prosecutor investigator/clerk that best/least met your

expectation during a specific stage?” and “how would you like prosecutors’ offices or other government agencies to improve to meet your expectation?” In terms of general perception of public safety, this paper interviewed village chiefs and victim’s family members and AVS staff. Village chiefs were asked about the most common criminal cases in each village and the reasons behind them. Victim’s family members and AVS staff were asked about victimization processes and their causes as well as what met their expectation the most and the least in terms of victim protection. Both groups were asked further questions such as what the government agencies should do to meet public expectation.

III. Integrated Analysis

The focus groups differed on their views concerning their satisfaction toward the judicial practice of the prosecutors’ offices and their perception toward public safety as a result of their varying degrees of exposure to prosecutors’ offices and the different types of public affairs they were involved with. While this yielded results that almost seemed uncategorizable, patterns in each focus group were identified, which allowed this paper to outline overlapping and/or complementary views among the focus groups. Below is a cross evaluation of the interviews in the context of the current legal system and policy development.

1. Satisfaction toward the judicial practice of the prosecutors’ offices

On this topic, generally the motives and responses of the participants within a focus group varied because of their different work experiences, past dealings with the judicial system and levels of interaction with the general public. However, the extent to which the responses overlapped across the four focus groups was significant enough to conclude several key points of which urban residents may be most concerned.

A. Key points of which urban residents may be most concerned

a) The fear of ordinary people in trial proceedings and their difficulties in collecting evidence as individuals

This was a highly common concern raised by the focus groups, except the prisoner focus group. It was pointed out that ordinary people unfamiliar with trial proceedings often experienced fear during lawsuits because the legal procedures seemed dauntingly complicated and they were worried about their personal safety. Some of those involving in lawsuits were even asked by prosecutors to investigate and collect evidence by themselves, which was challenging because they were merely individuals and not representing any government agency. More specifically, the lawyer focus group spoke of the fluctuating emotions and fear of harm of those involving in litigation. The

lawyers believed that whether the prosecutor provided comfort or listened; whether the police was present during lawyer visits; whether the lawyer was present when one (not as a defendant) was questioned; and whether the victim and perpetrator were separated during court proceedings were all key factors influencing the emotions and levels of fear of those involving in litigation. The village chief focus group indicated the fear of harm of the villagers involved in litigation and the difficulties for the village chiefs and villagers in collecting evidence on their own. The village chiefs believed that whether the prosecutors' office could understand the victim's fear of retaliation from the perpetrator and whether the prosecutors were in some ways indirectly transferring the burden of proof to the victim were important issues that needed to be addressed. Finally, the victim's family members and AVS staff spoke of the fear of victims and their family members of retaliation by the perpetrator during the litigation process because the victim's identity and address could potentially be accessible to the perpetrator's lawyer who had the right to request to view case files or to project the victim on a screen in court. It was evident that being separated from the perpetrator in court gave some victims a greater sense of security. The other point raised by this focus group was that victims were asked to investigate and collect evidence on their own as individuals. It is, therefore, clear that ordinary people without any legal background can experience fear and helplessness during litigation as they face the complicated judicial mechanism and potential threats. As the result, as law enforcement agencies, the prosecutors' offices' ability to sympathize with the fear of people and not create unnecessary restrictions is helpful in responding to public expectation. They can do so by providing timely comfort, space, and professional company; protecting personal data without hindering investigation; and understanding the challenges of people to collect evidence and actively addressing the issue.

b) Investigative prosecutor and public prosecutor handling different stages of a case

Having different prosecutors serving as the investigative prosecutor and public prosecutor on the same case was a highly discussed issue during the focus group with lawyers and prisoners. Even though the interviewed lawyers did not believe different prosecutors handling different stages of the same case would impact the result, but the prisoners generally believed that it would be more appropriate for the same prosecutor to handle all stages of a case. However, a closer look at their different opinions showed that the lawyers were more concerned about whether a prosecutor would form a subjective opinion that the defendant was guilty during the investigation process, which could affect prosecutor objectivity during trial. They were also concerned about whether the public prosecutor could continue the case based on the results gained by the investigative prosecutor. This was also of concern to the interviewed prisoners.

Therefore, as far as the interviewed lawyers and prisoners were concerned, the prosecutors' offices should ensure the same level of understanding over the case and the directions of evidence collection for both the investigative and public prosecutors in order to prevent case delays due to time wasted on confirming information.

Not only did the interviewees had different opinions on whether an investigative prosecutor should be present in court for a public prosecution case, there were also differing views from experienced lawyers and prosecutors concerning the Ministry of Justice's "Guidelines on Prosecutor's Appearance in court During Public Prosecution" which was promulgated approximately 20 years ago. As a response, the Ministry of Justice plans to implement team prosecution for major cases at certain district prosecutors' offices. In the proposed mechanism, prosecutors will be named during indictment and will participate in the public prosecution. As a major change to the long disputed controversy, this policy should be watched closely to monitor its potential to be applied to non-major cases to respond to the concerns identified by the focus group results, i.e. having two prosecutors handing different stages of a case and the obligation of objectivity. After all, any lawsuit, irrespective of its severity, can make or break one's life.

- B. Issues raised by the focus groups and the potential restrictions upon their experiences
 - a) Lawyers – right to counsel during investigation and non-disclosure of investigation

During the focus group with lawyers, the participants, based on their experience with their clients, pointed out more issues than other groups, most of them regarding the investigation process. These can be categorized into the investigation methods for investigation agencies other than prosecutors' offices, the attitude of the prosecutor's office and matters under their administrative discretion. First of all, the interviewed lawyers recognized the effort of the current prosecutors' offices to abide by the legal due process, but they pointed out that different entities in an investigation, the Investigation Bureau and Agency Against Corruption often, without any legal reason, deny the party the right to have counsel present during questioning or making statements of opinions. Besides, despite the improved attitude by most prosecutors, the lawyers said that the attitudes of clerks and prosecutor investigators were sometimes more vital in determining the general public's perception of the prosecutors' offices. Finally, the lawyers highlighted the importance of procedural matters, which were not stipulated by law (sometimes just as general requirement) but often were subject to administrative discretion with a drastic impact on the lawyers and parties of the case,

particularly when a prosecutor's office, based on its investigation schedule, unilaterally required the lawyer or parties to cooperate in its investigation without allowing enough time for preparation; or under the non-disclosure of investigation, case details or parties information were made public or manipulated to the favor of prosecutors' offices; inconsistent displays for the prosecutors and defendants during the inquiry sessions or trial courts, which prevented the lawyer from fully grasping the latest development of the case. As a matter of fact, in addition to the attitude of the law enforcers of the prosecutors' offices, it is more important whether administrative discretion of a prosecutor's office include the lawyer (as a subject of the procedure) and if other investigation agencies deny the parties the right to counsel to defend himself during the litigation without a proper cause.

With the exception of the public's perception of the prosecutor's office, the interviewed lawyers pointed out issues including the rights restricted by Investigation Bureau and Agency Against Corruption, demand for unilateral cooperation to the investigation without sufficient preparation time and inconsistent equipment between the parties and the prosecutors during the inquiry session, which mainly concerned a defendant's right to counsel during the investigation of a criminal case. However, the details of a case under investigation being made public or the discretion to determine whom to share information with are relevant to non-disclosure of investigation.

i. Right to Counsel During Investigation

Though not stipulated in The Code of Criminal Procedure, the interpretations by the Grand Justice and Supreme Court, such as J.Y. Interpretation No.654, have specified the right to counsel during investigation. The Supreme Court, in its various interpretations, has pointed out that a criminal defendant has the right to counsel during the litigation. Recently it has also pointed out that a criminal defendant has the right to actual and effective counsel during various stages of litigation. In practice, such right to counsel has been recognized as a constitutional right to legal proceedings, which must ensure that the defendant, during various stages of litigation, receives actual and effective counsel to exercise his/her right to defense as defined in The Code of Criminal Procedure, which further protects his/her constitutional right to legal proceedings.

Regarding the Investigative Bureau and Agency Against Corruption's questionable investigative practices, Article 14 of Organic Act for Investigation Bureau, Ministry of Justice and Article 2 of Organic Act of the Agency Against Corruption, Ministry of Justice both stipulate that the staff of the bureau and agency, while conducting criminal investigation, should consider themselves as judicial police officers or judicial policemen. However, judicial police officer/policeman has the sole

discretion to determine whether defense attorneys should be present during investigation. In fact, a judicial policeman may, based on the principle of first statement or the proviso in Article 245.2 of The Code of Criminal Procedure, make ungrounded judgment and deny the defendant's right to have his/her defense attorney present. This means that the defendant will have his/her statement taken without consulting a lawyer and be forbidden to call the lawyer to be present. The lawyer will also be forbidden to talk to the defendant or take notes of the interrogation. These improperly restrict the defendant's to actual and effective defense and prevent the defendant from contacting his/her lawyer, preparing for litigation and even undermine the trust between the two. Thus, the defendant is more likely to become the subject of investigation without proper procedures of remedies, which infringes the defendant's constitutional right to legal proceedings. Therefore, the issues regarding the right to actual defense discussed in these focus groups actually had to do with a defendant's infringed right to legal proceedings, which has yet to be defined clearly by law and still requires attention and action by the related agencies. On the other hand, the discussed problems including unilateral demand for the lawyer to cooperate with the investigation schedule and poor equipment at the inquiry sessions, which prevents lawyers from fully understanding the case details and accessing files, are also in the scope of the right to actual defense. The screens used during the inquiry sessions, if cannot help lawyers understand the case details, will contribute to the defendant being questioned and judged without effective defense, which is also a violation to the right to actual defense.

ii. Non-disclosures of investigation

The principle of non-disclosure of investigation is implied in Article 245 of The Code of Criminal Procedure. Based on this principle, the investigation should not be made public to prevent any external impact on the investigation and maintain the investigative efficiency until the case details have become clear. It can also protect the reputations of parties and interested parties and prevent trial by the media or the public (which means the presumption of guilt will be less likely to be applied to the defendant). Ever since the principle was implied in Article 245 of the Code of Criminal Procedure, its abstract elements and unclear procedures had led to controversies, particularly the disproportionate discretion of the investigative agencies. In response to this, relevant government agencies promulgated "Guidelines On the Police Agency & Subordinate Branch In Publication of News and Coordination with the Media" in 2000 and "Guidelines On The Handling or Information Regarding Criminal investigation For the Prosecutors, Police and Investigative Agencies" in 2002. However, after the two guidelines were published, scholars pointed out that these guidelines simply aimed to prevent information leaks and neglected to protect a suspect's privacy and reputation.

Therefore, they believed that Paragraph 3 of Article 245 of the Code of Criminal Procedure should be enforced even more strictly to prevent the abuse of “ disclosure of whatsoever information acquired through the performance of the duty during the investigation.” In practice, the two guidelines have yet to restrain certain prosecutors and police officers. That is why certain agencies still discuss ongoing investigation with the media, which leads to trial by the media and public opinions prior to the court trial. Some scholars also pointed out that certain prosecutors cited the principle of non-disclosure of investigation as the reason not to provide investigation information to the defense attorney. In their opinion, Paragraph 3 of Article 245 of the Code of Criminal Procedure treated the defense attorney and agent of the complaint as the subject of the non-disclosure principle, which would impose the same restrictions on both the investigative agencies and the defense despite the fact that they serve different purposes. They also pointed out that the right to counsel during investigation aims to ensure that a suspect can obtain legal assistance and prevent unlawful investigation. Therefore, investigative agencies should not, based on the non-disclosure principle, limit a defense attorney’s participation in the investigation and the attorney’s proper access to the investigation information.

In response to the above-mentioned controversies, the government promulgated “Regulations Governing Non-Disclosure of investigation” in 2012, where Article 2 stipulates that based on the presumption of innocence, protection of the personality rights of parties and interested parties, investigation should not be disclosed. Other articles (Article 3 to 5) of the regulations also specify the scope of non-disclosure of investigation, the definitions of elements (Article 6 to 7), non-disclosable items (Article 8) and other items that can be disclosed or otherwise disclosed to an appropriate extent, when deemed necessary, after careful consideration has been given to the defense of public interest or protection of legitimate rights (Article 9). The J.Y. Interpretation No.737 in 2016 stated that it is a proper and legal procedure to give the suspect and defense attorney access to necessary information in the detention motion at the investigatory stage. Therefore, based on this assumption, the non-disclosure principle of investigation should not impede the implementation of proper legal procedures. At the same time, scholars also pointed out that in practice, there are still issues such as how investigative agencies should provide investigation information to the media at the proper timing, how to urge media to have verified reports and how to report without disclosing the names of the relevant parties. Another issue is that violation of the non-disclosure principle usually only results in administrative penalty, which cannot effectively deter anyone from violating the principle. In response to these controversies, the committee members at National Conference on Judicial Reform last year passed a resolution to request government agencies to fully implement the accountability

mechanism for the non-disclosure principle of investigation, review the elements for promotions within the government system, review the abstract articles of the law, formulate a standard operating procedure and policies to prevent improper coverage of judicial cases by the media and ensure the parties and the defense attorney to have the access to case information and records and receive investigation updates from the relevant agencies. The Judicial Yuan, in response to such request, established the Committee of Criminal Procedure Reform to formulate guidelines on the access to investigation information and updates for the defense attorney and parties. The Ministry of Justice also passed a resolution to ensure that the media comply with the non-disclosure principle and formulated the “Implementation Plan for the Enhancement of Compliance of the Non-disclosure Principle of investigation In Prosecutorial, Investigative and Anti-corruption Agencies Under the Ministry of Justice” in this February. The plan requires the prosecutors’ offices, Investigative Bureau and Agency Against Corruption to appoint their head prosecutor or deputy chief to monitor the compliance of the non-disclosure principle and its accountability. In addition to the violator’s criminal and administrative responsibilities, his/her supervisor may also bear administrative responsibility depending on the severity of the offense. However, the details of this plan were still under discussion when this author conducted research for this paper. Therefore, future studies will be required to discuss and analyze related future policies and their implementation.

b) Prisoners – Implementation of the Presumption of Innocence

Contrast to the other groups, about half of the prisoners in this focus group would say that they had no opinions toward certain questions. However, after observing the session and analyzing the anonymous questionnaires, it could be determined that their lack of opinions could be contributed to the fact that these prisoners did not have any subjective expectation toward the prosecutors’ offices’ procedures or did not find anything wrong with the investigation, public prosecution and penalty implementation since they lacked the understanding of the current procedures. Therefore, it could be concluded that these prisoners believed that legal procedures were reasonable and simply did not notice any interests or detriments resulting from such procedures. On the other hand, in addition to the issue of having two separate prosecutors for the investigation and public prosecution, prisoners also talked a lot about whether prosecutors investigated both exculpatory and damning evidence based on presumption of innocence and whether the prosecutors, based on presumption of guilt, talked and responded to prisoners passively. What is worth mentioning is that the interviewed prisoners mostly determined whether the prosecutor applied presumption of innocence based on if the prosecutor had formed a subjective opinion about their alleged crime at

the time, sought evidence in favor of the prisoner among the evidence against him/her, actively investigated the prisoner's background and asked the prisoner to bear the burden of proof. However, the only question is that whether these standards had to do with a prosecutor's attitude during the investigation have anything to do with the presumption of innocence as defined in the Code of Criminal Procedure; furthermore, whether the presumption of innocence applies to a prosecutor's investigation. Therefore, in order to better understand these prisoners and clarify how prosecutors can respond to the above-mentioned needs, the following section will explain the relevance of presumption of innocence to prosecutors office and respond to the prisoners' focus group discussion.

As far as the law is concerned, Paragraph 1 of Article 154 of the Code of Criminal Procedure defines presumption of innocence (Prior to a final conviction through trial, an accused is presumed to be innocent). This article aims to eliminate the presumption of guilt in the society and serve to protect the defendant's human rights, which means that the burden of proof falls on a prosecutor who must produce evidence to prove the defendant guilty and overturn the presumption of innocence. Such interpretation can also be seen in recent legal practices. For example, there have been 253 verdicts since 2003 in which the prosecutors had to bear the burden of proof. In these verdicts, it was pointed out that the prosecutor(s)' evidence was not sufficient to prove the defendant guilty or the method of proof was not able to convince the court to find the defendant guilty and therefore based on presumption of innocence the defendants should be found not guilty. As far as the legislative motives and practices are concerned, presumption of innocence mainly applies to court judges while the prosecutors mainly bear the burden of proof in court. However, presumption of innocence does not aim to govern methods of investigation.

Most of the scholars also connect the principle of presumption of innocence with prosecutors' burden of proof and court verdicts, after all, the principle still applies to investigation. Some of them believe that presumption of innocence will not prohibit prosecutors, from determining a suspect's suspicion via methods of investigation prior to a guilty verdict. Otherwise, criminal procedures will not be able to continue. However, it is because of the principle of presumption of innocence that prosecutor's office will conduct investigation based on reasonable suspicion instead of a guess or a hunch. Therefore, during investigation, presumption of innocence aims to impose reasonable restrictions, particularly on defining the defendant's burden during criminal procedures. Regarding to the focus group with prisoners, if a prosecutor makes presumptions about a criminal defendant, he or she tends to refuse to investigate evidence in favor of the accused or require the accused to produce evidence to prove

his/her innocence, which will result in inaccurate judgment of suspicion and imposes the burden of proof on the accused, which may constitute to a violation of the presumption of innocence.

c) Village Chiefs – Division as a result of media reports

Although village chiefs usually do not have personal experience with the prosecutorial procedures like lawyers, prisoners, victim's family members or AVS staff, they can still be considered representatives of the general public as they often assist villagers in such matters and are more aware of the public affairs and the public opinions. Village chiefs would base their satisfaction toward the judicial practice of prosecutors' offices on the villagers' opinions, personal experience and the news media. From the village chiefs' experience, it is clear that those who had no experience with criminal procedures often based their opinions on the secondary sources of specific topics, in which specific angle was reported, rather than information directly from prosecutors' offices. It is worth noting that the village chiefs, during the focus group, realized that they and the villagers may not consider an objective aspect to the performance of prosecutors' office through media. However, they still perceive that the courts were responsible for the verdicts not consistent with prosecutors' findings after their hard work, which was a bias displayed by media coverage. If even village chiefs, who often dealt with public affairs, had fallen prey to such biased information, the general public who have even less experience with judicial and prosecutorial agencies will have even a greater difficulty learning about the truth among the medias biased coverage.

As matter of fact, the quantitative research conducted by the Judicial Yuan could predict such result. According to The General Public Survey on Judicial Cognition of 2017, nearly 60% of survey takers did not consider themselves knowledgeable about the judicial system and over 70% of them receive information about the judicial system from television. To take a closer look in to television as an information source, 46.3% of the survey takers stated that television shows' opinions and criticism of judicial issues have had a negative impact on their perception toward the system. As far as the verdicts on cases with much public attention were concerned, more than half of the survey takers stated that the verdicts contradicted with their own experience greatly, among these survey takers, 7.6% found the verdicts completely contrast to their expectation. The results above are consistent with the study result from the focus group with village chiefs, which is that even though the general public realized that they have obtained information on the judicial system (including prosecutors' offices) from the media (such as television) and were aware how such information impacted their perception of the system. However, when facing unimaginable verdicts on social cases,

they were still deeply affected by such information from the media and formed opinions contrast to the truths of the original case and furthermore criticized the prosecutors' offices and other government agencies based on their assumption. This does not render the general public's opinions invalid. On the contrary, this tendency elaborates the general public's difficulty in obtaining truthful and accurate information on judicial agencies. It is in the hands of relevant agencies to provide accurate and objective information on the judicial system to the general public. This author suggests that the relevant agencies should, after the verdicts on case with much public and media attention are published, explain the verdict in a way that is easier for the public to understand and urge the media to have unbiased and rational coverage, which will lead to more rational discussions.

d) Victim's Family Members and AVS staff – The standing of a victim in criminal litigation

During the focus group with the victim's family members and AVS staff, the issues that drew the most response was how difficult it was for victims to collect evidence and the fear of retaliation from the perpetrator during the litigation process. However, these have been discussed in the section "Issues highly concerned by urban residents" along with issues discussed by lawyers and village chiefs. Therefore, this section will not discuss these issues any further. There are another two issues highly concerned by this group of interviewees. The first issue is that the victim, being a witness in the litigation process, lacks the opportunity to actively make statements in court, which makes them feel helpless. The second issue is that victims (and their family) highly rely on the assistance from the Association for Victim Support.

The victim's standing has been a highly discussed issue during the last five years, it has also become one of the key topics in government policies and the National Conference on Judicial Reform. Regarding the victim's standing in litigation, literature points out that victims often feel neglected as the result of the current judicial procedures. Some recent literature also perform a systematic analysis of a victim's standing under litigation system which was stipulated in the Constitution of the Republic of China and the Code of Criminal Procedure, particularly the victim's rights in legal proceedings. Such rights, as defined by J.Y. Interpretation No.507, include seeking redress (request the judicial sector to investigate, indict, and render judgments) with the criminal and administrative courts, as defined in Article 16 of the Constitution, the State shall also provide a system to guarantee the exercise of such a right. However, currently if a victim does not initiate a private prosecution, he/she will remain as a witness and will not become a party in legal proceedings. In practice, a victim usually is questioned by a prosecutor passively during the investigation and cannot obtain the

latest information of the case. Even though after trial begins, the victim or his family member(s) may be summoned by the court to state their opinions based on Paragraph 2 of Article 271 of Code of Criminal Procedure, they are usually scheduled to state their opinions right before the end of the court date and rarely have the opportunity to truly speak their minds. This shows that even though the victim is a part of the case, it has a relatively low standing in legal proceedings since it is excluded from the term “party” of criminal proceedings. Therefore, they rarely can receive compensation or consolation from litigation.

In response to the issue, the government has operated policies to develop a system that allows a victim’s active participation in legal proceedings. In 2013, the Judicial Yuan convened a public hearing on “the feasibility of victim participation in criminal proceeding”. The same year 27 legislators proposed “Draft Bill on Amendments to Code of Criminal Procedure” at the Legislative Yuan. However, scholars and legal practitioners have had different opinions on whether a victim should be granted the same rights as a party in legal proceedings since 2013. Plagued by controversies, this issue was discussed and debated during the National Conference on Judicial Reform in 2017. In response to the criminal proceeding issues proposed by the committee members during this conference, including privacy protection, timely update of proceedings, reservation of a victim stand, final dispute resolution judgment and the accompaniment of legal aid attorney, the Ministry of Justice and the Judicial Yuan are looking into developing victim participation systems with different policy directions. Currently, the victim participation system aims to, while protecting the dignity of the victim, respecting the victim’s subjectivity, helping the victim obtain updates on the litigation, promoting the victim’s participation in legal proceedings, promoting reasonable utilization of judicial resources, respecting the prosecutor’s role as a party in legal proceedings and assisting the court in uncovering the truth about a case, grant the victim the right to apply for participation in legal proceedings, appoint his agent (to examine the exhibits), be notified about the preparation and trials, be present during proceedings, state his opinions in proceedings as well as state his opinions regarding the evidence and scope of sentence.

Therefore, the government, while drafting recent bills, has been trying to address the issues above while lifting a victim’s standing in legal proceedings without affecting the structure of criminal proceedings and the defendant’s right to legal proceedings. However, once a victim’s standing in legal proceedings is lifted, he will need to understand more legal proceedings and thus require more assistance. The scope and intensity of the resources required to assist a victim in even more diverse litigation actions should also be taken into consideration. This includes taking a closer look at if

the subjects receiving support from the Association for Victim Support and the association's scope of operation will require even more resources when a victim's standing in legal proceedings is lifted. It also includes evaluating how to implement the system and ensure that the victims and their family members who are currently not receiving support from the Association for Victim Support can utilize resources as intended by the association.

2. Perception toward Public safety

Among a broad array of public safety issues, this paper mainly explores two issues: public safety and victim protection. This paper will analyze the common issue among all focus groups –increased statutory penalty and pleading heavy sentence – as well as the issue of public safety. Afterwards it will discuss issues specific to victim protection, including the victim's family members and AVS staff.

A. Opinions on Increased Statutory Penalty and Pleading Heavy Sentence

Among all interviewees, it is worth mentioning that opinions from the village chiefs and victims' family members on the duration of statutory penalty and how courts determine sentences. Among the interviewees, 3 of the 7 village chiefs mentioned that the legal sentence or the court's sentence for certain crimes were too insignificant and thus resulted in an unsafe society. They believed that such light sentence would not deter others from committing similar crimes. 3 of the 4 victims' family members also talked about how the court neglected how victims' family would feel when the court decided not to seek a heavier sentence. They also believed that this was a reason for a disorderly society. Even though the two groups of interviewees had a similar conclusion, a closer look reveals that it was their different experience and needs that resulted in conclusions. Among the focus group of village chiefs, less than half of them supported a heavier sentence. 1 village chief, even commented that “an ounce of prevention is worth a pound of cure” and “education beforehand is more important than punishment later” after hearing another village chief's support for heavier sentencing. However, this does not mean these 3 village chiefs' opinions did not represent the entire group. In fact, these 3 village chiefs may believe that a heavier sentence could deter crimes because they were in the area with higher crime rate. On the contrary, the village chiefs that either did not state their opinion or opposed heavier sentencing were from areas with a lower crime rate. Therefore, in the future, it is feasible to explore whether a person's appeal for a heavier sentence for the sake of public safety has anything to do with the crime rate in his area.

During the discussion victims' family members, it was quite clear that these family members would only seek heavier sentence on the perpetrator if they could not feel the

sincere regret and remorse from the perpetrator. In other words, they wanted to see that the perpetrator acknowledge that he had made a grave mistake that could not be undone and was sincerely willing (not for the purpose of reducing sentence) to compensate the victim's family the expenses and damages as the result of the death of the victim. When a perpetrator fails to meet these expectation, the victims' family members will feel that they are not compensated for the financial and mental losses, they will expect the litigation to impose a heavier sentence against the perpetrator to make he/she realize the severity of his crime ,or to prevent an unrepentant perpetrator from continuing to do damages to the society. However, a judge cannot determine a sentence simply based on the victim's perception. As a result, it is very often the sentencing does not meet the victim family's expectation toward the judicial procedure and in turn they lose faith in the system. Therefore, it is worth considering providing counseling to the perpetrator, without violating the Code of Criminal Procedure and legal principles, to help him show genuine remorse and learn to face the damage he has caused the victim and victim's family members at any stage after the crime took place, which will truly help the victim and victim's family members.

The above paragraphs indicate that the root of the problem is how to categorize and effectively handle the public safety issues pointed out by different groups of people. For the general public, it is imperative to consider ways to prevent crimes in areas with higher crime rate. For victims and their family members, it is important how the judicial procedures can provide them with comfort and assist them in responding to both daily and legal challenges, rather than simply imposing heavier sentences.

B. Perception toward Public safety

Regarding public safety, the village chiefs, victims' family members and AVS staff expressed their opinions from various angles. The village chiefs served the residents in their respective villages, therefore they mainly talked about the crimes in their areas, motives of such crimes and struggles they had to help their villagers deal with. They also pointed out that due to legal restrictions, they could not access data on migrants, which prevented them from fully grasping the crime problems in their own villages. On the contrary, victims' family members and AVS staff mainly talked about family education and media based on their own experience, such as the staff's experience with the victim and victims' family members or what they learned from the media, instead of their own observation in local affairs. Therefore, this author believes that even though the government and the public pay a lot of attention to the family education and media influence behind criminal offenses, the village chiefs' experience may reflect the actual crime problems in the society and can give us a better understanding about the daily crime problems and how to formulate a countermeasure.

C. Victim Protection Issues in the Focus Groups and Interviews

This section compiles the focus group and interview results with victims' family members and the AVS staff. It can be divided into two issues: Update about the sentence implementation against the perpetrator and victim compensation.

a) Provide Victim and Victims' family members Update on the Sentence Implementation on the Perpetrator

First of all, the victim and victims' family members may feel unease about the possibility of running into the perpetrator on parole if they only know about the sentence but not its implementation, which means they do not know if the person that has caused them great harm has been punished by the government. If there is a way allowing them to learn about the sentence implementation on a perpetrator and potential parole date, it will help them know that the perpetrator has indeed paid for his crime and can prepare to face the perpetrator in the future. As the author conducted research for this paper, this issue was heavily discussed and debated at the National Conference on Judicial Reform in 2017. During the conference, the committee members pointed out that a victim, as a party in a criminal case, should have the right to access litigation progress and case files. Therefore, they suggested that the government should put in place a mechanism that will notify a victim about matters such as the perpetrator being out on bail or parole, allowing the victim to obtain updates on the proceedings. In response to this, the Ministry of Justice will first enhance victims' access to information. Currently they will work on providing investigation results to victims when investigation is concluded for cases with a lot of social attention. The Ministry of Justice has also, via its official letter, approved "Guidelines Over the Notifications Regarding Perpetrator Imprisonment and Parole to the Association of Victim Support", allowing victims who wish to learn about the transfer or release of the perpetrator to apply for notifications on such matters from correctional agencies via the Association for Victim Support.

However, a look at the Crime Victim Protection Act and the Ministry of Justice's policy above shows that the existing challenge is that victim or victims' family members can only learn about the sentence implementation on a perpetrator if the victim is deceased, seriously injured, or sexually assaulted regardless of the factors mentioned above. In addition, the current system provide the other victims neither any channels to learn about nor the update on the perpetrator's sentence implementation, which will result in controversy over different treatment regarding "the right to know about criminal procedures" based on the outcomes of crimes. Even if a victim (or the family members) meets the requirements above, there still may be confusion over the

discretion on the applications, discretion standards and other elements between the Association for Victim Support and Agency of Corrections. Therefore, even though this policy is relatively new, it is worth considering the issues above during its implementation.

b) Controversy Over the Standard in the Determination of the Crime Victim Compensation

The focus groups and interviewees also talked about the controversy over the standard in determining crime victim compensation based on the finances of the victim or victim's family members. Accordingly, compensation is considered "justice" to the victim and his family members who have trouble obtaining compensation via civil actions. However, such "justice" solely relies on the victim or victim's family members' financial statement, which means that they will have to watch their finances scrutinized during the trial. The controversy here originates from Paragraph 1 of Article 9 of the Crime Victim Protection Act states that crime victim compensation includes medical treatment cost, funeral expenses, victim's statutory obligation to support the dependents, which cannot be fulfilled by the victim after his/her death, for the loss or reduction of work ability or the increased living expenses and compensation for mental distress. However, the Enforcement Rules for the Crime Victim Protection Act only give clear definitions to medical treatment cost (the sum of costs incurred from the necessary medical treatment of the victim's injuries) and funeral expenses (the sum of the necessary funeral expenses incurred for the victim's death) and not the other compensation listed in Paragraph 1 of Article 9 of the Crime Victim Protection Act. Paragraph 1 and 2 of Article 14 of the Crime Victim Protection Act also stipulate that the screening and decisions on compensation will be made by the crime victim compensation review committee (by prosecutors' office of a district court) and the crime victim compensation reconsideration committee (by the prosecutors' office of a high court). The two committees will, in practice, decide on the compensation (including the scope and amount) based on the Civil Code and interpretations of Civil Court rulings. Based on the above paragraph and the interviewees' opinions, a victim or victim's family members' finances will be used to determine victim compensation because the committees will refer to the Civil Code and interpretations of Civil Court rulings. For instance, victim's statutory obligation to support the dependents will be determined based on court practice and Paragraph 2 of Article 192 and Article 1119 of the Civil Code, where the victim's economic ability and social status should be taken into consideration in the determination of the perpetrator's burden of the victim's statutory obligation to support its dependents. This may be the result of Article 12 of the Crime Victim Protection Act, which stipulates that upon payment by the government of any

crime victim compensation, the prosecutor's office shall have the right to make a claim for reimbursement against the perpetrator. However, the Ministry of Justice published an administrative rule, which states that even if the prosecutor's office exercised its right to make a claim for reimbursement but was either denied or not able to assert for any reason, it may not request the victim to return the compensation he/she has received or file a claim for unjust enrichment against the victim. Therefore, it is worth considering the perception of the victim or victim's family members during the administrative procedure of compensation application and the writing of the written decision. It is also worth considering whether a prosecutors' office, while reviewing the victim or victim's family member's finances based on the Civil Code and interpretations of Civil Court rulings, imposes improper restrictions (not stipulated by the law) on them on the condition that such office does not have to bear the detriment based on the result of the litigation on the claim for reimbursement or demand the crime victim or victim's family member to return the difference in compensation.

IV. Conclusion and Suggestions

Lawyers, prisoners, and victims have the most contact with the prosecutors' offices while village chiefs can be considered the third-party observers without direct contact. To lawyers, prosecutors' offices should, during investigation, consider the time required by the lawyer and his/her client to prepare for the trial, the significance to have the lawyer present with the defendant or witness, the impact of division labor within the prosecutors' office on the consistent and efficient processing of a case, the monitors in the inquiry session affecting the right to legal proceedings of the lawyer and his/her client, how a prosecutor investigator and clerk's attitude affect the case and how government agencies handle the confusions arising from regulations imposing restrictions on defense rights. These are the issues most urban lawyers pay close attention to. The prisoners were concerned about whether a prosecutor showed respect, investigated evidence both against and in favor of the prisoner and whether the prosecutors could have consistent case information and evidence investigation during the investigation and public prosecution. To the general public (represented by the village chiefs in this paper), it was crucial if prosecutors' offices could provide a way to allow them to understand the judicial procedure effectively. To victims and their family members, the prosecutors' office could help them by being sympathetic toward their collection of evidence, paying attention to the risk of personal data leaks during reviews of cases files or exhibits in court proceedings, ensure their standings in legal proceedings and making sure that they had sufficient assistance in these proceedings.

Regarding public safety issues, the interviews with the focus groups of village chiefs and victims (and their family members) show a diverse array of public safety

issues worth discussing. To village chiefs, they cared about how to enhance crime prevention in areas with higher crime rate, how the local authorities could detect potential crimes and how to deal with drug and other crimes committed by migrants that lived in rentals in the area. To victims and their family members, they expected relevant government agencies to provide update on the sentence implementation and parole information of the perpetrator(s), deal with the mental distress from the proof of economic ability in determination of compensation, make sure that a perpetrator shows genuinely remorse for the crime committed via judicial and follow-up procedures and prevent perpetrator(s) from causing any more mental distress to the victim and victim's family members after the crime offense. They also expected the relevant agency to help perpetrators to show genuine remorse and rehabilitate and help the victim and victim's family recover from emotional trauma.

The interviewees in this paper have provided several suggestions from different perspectives regarding the satisfaction toward the judicial practice of the prosecutors' offices and perception toward public safety. An analysis of these suggestions and the data from recent theories, regulations and policy-making indicate that these issues have developed at different levels in practice and in theory. This paper shows the issues concerned by the urban residents having remained unsolved for a long period of time, new issues that many are seeking solutions for and long-standing issues that require more academic resources and discussions in policy-making. This author hopes that this research will mark as the beginning to the quantitative research in the public's satisfaction toward the judicial system and public safety and help the government understand the issues genuinely concerned by the public and the contexts so that the government can formulate a comprehensive system that is more in line with the needs of the general public.