

偵查不公開原則未落實

Principle of Secret Investigation Compromised

The principle of secret investigation is one of the most well known aspects of criminal procedures. However, many investigation agencies have repeatedly failed to uphold such principle, thereby undermining their credibility and causing social discontent. The Control Yuan launched a special investigation to understand the root cause behind the problem. (Case no. 0980800107)

The purpose of secret investigation is to ensure effective investigation, fair trial and to protect the personality of individuals involved. In practice, however, for the sake of information transparency and public welfare, many countries allow partial disclosure of ongoing investigations via press release or press conference. The extent of disclosure has been much debated, from “disclosure of content but not the process” to the notion that “secret investigation should not mean non-disclosure”. There have been instances in which prosecutors, in an attempt to glorify their efforts, revealed too much information while the investigation was still underway. In addition to ambiguity in what constitutes permissible extent of disclosure, the problem of unregulated media presence in the prosecutor’s offices, lack of restriction on the use of electronic devices during interrogations, no encryption for radio devices, and poor work ethic among prosecutors and the press further complicated the situation. The Control Yuan issued the findings of this special report to the Ministry of Justice, the National Communications Commission (NCC) and the National Police Agency of the Ministry of the Interior.

In response to the Control Yuan’s recommendation, the prosecutor’s office and the police department have take steps to prevent false media reports. The prosecutor’s office under the Taiwan High Court has set up a press room and bans all media personnel from the prosecutor office and the bailiff room. Prosecutors who fail to abide by the principle of secret investigation as stipulated in the Criminal Procedure will be investigated and punished. Meanwhile, the police departments will use dedicated frequency for radio communications, refurbish offices and interrogation rooms, and continue to hold staff training on the importance of secret investigation. The NCC has also launched a website to enable citizens to report any inappropriate news content and organized a three-way dialogue between the public, the media and the government. Unfortunately, there is no legislative ground to stop broadcasters from airing comments on ongoing investigation as doing so would infringe upon the right to freedom of speech.