

**法規名稱：偵查不公開作業辦法**

Title: Regulations Governing Non-Disclosure of Investigations

**修正日期：民國 102 年 08 月 01 日**

Last amendment: 1 August 2013

**第 1 條**

**Article 1**

本辦法依刑事訴訟法（以下簡稱本法）第二百四十五條第五項規定訂定之。

These Regulations are adopted pursuant to Article 245, paragraph 5 of the Code of Criminal Procedure ("the Code").

**第 2 條**

**Article 2**

基於無罪推定原則，為維護偵查程序之順利進行及真實發現，兼顧保障被告、犯罪嫌疑人、被害人或其他利害關係人之名譽、隱私、安全，偵查不公開之。

Under the principle of presumption of innocence, and to ensure the unobstructed progression of investigation proceedings and the discovery of truth, as well as to protect the reputation, privacy, and safety of defendants, suspects, victims, or other interested parties, investigations shall not be made public.

**第 3 條**

**Article 3**

依本法第二百四十五條第一項及第三項規定，偵查不公開，指檢察官、檢察事務官、司法警察官、司法警察、辯護人、告訴代理人或其他於偵查程序依法執

行職務之人員，除依法令或為維護公共利益或保護合法權益有必要者外，偵查中因執行職務知悉之事項，不得公開或揭露予執行法定職務必要範圍以外之人員。

Under Article 245, paragraphs 1 and 3 of the Code, the term "non-disclosure of investigations" means that except as required by law or regulation, or as necessary to defend public interest or protect legitimate rights, matters that become known, in the due performance of duties during an investigation, to a prosecutor, a prosecutor's investigator, a law enforcement official, a law enforcement officer, a defense counsel, a complainant's counsel, or any other person duly performing official duties in the investigation proceedings, may not be made public or otherwise disclosed to any person who is not within the scope within which the disclosure is necessary for any of the aforementioned personnel to perform statutory duties.

## 第 4 條

### Article 4

偵查不公開之範圍，包括偵查程序及內容均不公開。

The scope of non-disclosure of investigations extends to both the investigation proceedings and information obtained in the course of an investigation.

偵查程序，指偵查機關或偵查輔助機關因告訴、告發、自首或其他情事知有犯罪嫌疑開始偵查起，於偵查中，對被告、犯罪嫌疑人、被害人或其他利害關係人所為之偵查活動及計畫。

The term "investigation proceedings" means investigative activities engaged in and investigative plans made during an investigation with respect to a defendant, suspect, victim, or other interested party by an investigation authority or an authority having the power to assist with investigations, such authority having initiated the investigation because it became aware of the suspected commission of a crime on the basis of a complaint, informant's report, voluntary surrender, or other circumstances.

偵查內容，指因偵查活動而蒐集、取得之被告、犯罪嫌疑人、被害人或其他利害關係人個人資料或相關之證據資料。

The term "information obtained in the course of an investigation" means personal information or other evidentiary information relevant to a defendant, suspect, victim, or other interested party collected or obtained in the course of investigative activities.

## 第 5 條

### Article 5

應遵循偵查不公開原則之人員，指檢察官、檢察事務官、司法警察官、司法警察、辯護人、告訴代理人或其他於偵查程序依法執行職務之人員。

The term "personnel that shall adhere to the principle of non-disclosure of investigations" means prosecutors, prosecutor's investigators, law enforcement officials, law enforcement officers, defense counsels, complainant's counsels, or other persons duly performing official duties in the investigation proceedings.

前項所稱其他於偵查程序依法執行職務之人員，指檢察官、檢察事務官、司法警察官、司法警察、辯護人及告訴代理人以外，依其法定職務於偵查程序為訴訟行為或從事輔助工作之人員。

The term "other persons duly performing official duties in the investigation proceedings" in the preceding paragraph means personnel conducting acts of litigation or providing assistance in the investigation proceedings under their statutory duties, but who are not prosecutors, prosecutor's investigators, law enforcement officials, law enforcement officers, defense counsels, or complainant's counsels.

檢察官、檢察事務官、司法警察官、司法警察得告知被告、犯罪嫌疑人、被害人或其他利害關係人關於偵查不公開之規定，並曉諭勿公開或揭露偵查中知悉之偵查程序及內容。

A prosecutor, prosecutor's investigator, law enforcement official, or law enforcement officer may inform a defendant, suspect, victim, or other interested party of the provisions regarding non-disclosure of investigations, and direct such person not to make public or otherwise disclose the investigation proceedings and information obtained in the course of the investigation that have become known to such person during the investigation.

## 第 6 條

### Article 6

本辦法所稱偵查中因執行職務知悉之事項，指前條第一項所定之人員執行法定職務知悉之偵查程序或偵查內容。

The term "matters that become known in the due performance of duties during an investigation" as used in these Regulations means the investigation proceedings or information obtained in the course of an investigation that become known to the personnel specified in paragraph 1 of the preceding article in the performance of statutory duties.

## 第 7 條

### Article 7

本辦法所稱公開，指一切足使不特定人或多數人得以見聞、知悉之行為。

The term "to make public" as used in these Regulations means any act sufficient to make something available or known to unspecified persons or multiple persons.

本辦法所稱揭露，指公開以外，揭示、洩漏予特定人或不特定人得以見聞、知悉之行為。

The term "otherwise disclose" as used in these Regulations means an act of revealing or divulging something to make it available or known to specified or unspecified persons by means other than making it public.

## 第 8 條

### Article 8

下列事項於案件偵查中，除法令另有規定者外，不得公開或揭露之：

When a case is in the investigation stage, the following matters may not be made public or otherwise disclosed unless otherwise provided by law or regulation:

一、被告、少年或犯罪嫌疑人之供述及是否自首或自白。

1. Statement made by a defendant, juvenile, or suspect, and whether or not the person made a voluntary surrender or confession.

二、有關逮捕、羈押、搜索、扣押、勘驗、現場模擬、鑑定、限制出境、資金清查等，尚未實施或應繼續實施等偵查方法或計畫。

2. Investigative methods or plans concerning matters such as arrest, detention, search, seizure, inspection, crime scene simulation, expert examination, ban on leaving the territory, or inspection of money flows, where such methods or plans have not yet been implemented or shall continue to be implemented.

三、實施偵查之具體內容及所得心證。

3. The specific content of the investigation conducted and the evaluation of evidence so derived.

四、有湮滅、偽造、變造證據之虞。

4. Where evidence is likely to be destroyed, fabricated, or altered.

五、被害人被挾持中尚未脫險，安全堪虞者。

5. Where a victim remains held hostage and is not yet out of danger, and there is grave concern for the victim's safety.

六、偵查中之卷宗、筆錄、錄音帶、錄影帶、照片、電磁紀錄或其他重要文件或物品。

6. Case files, transcripts, audiotapes, videotapes, photographs, electromagnetic records, or other important documents or items relevant to the investigation.

七、犯罪情節攸關被告、犯罪嫌疑人或其親屬、配偶之隱私與名譽。

7. Where the circumstances of crime have a significant bearing on the privacy and reputation of the defendant or suspect, or their relatives or spouse.

八、有關被害人之隱私、名譽或性侵害案件被害人之照片、姓名或其他足以識別其身分之資訊。

8. Information relevant to the privacy or reputation of a victim or, in a sexual assault case, photographs, name, or other information sufficient to personally identify the victim.

九、有關少年之照片、姓名、居住處所、就讀學校、家長、家屬姓名及其案件之內容，或其他足以識別其身分之資訊。

9. Photographs, name, place of residence, school of enrollment, or name of the parent or parents or family member or members of a juvenile, or content of the case involving the juvenile, or other information sufficient to personally identify the juvenile.

十、檢舉人或證人之姓名、身分資料、居住處所、電話及其陳述之內容或所提出之證據。

10. Name, identity information, place of residence, or telephone numbers of an informant or witness, or the statement given or evidence provided by the informant or witness.

十一、蒐證之錄影、錄音。

11. Video or audio recordings taken in evidence collection.

十二、其他足以影響偵查不公開之事項。

12. Other matters sufficient to affect the non-disclosure of investigations.

案件在偵查中，不得帶同媒體辦案，或任被告、犯罪嫌疑人或少年供媒體拍攝、直接採訪或藉由監視器畫面拍攝；亦不得發表公開聲明指稱被告或犯罪嫌疑人有罪，或對審判結果作出預斷。

If a case is in the investigation stage, no media shall be allowed to accompany in the handling of the case, and no defendant, suspect, or juvenile may be photographed or directly interviewed by the media or photographed through a monitoring device, and no public statement shall be made alleging the defendant or suspect to be guilty, or prejudging the outcome of the trial.

## 第 9 條

### Article 9

案件在偵查中，有下列各款情形之一者，除法令另有規定外，經審酌公共利益之維護或合法權益之保護，認有必要時，得適度公開或揭露：

If any of the following circumstances applies to a case in the investigation stage, unless otherwise provided by law or regulation, information relevant to the case may be made public 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:

一、對於社會治安有重大影響或重大經濟、民生犯罪案件，被告或犯罪嫌疑人已經拘提、逮捕，其犯罪事實查證明確。

1. The case involves a crime having a substantial impact on law and order in society, a serious economic crime, or a crime materially affecting people's livelihood, and the defendant or suspect has been apprehended or arrested, and the facts of the crime charged against the defendant or suspect have been investigated and verified.

二、越獄脫逃之人犯或通緝犯，經緝獲歸案。

2. The offender escaping from jail or the wanted criminal has been arrested and brought to justice.

三、影響社會大眾生命、身體、自由、財產之安全，有告知民眾注意防範之必要。

3. The case involves a crime that has an impact on the life, person, freedom, or property of the members of the public, and it is necessary to advise the public to be on the alert.

四、對於社會治安有重大影響之案件，依據查證，足認為犯罪嫌疑人，而有告知民眾注意防範或有籲請民眾協助指認之必要時，得發布犯罪嫌疑人聲音、面貌之圖畫、相片、影像或其他類似之訊息資料。

4. When the case involves a crime that has a substantial impact on law and order in society, and the suspect is adequately confirmed based on the investigation, and it is necessary to advise the public to be on the alert or to assist with suspect identification, the voice, facial sketches, photographs, images, or other similar information about the suspect may be published.

五、對於社會治安有重大影響之案件，因被告或犯罪嫌疑人逃亡、藏匿或不詳，為期早日查獲或防止再犯，籲請社會大眾協助提供偵查之線索及證物，或懸賞緝捕。

5. The case involves a crime that has a substantial impact on law and order in society, and the defendant or suspect has fled or gone into hiding, or his or her whereabouts are unknown, and to arrest the defendant or suspect as soon as possible or to prevent him or her from further commission of crime, it is necessary to urge the public to provide clues and evidence to assist with investigation, or to offer a reward for information leading to the arrest.

六、對於媒體報導與偵查案件事實不符之澄清。

6. Disclosure is necessary to clarify inconsistency between media reports and the facts of the case under investigation.

七、對於現時難以取得或調查之證據，為被告、犯罪嫌疑人行使防禦權之必要，而請求社會大眾協助提供證據或資訊。

7. Evidence of the case is currently difficult to obtain or investigate, and to enable the defendant or suspect to exercise the right to defense, it is necessary to request the public to provide evidence or information.

依前項適度公開或揭露事項之內容，對於犯罪行為不宜作詳盡深刻之描述，亦不得加入個人評論。

When making public or otherwise disclosing information to an appropriate extent pursuant to the preceding paragraph, it is not advisable to give a detailed description of the criminal act committed, and nor is it allowed to include personal comments.

## **第 10 條**

### **Article 10**

違反偵查不公開而洩密或妨害名譽者，依刑法第一百三十二條、第三百十六條或第三百十條處斷；其他法令有特別處罰規定者，依其規定。

Violation of non-disclosure of investigations that results in divulgence or defamation shall be punished pursuant to Article 132, Article 316, or Article 310 of the Criminal Code; if, however, another law or regulation makes special provisions regarding punishment of such violation, the special provisions shall govern.

違反偵查不公開，應負行政或懲戒責任者，應由各權責機關依法官法、公務員懲戒法、公務人員考績法、律師法等相關法令規定程序調查、處理，並按違反情節輕重予以懲處。

A violator of non-disclosure of investigations who shall bear administrative or disciplinary liability shall be investigated and handled following the procedures prescribed in relevant laws and regulations such as the Judges Act, the Public Functionaries Discipline Act, the Public Functionaries Merit Evaluation Act, or the Attorney Regulation Act, and shall be punished according to the severity of the violation.

## **第 11 條**

### **Article 11**

本辦法自發布日施行。

These Regulations shall come into force from the date of issuance.