## 從危害概念論警察法中的資訊式職權 (informationelle Befugnisse)

### - 以監視錄影為例探討之

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關鍵詞:犯罪預防、資訊式職權、危害疑慮、危害查探、監視錄影

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#### 摘 要

基於預防勝於治療的原理,對於犯罪行為,與其發生之後進行追訴,毋寧將重心置於防治之道,此乃警察法新興的課題,故有必要調整警察任務,以及檢視現行警察職權。本文由此切入,提出資訊式職權,以與傳統的行動式職權相互區隔,且將犯罪預防予以類型化整理,同時藉由危害疑慮的穿針引線,認為其仍屬於危害防止的界域,並檢討現行警察職權行使法。為瞭解危害概念產生的變化,應如何適用於犯罪預防之範疇,茲以監視器為例,從授權基礎、形式及實質合法性要件,評析警察職權行使法第9條第1項及第10條第1項規定,認為前者集會遊行之監視錄影,宜規定在集會遊行法中,而公共活動之監視錄影,則應併入該法第10條,使之成一整體性;至於後者,針對法益保護、危害認定、當事人界定及車流錄影,提出修法建議。

# Discussion the Informational Authority of Police Act Through the Concepts of Danger — the Case of Closed-circuit Television

#### Chen, Ying-Chung

#### **Abstract**

Based on the principle of "An ounce of prevention is worth a pound of cure." For criminal acts, this research prefers to focus on the method of prevention rather than prosecution. This is emerging topics of Authority of Police Act which causes to adjust police' tasks and authority. This research proposes informational authority to separate from tradition-action authority; besides, classifying crime prevention and reviewing Police Power Exercise Act.

In order to comprehend the variation in the concept of hazard and how to applies to crime prevention. Taking closed-circuit television (CCTV) for example, from enforcement basic, formal and substantial elements to comment article 9, paragraph 1 and article 10, paragraph 1 of Police Power Exercise Act. Opinion on the former article, CCTV of assembly and parade should be regulated in Assembly and Parade Act as well as CCTV of public activities should incorporates in article 10. As to the latter article, point out that should be discussed through viewing the identify hazards of informational authority and put forward some suggestions to amending the Law.