



Monitoring and evaluating enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) by using a law enforcement evaluation tool

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■ Abstract

This research aims to monitor and evaluate enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) by using a law enforcement evaluation tool developed by the Office of Justice Affairs and presenting results of such evaluation to various agencies or persons involved in application of such Act in order to acknowledge ways of enhancing effectiveness of the law enforcement for further development and revision of the law in compliance with intent of its enactment, social context and efficiency of the law enforcement. A multi-stage random sampling and a purposive sampling were applied to select sample group and informants for total 115 people in this research. The research used the qualitative research method including documentary research, in-depth interview, focus group discussion and a brainstorming conference to criticize a draft of research report. The research resulted overall mean of the law enforcement level at 78.26 percentage which was in level of 8 (good) and guided to be further applicable but it must be improved by revision of some elements.

keywords : Protection of Witness, law enforcement evaluation

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Received: September 11, 2019 Revised: February 20, 2020 Accepted: February 24, 2020

■ Introduction

Thailand has so far legislated and promulgated a number of laws in the Act level for over one thousand laws. Some parts of those laws are outdated due to applicability for a long time and non-revision in pursuance of current circumstances and social context, having never been enforced in practice and inconsistent with international obligations as well. Nevertheless, such laws have not been repealed or defuncted anyhow. Formerly, government had a policy on modernization of law in pursuance of direction of the country development by repealing or revising laws that were unnecessary or inconsistent with current circumstances or obstacle to living or engaging occupation of the people, by analyzing extensively and systematically forthcoming impacts in law making process, by hearing opinions of related people and by evaluating achievement of the law in order to develop every law in accordance with changing contexts. Such policy was consistent with provisions of Section 77 of the Constitution of Kingdom of Thailand B.E. 2560 (2017). Hence, the Royal Decree on Review of Law B.E. 2558 (2015) was promulgated to empower competent officials to modernize provisions of law in pursuance of economic, political, administrative and environmental development both in

domestic and international levels as well as in accordance with international obligations. Nevertheless, such Royal Decree did not provide measure or concrete tool for ex post evaluation of legislation or evaluation of law achievement at all.

The Office of Justice Affairs has emphasized on modernization of law to be in conformity with intent of the Constitution of Kingdom of Thailand so as to provide up-to-date law and only to the extent of necessity, to repeal or revise outdated laws in particular through ex post evaluation of legislation and evaluation of law achievement. Accordingly, a law enforcement evaluation tool or the Law Enforcement Indicators (LEI) was developed to use key elements and criteria for such evaluation as follows:

1. Present essentiality of provision/application of law;
2. Provisions of law;
3. Law enforcement;
4. Knowledges, attitudes and behaviors of people being enforced;
5. Consequences of law enforcement;
6. Impacts of law enforcement and
7. Worthiness of legislation and application of law in consideration of interests of the people or the related persons

The Office of Justice Affairs acting as secretariat of the National Commission for

Justice Administration Development (NCJAD) proposed such LEI to its sub-committee on law development and enforcement in the third meeting of 2017 held on 4 August 2017. The Sub-committee assigned the secretariat to try out such LEI for evaluation of various laws in which Minister of Justice were in charge for developing it to be a higher efficient tool. In fiscal year of 2018, the Office of Justice Affairs took such LEI to try out the law enforcement evaluation of two laws i.e. the Justice Fund Act B.E. 2558 (2015) and the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act, B.E. 2544 because these laws influence on difference reduction in justice process and have been in force for moderate period of time. The evaluation result not only reflected efficiency and effectiveness of such two laws enforcement for further applicability but also led to certain suggestions for revision of both laws so as to bring justice to the people and for improvement of the law enforcement evaluation tool in several issues e.g. should review and revise provision of law, definition, meaning of some words for easier comprehension and punctuality to each criterion; should review or combine certain criteria together; should have development of criteria and level of the result interpretation (Yutthapong and others, 2018)

To top up and develop the LEI tool, the Office of Justice Affairs perused and deemed appropriate to take the LEI into evaluating enforcement of another law, the Protection of Witness in Criminal Case Act B.E. 2546 (2003) since it has been enforced for long time, even though its implementation being successful in a level, it appeared some problems in practical ways of operation e.g. some provisions of law are not in pursuance of current situation and the operations of related state agencies are not go through in the same direction. Thus, the law enforcement evaluation of such Act by using the LEI aims to analyze achievement whether its law enforcement conforms to its intent or benefits Thai people and society or not and aims to acquire conclusion and various suggestions to repeal, improve or revise provisions of law to be more appropriate and enable to provide assistance for the people's more efficient access into justice process.

■ Research objectives

1. To monitor and evaluate enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) by the LEI developed by the Office of Justice Affairs;
2. To propose the result of law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) to

related state agencies or persons for knowing of successful factors, problems and obstacles of the law enforcement and way of surging law enforcement efficiency in order to develop and revise Provisions of law to be in pursuance of essentiality of legislation, social context and efficient law enforcement pursuant to its intent for further development of the system of efficient access into justice process and

3. To try out the LEI into the law enforcement evaluation

▣ **Related concepts and theories**

1. Essence of the Protection of Witness in Criminal Case Act B.E. 2546 (2003)

- 1) Protected people
- 2) Witness' s rights to protection under the witness protection law
- 3) Conditions of witness protection
- 4) Agencies being in charge of witness protection
- 5) Civil litigation for protection of witness' rights
- 6) Remuneration and expense for witness
- 7) Appeal to witness protection-related order
- 8) Witness protection by measure providing criminal penalty
- 9) End of witness protection

2. Elements of the law enforcement evaluation system

1) **Present essentiality of provision/ application of law** is a consideration of origin of law from its intent or objectives in improving or solving main problems, as essentiality of legislation includes analytical thinking process relying on persons interested in legislation and hearing opinions from related people for prudent decision.

2) **Provisions of law** are substantive provisions and penalty included in each law leading to enforcement pursuant to intent of the law.

3) **Law enforcement** is process, steps or means of application of Provisions of law to target groups carried out through the implementers in law enforcement such as police, attorney-at-law, public prosecutor, court, correction authority.

4) **Changed behavior owing to law enforcement** is nature or form of changed behaviors of the persons being enforced by law after the law enforcement, as sometimes behaviors changed pursuant to expectation of law but other behaviors probably arisen.

5) **Consequences of law enforcement** is any objective expression or perception arisen by law enforcement which is directly consequences after law enforcement

6) **Impacts of law enforcement** is benefits derived from law enforcement and impact on related persons or achievement or arisen impact after law enforcement

7) Worthiness of law in consideration of derived benefits is when taking consideration of cost and expense in implementation pursuant to the law, how worthy it is.

3. Witness protection regime in foreign countries

Applicable law and essence of witness protection

1) United States of America

- The Organized Crime Control Act 1970, latest revision in 2007 being in force;

- Provide protection of people involved in committing offenses relating to the organized crime and severe offenses provided by the law by making voluntary agreement with public sector under a witness protection program namely WITSEC (Witness Security Program)

Furthermore, several laws have been enacted for better efficient enforcement of witness protection law especially criminal law providing penalty against acts in connection with witness and witness protection.

2) Federal Republic of Germany

- Provide protection of people involved in committing criminal offenses by making voluntary agreement with public sector or participation in a witness protection program in virtue of definition of "protected witness" which means any important person

in criminal judicial procedure encounters serious danger by providing testimony in court and such person being eligible to be protected including persons getting close to witness or others having intimacy with people related to criminal case.

3) Commonwealth of Australia

- By federal laws, provide protection of people being witness by making voluntary agreement with public sector or participation in a witness protection program under the Witness Protection Act 1994 (Commonwealth Act);

- The following people being eligible to request for protection:

(1) Person who gives or agrees to give evidence relating to committing offense or circumstances causing legal offense relating to judicial procedure in connection with committing offense or interrogation or hearing before formal appointed officials;

(2) Person who gives or agrees to give evidence relating to committing offense or circumstances causing other legal offenses aside from evidence in clause (1);

(3) Person who testifies to official in connection with the case;

(4) Person who requests for protection by any reason and

(5) Person who have relationship or involvement with person who may request for protection or assistance under a witness protection program

4) Hong Kong Special Administrative Region of the People's Republic of China

Witness Protection Act and Cap. 564 Witness Protection Ordinance being in force by voluntary participation in a witness protection program for the following eligible witnesses:

(1) Person who gives or agrees to give evidence to indicate committing offense by law;

(2) Person who gives or agrees to give evidence aside from evidence in clause (1) having linkage to committing offense by law;

(3) Person who testifies or provides other assistance to state official to prove legal offense;

(4) Person who requests for witness protection by any reason and

(5) Person who relates to persons in clause (1) – clause (4) are able to request for protection or assistance under a witness protection program

4. Witness protection-related research works

Suthichai Lor-trakul (2010) studied problems and obstacles of protection of witness in criminal case under the Protection of Witness in Criminal Case Act B.E. 2546 (2003). Main problems and obstacles include 1) Inadequate number of personnel; 2) Inadequate budget, instrument, equipment and fuel and failure to withdraw money on time as soon as commencing operation of

witness protection; 3) Equivocal and delayed coordination among related state agencies-in-charge; 4) indefinite law, regulation and guideline of witness protection; 5) Official having direct responsibility being not in charge of long-term witness protection; 6) Various state agencies or operatives being not aware of essentiality level of protection; 7) Official being lack of knowledge and understanding in performance of their duties; 8) None of training course giving knowledge to the witness protection operative; 9) Most witnesses being not aware of their legal rights and the protected witness failing to comply with conditions of witness protection as some of them do not desire to be protected by local police officials and 10) The supervisor' power to provide witness protection being valid in short-term.

Srisombat Chokprachakchad and others (2009) studied law enforcement evaluation and witness protection under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and found that implementation pursuant to such law still had matters of law and matters of fact. In practice, the matters of law cause problems of officials' performance of duties and of witness protection agencies' operation process including management and personnel administration because current number of the Witness Protection Office's personnel is not enough and deserves intensive training. Training course for witness

protection officers of other state agencies should be in the same standard. Selection of witness protection personnel should be subject to the same selection process and qualification requirement. Particular training course should be required for officers in charge of witness protection. Problems of the matters of law include unclear definition of certain key words and can be solved by addition of related important issues to be more extensive and definite i.e. definition of witness for instance the accused in criminal case should deserve a right to request for protection in pursuance of purpose of principle of Thai laws and universal laws. Rule of witness protection should not be unclear. None of definite standard guideline of coordination and cooperation among related agencies is provided. The Witness Protection Office should deserve more definite powers and duties than they are existing. Treatment to the witness in each step should be definitely standardized.

Yutthapong and others (2018) studied in the research project of monitoring and evaluating enforcement of the Justice Fund Act B.E. 2558 (2015) and suggested developing the law enforcement evaluation tool in the following issues:

1) Should review or adjust statement, definition, meaning of some words to make them to be easily comprehensible by users and punctual to intent of the criteria;

2) Should review or combine certain related criteria together to lessen number of criteria so as to diminish number and overlapping in consideration e.g. in the Indicator 1.1, provisions of law examination system should be considered to combine between the 1st criteria, existing system or plan for examination of state agencies' provisions of law in cycle period of time and the 2nd criteria, existing committee on examination and monitoring implementation to system or plan;

3) Should develop criteria and level of the result interpretation in order to guide performance of the law enforcers' duties after the end of evaluation;

4) Should develop form or process of the evaluation in several forms to be option or guide for users utilizing this tool to be suitable for legal context to be evaluated;

5) Should create a guideline on determining key informants for evaluation in accordance with various criteria which are deemed as gist of the law enforcement evaluation;

6) Should review or determine weighted figure in various elements level or indicators;

7) Should create training course for giving knowledges and developing skills of the law enforcement evaluation to the interested persons or the operative in law enforcement

■ **Research methods**

Population and sample groups

The researchers took consideration and review together with the Committee on Examination and Monitoring of Operation and the Witness Protection Office for determination of province for data collection in the field from 4 sample groups which comprises with the executives or related persons in policy-making level as advised by the Committee for 8 people, the officials

attached to the Witness Protection Office (Central) for 17 people, the state agencies and officials in charge of missions relating to implementation under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) for 30 people and the population or target groups requesting for assistance from the Witness Protection Office in various parts pursuant to the Protection of Witness in Criminal Case Act B.E. 2546 (2003) other related laws and regulations for 60 people.

Table 1 Determination of sample groups, area and number of people in data collection

Sample groups	Areas of study	Number of sample group in each area (people)	Number (people)
Executives or related persons in policy-making level	Bangkok	8	8
Officials attached to the Witness Protection Office (Central)	Bangkok	17	17
State agencies and officials in charge of missions relating to implementation under the Protection of Witness in Criminal Case Act B.E. 2546 (2003)	Bangkok and 5 regions	5	30
Population or target groups requesting for assistance from the Witness Protection Office in various parts pursuant to the Protection of Witness in Criminal Case Act B.E. 2546 (2003) other related laws and regulations	5 regions	10-15	60
Total area and number	Bangkok and 5 regions		115

■ Methods of research

The researchers carried out qualitative research by several methods i.e. search for information from academic document and related research works, in-depth interview, focus group discussion and conference to the draft report as detailed below:

1) Documentary Research

Data collection was carried out, based on the law enforcement evaluation indicators developed by the Office of Justice Affairs, for study of concept and related research works and of statistical data to determine sample groups, creation of interview form and to support data analysis in the end.

2) In-depth Interview

An interview form containing structure of various questions in line with the LEI that was used to collect data from informants of The aforementioned issues sample groups selected by multistage random sampling and by quota sampling to determine number of informants in proper proportion and by purposive sampling for suitability for giving information pursuant to the criteria contained in the LEI, as approved by the Office of Justice Affairs.

3) Focus Group Discussion

For this study, two focus group discussions were carried out by inviting academics and qualified person, related

officers of central part and regional parts in connection with the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and related state agencies in justice process as well as users of the Witness Protection Office's services to participate for not exceeding 30 people in each session. The 1st session held in Bangkok had total 36 participants and the 2nd session held in Chiangmai had total 20 participants. These informants were selected by multistage random sampling and by quota sampling to determine number of informants in proper proportion and by purposive sampling for suitability for giving information pursuant to the criteria contained in the LEI, as approved by the Office of Justice Affairs.

4) A conference was held to be a forum of criticizing result of the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003), participated by officials of the Witness Protection Office, the Rights and Liberties Protection Department and other state agencies relating to such Act for total 75 people.

■ Research result

Documentary research

In this stage, the researcher searched for information from documents, provisions of law of the Protection of Witness in Criminal

Case Act B.E. 2546 (2003), the manual for evaluation of impacts from the law enforcement and monitoring law enforcement in justice process. The researcher also studied creation of the interview form from other related research works and the LEI developed by the Office of Justice Affairs as well as queried related people to support adjusting the LEI to be more complete form with both open-end and close-end questions. Those questions are applied from the Office of Justice Affairs' manual for evaluation of impacts from the law enforcement and monitoring law

enforcement in justice process for collection of data from whole sample groups with criteria and level of the law enforcement result interpretation in 10 levels by 10 percentage of difference in each level, starting from level 1 (0.00 - 10.00 percentage) meaning level of urgent improvement needed to level 10 (90.01 – 100) meaning level of excellent.

In-depth interview

The study of information derived from the in-depth interview resulted in the table below:

Table 2 Overall evaluation of the law enforcement of Witness Protection Act B.E. 2546 (2003)

Elements	Level of law enforcement	Guideline of operation	Overall mean of law enforcement level
First element: Provisions of law	92.50 resulting level of 10 (excellent)	Being further applicable as it previously was	78.26 resulting level of 8 (good); therefore, this law can be further applicable but it must be improved by revision of some elements
Second element: Law implementation	77.81 resulting level of 8 (good)	Being further applicable but it must be improved by revision of some criteria	
Third element: Knowledges, attitudes and behaviors of people being enforced	42.73 resulting level of 5 (moderate)	Being further applicable but it must be improved by revision of almost all criteria	
Fourth element: Consequences of law enforcement	100.00 resulting level of 10 (excellent)	Being further applicable as it previously was	
Fifth element: Impacts of law enforcement	41.87 resulting level of 5 (moderate)	Being further applicable but it must be improved by revision of almost all criteria	Excluded in score calculation

Remark: The evaluation result of the fifth element, impacts of law enforcement was excluded in score calculation with other elements.

The law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) resulted the overall mean of 78.26 percentage of the law enforcement level which was in level of 8 (good) and guided to be further applicable but it must be improved by revision of some elements. In consideration of each element, the researchers found that the 1st element, provisions of law and the 4th element, consequences of law enforcement resulted the highest level of the law enforcement by a mean of 100.00 percentage, in level of 10 (excellent) which was guided to be further applicable as it previously was. The subordinate level was the 2nd element, law implementation resulted a mean of 77.81 percentage, in level of 8 (good) which was guided to be further applicable but it must be improved by revision of some criteria.

The 3rd element, Knowledges, attitudes and behaviors of people being enforced resulted a mean of 42.73 percentage, in level of 5 (moderate) which was guided to be further applicable but it must be improved by revision of every criteria, respectively.

In addition, the researchers evaluated in the 5th element, impacts of the law enforcement which was excluded in score calculation with other elements in overall processing because of some objectives to try out and develop the evaluation tool in such element as well as to have extensive result of this study. The study resulted level of the law enforcement by a mean of 41.87 percentage, in level of 5 (moderate) which was guided to be further applicable but it must be improved by revision of almost all criteria.

Table 3 Overall evaluation of the law enforcement of Witness Protection Act B.E. 2546 (2003) breakdown by elements and indicators

Elements	Indicators	Level of law enforcement	Guideline for operation	Guideline for further development
First element: Provisions of law, 92.50 resulting level of 10 (excellent) Being further applicable as it previously was	Indicator 1.1: Provisions examination system	92.50 resulting level of 10 (excellent)	Being further applicable as it previously was	-
	Indicator 1.2: Review, revision of provisions and sanction of law	92.50 resulting level of 10 (excellent)	Being further applicable as it previously was	-

Table 3 Overall evaluation of the law enforcement of Witness Protection Act B.E. 2546 (2003) breakdown by elements and indicators

Elements	Indicators	Level of law enforcement	Guideline for operation	Guideline for further development
Second element: Law implementation, 77.81 resulting level of 8 (good) Being further applicable but it must be improved by revision of some indicators	Indicator 2.1: Selection of the law enforcement operative	94.31 resulting level of 10 (excellent)	Being further applicable as it previously was	-
	Indicator 2.2: Supervision and monitoring the law enforcement operative	76.96 resulting level of 8 (good)	Being further applicable but it must be improved by revision of some criteria	Should revise/improve the 6 th and 7 th criteria
	Indicator 2.3: Human resource and material resource administration	62.15 resulting level of 7 (good)	Being further applicable but it must be improved by revision of some criteria	Should revise/improve the 2 nd criteria
Third element: Knowledges, attitudes and behaviors of people being enforced, 42.73 resulting level of 5 (moderate) Being further applicable but it must be improved by revision of almost all indicators	Indicator 3.1: Ability of persons being enforced to access information and knowledge after the law in force	55.03 resulting level of 6 (moderate)	Being further applicable but it must be improved by revision of almost all criteria	Should revise/improve the 3 rd and 4 th criteria
	Indicator 3.2: Attitudes of persons being enforced after the law in force	23.53 resulting level of 3 (low)	Being further applicable but it must be improved by revision of every criteria	Should revise/improve the 1 st criteria
	Indicator 3.3: Behaviors of persons being enforced after the law in force	49.64 resulting level of 5 (moderate)	Being further applicable but it must be improved by revision of almost all criteria	Should revise/improve the 1 st criteria

Table 3 Overall evaluation of the law enforcement of Witness Protection Act B.E. 2546 (2003) breakdown by elements and indicators

Elements	Indicators	Level of law enforcement	Guideline for operation	Guideline for further development
Fourth element: Consequences of law enforcement, 100.00 resulting level of 10 (excellent) Being further applicable as it previously was	Indicator 4.1: Result of change after the law enforcement	100.00 resulting level of 10 (excellent)	Being further applicable as it previously was	-
Fifth element: Impacts of law enforcement, 41.87 resulting level of 5 (moderate) Being further applicable but it must be improved by revision of almost all indicators	Indicator 5.1: Result of individuals behavioral and social change owing to the law enforcement	41.87 resulting level of 5 (moderate)	Being further applicable but it must be improved by revision of almost all criteria	Should revise/improve the 3 rd and 4 th criteria

As for the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003), the researcher had findings in each element and indicator as described below:

In the first element, provisions of law, the study resulted a mean of 92.50 percentage in level of 10 (excellent), guiding to be further applicable as it previously was. The Indicator 1.1, provisions examination system was resulted a mean of 92.50 percentage in level of 10 (excellent) guided to be further applicable as it previously was. The Indicator

1.2, review, revision of provisions and sanction of law was resulted a mean of 92.50 percentage in level of 10 (excellent) guided to be further applicable as it previously was.

Although the result of overall first element, provisions of law was in level of 10 (excellent), a consideration of level in each indicator found that in the Indicator 1.1, provisions examination system, the 3rd criteria, existing examination of law benefitting person or group of people and in the Indicator 1.2, review, revision of provisions and sanction of law, the 1st

criteria, existing plan of earnest and continuous review and revision of provisions and sanction of law resulted a mean of 75.00 percentage in level of 8 (good), if the Witness Protection Office was willing to develop them for more completion, the development of operations in such criteria would be done.

In the second element, law implementation, the study resulted a mean of 77.81 percentage in level of 8 (good), guiding to be further applicable but it must be improved by revision of some indicators i.e. the Indicator 2.2, supervision and monitoring the law enforcement operative resulted a mean of 76.96 percentage in level of 8 (good), guided to be further applicable but it must be improved by revision of some criteria as follows: the 6th criteria, existing evaluation of the quality of service provided or operated by officials and the 7th criteria, existing bringing result of evaluation of the quality of service provided or operated by officials into improvement of service or operation efficiency of officials, and the Indicator 2.3, human resource and material resource administration resulted a mean of 62.15 percentage in level of 7 (good), guided to be further applicable but it must be improved by revision of some criteria i.e. the 2nd criteria, number of the operatives being relevantly proportionate to number of the service users.

Although the result of overall second element, provisions of law was in level of 8 (good), some additional actions should be done so as to raise the evaluation result to be higher level i.e. to bring such result of evaluation of the quality of service provided or operated by officials into improvement of service or operation efficiency of officials and as regards human resource and material resource administration, to increase number of the operatives being relevantly proportionate to number of the service users.

In the third element, knowledges, attitudes and behaviors of people being enforced, the study resulted a mean of 42.73 percentage in level of 5 (moderate), guiding to be further applicable but it must be improved by revision of almost all indicators i.e. the Indicator 3.1, ability of persons being enforced to access information and knowledge after the law in force resulted a mean of 55.03 percentage in level of 6 (moderate), guided to be further applicable but it must be improved by revision of almost all criteria i.e. the 3rd criteria, existing survey on the service users or the interested people's access into information relating to the Witness Protection Office, the Indicator 3.2, attitudes of persons being enforced after the law in force resulted a mean of 23.53 percentage in level of 3 (low), guided to be further applicable but it must

be improved by revision of the 1st criteria, existing score of evaluation level or attitudes, satisfaction and trustworthiness of persons being enforced towards the law or the justice process pursuant to the designated criteria and the Indicator 3.3, behaviors of persons being enforced after the law in force resulted a mean of 49.64 percentage in level of 5 (moderate), guided to be further applicable but it must be improved by revision of the 1st criteria, existing monitoring, evaluation or survey on witness' s changing behaviors after the end of protection provided by the Witness Protection Office.

As for the overall third element, knowledges, attitudes and behaviors of people being enforced resulted in level of 5 (moderate), some additional actions should be done so as to raise the evaluation result to be higher level i.e. to generate a system for survey on the service users or the interested people's access into information relating to the Witness Protection Office, to conduct evaluation of the service users or the interested people's knowledge or comprehension relating to the Witness Protection Office and to monitor, evaluate or survey on witness' s changing behaviors after the end of protection provided by the Witness Protection Office. Result of these evaluations will be the key information for development of services provided by the Witness Protection Office.

In the fourth element, consequences of law enforcement, the study resulted a mean of 100.00 percentage in level of 10 (excellent), guiding to be further applicable as it previously was. The Indicator 4.1, result of change after the law enforcement was resulted a mean of 100.00 percentage in level of 10 (excellent) guided to be further applicable as it previously was.

Although the result of overall fourth second element, provisions of law was in level of 10 (excellent) because it was the system of routinely reporting result to the central office, the researchers suggests bringing various information and statistics into analysis to be fundamental information for supporting administrative decision and improving various services provided by the Witness Protection Office in benefit of increasing operation efficiency of the Witness Protection Office.

Furthermore, the researchers also evaluated the element of the impacts of law enforcement which was excluded in score calculation with other elements. The overall processing was described below:

In the fifth element, impacts of law enforcement, the study resulted a mean of 41.87 percentage in level of 5 (moderate), guiding to be further applicable but it must be improved by revision of almost all indicators i.e. the Indicator 5.1, result of individuals behavioral and social change owing to the law enforcement resulted a

mean of 41.87 percentage in level of 5 (moderate) guided to be further applicable but it must be improved by revision of almost all criteria i.e. the 3rd criteria, existing study of attitudes/opinion of the people towards the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and the 4th criteria, society's participation in expression of opinion or perception concerning the witness protection in criminal case and capacity to pass on information or remind about services relating to witness protection of the Witness Protection Office under the Protection of Witness in Criminal Case Act B.E. 2546 (2003).

Overall result of the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) finds that the government's urgent policy in some issues has still impacted emphasis on taking consideration of provision of witness protection e.g. cases relating to trafficking in human being, cases relating to national security and cases having impact on a number of people in the society.

A conference for criticizing result of the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003)

The forum was held in Bangkok, participated by officials of both central office and provincial offices implementing the law on protection of witness in criminal case

and of related state agencies in justice process as well as other interested people totaling 75 people. The participants had opinions and suggestions towards the result of evaluating enforcement of such law as follows: structural improvement of the Witness Protection Office, inadequate number of officials, capacity building relating to witness protection for the Witness Protection Office's officials, provision of the manual of operation to officials relating to witness protection, missions of monitoring and caring well-being of witnesses in post period of witness protection, generating morale and mental support to witness protection officers and other suggestions which were consistent with the study's result and additional key information for completion of this research as well as guideling for further development of the law enforcement evaluation tool.

■ Discussions

1. Result of the study of monitoring and evaluating enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) by the LEI developed by the Office of Justice Affairs appeared overall mean of the law enforcement level at 78.26 percentage in level of 8 (good) guided to be further applicable but it must be improved by revision of some elements.

In consideration of each elements by sequence from high to low percentage, the researchers found that the **fourth element**, consequences of law enforcement resulted the highest level of law enforcement in the mean of 100.00 percentage in level of 10 (excellent) and the first element, provisions of law resulted the mean of 92.50 percentage in level of 10 (excellent) can be further applicable without any revision. **The second element**, law implementation resulted the mean of 77.81 percentage in level of 8 (good) can be further applicable but it must be improved by revision of some criteria in this element and **the third element**, knowledges, attitudes and behaviors of people being enforced, resulted the mean of 42.73 percentage in level of 5 (moderate) can be further applicable but it must be improved by revision of almost all indicators. All of The aforementioned issues result are in accordance with the Constitution of Kingdom of Thailand B.E. 2560 (2017), Section 77 stipulating that *“the State should introduce laws only to the extent of necessity, and repeal or revise laws that are no longer necessary or unsuitable to the circumstances, or are obstacles to livelihoods or engagement in occupations, without delay, so as to abstain from the imposition of burdens upon the public. The State should also undertake to ensure that the public has convenient access to*

the laws and are able to understand the them easily in order to correctly comply with the laws.” and the Royal Decree on Review of Law B.E. 2558 (2015), Section 5 and Section 9 stipulating that *“For provisions of law being appropriate, fair and overburden to the people, in pursuance of livelihood in line with the time and evolution of technology that is changing all the time”* (Section 5) and *“Subject to Section 10 paragraph one, in consideration of review of law, Minister in charge shall review, wholly or partily, the following matters as deemed necessary.”* (Section 9)

In addition, result of the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) that found both the Indicator 1, provisions of law and the Indicator 4, consequences of the law enforcement can be further applicable without any revision because the Witness Protection Office has excellently carried out by providing the provisions examination system and the review, revision of provisions and sanction of law in pursuance of current circumstances and social context as well as the revision of law and related regulations to facilitate operations of the officials and the related people based on various information and statistics that led to making a bill of the Protection of Witness in Criminal Case Act B.E.... to be proposed into the cabinet’s consideration until passing by resolution to

approve this bill (as of 28 February 2019). The abovementioned conforms to Suthichai Lor-trakul (2010) that studied problems and obstacles of protection of witness in criminal case under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and suggested improvements by revision of the law to be definite and modernized in current time and by revision of the regulation on remuneration and expenses for witness in accordance with reality in which consideration may include multi-levels of economic condition and cost of living in each local area in Thailand. Moreover, motivation of being witness to which the Court deems as key measure and engender the people's positive attitudes of being witness. In this regard, the State must promote in order to get the people viewed that being witness is a duty of good citizen and a self-realization as integral part of surviving society that ensures security against crime and enable the authorities to have offenders punished by law. Another interesting measure is to allow witness to submit evidence of being witness or testifying in the court case in application for tax exemption or reduction, to have a formal announcement of prestige and glorification rendering to the witness who is a person sacrificing to the society. The State should bestow reward to such person in special case and in response to behaving as a good citizen and to bring about

proud of acting good to the country.

In the second element, law implementation is guided to be further applicable but it must be improved by revision of some indicators and by additional actions so as to raise the evaluation result to be higher level i.e. to bring such result of evaluation of the quality of service provided or operated by officials into improvement of service or operation efficiency of officials. As regards human resource and material resource administration under the fact that number of the operatives is not relevantly proportionate to number of the service users. This regard conforms to Suthichai Lor-trakul (2010) studying problems and obstacles of protection of witness in criminal case under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and finding one of problems and obstacles is the inadequate number of personnel who cannot continuously and fully perform their duties due to operation in other missions. Thus, number of personnel or otherwise missions should be reviewed to comply truly with the intent of law. The aforementioned issues conforms to Srisombat Chokprachakchad and others (2009) studying law enforcement evaluation and witness protection under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and finding that implementation pursuant to such law still had matters of law and matters of fact. In practice, the

matters of law cause problems of officials' performance of duties and of witness protection agencies' operation process including management and personnel administration because current number of the Witness Protection Office's personnel is not enough and deserves intensive training. Training course for witness protection officers of other state agencies should be in the same standard. Selection of witness protection personnel should be subject to the same selection process and qualification requirement.

In the third element, knowledges, attitudes and behaviors of people being enforced is guided to be further applicable but it must be improved by revision of almost all indicators. Some additional actions should be done so as to raise the evaluation result to be higher level i.e. to generate a system for survey on the service users or the interested people's access into information relating to the Witness Protection Office, to conduct evaluation of the service users or the interested people's knowledge or comprehension relating to the Witness Protection Office, to conduct evaluation of attitudes, satisfaction and trustworthiness of service users or witness towards the Witness Protection Office persons being enforced towards the law or the justice process and to have a plan to monitor, evaluate or survey on witness's changing behaviors after the end of protection provided by the

Witness Protection Office. Result of these evaluations will be the key information for development of services provided by the Witness Protection Office. The aforementioned issues conforms to Yutthapong and others (2018) studying in the research project of monitoring and evaluating enforcement of the Justice Fund Act B.E. 2558 (2015) and suggested creating a training course for giving knowledges and developing skills of the law enforcement evaluation to the interested persons or the operative in law enforcement. Result of the evaluation can be utilized for lifting up operations' quality or efficiency in the end.

2. In respect of key issues of monitoring and evaluating enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003), factors for achievement found in the in-depth interview and the focus group discussion have consistency as follows:

1) The witness protection is a justice element of understanding and cooperation among the officials being on duty of witness protection and the witness during the time of protection. Under limitations of various rules and regulations, both parties must communicate and make comprehension each other so as to engender confidence in witness's safety which is a factor leading to achievement of the witness protection;

2) Provision of individual witness tracking during the time of protection and after leaving the program will move upward

for efficient witness protection and security among witness, retinues and officials in charge of protection. This arrangement conforms to system and mechanism of the protection of witness in criminal case in United States of America which was developed from a concept of demanding for protection of individuals' rights and liberties in accordance with efficiency of the justice process administration. The witness protection provided before and after court trial aimed to provide a guarantee to assure the witness protection process enabling witness to be ready for access into justice process from the stage of investigation and inquiry to the stage of court trial and aimed to build witness's confidence in protection from threat, officials' corruption and other means bringing about distortion of evidence and witness's testimony. Where any action might affect to testimony or making statement of a person of witness would be considered as criminal offending and obstruction of justice. The witness protection in United States of America is currently under the United States Federal Witness Protection Program or namely WITSEC (Witness Security Program) in order to create witness's confidence in cooperation with the state authority in justice process and to increase number of witnesses. The witness protection provided in United States is implemented under the Organized Crime Control Act 1970, latesty

amended in 2007, stipulated protection of any person involved in organized crime-related offenses and severe offenses as determined by law. The witness protection is carried out as a result of entering voluntarily into an agreement with the authorities or called participation in the Witness Security Program (WITSEC). The witness applied for participating in this program must be eligible by giving testimony in a criminal case as a key element of achievement of such case and lives of witness, family members or intimate person being at risk. Such witness's testimony must be trustworthy and reliable that there will not have any change in it afterwards. Such organized crime-related offenses and severe offenses include drug trafficking, gambling in nature of network, bribery or influence occupying the state officials, money laundering, offense in important cases especially terrorism or information espionage, smuggling of manufacture and trade in weapon, smuggling of alien workers and smuggling of goods by tax evasion, obstruction of justice in important cases, sex-related offenses, prostitution in nature of organized crime (Chulalongkorn University, Faculty of Law, 2008)

Aside from the witness protected by virtue of the Organized Crime Control Act 1970, United States Code Title 18, Part II Chapter 224 Section 521 stipulated definition of the protected person means direct witness or person testifying as witness including family

members and intimate person of such person. These people may involve in judicial proceeding or may be harmed due to cooperation of such witness in the case including the injured person as a witness under United States Code, Title 42, Part II, Chapter 112 Section 10607 but excluding “victim” and “spy of the police”, except the information discloser in important criminal case especially terrorism or information espionage as stipulated in United States Code, Title 18, Part II, Chapter 204 Section 3073 and 3076 (Anek Anuntawan, 2001)

As regards problems and obstacles of the law enforcement found in the in-depth interview and the focus group discussion for example:

1. Improper treatment to the witness;
2. The officials being lack of skill in operation e.g. stay with the witness, self-defense skill, weapon use, psychological skill;
3. The witness being scared of powerful person's influence;
4. Insufficient budget and delayed financing;
5. Bullying act by notifying of untruthful information or notifying of truthful information but it is inadequate for tracking and probe;
6. Public relations problem of the witness protection agencies

The aforementioned issues conforms to Monchai Jongkairattanakol (2014) studying legal problems relating to exercise

of special measure in witness protection under the Protection of Witness in Criminal Case Act B.E. 2546 (2003) and finding that this Act's provisions were provided in pursuance of international principle but when enforcement of this law pursuant to its intent, it might not be suitable with fundamental structure and culture in Thai society; therefore, problems of exercise of special measure in providing protection of witness in criminal case have been arisen.

■ Suggestions

Suggestions from result of the law enforcement evaluation of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) by the LEI for improving enforcement of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) are as follows:

1. Should have an administrative system, number of personnel and place help facilitate appropriate operation of works in response to current quantity of work, set a central standard in control or determination of the same form of the witness protection, seek for cooperation with related state agencies and set a guideline for operation with related agencies;
2. Should develop process or diminish steps of actions for efficiency of the witness protection and make convenience in performance of works to every division of works e.g. money transfer through online

system, as well as provide modern technology system in operation that could also help analysis and processing;

3. Should enhance officials's skills for operation of various missions relating to the witness protection, likewise, building confidence and upgrading quality of the witness protection in equivalent to handling it by professional state agency;

4. Should have consultation in policy level with every state agency having missions relating to the witness protection for expediting revision of internal regulation of each state agency in accordance with the Protection of Witness in Criminal Case Act B.E. 2546 (2003)

5. Should peruse a regulation on money withdrawal and disbursement in line with performance of works by keeping in mind of flexibility to various nature of the case and determination of various expenses in pursuance of modernization and current circumstances;

6. Should boost a measure of intensive control and safeguard of witness with emphasizing on continuity and safety of witness and operative officials;

7. Should provide the witness protection guideline or standard after ending the case where the witness is unable to return to original area e.g. assistance to relocate, change of personal status, generating occupation and allowance in case of the witness does not have income yet;

8. Should develop a training arrangement with multi-level officials and set up a knowledge management system with involvement of experienced personnel or exchange of good practice in benefit of boosting efficiency of personnel development in another way;

9. Should improve organizational structure and number of personnel of the Witness Protection Office, improve various place and facilities of operation;

10. Should share knowledge of the Protection of Witness in Criminal Case Act B.E. 2546 (2003) to related agencies;

11. Should provide public relation for sharing knowledge about the witness protection to the people or various communities for widespread public awareness;

12. Should provide a manual of operation to guide for making comprehension in performance of duties in the same direction or standard;

13. Should provide variety means of the witness protection e.g. the witness is allowed to select the protection team by his or her own or supply of equipment and instrument utilized in the witness protection and

14. Should provide relaxation activities to the witness during the time of protection for reduction of the witness's stress e.g. class of cooking meal and dessert, various handicrafts

Suggestions for improving the law enforcement evaluation tool are as follows:

1. Should review or adjust statement, definition, meaning of some words to make them to be easily comprehensible by users and punctual to intent of the criteria e.g. the Indicator 2.2, supervision and monitoring the law enforcement operative, the 1st criteria, existing plan for examination of the operative's capacity in cycle time and the 2nd criteria, existing result of evaluation of the operative's capacity pursuant to the designated criteria;

2. Should review or combine certain related criteria together to lessen number of criteria so as to diminish number and overlapping in consideration e.g. in the Indicator 1.1, provisions of law examination system should be considered to combine together between the 1st criteria, existing system or plan for examination of state agencies' provisions of law in cycle period of time and the 2nd criteria, existing committee on examination and monitoring implementation to system or plan, in the Indicator 1.2, review, revision of provisions and sanction of law should be considered to combine together between the 4th criteria, existing information supplementing review and revise provisions of law from related people and/or people affected by provisions and sanction of law and the 5th criteria,

existing result of operation and useful conclusion in form of trustworthy report and in the Indicator 3.1, ability of persons being enforced to access information and knowledge after the law in force should be considered to combine together between the 1st criteria, existing plan for public relations of the law enforcement to the enforced person and the 2nd criteria, organizing activities of public relations of the law enforcement to the enforced person extensively and equally;

3. Should develop criteria and level of the result interpretation in order to guide performance of the law enforcers' duties after the end of evaluation;

4. Should develop form or process of the evaluation in several forms to be option or guide for users utilizing this tool to be suitable for legal context to be evaluated;

5. Should create a guideline on determining key informants for evaluation in accordance with various criteria which are deemed as gist of the law enforcement evaluation;

6. Should review or determine weighted figure in various elements level or indicators;

7. Should create training course for giving knowledges and developing skills of the law enforcement evaluation to the interested persons or the operative in law enforcement

Suggestions for the subsequent research

1. Should provide a study of making a guideline on tracking or helping care of the witness after the witness protection ends for completion of the witness protection system;

2. Should provide a study of making a guideline on integration of public relations, development of the witness protection personnel and the inter-agency witness protection process for efficiency enhancement of the witness protection system and

3. Should provide a study for setting up a central standard course of witness protection for personnel development in related agency relating to the witness protection for efficient operation

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