

精障犯罪者處遇制度與 司法精神病院之設立

The Treatment System for Criminals With Mental Disorders
and the Establishment of Judicial Mental Hospitals

趙萃文 Tsuey-Wen Chao *



摘要

近期發生數起精神病犯重大暴力犯罪事件，讓刑法精神病犯犯罪處遇及抗制問題又浮上檯面；實務上幾則重大矚目精神病犯案件，歷審裁判結果均存在極大落差，往往在有罪、無罪二極端徘徊，而我國刑法教學、國考乃至實務，長期忽視保安處分及保安處分之執行，相關刑事法制存有嚴重疏漏。本文將指出現行刑法相關法制實務上運作缺失，最後則一併針對法務部及衛福部近期著手興建之高度戒護司法精神病院提出具體建議。

Recent incidents of severe violent crimes committed by individuals with mental illness have brought the issue of criminal liability and measures for mentally ill offenders

*東吳大學法律系兼任助理教授 (Adjunct Assistant Professor, School of Law, Soochow University)

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under the Criminal Code back into focus. In practice, several high-profile cases involving mentally ill offenders have revealed significant discrepancies in judicial outcomes across multiple levels of trial, often oscillating between extremes of guilty and not guilty verdicts. Furthermore, the teaching of criminal law, national examinations, and even practical application in Taiwan have long neglected security measures and their enforcement, resulting in serious gaps in the relevant criminal legal framework. This article will highlight the operational deficiencies in the existing legal and practical frameworks of the Criminal Code. Lastly, it will provide several recommendations concerning the recent initiatives by the Ministry of Justice and the Ministry of Health and Welfare to construct high-security forensic psychiatric hospitals.

壹、問題緣起

由於近期部分精神障礙犯罪人暴力傷害事件頻傳¹。立法院在經過長時間討論後²，終於在2022年1月三讀通過刑事訴訟法、刑法第87與98條、保安處分執行法等修正草案；除刑事訴訟法增訂「暫行安置」制度（第10章之1、第121條之1至第121

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- 1 以2021年震驚社會的屏東縣「挖眼案」為例，高樹鄉新南村超商女店員遭楊姓精障男子攻擊致左眼球塌裂、鼻梁碎裂，楊男即係反覆強制送醫後又犯案，甚且近期發生的捷運車廂持刀傷人及女童遭男子強擄等事件，都是未遭列管的精障患者所為，精神疾病患者回歸社區，大眾普遍存疑。
 - 2 本文所以稱長時間協商討論，係因2005年刑法最大幅度一次修正，但僅將第87條監護處分從3年延長為5年，已故刑事政策大家丁道源教授，在其教科書及演講中皆極力主張刑法監護處分應比照刑法第91條之1改為無上限，法務部亦曾於2015年提案將監護處分改為無上限，惟皆在多數人權團體及刑法學者強力反對下未能通過。