



臺灣彰化地方檢察署 111 年度自行研究報告

查緝及防制國土犯罪策略探討

從檢察官之跨域整合角色出發

A Study on Strategy of Investigation and Prevention of
Environmental Crime
The Role of Prosecutors on Cross Government
Collaboration Perspective

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摘要

為達有效查緝環境犯罪，保護國土之目的，檢察官必須居於跨領域機關整合協調者之角色，進入以下五大步驟流程中。並在其內完成：

一、參與犯罪行為之發現

(一) 民眾檢舉

(二) 環團志工

(三) 環保局、督察總隊通報

(四) 系統性預控 (熱點監視、變異點、車行紀錄、GPS 環域系統...)

二、有定性判斷之能力

(一) 「廢棄物處理」 (廢清 28 條) 假資源化產品

(二) 「再利用方式」 (廢清 39 條) 假再利用說詞、假再利用產品

三、有廣化及溯源之能力

(一) 「檢警環平台」動員迅即性

1、共識建立

2、運作「模組化」查緝方式

3、藉案件偵辦，培養辦案默契

4、檢察官於環保犯罪之認知、上線速度

(二) 「檢警環平台」動員強度

1、各平台機關間合作默契

2、機關彼此協調運用

(三) 「檢警環平台」動員深度

1、對環保法規、犯罪本質、手段之認識

2、對廢清體系之認知

3、對產業認知

4、對環保政策、資源循環、去化困境之認知

四、採取有效防制手段

(一) 對於個案：阻卻再犯動機、去除再犯能力

1、犯罪所得查扣、沒收

2、行為損害與刑度之衡量

3、限期清除責任之建立及實質賦予

4、機具查扣、增加犯罪成本

(二)對於未來：系統性偵辦，犯罪行為類型化，規劃發動標靶性案件，將全套犯罪故事說清楚，回饋行政機關進行優化。

五、協助行政機關管理及制度優化

(一)通暢通報機制，降低行政窒礙、時間延宕

(二)即時指揮機制，強化監控、避免打草驚蛇

(三)回饋案件發掘所見，由行政機關強化管理：藉由案件從上到下、通盤釐清，指出制度問題所在，由行政機關興革法令，優化制度。

Abstrat

For achieving the goal of efficient environmental crime investigation and homeland protection, the Prosrcutors have to coordinate related government agencies within the 5 steps as follow :

1. Discovery that a crime has been committed

- 1.1. Report by informer
- 1.2. Report by environmental volunteer
- 1.3. Report by environmental protection department, Bureau of environmental inspection
- 1.4. Environmental monitering system(hotspot surveilance devices, driving recorder GPS, etc.)

2. The ability to determine the nature of a case

- 2.1. Envasion of Article 28 of Waste and Disposal ACT(The performed methods of the disposal of industrial waste) : Fake source products.
- 2.2. Envasion of Article 39 of Waste and Disposal ACT(The reuse methods) : Pleading, Fake reused products.

3. Broad view to the case and the ability to trace th pollution source

- 3.1. Mobilize the "Union of prosecutor, police, environmental protection department "immediately and efficiently.
 - 3.1.1. Build consensus
 - 3.1.2. Modular methods of investigation
 - 3.1.3. To improve team chemistry by collaborating with team members on investigation.
 - 3.1.4. Prosecutors Should have the cognition on environmental crime.
- 3.2. Intensity of mobilization of the "Union of prosecutor, police, environmental protection department"
 - 3.2.1. Chemistry between government agencies.
 - 3.2.2. Collaboration of government agencies.

- 3.3. Depth of mobilization of the "Union of prosecutor, police, environmental protection department"
 - 3.3.1. Cognition on environmental protection act/regulation, nature and means of environmental crime.
 - 3.3.2. Acknowledge to waste disposal frame.
 - 3.3.3. Acknowledge to waste disposal industry.
 - 3.3.4. Acknowledge to environmental protection policy, recycle and the difficulty in waste to go.

4. Adopt preventive and control measures for environment crimes

- 4.1. Case aspect :
 - 4.1.1. Seizure, confiscate proceeds of the crime.
 - 4.1.2. The degree of severity of punishments shall be determined by damage
 - 4.1.3. Endow the responsibility for removed and disposed of waste within a time limit.
 - 4.1.4. Seizure equipment, Crime cost increase
- 4.2. Future : Systematic Investigation, Environmental crimes(Actus reus) classification, Plan to execute the targeted Have the cases, full and accurate documented.

5. Assist the related government agencies to organize and optimize the system

- 5.1. Smooth report mechanism
- 5.2. Prompt administration mechanism
- 5.3. Feedback mechanism