

## Review the Judicial Practices of Criminal Law in 2017

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### Abstract

This article selects significant decisions of the Taiwan's Supreme Court and High Courts in 2017, and reviews whether the arguments of these judgments are appropriate and whether the criteria are consistent or not. There are five topics in this article, including causality of criminal offence with aggravated result, confiscation, bribe, hit-and-run, GPS surveillance and investigation. After reviewing these significant decisions, the author argues that lots of decisions are contrary to the principle of legality, the principle of the protection of legal interests, and the principle of responsibility. For example, Several decisions are inclined to make some accommodative modifications to "the theory of adequate causation" in order to decide "the subsequent involved event" has interrupted the causal relationship between the act and the aggravated result or not. Besides, the Supreme Court is continually refusing substantial restrictive interpretation applying to violations of Act Governing Food Safety and Sanitation. Most of all, courts are likely to mix several heterogeneous legal interests into one single crime, which is called as "hybrid of legal interests". Hybrid of legal interests would cause ambiguous, and unexpectable legal interpretations, which cannot be ignored. However, courts properly clarified the meaning of "without reason to peep at or eavesdrop on other's non-public activities"(Article 315-1 of Criminal Code), which could apply to the case of GPS surveillance and investigation.

Overall, the Supreme Court tends to take the wavering attitude about legal interpretation. On one hand, courts has adopted a more restrictive interpretation to the new legislation, such as the meaning of "proceeds of the crime" of

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confiscation(Criminal Code Article 38-1). However, on the other hand, the more social attention the cases have brought, the less likely it is courts will take the role of defender of primary principles.

**Keywords: the theory of adequate causation, confiscation, hybrid of legal interests, GPS Surveillance and investigation, hit-and-run**