

**APPROACHES IN PROTECTING INDIVIDUAL WITNESSES IN
CRIMINAL CASES AT THE INTERROGATION OF THE POLICE:
A CASE STUDY OF THE METROPOLITAN POLICE DIVISION 9**

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS
(CRIMINOLOGY AND CRIMINAL JUSTICE)
FACULTY OF GRADUATE STUDIES
MAHIDOL UNIVERSITY**

2008

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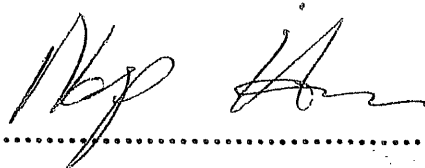
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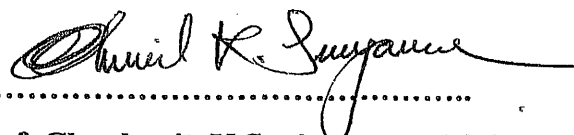
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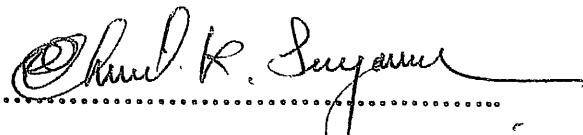
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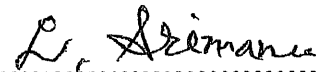


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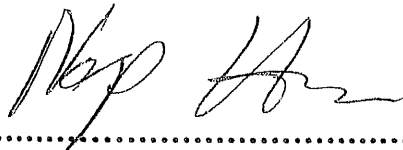
Thesis
Entitled
APPROACHES IN PROTECTING INDIVIDUAL WITNESSES IN
CRIMINAL CASES AT THE INTERROGATION OF THE POLICE:
A CASE STUDY OF THE METROPOLITAN POLICE DIVISION 9
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ACKNOWLEDGEMENTS

This thesis had successfully been completed with the kind contributions of Asst. Prof. Nop Kanjanakunti; Asst. Prof. Dr. Chankhanit K. Suriyamanee who corrected errors and brought benefit to this research. Thanks were extended Assoc. Prof. Pol. Col. Dr. Lamduan Srimanee who accepted to be an expert member of the thesis committee and his comments, advantageous to the researcher.

Gratitude was extended to all the commissioned police working in the Investigation Job, Metropolitan Police Division 9, for their cooperation as respondents in data collection that made this research possible.

Thanks to all lecturers in Program of Criminology and Justice Administration for their instructions and consultations to this researches.

Had this research been useful to public at large, the researcher rendered all virtues to his father and mother with deepest gratitude including his family and relatives for their moral supports. Without the supports of the families, this study would not have been complete. Had there been any mistakes found, the researcher humbly accepted for further improvements.

Pol. Lt. Theerayut Sutthiponpisarn

APPROACHES IN PROTECTING INDIVIDUAL WITNESSES IN CRIMINAL CASES AT THE INTERROGATION OF THE POLICE: A CASE STUDY OF THE METROPOLITAN POLICE DIVISION 9

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ABSTRACT

This research aimed to study the relationships between the personal backgrounds of police officers and their ability to protect individual witnesses in criminal cases at the interrogation stage and to study the other factors related to protection under supervision of Metropolitan Police Division 9, Thailand. Samples were 112 commissioned officers working as interrogators at metropolitan police stations under the supervision of Metropolitan Police Division 9. Questionnaires were used in data collection and the statistical applications were percentage, means, standard deviation, ANOVA and Multiple Classification Analysis.

Most samples were male and less than 30 years of age. They had been police officers for 1-5 years and were at the rank of Police Lieutenant, earning an income of 10,000 – 15,000 Baht a month. They had been assigned to an interrogation job for 4-6 years and had attended training /seminars on protecting individual witnesses 1-2 times.

The tests regarding the hypothesis showed that the factors which affected their approach toward protecting individual witnesses in the criminal cases at the interrogation stage were - education (Sig. = 0.000); knowledge and understanding of following the constitutional codes (Sig. = 0.000); problems and limitations of protecting witness (Sig. = 0.000); budget (Sig. = 0.001); cooperation in testimony (Sig. = 0.002); tenure of interrogation job (Sig. = 0.003); thoughts of changing job (0.004); number of officers (Sig. = 0.007); tenure of being police (Sig. = 0.017); and rank (Sig. = 0.036).

The recommendations based on this research were as follows - there should be amendments to laws, regulations, and obligations related to the protection of individual witnesses, particularly in areas where there were loop holes. In addition, the cooperative system with other government units related to the protection of witnesses should be improved. For example, the Office of the Supreme Public Prosecution, Department of Special Task Investigation, the National Police Bureau and the Office of Witness Protection etc. could all cooperate more efficiently.

KEY WORDS: PROTECTION OF INDIVIDUAL WITNESS /
INTERROGATION OFFICER / METROPOLITAN POLICE
DIVISION 9

124 pp.

แนวทางในการคุ้มครองพยานบุคคลในคดีอาญาในชั้นสอบสวนของเจ้าหน้าที่ตำรวจ : กรณีศึกษา
เจ้าหน้าที่ตำรวจในสังกัดกองบังคับการตำรวจนครบาล 9 (APPROACHES IN PROTECTING
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บทคัดย่อ

การศึกษาในครั้งนี้มีวัตถุประสงค์เพื่อศึกษาความสัมพันธ์ระหว่างปัจจัยภูมิหลังส่วนบุคคลกับคุ้มครองพยาน
ในคดีอาญาในชั้นสอบสวนของเจ้าหน้าที่ตำรวจ และเพื่อศึกษาความสัมพันธ์ระหว่างปัจจัยอื่นๆ ที่เกี่ยวข้องกับ
คุ้มครองพยานในคดีอาญาในชั้นสอบสวนของเจ้าหน้าที่ตำรวจในสังกัดกองบังคับการตำรวจนครบาล 9 กลุ่มตัวอย่าง
ได้แก่ เจ้าหน้าที่ตำรวจชั้นสัญญาบัตรซึ่งปฏิบัติงานอยู่ในฝ่ายสืบสวนสอบสวนของสถานีตำรวจนครบาลในสังกัดกอง
บังคับการตำรวจนครบาล 9 จำนวนทั้งสิ้น 112 ราย เก็บรวบรวมข้อมูลโดยใช้แบบสอบถาม สถิติที่ใช้ในการวิเคราะห์
ข้อมูล ได้แก่ ค่าร้อยละ ค่าเฉลี่ย ส่วนเบี่ยงเบนมาตรฐาน การวิเคราะห์ความแปรปรวนและการวิเคราะห์การจำแนกหมู่
ผลการวิจัยสรุปได้ ดังนี้

1. กลุ่มตัวอย่างส่วนใหญ่เป็นเพศชาย มีอายุต่ำกว่า 30 ปี รับราชการตำรวจมาเป็นระยะเวลา 1-5 ปี มีชั้นยศ
ร้อยตำรวจโท ปฏิบัติงานในตำแหน่งพนักงานสอบสวน จบการศึกษาระดับปริญญาตรี มีรายได้ต่อเดือน 10,000-
15,000 บาท ปฏิบัติงานด้านการสืบสวนสอบสวนมาเป็นระยะเวลา 4-6 ปี และเคยเข้ารับการฝึกอบรม/สัมมนาในเรื่อง
การคุ้มครองพยานบุคคลในคดีอาญา จำนวน 1-2 ครั้ง

2. ผลการทดสอบสมมติฐาน พบว่า ปัจจัยภูมิหลังส่วนบุคคลและปัจจัยอื่นๆ ที่เกี่ยวข้องกับพนักงาน
สอบสวนมีผลต่อแนวทางในการคุ้มครองพยานบุคคลในคดีอาญาในชั้นสอบสวน ได้แก่ ระดับการศึกษา (Sig. =
0.000) ความรู้ความเข้าใจในการปฏิบัติงานตามกฎหมายรัฐธรรมนูญ (Sig. = 0.000) ปัญหาอุปสรรคในการปฏิบัติงาน
คุ้มครองพยาน (Sig. = 0.000) งบประมาณ (Sig. = 0.001) ด้านความร่วมมือในการให้ปากคำของพยานบุคคล (Sig. =
0.002) ระยะเวลาที่ปฏิบัติงานด้านการสืบสวนสอบสวน (Sig. = 0.003) ความคิดเกี่ยวกับการเปลี่ยนสายงาน (Sig. =
0.004) จำนวนของเจ้าหน้าที่ตำรวจ (Sig. = 0.007) ระยะเวลาในการรับราชการตำรวจ (Sig. = 0.017) ชั้นยศ (Sig. =
0.036) ตามลำดับ

ข้อเสนอแนะจากการวิจัย ควรมีการแก้ไขกฎหมาย ระเบียบ ข้อบังคับต่างๆ ที่เกี่ยวข้องกับการคุ้มครองพยาน
บุคคลที่ยังมีข้อโหว่ให้มีความรัดกุมและเป็นรูปธรรมมากขึ้น นอกจากนี้ควรมีการปรับปรุงระบบการประสานงาน
กับหน่วยงานอื่นๆ ที่เกี่ยวข้องกับการคุ้มครองพยานบุคคลที่เป็นหน่วยงานภาครัฐให้มีความร่วมมือกันมากยิ่งขึ้น เช่น
สำนักงานอัยการสูงสุด กรมสอบสวนคดีพิเศษ สำนักงานตำรวจแห่งชาติ สำนักงานคุ้มครองพยาน เป็นต้น

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CHAPTER I

INTRODUCTION

1.1 Background and Significance of the Problem

The criminal justice is not only a process aiming to counter crime and to instill peace and order of societies but also needs measures to protect rights and liberty of all parties involved to enter the process regardless being the alleged, the victim, and witness through offices in the justice administration. Key principle in the criminal justice is to achieve such goal, i.e. seeking truth and facts happened so as to punish the offender and to release the innocent to return to liberty without delay. Evidences are counted important in the proceedings because they will be keys to disclose the case that the court tries and adjudicates rightfully.

Proceedings either the civil or criminal cases generally have two dispute parties, i.e. the plaintiff and the defendant except in some civil cases with a dispute party or called non-contentious case. Both the plaintiff and the defendant describe facts in the charge or in the answers to support the charge and the defenses. These facts are both relative and also contradictory in some matter. But, each litigant needs to prove referred facts to ascertain the court by presenting evidences so that the court will try and adjudicate for final decision which party is guilty. Importance of evidences in the criminal cases of evident types is witness, documentary evidence, material evidence, and expert evidence and so on.

In Thailand, the Constitution of the Kingdom BE 2550 (2007) warrant the rights of the alleged or the defendant in Article 39 that in a criminal case, it is assumed that the alleged or defendant is not guilty by the Criminal Code Article 277 and the court must weigh evidences whether the defendant is guilty until it is certain that there is the very offense. And if deserve suspicion of guilty, the suspicion should be availed in favor of the alleged or the defendant. Also, Article 176 is coded that the court must hear evidences of the plaintiff till satisfactory that the defendant is truly guilty and just confession and demand punishment on defendant will be impossible. This is counted as supports that evidences are the most important to prove the criminal wrongdoing of

an individual. Inadequacy of evidences or weak evidences might not help enable to punish the guilty. It will finally erode the public trust in the justice administration.

In examining the criminal cases, evidences are used to prove defendant's guilty or innocence. In the proceeding, punishment cannot be imposed on defendant till certain that he or she is truly guilty and the defendant is the very offender. So, documentary and material evidences and witness are indispensable for the criminal proceedings. Particularly, in a criminal case, the witnesses know fact of the wrongdoing and play key role to prove guilty because of limitation in forensic proofs and pattern of offence. Witnesses are therefore important to weigh witnessing in the criminal case. This makes them important and affects proofs of guilty.

Witnesses are the import evidences and commonly used because situations and disputes alleged mostly come from human acts. By these reasons, proving fact requires persons witnessed the event as a start-up. But they have weakpoints needed serious precautions because of diversion and changes all the time. This relies on circumstances, moods, mind, memory, period of time, and other environments. However, witnesses are common humans full with fear, unsafety and risk to testify in the justice process especially in the case of the offenders being the influential persons or in the cases of public impact or drawing people attractions, and organization crimes which are more complicated than ordinary cases. It needs to find witnesses to link wrongdoings of the alleged. Incapacitations of witnesses to freeze evidence are growing and risk for the citizen to appear as witnesses is escalating. Witnesses themselves and their family members might be threatened, assaulted, intermediated and oppressed in various forms in order not to appear as witnesses in both the interrogation stage and in the proceedings. Like being found in newspapers if there are no witnesses, chance to survive the charges is likely. It is many times found at first when there is an offence and there will be many witnesses but later they fade out or withhold their testimony that the court has to free the alleged whom societies believe to be the real offender. This leads to many criticism and curiosity of public against the process of the justice administration.

Problems of release the Court of First Instance have verified, it is found that its cause is partly from absence of evidence to confirm offence of those people. And when the real offenders are legally freed, it leads the justice administration of Thailand

unaccountable, which directly affects counter crimes. The state has lost large amount of spending to pursue wrongdoers but in the end is helpless to legally finalize them and this is counted immense losses.

Even the Constitution of the Kingdom BE 2550 (2007) codes about witness protection in Article 40 first paragraph that the victim (s), the alleged, and the witness (es) in the criminal case hold rights of protection and help necessarily and properly by the state, necessary remuneration, compensation and expenses must abide by law; it is the hope that with such measure, the collection of evidences at the interrogation stage and evidence gained during the proceedings will raise effectiveness. But in fact, protection and proper treatment are widely coded and it is without criteria clearly fixed and there is adoption of the foreign practices for application even it is convenient with even researches still by social context, ideas, beliefs, and values of the Thai societies, it is functioned differently from abroad. The researcher being a police in the Office of the National Police Bureau with considerably long tenure and many experiences served such issues. It attracts the researcher to investigate approach of working and problems and limitations during protecting witnesses in the criminal cases. It is to find measures and proper approaches to functionally meet the real Thai context. Having measures of protecting witnesses and proper task will lead to find fact in the criminal proceedings accurately and effectively. This is further useful for direct counter crime. Being the very person taking action and a graduate student in the Program of Criminology and Criminal Justice, Mahidol University; this problem is evident and needed investigation among the investigation officers, and the interrogation officers under the responsible areas of the Metropolitan Police Division 9, Metropolitan Police Headquarter. The responsible areas of the Metropolitan Police Division 9 selected are by reasons of the police tasks here can draw bird eye views of the entire police units. This area is integrated between the Metropolitan Police and the Provincial Police with the dramatically rising number of population. It is also the residential area with number of households and the zone of industrial factories adjoining provinces with the premises of Bangkok under special surveillance of the Metropolitan Police Division 9. The researcher therefore decides to conduct a research in this area.

1.2 Research Objectives

1.2.1 To study cognition levels of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage and enabling to apply for working;

1.2.2 To study attitude of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage;

1.2.3 To study attitude of police under supervision of the Metropolitan Police Division 9 about problems and limitations in protecting witnesses at the interrogation stage;

1.2.4 To study relationship between personal data and the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9; and

1.2.5 To study relationship between other factors related to the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9.

1.3 Scope of the Study

1.3.1 The scope of area – the researcher investigates only 8 police stations under supervision of the Metropolitan Police Division 9, i.e. the police stations of Nongkhaem, Petchkhasem, Phasicharoen, Laksong, Nongkhangphu, Bangbon, Bangkhunthian, and Samaedam.

1.3.2 The scope of population – the researcher investigates only the commissioned police allocated to jobs of investigation and interrogation in the 8 police stations under supervision of the Metropolitan Police Division 9.

1.3.3 The scope of contents is as below

1.3.3.1 Reviewing documents, research papers, and theses related to protections of witnesses in criminal cases at the level of interrogation officers;

1.3.3.2 Concepts and theories related to protections of witnesses, its measures, problems and limitations in protecting witnesses or jobs related to the officers.

1.4 Definition of the Terms

1.4.1 Witness – it is referred to an onlooker itself appears at the interrogation level before the officers about facts seen or perceived a thing related to the case.

1.4.2 Protection – it is referred to the safeguard of rights and welfare in life of the witness secure from any forms of acts such as threat, assaults, and intimidation and so on.

1.4.3 Knowledge – it is referred to erudition of the commissioned officers under supervision of the Metropolitan Police Division 9 related to the protection of witnesses in the criminal cases at the interrogation stage

1.4.4 Criminal Case – it is referred to lawsuit coded with criminal punishment, i.e. execution, imprisonment, fine, forfeiture of property either under the Criminal Code or other Acts with criminal punishment.

1.4.5 Attitude in Protecting Witness in the criminal case at the interrogation stage- it is referred to the intrinsic feeling of officers to a thing, which is gained from experience. Here, it is the feeling of protecting witness in the criminal case at the interrogation stage.

1.5 Research Variables

1.5.1 The independent variables, i.e.

- The personal data, i.e. gender, age, years of government services, rank, position, education, income, police station, tenure, training/seminar of protecting witness.
- Other variables related to the interrogation officers, i.e. job cognition by Constitution, applicability of skills in job, thoughts of job change, problems and limitations in protecting witness.

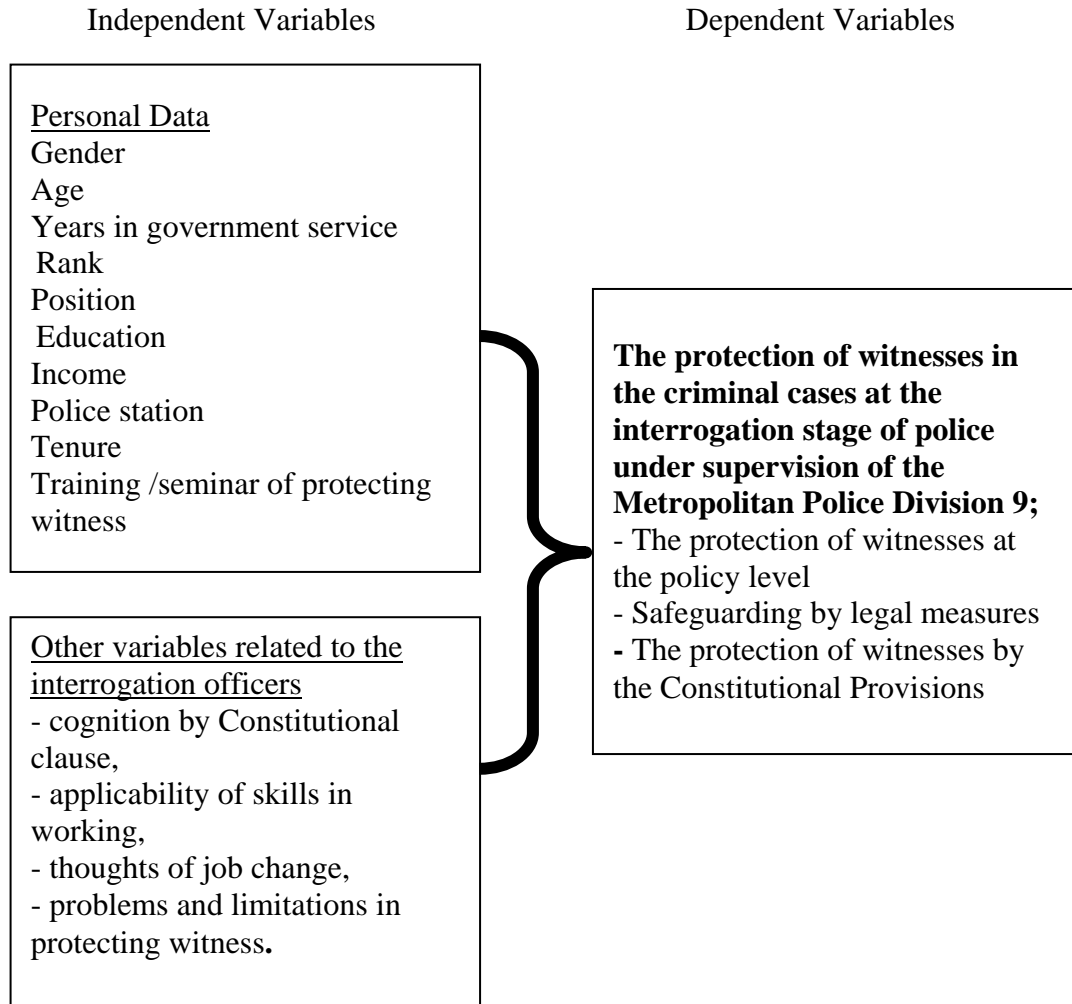
1.5.2 The dependent variable, i.e. the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9; i.e.

- The protection of witnesses at the policy level
- Safeguarding by legal measures
- The protection of witnesses by the Constitutional Provisions

1.6 Research Measurement

Variables	Measurements
<p>Independent Variables</p> <p><u>Personal Data</u></p> <ul style="list-style-type: none"> gender age years in government service rank position education income police station tenure training /seminar of protecting witness. <p><u>Other variables related to the interrogation officers</u></p> <ul style="list-style-type: none"> - job cognition by Constitution, - applicability of skills in job, - thoughts of job change, - problems and limitations in protecting witness. 	<ul style="list-style-type: none"> Nominal Ratio Ratio Nominal Nominal Nominal Ratio Nominal Nominal Nominal Nominal Nominal Nominal Nominal Nominal Nominal Nominal Nominal
<p>Dependent variables,</p> <p>The protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9;</p> <ul style="list-style-type: none"> - The protection of witnesses at the policy level - Safeguarding by legal measures - The protection of witnesses by the Constitutional Provisions 	<ul style="list-style-type: none"> Ordinal

1.7 Conceptual Framework



1.8 Hypotheses

1.8.1 Personal data affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness at the policy level of police under supervision of the Metropolitan Police Division 9.

1.8.2 Personal data affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness by legal measures of police under supervision of the Metropolitan Police Division 9.

1.8.3 Personal data affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness by the constitutional provisions of police under supervision of the Metropolitan Police Division 9.

1.8.4 Other factors related the interrogation officers affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness at the policy level of police under supervision of the Metropolitan Police Division 9.

1.8.5 Other factors related the interrogation officers affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness by legal measures of police under supervision of the Metropolitan Police Division 9.

1.8.6 Other factors related the interrogation officers affect the protection of witnesses in the criminal cases at the interrogation stage on protecting witness by the constitutional provisions of police under supervision of the Metropolitan Police Division 9.

1.9 Expected Benefits

1.9.1 To know cognition levels of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage and enabling to apply for working;

1.9.2 To know attitude of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage;

1.9.3 To know attitude of police under supervision of the Metropolitan Police Division 9 about problems and limitations in protecting witnesses at the interrogation stage;

1.9.4 To know various factors affecting attitude of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage;

1.9.5 To know the police practices under supervision of the Metropolitan Police Division 9 related to the protection of witnesses in the criminal cases for further efficiency and effectiveness.

CHAPTER II

LITERATURE REVIEWS

In the study of “Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9”; the researcher reviews documents, textbooks, theses, concepts and theories to supplement the literature reviews related to this research as below

- 2.1 Concepts and the System of Justice Administration
- 2.2 Concepts of Fact Findings and Testimonial Hearing in the Criminal Cases
- 2.3 Concepts of Evidence in the Criminal Cases
- 2.4 Concepts of Importance of Individual Witness Protection in the Criminal Cases
- 2.5 Concepts of Individual Witness Protection in Thailand and in Abroad
- 2.6 Related Researches

2.1 Concepts and the System of Justice Administration

The concepts and philosophy to proceed criminal cases is based on the examination doctrine with 3 objectives, i.e.

1. The public interest protection – it is security, peace and order, and justice by setting measures, criteria and methods to bring offender to lawsuit as fast as possible in order to exemplify other not to imitate. It is the suppression for chastening, fear, law respect and justice-focused because, had there been absence of principles and methods to sue offender for punishment speedily with efficiency and fairness, people will turn to reciprocal retribution or the an-eye-for-an-eye vengeance endlessly.

2. The individual interest protection – it is warranty of individual rights protection regardless being victim, the alleged, defendant, and witness e.g. rights of victim on physical and mental rehabilitation, rights of the alleged and defendant for preliminary innocence, rights to defense, rights to present fact and matter of laws to prove truth before the court, rights of appeal, decree, and pardon and so on. The

witness holds rights of protection warranty on security and proper treatment to fulfill the witness duty.

3. The public and individual interest protection – it is a new concept focusing on balanced treatment for public and individual at the same time by dig-up causes and facts about offender on physical state, mental state, emotion, private records, social circumstances, economic conditions, family and other causes which might push to wrongdoing. All these information are not directly connected with the offence but able to lead to file of a prosecution to supplement adjudication of the interrogation officers, public prosecutor, and judicial proceedings of the court worth the alleged or defendant individually. Also, it is to set measures of correction, probation, physical and mental rehabilitation for offenders to return to societies.

Fact findings of the case must follow the principles of the criminal proceedings. Many countries employ 2 principles, i.e. the criminal lawsuit, the judicial discretion:

The principles of criminal lawsuit are the proceedings the officers interrogate every criminal case upon any crimes happen without any petition or charges. Had the interrogation finds the alleged is in fact offending then the proceedings would be resumed.

The principles of judicial discretion are contrary to the principles of criminal lawsuit. When a crime committed the officer may not interrogate and if the interrogation found the alleged guilty, but dismiss lawsuit and it is depended on reasons in each case. These principles come from the Retribution Theory, which has been changed from the “Protection Theory”, i.e. punishment imposed only if the public will not be passive to such act and the punishment must deserve the offence and depravity of the offender so that it can have opportunity to improve itself to offend again and in order to return to public.

The criminal proceedings in Thailand, the principles even directly uncoded but if examining Criminal Procedure Code Article 122, it indicate which case the officer will not file interrogation. This also means other way beyond law that the officers interrogate every case and by common principles police have duty to keep law. Had officers discrete interrogation or non-interrogation on any criminal cases; the officers act against common duty. In particular, Criminal Procedure Code Article 189 codes

that anyone helps others being the alleged of wrongdoing on not being the civil punishment in order to avoid arrest must be subject to punishment on reason of supporting to show that the criminal proceedings of the officers is abide by the principles of the criminal lawsuit.

However, there are exceptions on the case of interrogative discretion to fall inline with the Criminal Procedure Code Article 122 (1), (2), (3) and Article 189, i.e.

1. When the victim seeks help but reject petition by regulation,
2. When the victim files lawsuit itself without petition,
3. When there is written charge as anonymous card or individual verbal charge anonymously or no signature in the charge or the recorded charge, and
4. The petty offence.

The process of the criminal lawsuit is divided into 2 systems, i.e. the inquisitorial system and the accusatorial system.

1. The Inquisitorial System – there is no separation of interrogation, charge and adjudication under the responsibility of a person or an organization, i.e. judge or court. The criminal lawsuit under this system offers no rights for the interrogated as if it is a material because of end truth-focused and more truth finding. So, the criteria are not strict unlike the accusatorial system.

2. The Accusatorial System – there is separation of interrogation, charge and adjudication and assigning an organization to differently run the criminal proceedings and raise the status of the alleged (the accused and the defendant) as subject providing various rights for them to filly defend themselves but prohibit any unrightful proceedings.

The criminal lawsuit by power of filing trail is divided into 3 systems, i.e.

1. Trial by Public Prosecution is the British trial system given that all hold rights to try criminal cases regardless being the victims because any people hold common duty to justice administration empowered to raise trial for public through system and medium permitted by laws and the tradition of the country. The countries impose this medium are England, Israel, Singapore and Malaysia and so on.

2. Trial by Popular Prosecution is the British trial system given all people hold rights to file criminal cases.

3. Trial by Private Prosecution is different from the trial by public prosecution. It is the public prosecution by the victim citizen and other individual empowered to represent the victim to file the trial. The state and the public indirectly gain benefits for the consequences of the victim being the prosecutor. This enables opportunity for citizen to exercise power checking interrogation or non-interrogation of the officers including the power to demand the very trial of the public prosecutors for the state and the public.

The criminal lawsuit process and the trial in Thailand through examining the Criminal Procedure Code Articles 120, 162, 174, 175, and 176 show that Thailand splits duties of interrogation and trial from the adjudication. It is the accusatorial system. Considering the Criminal Procedure Code Article 1 (4) and 28, Thailand applies a parallel prosecution – empowering the government officers and the victimized citizen to be the accusers of the prosecutor themselves regardless any offences. It is the counted the integration system between the public prosecution and the private prosecution. Each system maintains the following details.

1. The Public Prosecution system – even the Criminal Code permits public prosecutors to prosecute but they are not empowered to enter the action without passing the interrogation process or quotation or otherwise prosecution by the state through first investigation, and interrogation by officers.

Investigations are the anterior and posterior steps in any offence and the duty of the administrative staff, i.e. the interrogation officers, the public administrators or police including officers authorized to keep peace and order for public; .e.g. gaoler, revenue staff, custom staff, port authority, immigration officer and other government staff on arrest and suppression.

Interrogation is a posterior step after offence and the first step for fact finding. It is the duty of the interrogation officers regarded as the officer in the justice process authorized to collect evidence and other procedures coded in the Criminal Procedure Code to gain facts or to prove offence and to bring offenders for prosecution.

The public prosecution is the duty of the public prosecutors by Provisions Article 28(1) of the Criminal Procedure code. The public prosecutor is the government staff prosecutes the alleged. They are either the government staff or other staff such

authorized by Article 1(5). In prosecution, the public prosecutor enters a lawsuit without prior interrogation by Article 120 of the Criminal Procedure Code.

2. The Private Prosecution by the Criminal Procedure Code authorizes the victimized civilian to enter prosecution by itself regardless of offences, either a compromised case or a criminal case, which normally under supervision of the officer. This seems to be a measure to check power play of the officer on interrogation or not, enter a lawsuit or not replacing the checking of the court. The laws then fully authorize the victimized civilian in prosecution without passing the interrogation of the officers.

Prosecution by the victimized civilian by the Criminal Procedure Code of Thailand is not counted the private prosecution because there is no any system or methods allowing common people to participate in the prosecution power-play.

2.1.1 Prosecution Organizations

They are divided into 2 parts, i.e. the public sector and the private sector

1. The Public Sector or the state offices within the justice administration and divisible into 4 offices, i.e. police, prosecutor, court and corrections

1.1 Police is the first office of the state to keep peace and order of the public and sue offenders but it is not only the police authorized as such. Examining the Provisions Article 2 (16), it is found that state staff authorized by law to keep peace and order for public are the public administrators or police, gaoler, revenue staff, customs staff, port authority, and other state staff upon arrest and suppress law offenders under their duties. The public administrators or police are divided into 2 groups – for keeping peace and order and for arresting offenders, prevention or suppression specifically code by any laws.

Generally, in interrogating offenders, it is coded in the authorized persons in the Criminal Procedure Code except in some specific offences where there are special laws coded. In this study, it is focused only on police excluding the public administrators and other state staff. “Police” is an individual authorized for interrogation but to become an interrogator requires duty and position coded in the laws strictly for the interrogation officer. It is divided into 3 cases, i.e.

1.1.1 In Bangkok, it is coded the police ranked from Police Sub-Lieutenant or equivalent and above to be the interrogation officer.

1.1.2 In upcountry, they are the senior police and police ranked from Police Sub-Lieutenant or equivalent and above to be the interrogation officer.

1.1.3 By offence under penalty by the Thai laws and committed outside the country, generally, it is the duty of the General Attorney or Acting Attorney. For the interrogation officer where the alleged is arrest under the jurisdiction or the interrogation officers, whom the other government victimized or a victimized person and take action against the alleged, are authorized to interrogate only in case of necessity during await an order from the General Attorney or the Acting Attorney only. Interrogation must proceed without delay and enable to issue summons the victim or any individuals for testimony if it merits the case. The alleged will be interrogated only the case to enter lawsuit but based on principles of hearing of all parties.

1.2 The Criminal Procedure Code on Prosecutor – the prosecutor is found in the article 32 but there is no definition just the word “prosecutor officer’. In Article 2(5), it is referred to an officer. Therefore, ‘prosecutors’ should then be an organization – office of the General Attorney. Some comment that by its system it should be adopted from some countries in Europe having France as the blueprint rather than from England since it never has any prosecutors.

A prosecutor is a state staff under supervision of the Office of General Attorney authorized to take lawsuit for the government playing roles of both suppression and justice administration for public. Its authority by the Prosecutor Act BE 2498 (1955) and other laws authorized any specific duties in both the criminal and the civil cases. In the criminal cases, the Prosecutor Act BE 2498 (1955), Article 11 (1) authorizes the prosecutor specifically for the Criminal Procedural Law, the Criminal Code, and other Acts such as the Gambling Act BE 2478 (1935) Article 15 authorizes the prosecutor to file petition to court to pay arrest reward for person who lead to arrest gambling only in the case of having person leading to arrest offenders for example. Criminal Authorities of the prosecutor coded in the Prosecutor Act BE 2498 (1955), Article 11 (1) are:

1.2.1 To be prosecutor in the criminal cases including taking lawsuit in the Appeal Court and the Supreme Court.

1.2.2 To file petition to be the joint-prosecutor which is not a personal case the victim has enter lawsuit before disposal of the case.

1.2.3 To issue or not to issue prosecution order.

1.2.4 To file petition to court for warrant.

1.2.5 To file petition to court for release individual detained or illegally chained or imprisoned by court verdict.

Observations for the jurisdiction of the prosecutor related to the criminal lawsuit because the jurisdiction is not coded in the Criminal Procedure Code like the interrogation officers or the court. Due to Article 6 of the Prosecutor Act BE 2498 (1955) codes there must be prosecutors of every Court of First Instance; therefore, any jurisdictions of any courts of first instance are also counted the jurisdictions of the prosecutors.

1.3 Court is an important organization in the criminal justice administration because it is the trail process and judgment affecting benefit-loss of defendants. Meaning, when the prosecutor takes lawsuit to any cases or in the case of the victimized does, there is charge prepared to be submitted to the court. When the prosecutor submits the charge, the trail begins and it is divided as follows:

1.3.1 The preliminary hearing and the charge acceptance

1.3.2 The judicial proceedings

1.3.3 The judgment and issue of order

1.3.4 The appeal filing and the decree filing

1.3.5 The enforcement of the verdict and order

1.3.6 The pardon, change and reduction of penalty

The criminal trail and hearing at present is divided into 2 ways, i.e.

1. Defense between the prosecutor and the defendant - this is based on offence or the competition theory, i.e. a method that both the prosecutor and the defendant adduce evidence and support allegation and opposition before court. The court thrones as a referee and will not interfere to take inquest but the middleman allowing the prosecutor and the defendant rotate inquiries, cross-examination and re-examination. And the court weighs witnesses and adjudicates. Such proceedings are the accusatorial

system popularized in countries applying the public prosecution or in the countries using the common laws system.

2. The joint-fact findings and non-permit defense between the prosecutor and the defendant – it is based on the cooperation theory or fact finding, i.e. a cooperation or co-examination by the court, the prosecutor, and the defendant. The court plays key role in inquiries to seek truth and it is the inquisitorial system non-empathizing equality of both parties as in the accusatorial system. Both parties will not be permitted to enter defense, inquires, cross-examination and re-examination.

Thailand has been influenced by defending proceedings between the prosecutor and the defendant from England since His Majesty the Rama V even the enforcement of the Criminal Procedure Code given the public prosecution associating with the private prosecution characterizing the integrating prosecution adhering to the public prosecution and taken the private persecution as the second option.

1.4 The correction is another organization in the justice administration and its officers play immense roles over offenders imprisoned by court verdicts and this involves restriction of personal rights of detainees. The correction is authorized by the Criminal Procedure Code and the Correction Acts BE 2479 (1936).

The Corrections Department since Ayudhya era characterized the public administration with the Jatusadhom System (the four ministers of the ancient Thai government: Interior, Royal Household, Finance and Agriculture) having prisons in Bangkok under supervision of Ministry of Metropolis commanded by the Central General Gaoler assisted by the Right Gaoler and the Left Gaoler. The prison is to imprisoned prisoners of 6 month-term and above while the ‘cell’ is to imprisoned prisoners below 6-month term. The upcountry prisons are under supervision of governors, which is called ‘city cell’. Any cities with large territory, they must have sub-cell in each of their districts. Treating inmates in those eras till early Ratanakosin era have not been conscious of ‘Principles of Human Rights and Human Freedom’.

At present, treating inmates does not emphasizing punishment only but rehabilitating offenders to become good respecting law and good citizen and also preventing crimes.

Authority of the correction officers by the Criminal Procedure Code found in Article 90 and 260 that the Commander or the Chief Gaoler can file petition to court

for release inmates or prisoners wrongly imprisoned from the sentence (Article 90) and to receive petition from prisoners appealing the Royal Pardon (Article 260).

Authorities of the Corrections Department by the Criminal Procedure Code are in every criminal proceeding charged on offenders within 3 cases, i.e.

1.4.1 During inquiry stage and examination on the file of inquiry; the corrections officers are authorized to admit and to take the alleged into custody in 2 cases.

1. During inquiry of the interrogation officer – upon incomplete inquiry within 48 hours coded in Article 87 Paragraph 3 of the Criminal Procedure Code; the alleged is subject to custody for further inquiry. The officers must submit petition to court for warrant of detention and the grant is by Article 71 by detaining the alleged in prison coded in the Correction Act BE 2497(1954) article 4 (4). ‘Detainee’ is an individual confined by the warrant of detention and the corrections officers fulfill the warrant.

2. During inquiry of the public prosecutor and when the interrogation officer complete inquiry within 48 hours and submit the alleged with inquiries to the public prosecutor officers. By practices, the public prosecutors spend time to examine inquiries before enter lawsuit or to decline lawsuit. The rest of time during examining the inquiries and if the alleged is not temporally release or commonly known as ‘bail’; the public prosecutor will admit the alleged in prison for the detention timeframe coded in the Corrections Act Article 45(5) or called ‘entrustee’, who is an individual detained by the Criminal Procedure Code and by other laws.

1.4.2 During the preliminary examination/ hearing of the court – it is the case of the offender charged as defendant or the case is under hearing. The defendant is subject to the court power and the court is empowered to issue warrant of detention during the hearing coded in the Criminal Procedure Code Article 71 to detain defendant in a prison.

1.4.3 Upon sentence–after hearing, the court examine punishment, imprisonment, execution and case-end; the court will issue a warrant of imprisonment the person under the Criminal Code Article 74 – the sentenced person as a prisoner coded in Article 4 (3) of the Corrections Act. It is the person detained by the warrant

of imprisonment after judgment ends and it includes individual imprisoned by the legal order for punishment, the alleged or the defendant fulfilling detention term or granted Royal Pardon or adjudicated for conditional release or legal punishment exemption, or imprisonment termination by other cause; the correction officers hold duty of release the alleged or the defendant by the warrant of release.

Beside above authorities, the correction officers hold other duties and responsibilities by other laws, i.e. ‘detention’ of the offenders coded in the Act of Detention Procedure by the Criminal Code BE 2506 (1963) relevant to the Criminal Code Article 18 (3), 123 – 127; and ‘relegation/protective custody’ of prisoners by sentence and fulfill the term by the ruling coded in Act of Relegation Procedure by the Criminal Code BE 2510 (1967) relevant to the Criminal Code Article 39 (1), 40-43.

2. The Private Sector – they are organizations playing key role not less than the state sectors as mentioned. Some of them are directly close to the criminal justice administration such as lawyer. Some even not playing direct role but helps audit fact and give fairness to public by reporting news or behavior of offenders or announcement for witnesses of the offence or bringing offenders to prosecution and so on.

2.1 Lawyer – it is an organization important to a criminal proceeding an additional warranty that the alleged own rights to fully defend the case based on ‘the principle of equal arms’. Though in the criminal proceeding under the public prosecutors applying the principle of the legal criminal proceeding with evident statement that the public prosecutors are not only collecting fact against the alleged but also interrogate and present fact meriting the alleged. The court even seek truth by applying the principle of fact finding but the lawyer might by necessity eligibly prevent error in the criminal proceeding of the public prosecutors and of the court.

Rights of lawyers adhere to the rights of the alleged on its extent. Rights of lawyers are summarized as below:

1. Rights to contact the clients/litigants to find facts of the matter and opportunity to disclose evidences in court for the merit of clients, informing case status and recommending other benefits.

2. Rights to collect evidences and to present evidence

3. Rights to make statement to state staff and the court and to plead actions.
4. Rights of set hearing date and pattern of the proceeding such as plead for taking evidence out of court.
5. Rights to give advice appeal or file petition to Supreme Court for defendant

Three (3) duties lawyer must fulfill, i.e.

1. Duty to discontinue stating any facts caused by the trust of clients such as disclosing secrecy of clients realizing duties of the lawyer or granted advice or realizing any cases. By duty related to counter party and later accepting to be the lawyer for or to use knowledge to help the other party of opposition in the same case and so on. To such cases, it is counted ill-etiquette against the counter party.
2. Duty to give truth to court
3. Duty to make statement for the benefit of clients

2.2 Mass Media – its roles not only disseminating news useful to public but also sometimes finding facts for social fairness. ‘Mass Media’ is not only referred to being a reporter but including radio organizers, TV-men, advertisers, and public relationists. One of its clear roles is to present facts of the criminal offence that when, why and how such mishap occurs, the behavior and the appearance of criminals. Media proposes to public how can crime be prevented or inhibited and helps counter crimes which will lead to the clue to reach offenders for officers in charge to enable them to arrest wrongdoers to serve punishments before committing crime again. Duties of media are announcement to find witnesses to identify offenders or to testify in the presence of the court, given fairness to victims through pressuring interrogation and speedily arrest offenders to serve penalty being the public interest, claim participation of public to help victims including checking to what extent officers complete in the criminal justice beginning from interrogation officers, public prosecutors, court and corrections to give fairness to victims or the accused or the alleged. What are facts serve punishment or not served because of fake accusations? To these causes, mass media is indispensable in reporting news useful to public. By reason, reporters of facts for both victims and the alleged so that persons directly involved and public know accurate information and furnish fairness for all parties.

2.3 Social organizations – they are private organizations, mass group and common people play not less roles for the criminal justice administration than the state organizations especially upon affairs of perceiving information and cooperation with the justice process such as being witness on what one sees, counters and suppress crimes and so forth.

At present, the preliminary justice process is stage of interrogation has been supported and cooperated from 2 large organizations playing predominant role to help the interrogation officers, i.e. the Por-tek-tueng Foundation and the Ruam-kha-tan-yoo Foundation particularly in Bangkok and its premises. Operations of these 2 foundations are funded by public donation and affordable regardless petty cases or serious ones even accidents such as plan clashes, flood, fire, and building collapses. The organizations will send out their members for immediate rescue on life, feedings, clothing and collecting evidences at the spots with photographing, and finger printing for corpses and submit them to the interrogation officers. However, roles of mass media are vital to help and to secure witnesses. For example, if there is no reporting real name, addresses, occupations and pictures of witnesses to public. In abroad like in Canada, there are laws prohibiting media to act as such and it is viewed serving benefit for the justice process. It should have been also coded in the laws of the Thai Kingdom as well.

2.2 Concepts of Fact Findings and Testimonial Hearing in the Criminal Cases

2.2.1 Meaning of Fact Findings

It is to seek truth in the criminal cases acted by the state officers following laws in the stage of interrogation, charge, and hearing. It deems right by the rule of laws of the state and rightful by the process to gain truth serving pros and cons for the alleged. This is not only inquiries, evidence gathering, search for wrongdoing, search of witness, document, or materials or collecting all possible evidence for all parties before entering evaluation of their credibility to finalize truth before adjusting them with provisions of laws.

Truth found is data to decide guilty or innocence of the alleged. Fact findings are differently gained by lawful way. The legal fact is what is done, what is acted, what has happened that affect the lawsuit case. Facts gained as evidence and raised by

persons involved, i.e. gaining facts is the various situations asserted by the other party but rejected by the other party. But fact findings in criminal case are complete by the state officers to follow laws in order to gain facts and serves pros and cons for the alleged and the target of the state criminal proceeding.

2.2.2 Goal of fact findings in the criminal case

Examining the system of fact findings, it is found that in Thailand there is a state criminal proceeding alike other countries applying the Civil Law deemed the state is victimized. The state must provide justice administration for public when crimes are committed. The state holds rights and duties to instill peace and order of its country. The state offices, i.e. police or the interrogation officers, public prosecutors, and court need to cooperate to find real facts for the criminal proceeding under the accusatorial prosecution. It separates authorities of 'inquiry and charge' from 'adjudication' in the proceeding. The public prosecutor is authorized on inquiry and charge. So, the inquiry and charge are inseparable and the public prosecutor is responsible to them because it must finally enter the court. Police is just an officer assisting the public prosecutor only. In Thailand, the criminal proceeding, at the stage of inquiry and charge, is under the responsibility of the interrogation officer but the charge is under the public prosecutor. Such separated responsibility is likely peremptory. The public prosecutor cannot in turn see and realize fact by itself and be unable to acknowledge at first but rely on the file of inquiry of the interrogation officers. It is counted overlooking the importance of fact also helpful to evidence. If the interrogation officers do not pursue fact for inquiry, the public prosecutor will comment or issue prosecution order not from fact and it causes the alleged is unfairly treated. It might be enter trail and lose freedom and money, when later, the court dismisses the case. On the other hand, if the facts have been sought and when the fact is finally found but the officers dismiss the charge and release the alleged similarly with the public prosecutor upon gaining fact and might dismiss the charge in order to end the case and need not trail. But if facts found and it is the prima facie case or a true bill and by trail the court is plausible to sentence the defendant.

From such principles above, fact findings is aimed to raise fairness for justice to all parties and the state must achieve the intent of laws in the criminal proceeding before raising the case opinion at the stage of inquiry, charge and trial.

2.2.3 Principles and measures controlling fact findings

1. Principles of fact finding in the Common Law system – fights for freedom of ancient people, the public rely on the state. When there is an offence against person, it is yet the time the state has to interfere. It is the duty of an individual who assaults to find evidences to submit to court in order to issue warrant of penalty. So, the criminal proceeding is the duty of the assaulted to raise personal retribution and likely incremental violence. Each party must have cronies which widen personal retribution creating impacts to the public peace and order. Later there is popular prosecution and evidently found in England based on individualism viewing the basic rights and liberty of people. This leads the criminal proceeding permit all people to eligibly file the case regardless being the victim or not, it can be the prosecutor even the person has filed petition but withdrawn the petition. England is counted the foundation of this concept. The Irish Constitution Article 40 (3) codes, ‘the state vows in the Law that the state shall protect and maintain personal rights of people as far as possible by laws.’ Later the Irish High Court passes judgment in the case of *Mr. Auiey for post of Telegraphs* (1972) that ‘public rights to seek for court power is an unlimited personal rights and public can file trial against any misters even though the law later codes to seek permits from the General Attorney..’ (Amorn Indrakhamhaeng cited in Wanchai Srinuannad, 1997:89-90). A study shows that England has attempted many time to constitute the state prosecutors alike other countries in Europe. However, due to the public criminal proceedings are boring, it creates inconvenience and burden to fulfill duty as the prosecutor of the victim.

2. Principles of fact finding in the Civil Law system – it is influenced by the trail and adjudication of the Roman Empire and the Catholic Church. In 12- 13th century, the Church has imposed the Inquisition System in the criminal proceeding in different countries in Europe. Opinion is the transgressor of the criminal law is also transgressing the state. So, the state has duty to prosecute the offender in association with seeking evidence and penalization. This leads all the state offices in the state demonstration cooperate and coordinate to seek facts with unlimited forms. Such fact findings are not only fact against the offender but to search behaviors disadvantageous to it. This in turn makes the offender just be only the ‘matter of the case’ without any rights to defend or to be assisted to find evidence. And the court hearing is broadened

without any obligations. Results are the inquired are tortured in order to seek truth for confession. This has started first in the Ecclesiastical courts and later spread to the state criminal proceeding and incrementally reach top violence when there has been heretofore.

When there are shortcomings in the inquisition system, they are treated as:

1. Split power of 'inquiry' from 'trial and adjudication' and the offices conduct proceeding from each other given the 'public prosecutor' responsible for inquiry and charge.

2. Raise the status of the inquired into the 'subject' owning rights to defend as 'human' rather than 'material'. This makes the inquired own 2 rights, i.e.

- Active beteligerter – rights of the alleged to present during the proceeding of the officers and the court including the rights of lawyer of the alleged, rights to defend and rights to have a lawyer for assistance.

- Positive beteligerter – rights of not to restrict decision making and this system is the accusatorial system give 3 parties in the proceeding, i.e. judge, public prosecutor and the alleged.

However, the traditional idea is criminal law-breakers offend also the state. So, the responsibility of the state to prosecute, to seek evidence and to punish them is still influencing the fact findings of the civil law-based. This affects the prosecution that all state parties of the justice administration to coordinate and to find facts with unlimited modes. In turn, the fact finding by civil law-based at present is just allowing the alleged to fully defend or raised to be the 'subject of case'. This makes the cross-examination and jury system to find facts are impossible because such prosecution by state counts the state is victimized (except some kinds of offences unconcerned to public interest and the state may permit the victimized private to prosecute by itself). So the state prosecutes through the state officers or the public prosecutor taking responsibility in inquiry and charge which is the perfect principle of the prosecution system. The inquiry and charge are taken as the same process inseparable. The police are just the state officers acting as assistants. Therefore, the state agencies, i.e. judge, prosecutors and police have duties of the justice administration and cannot be counter party with the state people. What is opposite to private body is the state not the state offices. The public prosecutors and police have to be vested with objectivity – hold

duty to find facts without any obligations to any petition. The court has to be active to find facts. Such action is called the ‘inquisitions principle’

The control of valid fact findings in Thailand under civil law based requires check and balance among offices under the justice administration. Fact findings are the method authorizing the state officers to follow laws and the justice process in both findings for and against the alleged in order to gain facts. However, the state fact findings require controls by other offices in the justice administration for check and balance such as by the Office of the Public Prosecutions, and the court. But in our Criminal Procedure Code at present codes no mechanism for check and balance only just assigns the state officers to proceed inquiry for fact findings and just having the commander in the same office to audit those exercising the state authority. So fact findings are unaccountable which affect the public trust on the justice administration. Germany and in Japan never authorize the same office to proceed inquiry but there must be public prosecutors to control in order to create the check and balance for fair play to the accused.

2.3 Concepts of Evidence in the Criminal Cases

Evidence is the objects to prove fact each counter party referring and presenting for defense having the evidence law to set criteria of truth and fact proving that any evidence requires a proof, anyone being responsible, any evidences presented admissible, and this includes the proceeding of presenting evidence in the trial and their weighing. The study of the evidence indispensability in the criminal cases is individual witness, document, material and expert witnesses. This emphasizes adducing individual witness in each justice administration either in the stage of inquiry, or public prosecution, or court showing problems related to individual witness lading the measures of protecting witnesses.

2.3.1 Importance of evidence

Proceeding either civil or criminal cases in general involves 2 parties, the plaintiff/prosecutor and the defendant except some cases having one party called the non-contentious case. Both will refer facts which some might be relative abut some are contradict. Each party requires proving facts quoted during hearing by asserting evidences presented for the court to rule.

The party with better advantageous and accountable evidence then wins the case and the court adjudicates and judges.

'Evidence' and 'Witness' are differed in some meaning – evidence covers the individual statements, documentary or material references or intent to prove the charge.

Fact findings in the case are divided into 2 systems: the inquisitorial system and the accusatorial system. The prosecution by inquisitorial system is the proceeding just by the court and the defendant only given the court more active and the broader and more flexible discretion. In addition, the court is authorized to adduce evidence or void in order to best finding facts, on the other hand, the defendant as the object of the case. Case of accusatorial system, the court is passive hearing witnesses of the prosecutors and of the defendants. The court does not seek facts from witnesses as in the inquisitorial system but leaving both parties defend each other coded in the Criminal Procedure Code of in the evidence laws. In some cases, the court is strict to select witness hearing. For example, USA applies the Exclusionary Rule that the court is eligible to reject hearing evidence from unfair arrest or search and in some cases the court dismisses them even the defendants are guilty. USA is strict in hearing and rejects if found unfair arrest, unfair search and unfair confiscation as being coded in the Fourth Amendment. For example, in the case of *Dunnaway V. New York* (1972), the police arrest unfairly and 2 hours later the defendant confesses but the court judge that the confession cannot be the evidence.

However, the principle of Exclusionary Rule has been significantly softened by Good Faith through rationalizing of the court and fair-play of the officers. For example, if the officers believe they are authorized to act as such and even err, the court merits hearing such in the case of *United States V. Bailey* (1980) and *United States V. Lenen* (1981) and both cases are examples being proved that the court examines rationality related between fair and/ or unfair arrest and the confession and will be dismissed for hearing.

Besides fact or truth findings based on evidence, there is another method, i.e. confession or admitting guilty of the accused or defendant at the presence of the interrogation officers or court. The confession requires details of acts in each step to supplement the offence. This shows deliberate admission of guilt as allegation. Even

with confession, evidence is then less necessary or in some cases if they were petty ones, the court might order penalty without evidence attached.

Hearing the confession of the accused requires likely immense details. For example in USA, taken the case of *Miranda V. Arizona* (1966) as example for confession and in 1968, USA enforced the Crime control Act 1968 to support the principles of Miranda Rules.

Previously, in Thailand, the accused was guilty till proved innocence. This innocence proving was under tortures in different ways such as diving, walking in the fire, nail piercing, whipping and so on. This is called the 'Metropolitan Criminal Custom'. Later there was an Act to terminate such trials against bandits RE. 115 (1896) enforced in March 1, BE 2439 (1896; at that time Thailand had already established the Ministry of Justice). This led idea shift tithe criminal justice administration to modernity assuming that the alleged or the defendant was innocent till proved guilty. Such new practice has been used till to day. And such proof requires evidence as key except the defendant admits guilty and will be imprisoned for more than 5 year term or other serious penalty. The court must hear the prosecutor's witnesses till gratifying that the defendant has truly offended by the Criminal Procedure Code Article 176.

The valid confession of the accused or the defendant admitted at the presence of the court involves considerable principles and details both in abroad and in Thailand. For example, it requires freewill without any deceits or any promises, without violation of the personal rights coded in the matter of law on witness and so on.

2.3.2 Types of Evidence

By the Criminal Procedure Code Articles 226-243, they are divided into 4 types, i.e.

1. Individual witness - it is referred to an individual giving verbal statement in order to disclose what one knows about facts. Such realization is from seeing, hearing, smelling, and sensing. The individual witness becomes evidence when the statement is not through gestures, appearance or the individual itself. By reason, in some cases, the victims will be checked if it is by their consent. Such the case, the victim is evidence but not a witness the material evidence. However, the individual

witness admissible is required to be a capable person to understand and be responsive to questions or communicateable.

An individual witness by the laws of Thailand has duty to give statements at the presence of officers and the court with honesty and duty to take an oath before giving testimony. An individual witness has been enforced to fulfill duties before the defendant so that the defendant is able to make cross-examination.

2. Documentary evidence - it is any statement the court might read in written form or in any signs of communication or signs proved facts. Therefore any references or writings as evidence do not mean always any evidences. By reason, it needs also to examine its objectives. Quoting any parts of the writing to prove facts is counted evidence but if referring those and these books by its shape is counted material evidence.

Referring the documentary evidence by the Criminal Procedure Code Article 93 coded that the court accept the original document only and counted as the best evidenced for adducing evidence. However, if unable to quote the original document for adduction, the law allows referring to the statement certified correct or replaced by the individual witness who knows the statements.

3. Material evidence – it is the thing the counter party refers to as evidence, i.e. any thing shaped or physically the human body and corpse. It also includes the happening found and realizable such as the traffic of vehicles at any intersections and the realization is through 5 senses of ears, eyes, nose, tongue, and skin.

The material evidence is indispensable in the criminal case because it is the best evidence how to prove facts such as a case narcotics or the disputed wood, ammunition shells, wound harmed, place of incident, and so on. Adduction of the material evidence is admissible by court without any restrictions of law obligation because there are no any obligations regulated that any facts must be proved with any material evidence or prohibited to prove the material evidence. Adduction is under the discretion of the counter party to examine on its prerequisite for virtue of the case. In addition, the material evidence, there is forensics either taken by the court or specialist. The specialist is also required to testify at the presence of the court.

4. Expert is the opinion evidence or a kind of individual witness. Generally, in hearing the court will reject opinions because if that is so the court uses other individual opinion for adjudication or other ways called permitting other witness or individual to replace the court. However by criteria, prohibited opinion is exempted because there is no prohibition to hear opinion in all cases. Sometimes, it may miss the potential opportunity to gain key witness because some issues of the case are under the ability of the court or common people to adjudicate but experts of specialization to give opinions, which is called the expert evidence.

In the Criminal and the Civil Procedure Codes, they name the expert in 3 words – the expert, the expert knowledge and the technical.

4.1 Expert - an individual the court appoints in the civil case but the court must inquire their freewill except the expert has registered as the court expert. The appointed experts might give verbal or written opinion or addition suggestion depended on the court. If unsatisfactory, the expert will be asked for additional opinion in written or summoned for further verbal explanation or the court might eligibly appoint other experts.

4.2 Expert Knowledge – he/she is an individual the either party specified to be witness for the party case by case. The individual is a specialist in a discipline and her/his opinion might be useful in the judgment of an issue. Besides, in the hearing of an expert knowledge, it requires the counter party to appear the expert knowledge for the testimony at the presence of the court like other common witnesses and not just only the writing like the expert. It is not necessary for the expert knowledge to file any registration before the court in advance.

4.3 Technical – an individual who is expert in criminal cases and might be appointed by the court or either parties. The technical witness is required to appear in court himself or herself and sometime, he/she might give opinion in writing and give testimony supplementing the writing.

2.3.3 Problems about individual witness

As mentioned above, the fact findings in a case might require evidence as key. If a case has absence of evidence, it cannot certainly know what the fact of the matter is. If such curiosity occurs, the interrogative officers or public prosecutors could not take lawsuit proceeding. And if entering the proceeding, the court will

dismiss the case. This follows the Criminal Procedure Code Articles 226 and 227 that the material, documentary and individual evidences reliable to prove that the defendant is guilty or innocent can be raised as evidence and leave the court to adjudicate and weigh all evidences. Had any curiosity risen plausible that the defendant is guilty or not, the virtue of curiosity is permissible for the defendant. At this cause, all parties involved in the justice administration such as the interrogation officers, prosecution officers, judges and lawyer would have been successful in the lawsuit. Not only being well-round knowledge of laws and essence of laws on different offences but also having knowledge, understanding and expertise of 3 principles, i.e.

1. Exploring evidence is counted the ability of the interrogation officers or the victims as the prosecutor in the case of the victims file proceedings. Seeking evidence requires sensitive details, prudence and special observation-edge. Everyone owns such ability differently and depended on experiences and other means complementary to the evidences. A thing one may not be able to find but others may. Many cases cannot be file lawsuit by victims or even unable to punish offenders because of errors or ignorance of seeking evidence.

2. Production of documentary evidence is important and more difficult that seeking evidence in another level because even able to find them but unable to raise in the case or if they are incomplete, what have been found is useless.

3. Limitations with individual witnesses – the testimony of an individual witness are private and unable to appoint representative or to consign any one for it. Upon specifying anyone as a witness, other cannot replace the testimony. Generally, submitting a list of individual witnesses must be 3 days before the appointed date of the witness hearing. At the inquiry stage, there is no need to submit the list of the individual witnesses because it is the duty of the officer to seek all possible evidence as much as possible for the purpose of finding facts and to prove guilty till evidences are sufficient and complete the inquiries. Then opinions are filed for submission to the public prosecutor for further examinations. If the interrogation officer finds that anyone knows or relates to the occurrence, they could be entered as the witnesses except the expert knowledge as mention. Witness representative is therefore unable to give testimony at the inquiry stage.

However, either at the inquiry stage or hearing, it is naturally met many limitations of individual witnesses damaging the case. They are:

1. Individual rejecting to be witness - at the inquiry stage and the officer probe the case with evidently certain that individuals know and witness occurrence; the officer will request cooperation as to be witnesses by recording statements included in the file of inquiry and the witnesses must give testimony in court again upon trial. Even the law authorizes the officer to summon them but by practices, the officer usually invites or requests for cooperation rather than issues summon warrant better honoring them.

It is found that many witnesses reject which might come from many reasons such as fearing time consuming, fearing influence, unconfident in facilities and safety and critically, pessimism on the justice process. Even with much endeavors from the officer, it cannot change their feeling.

2. Witnesses are confused for various causes, e.g.

- Ability of perceiving the incident
- Ability to memorize the incident
- Ability to understand and to convey message during testimony
- Confusion emerged during cross-examination of the officer
- Fear, excitement, awkwardness during testimony

3. Erroneous testimony either intentional or unintentional of witnesses

4. Reversing statement – such case can happen when a witness gives statements to the officer but in court it is different statement from the previous ones. Mostly, it comes from the intention of the witness. There are many causes and it is the new problem critical and complicated needed special research.

5. Witness fails in testimony intentionally or unintentionally which might come from fearing the influences of the defendant.

6. Witness deceases either by illness, accident, or aging which is common. But if the witness dies by the action of the other party intentionally to destroy evidence; it affects the justice administration and is required prevention and remedy with the witness protection program similar to the witness fear the influences of the defendant as said.

Limitations of the individual witnesses as mentioned above, some cases are laws in themselves such as rejecting to be a witness, erroneous testimony, intentionally reversing testimony, intentionally failing to give testimony, and destroying the witness life and so on. It is accepted that the existing legal measures are unlikely successful and helpless to ever prevent such events.

2.4 Concepts of Importance of Individual Witness Protection in the Criminal Cases

A major cause an individual decline cooperation to supply facts or evidence including playing roles as an individual witness in the criminal cases is the fear of endangering to life and property of oneself and persons of closeness. It is found that such fear of danger intrinsically happens. It comes from feeling, experience and attitude of each individual that one might worry and senses insecurity even danger is not near. Also, there are external factors, i.e. fear of other deeds such as intimidation and threat with motives of to affect testimony or retribution.

Protecting individual witnesses in the criminal cases involves social protection such as social honoring or admiration who fulfills duties as a witness, furnished services by the state and so on. Not only social protection but also legal instrument is another way in protecting witnesses thus found that personal rights of a witness to be protected is part of the personal rights of a witness. It involves:

1. Rights to give full testimony without illegal interferences including rights to be silence to question either directly or indirectly which might lead to be sued.
2. Rights to be safeguarded and roper treatment – it is not directly coded in the law but by the justice administration, the state must cooperate with public and being the individual witness as human being. Treating human requires being conscious of Menschenwurde and nature der sache.
3. Rights to earn witness fees

Securing individual witness in the criminal case set objectives for having witness for protection proceeding of public rights and liberty related to la surete or liberte individuelle which are the basic liberty needed by all human beings. So, securing witness is the basic protection.

Abraham H. Maslow a psychologist notes on safety affecting behavior, i.e. motivation affecting behavior and personality: the Safety Needs. Upon gratifying the physiological needs, one moves to the safety needs for life and property. If not, human is shocked believing that many fears from normality to abnormality will happen because of insecurity.

It includes psychologically accepted that testimony of witness is unlikely complete and often erroneous even with desire to deliver truth. Sometimes, there is saying that no testimony of individual witnesses is complete even realizing the occurrences correctly and with sharp memory. There might be factors affecting the witnesses testify truth unmatched truth realized. Key is personal attitude such as the witness hates the defendant or the defendant bribes, or threatening witnesses or the witnesses gain benefits from the end-results of the case.

Protecting the individual witness is aimed to exist individual witnesses and let them worth for hearing. Preliminary, it is to organize an individual to be the witness secure from dangers of all forms of illegal deeds. In fact, the proceeding prioritizes testimony or statements of the individual witness at the stage of hearing on the extent of its accountability or weight. So, the importance of protecting the individual witness is under the state authority to organize and gain best evidence or major material witness of the case. This boosts the efficiency of the justice administration and a protection of the basic rights of a human to have security. So intimidation, threat, assaults and interferences with any methods are not only the criminal offence but also the obstruction of justice.

2.4.1 Importance of protecting witness in the criminal cases

1. Attributes of an individual witness are differed from other kinds of witness. It is found that the documentary and the material witnesses are under state supervision during trail such as narcotics. After proof, it will be stored by officers and its physical state is unlikely changed. But the individual witness key to testimony might be affected from the nature such as memory, obstruction from the accused or defendant such as intimidation and bribery.

2. Protecting basic rights of the public is accepted the fundamental human rights, i.e. peaceful living and secure from any illegal dangers. So, protecting

welfare and security of life and property of public for peace and order within societies is an importantly basic task of the regardless in any types of government.

3. Protecting the justice administration and individual witness is a mechanism leading to fact findings and building justice for society. Destroying evidence as a tool to fact findings thus weakens the justice administration and counts the obstruction of justice.

4. Witness is led into the proceeding to gain best evidence and the worthwhile witness seeks best evidence. So, the state needs to seek measures to make public trust to give true statements. Major rule in hearing is the best evidence rule with the principle that if any disputes provable with many different evidences, the counter party must present the best quality witness to prove fact of the dispute. This is to prevent the counter party introduce low quality witness leading to erroneous adjudication.

5. Securing value of evidence - the worth of individual witness is in its accountability and its perception-edge, memory and delivery of what it experiences. In addition, to what extent is an individual witness sincere in testimony or truth perceived and memorizes. It is found that the criminal cases are likely more prioritizing the individual witness than the other types of witness especially the eye-witness who is directly conversant with the offence will play key role of best evidence.

6. Protecting an individual witness is a tool to gain evidence for suppressing crimes because organized crime likely cover their evidence and set complicated plans. Sometimes, it needs to deploy offender within the organization adducted as witness and needs to secure the individual witness for testimony in order to bring other offenders for punishment.

Problems to suppress organized crimes are met with many difficult facets and most painful to bring offenders to punishment through the justice administration. One is to find individual witnesses to give testimony at the inquiry stage and in court to assert responsibility of the accused or defendants. By reason, the organized crime flocks groups of criminals and most members arrested are just some of the group only while the rest are still running activities outside the cell. They are vested with forces, rich resources from law breaking and violence is their normal practices of the group. The organized crime know well if individual witness for testimony, there will be

absence of evidence to punish member arrested for lawsuit or if it can coerced witnesses that testifying statement with the officers or the court their cronies will be punished and under vengeance with murder or assaulting the witness itself and other family members. For example, protecting witness is a measure to serve separating the accused to be a witness such as the case of MR. Surachai Ngernthongfoo, and Mr. Bangron to bar the accused as witnesses for consequential results of the case and the police must secure them.

7. To build trust for international cooperation on counter crimes.

2.4.2 Protecting individual witnesses is divided into 2 levels, i.e.

1. Protecting individuals appeared to be witnesses is to secure their life and property from all kinds of harms in order to enter the proceedings e.g. intimidation, assaults, and threats so that the state will gain best evidence in hearing, which affect the efficiency of the justice administration but counted the preliminary witness protection.

2. Protecting the statement from the external factors or protecting and enabling the individual witness to give statement without any factors affecting the statement of the witness is counted the higher security. By reasons above, there are causal factors that might affect individual witness distorts statement as such from the natural factors, e.g. age, maturity, ability of delivery, ability of memory; the human factors, e.g. bribery, demagogue, and interference in various forms or from stress during the haring such as encountering the defendant, and cross-examination. The prosecution is thus improved that witnesses are enabled to give statement without any interferences such as using technology for producing evidence or anterior producing evidence in the case believed that the witness might be meet chaos but protecting should not intervene rights of the confrontation and the defendant is eligible to do cross-examination. Being the supervisors of justice administration, it requires to seek different measures in order to protect and enable witnesses to give statement before the court as well as safeguarding them.

2.4.3 Protecting individual witnesses by period of time

1. Protecting individual witness during trail significantly for the virtue of the case is therefore to have them in both the inquiry stage and in the trial. Such

periods of time are deadly because their statements directly affect the case. Disabling witness in giving statements serves benefit to especially the criminal case which prioritizes the prosecutors' witnesses. If there are no witnesses to give statements at hearing, the court will dismiss the case. Securing the individual witnesses at such period is thus characterized by providing temporal safe-house or official guards.

2. Protecting individual witnesses after hearing – when they finish their statements even not affecting the case but endangering for retribution for individual groups. Protecting them after hearing is the basic protection of human rights. In fact, it is impossible to all the time protect them after hearing. In each country, there are different ways in protection such as change name and last name, residence, career and covering name, residence or being witness by secrecy in order to avoid pursuit of vengeance. Protection at this period is to secure witnesses. Measures in securing them are the top target for their self-sufficiency.

2.4.4 Intimidation of Witness in Criminal Justice System

By Black's Law Dictionary, it is referred to coercion and forcing illegally, threatening act and attempt to create fear of physical dangers.

'Intimidation' by the Thai Royal Institute BE 2525 (1982) 6th ed. BE 2539 (1996) is referred to power-plays by action or verbal in order to fear or create fear such as threatening danger.

Fear means feeling the encounter of mishaps such as fear of sin, fear of reproaches, and fear of expected dangers.

1. Types of intimidating individual witness

1.1 Threat of physical harm or threat of economic or threat on prospect of advancement which might affect giving statement or testimony.

1.2 Threats by offender classified in 3 types, i.e. individual, organized criminal or terrorist groups and the accused or the suspected involving police or army.

1.3 Harm or danger possible to happen by evident threats or danger possible by the suspected or the individual groups known endangering e.g. army, police or criminal groups.

1.4 Main target of threat is individual or officer within the justice process such as judge, public prosecutor, police and prospective witnesses.

Evident differences in part of the important matter in the case of crime are convenience and security rather than threatening individual witness but the state staff and preventing another party's witness to give better effective statement than give false evidence while having individuals ready to give testimony. But witnesses or individuals being intimidated or dead will be disabled to make trial success. This is the way popularly used by the organized crimes.

2.4.4.1 The Logic of Intimidation

It happens in the case doers believe that their action communicate to the intimidated or the intimidation believably characterized or weighed in endangering witnesses if witnesses do not do and the intimidation creates no expense or creates over high risk.

2.4.4.2 The Logic of Preventing Intimidation

Principle of solution to meet the above principles aiming at intimidators seeing that threats are useless by preventing intimidators from actions believing to lead to threats to intervening communications which make such action difficult or at risk e.g. demanding secrecy of telephone number, temporal changes or move-out, using the court or the public prosecutor telephones, physical protection, protection of physical harm during taking evidence and trying endangering accused. The first thing to consider is to trust in police and second- the physical protection is impossible at all time. In addition the intimidated knows when things have already happened. Successful application of various measures and underachieving intimidations disheartens intimidations. Besides, punishing intimidators is the reacted measures against the obstruction of justice. Taking action against intimidators, rewarding reporters, adding opportunities for arrest and seriously punishing offenders are necessary to suppress crimes.

2.4.4.3 Steps to Protect Witnesses from Intimidation

1. Make it more difficult and more risky - it is believable not to happen if data of individual witnesses are kept confidential. In USA, they are kept permanently if the officers can utilize data from individual witnesses. Also, if knowing the witnesses are under danger there will be plead for search warrant or telephone-tap or other actions to pursue data. In Columbia, under case of organized crime, the

individual witnesses are permanently kept confidential. Such measures are popularly adopted worldwide.

2. Make intimidation useless for the intimidator – there are many way to make it useless by speedier as much as possible on giving evidence before intimidation arrives. In the civil law, statement at level of inquiry is applicable as evidence in court if the individual witness rejects to appear in court and the statement has undergone cross-examination and disclosed before the defendant.

3. Motivating witnesses to avoid to follow intimidation – many witnesses might be at risk to give evidence against the endangering accused. Some cases are given punishment reduction or numbers of charges against the individual witnesses.

4. Taking action against the intimidators – in the cases of the court officers and public prosecutors, there are investigations. Even in USA, such deeds are coded as serious offence but still there are intimidation and threats. Especially with witnesses related to the offence, they are negligent and help intimidation successful.

Concept of protecting individual witnesses is to gain a material witness and permit to give evidence without any influences affecting hearing. Using influence means exercising authority against others to create impacts for change and to create physical and mental effect or goodwill.

2.4.5 Concept of protecting woman and child witnesses and victims

Concept of protecting child witnesses and victims aims to seek truth in the criminal case affecting the mind of children. Generally, the concept mentioned above notes there is protection of children in case of inquiry, principles of securing the proceeding and protecting other things as follows:

A. Protecting child in giving statement

The principle of law originating protecting children in giving statement is rooted from the child rights protection of opinion by the Convention of Child Rights 1989 No. 12 to provide warranty for children on their opinions with liberty in giving opinion especially in the judicial proceeding and administration where there may be effect against either directly or through representative or

appropriate organization with characteristics responded to internal legal practices. Therefore, it is also used in the criminal proceedings.

B. Protecting by using National Law

The national laws brings forth the concept of protecting children are the Constitutions of the Kingdom BE 2540 (1997) Article 4 and 53 Paragraph 1 with principle that 'human dignity, rights and liberty of individual must be protected' and 'child, youth and individuals in a family hold rights to have protection for in the state freeing from violence and unfair treatments.'

Considering the international laws and the Thai law above, it is found that the child witnesses have been protected and able to give statement and the fact finding process must respect the dignity of man, free from violence and unfair treatments against children.

Rationale and necessity of protecting the child witnesses in the criminal cases come from crimes against children especially the physical, mental, sexual and narcotics tortures. They are incremental and children in Southeast Asia have been immensely victimized and risky to be victims of these crimes particularly human trades, prostitution and narcotics controlled by organized crimes and cross-national crime rings. Appearing children as witnesses in the prosecution is difficult and with many limitations such as intimidating witness, bribery not to appear in court, scaring child witness by defendant ever victimized and harmed them and children fear to give statement because of encountering defendants again.

The English laws differently protect child witnesses by cases, i.e. victims or witnesses will be protected at age of not exceeding 14 years of age in the case of assault; if the case of torment, protection will not be exceeding 16 years of age while sexual abuses; the protection will not be exceeding 17 years of age (The Criminal Justice Act 1988:32)

Woman witnesses and victims

This concept is important to the documentary practices to counter, suppress and punish human traders particularly women and children. The concept is rooted to protect woman victims on sexual abuses controlled by the organized crimes. General concept is utilized to protect woman witnesses or by other ways such as taking

evidence by Video-Conference specially for those victimized in the organized crime and human traders.

C. Protecting witnesses and victims on identifying the accused

Every stage of the justice administration, it requires consciousness about victims, criminal victimization, and witness who are keys to prove guilty against offenders beginning from arrest, and charge offenders. Victims submit evidence, testimony, witnesses, identifiers of offenders, identifiers on pictures of the suspected and give testimony upon hearing. Needs and security for victims and witnesses are thus emerged.

Identifying the accused is an inquiry measure among authorized officers. Key in being an identifier is truth might be distorted upon the accused is influential, e.g. the organized crime or mafia and victims and witnesses are usually fear in identification horrifying dangers against oneself and the intimate persons.

There are 4 techniques of identification, i.e.

1. Line-up
2. Show-up
3. Photographic identification
4. Voice identification

Even the above techniques are worth the case and type of the accused influential persons particularly the organized crimes; the witnesses and victims fear to identify. The civilized country deploy special technique in the case of the influential; the witnesses and the victims are given special rights to identify the accused unknown to the identified, e.g. in on-side-through mirror and so on, if not, the accused will realize and meet the witnesses like common principles.

D. Applying IT in taking evidence of individual witness

Preliminary Concepts

Rationale of the individual witness should be checked and have proceeding because it affects accountability and trust in the court institution and other organizations related to the criminal justice. First check is honesty and transparency of the criminal justice. Check 2 is the criminal proceeding will not create disadvantages among counter parties. Check 3 is auditing authenticity from the records of court on any distortion from statement given by witnesses. The general checking will be

complete before both parties specially the defendants and public. Even those non-involvements are eligible to attend hearing except the try in closed doors or the try in closed doors after defendant eligible with special cause only.

Normal taking individual witness by video conferences and sound rather than the former might affect the rights of defendants. But sometimes, fact findings from the witness in some situations are necessary even they do not encounter defendants; but taking evidence from witnesses is accounted as evidence to prove guilty of defendants. If taken with precaution, this technique may not conflict with individual witnesses before defendants but also being the measures for protecting witnesses.

Taking evidence by video-conference

It is employed in court and it brings ideas and statement, documents and picture of those in the different places to immediately meet as if a face-to-face conversing including collecting all situational pictures in the video system. It is as if TV signaling sending out from a same station. Receivers can be innumerable but cannot respond. It is a one-way communication. The two-way communication is double channeling for responsible like telephone system but better with individual picture and situation the conversant can see its partner. Video conference with picture and sound signals within the same two-way tunnel regardless distance even the adjoining room. Such communication system contains devices of TV camera, zoom camera, screen and other devices such as speakers, microphone, video-recorder, fax and so on.

This communication technique is to process pictures and sound into the same signal tunnel to react direction using media in the court-room to the destination, and individuals staying with the witness in the court-room and at the destination. Individuals staying with the witness in the court-room during using picture and sound, inquiry, and response particularly the child witnesses; it is advised to ask experts to question them and record their statement and so on. The receivers can hear and see pictures of the other party and even can respond. Importance in using such media for taking evidence, it allows hearing to proceed. Meaning, lawyers or public prosecutors can cross examine witness through the media. The judges still need to record inquiry by using other technology. At present the justice courts have introduced teleconferences used in taking evidence in the intellectual courts, international trade

court and bankrupt court because their obligations open for application. It is practical and commonly used with witness taking evidence from abroad. It tremendously worths to expansion to meet the Convention No. 24.

Taking evidence by VDO tape

This is a new initiative for listening and for the child witness. This special measure is the best way to achieve the justice administration specially for victimized children or being witnesses in the criminal case. VDO tape is used in recording statement of children before hearing and use this VDO recorded as witness. Such technique can be complete in 2 ways, i.e.

1. The child statements VDO-recorded replacing the child testimony and the witness needs not appear in court again.

2. Statements of the child witness VDO-taped to supplement taking evidence for testimony, i.e. it is in the case the child must appear in court. Appearing at court using VDO-taped as complementary, and the testimony might be normal but using evidence recorded as a complement. The child must encounter the defendant and in the court-room atmosphere as commonly be or the testimony without encountering might be possible by not directly encounter the defendant and might use the closed circuit TV or allowing the defendant to see the child through a one-sided mirror. VDO complement in the child testimony enhances the child memory, i.e. when prolong time for testimony it might blur but watching VDO of their records, it helps revive memory.

Taking evidence by Closed Circuit Television (CCTV)

It has been only used with the child witnesses and based on flowing principles.

1. In the court-room by allowing children stay in another room apart from the court-room

2. Testimony from arranged room and broadcast the child testimony through CCTV to the court room where the judge, public prosecutor, prosecutor lawyer, and defendant lawyer stat court and both counter parties can question the child witness.

3. The witness cannot see those in the court room and the hearing atmosphere in order to reduce improper for child testimony because the room for the child witness is arranged informally to avoid stress. Benefit is rights of the defendant are retained to encounter witness and three is no problem in testimony and the court can observe reactions of the witness in the proceeding like common trial.

2.4.6 Concept of roles of judicial organization and general attorney organization in protecting witness and assisting and protecting victims

International rights of witnesses either completion without illegal interference; right to be treated in conscious of Menschenwurde to be protected and deserved the rights of Natur der Sache and witness fees particularly the first two rights are the duty of the court to handle apart from other types of the officer's duty in the justice administration.

Such rights must appear in every criminal justice process such as inquiry, and testimonial witness, preliminary examination, and hearing and so on. Justice officers regardless court, public prosecutor, public administrator or police or the interrogation officers are bound to fulfill tasks. The criminal proceedings in the countries enforcing Common Law and the countries enforcing Civil Law turn roles in protecting victims and witnesses in the justice administration.

2.5 Concepts of Individual Witness Protection in Thailand and in Abroad

2.5.1 Concepts of Individual Witness Protection in Thailand

The individual witness in the criminal case has been coded in the part related with the criminal measures in the substantial law, the adjective law and different regulations which are relative by analyzing practices and enforcement where the shortcoming needed amendment is. Upon overview for the past protecting witnesses especially by the physical protection, they codes that:

Protecting the individual witness in Thailand is coded within different legal measures using the words 'action tampering witness' either directly or indirectly.

2.5.1.1 Protecting individual witness at the policy level

The Constitution of the Kingdom BE 2540 (1997) Article 24 codes that the individual rights must be protected, treated and compensated by law through the offices of the justice administration so as they must be conscious of the individual witness and set also in the office policy, such as

- 1. Office of the General Attorney** – the office sets measures to facilitate witnesses in the Action Plan BE 2538 (1995) ,i.e. facilitating to pay compensation for transportation, witness fees and security of the witness regulated in the Criminal Proceeding BE 2538 (1995) Article 78. The prosecutor officers must be

polite to witnesses and conscious of their rights without obstructing rights for protection, rights to deserve transportation fees, allowances and facilitations to best have those rights.

2. Office of the National Police Bureau – the office has set measures to meet the policy of improving and developing police stations on parts of justice administration to protect victims, witnesses and assisting the victims of crimes such as assigning police to protect and to visit victims and witnesses to feel secure and to trust the justice administration including ethics for the interrogation officers to be adhered as a framework prioritizing the protection of witnesses in the criminal cases.

2.5.1.2 Protecting by enforcement

1. Protecting by criminal measures and the Criminal Procedure Code in protecting individual witnesses inserted in the Section of Offence as follows:

1.1 Confession on liberty Article 392 – anyone make other fear or shocked by intimidation is subject to imprisonment for not exceeding 1 month.

Article 309 – anyone acts against the will do anything regardless any actions or willing to without fear danger to life, body, liberty, fame, and property of the victim or others or by using force to assault victim to act or to surrender to the act...

Article 310 – anyone detains others or by any deed that others lose physical liberty...

1.2 Individual confession in destroying evidence, coding offence on justice Section 1, offence against justice officers.

Article 184 – anyone help other avoid punishment or punishment reduction, damaging, destroying, concealing, loss, or uselessness of evidence of offence...

Evidence in this Article includes individual witness. In addition, Article 84 is enforced with ‘evidence in offence’ acting against evidence unnecessarily disabling to reach hearing even used it in the inquiry stage is against this article and unnecessary be used because the law uses the word, ‘evidence of offence’ as the original cause including the case sacking witness from testimony is also an offence.

1.3 Confession on protecting life, the 10th offence in Section 1 and 2, liberty, 11th offence Section 1 is found that the individual witness is a

person. So, Code of offence against life and liberty for common people to apply, such as

Article 391 – those assault others unlikely endangering physically and mentally.

Article 295 – anyone physically and mentally endangering others the person offends as assault.

Article 296 – anyone assaults if the offence is either characterized as coded in Article 289.

1.4 Responsibility on individual acting against other to cover evidence

Article 289 (7) anyone murders other, kills for benefits by one has other offence in order to cover one's offence or to avoid criminal punishment one has offended in other case and found that accomplice is likely endangered.

2. Protection by forcing

2.1 temporal release of the accused or defendant is a measure of control them under the state for the benefit of trail and security of evidence. Temporal release is examined with many factors, i.e. to what extent dangers and damages possibly happen from the release. Temporal release at court is base on relationship that defendant might possible tamper individual witnesses by intimidation and other threats. Normally, the interrogation officer counter-states the temporal release and the court inquests on any accountable evidence whether defendant temporally released or pleads temporal release would intimidate evidence.

Temporal release at the stage of General Attorney Office will be inline with the office regulation on the Criminal Proceedings BE 2538 (1995) No. 22(principles of restricting rights and liberty of an individual)

The criminal procedural law not only codes the state authority to keep peace and order but also to protect individual rights and liberty. So, any acts of the state to restrict any basic individual rights and liberty particularly to subjecting any individual under the state authority, is possible when it is unavoidable necessity only. So, arrest warrant issued or arresting the accused or the defendant; controlling or detaining the accused or defendant; are normally examined that it is being prospected the accused or defendant will escape to tamper evidence. If there is prima facie case tier actions are

guilty and believed that they will escape to tamper evidences; or a prima-facie case that their actions are guilty and by other cause necessary and deserved such as they might endanger all common people and offend again. To such case it is necessary to issue arrest warrant; control or detain them for further trial.

Examining petition for temporal release, the public prosecutor considers necessity to keep the individual under the state authority as in the first paragraph, weighing the benefits of the state and the peace and order; the basic individual rights and liberty where there is conflict if seeing that the individual rights and liberty are disturbed beyond necessity particularly there is acting to believe that no behavior they will escape or tot tamper evidence or there is no other necessary cause and serve the public prosecutor to release the individual or ever permit temporal release as request.

Temporal release at the inquiry stage is based on regulation of the police national office related to temporal release Nature 7 Chapter 1 No. 178 (6) – dangers and harms caused by temporal release for example, the accused is the gangster powerful group with members who might distort the case and justice or fear to give truthful testimony.

2.2 Issuance of arrest warrant is another detention measures with many conditions including fearing the accused or defendant will tamper the evidence directly and indirectly; the interrogation officer will exercise authority to issue arrest warrant to subject defendant under the state authority in order to protect any evidences. But law does not code how to impose what can tamper evidence by Article 56(1). If the arrest warrant is not within the court jurisdiction, the interrogation officer or senior commission police are authorized.

3. Protecting witnesses of the interrogation officer

Office of the National Police Bureau regulates how to function of the interrogation officer on controlling witness and protecting them under the Police Regulation Nature 8, Chapter 6 with summary below, i.e.

1. Controlling witnesses is regulated that the officer notes addresses and residences of the witness evidently and take regular surveillance and visit enabling to mail warrant for hearing. If found seeming excuse declining testimony, the officer must report to the Commander for further order. And if any

witnesses are poor, they must be reported to the public prosecutor for acquisitions of transportation and allowance.

2. Protecting witnesses – in the case of key witness and unfixed address or believing that being endangered before testimony or proceeding for escape; the interrogation officer must report with reasons to plead allowance and temporal residence for witness. If being in the trail, the public prosecutor must be reported in order to speedily taking evidence from the witness.

In case the interrogation officer must bar any accused for being witnesses; the regulation of the National Police Bureau has regulated to do the same as in the public prosecution but without coverage from law for counter-lawsuit from the victim of the case.

2.5.2 Protecting witnesses in abroad

The United States of America (USA)

Many developed countries see necessity of protecting witnesses and USA is one of them with advanced protection system and most complicated. In 1970, USA coded the Organized Crime Control Act) authorizes the Secretary of Justice to handle security and living of witnesses and family individuals to be witnesses against the organized crimes Under the US Marshals Service projecting ‘Witness Protection Program-WPP. In 1984, The Congress passed the Witness Security Act authorizing the Secretary of Justice to secure witnesses in critical cases.

At first in 1970, 30-50 witnesses are expected to enter the program but numbers are tremendously growing beyond expected. Since 1997 there were 6700 witnesses while at present there are 20-25 witnesses entering the program. This is excluded family members who must follow suit to enter the program by average of 2.5 persons per a witness. So, if including family members, there are 16,000 persons in the program (Wanchai Srinuannad, 1998:30-32).

Under this program the witnesses or the accomplice who contradict with the accused need protection with completely new identify. Upon useful to the state the persons will be detained in a special jail with a special cell designed for witnesses. Later they will be moved out to new residence and even job for assistance that they can change background of criminal guilt to a new life (Weeraphol Tangsuwan, 1997:80).

WPP in USA is supported by law which makes it systematized with budgets and creates trust among people with effectiveness. The United States Code – USC codes the protection of witness in Section 3521-3528 authorizing the Secretary of Justice to protect witnesses or who will become witnesses as well as their family members or intimate persons upon necessity to protect them from physical dangers, health, security and welfare including mental health and adjustment to societies. So long as still dangers are found, they will change name lastname, new domicile, new career and by this the Secretary of Justice is authorized to regulate for:

1. Provide document for name and lastname changed in order to better protect the person;
2. Provide residence;
3. Move out households or property to the new residence;
4. Provide sufficient budget living by number and period of time
5. Help the witness to find job
6. Provide other services for witness' self-sufficiency
7. Disclose or reject to uncover name and lastname person under protection and other details related upon seeing stakes and danger happens, damages to the program and benefits for publican individuals; and
8. Set service exception, decorations, construction for the current residence if prohibit by law in order to secure witness in WPP;

There is also punishment for data disclosers received by the Secretary upon non-consent.

However, admitting witnesses in the program; the Secretary considers:-

- criminal records,
- alternative to provide WPP technique
- possibility to gain evidence from other sources
- needs of protection
- importance of witness
- Incase of the child witness; admitting to WPP is against any relation between the child and parents if name, lastname and resident changes are needed, and

- Other necessary composition.

The Secretary of Justice must not protect persons found risky to public and needs to compare dangers possible to the innocent and needs evidence as witness of the person.

Upon admission to WPP the person must agree that

1. To be the witness and provide details to the state authority on due proceedings;
2. Never commit crime;
3. Cooperate with the state authority to avoid detention from those wishing no one to be witness;
4. Agree to follow legal bond and civil agreement of the after cause;
5. Appoint other person to receive warrants
6. Sign written agreement and vow to bind by law and commitment of fostering and visiting children;
7. Disclose the person during suspending of punishment or release before sentence term; and
8. Report authorities on activities and current residence.

Thos entering WPP transgress the agreement; the Secretary of Justice might terminate the protection. In case of emergency the Secretary of Justice finds if unprotected urgently there will be damages to interrogation, the Secretary of Justice might approve temporal protection. And if the protected are seriously injured or death - there will be compensations or remunerations.

USA enforces WPP evidently allowing public prosecutors help witness with supports of law and the budge is legal that enable for acquisition the fiscal budget and the state must provide budget. Compared to consequences it worth because beach year USA has lost economic gains to the organized crimes with super large amount and the state must spend countless amounts to suppress crimes. Having law to support, allows selection of the case for a systematic protection with certain principles and evidence for discretion. Importantly, it makes witnesses trust in security. (Wanchai Rujanawong, 1994:103)

However, WPP by changing identity and moving to new residence are effective in a large country such as USA only. But in the small countries it is

impossible and even the changes of mind are the serious limitations for adaptation to the new lifestyle. But it is accepted that WPP in USA is successful and effective to counter serious crimes even meeting some problems such as large amount of expense, spending to led witness and family to WPP which reach 150, 000 USD/ head. In 1996, budgets of WPP were 46.3 million USD and in 1997 it increased to 61.8 million USD having 41.6 million USD were spent for witnesses and the rest were for salary and spending of officers. Nevertheless, the US justice administration admits that WPP is the important tool to counter organized crimes and critical cases especially the narcotics because it is spreading it networks broadly and difficult to suppress. Later, it had been found that more than 80% of witnesses involved in narcotics and WPP success is satisfactory. 97% of witnesses in WPP with criminal records or deeply rooted with crimes. There is a saying that who ever involve with organized crimes deeper the better chance for admission into WPP because the information exchanged with the state is important and worthwhile.

During 1978-1982, 200 WPP witnesses had been again arrested because of committing new crimes. Since 1984 there are 40 homicide cases committed by witnesses but they were protected and became problematic for running the program. It was as if they took advantages from being witnesses and protection from the state as tool to avoid responsibility and turned themselves to be the untouchable.

Canada

Canada protects witness under the Witness Protection Code 1996 allowing witness helping the state hold rights to be protected by organizing Witness Protection Program -C-WPP under supervision of the Police Commander authorize to decide admission into the project.

Anyone under protection by the code will have name, residence, social welfare for living , documents, advice, and monetary support to build confidence and security of those protected and prevent and to help the protected enabling them to start new life and for self-sufficiency

The protected must be individuals agree to supply information, data and evidences related to the inquiry, lawsuit taken against offenders and charges including accomplice who supplies information and evidence and they need protection because

of endangering risk of the above actions. This protection extends to intimate or associated person, who needs protection because of their action also:-

Considering admission of C-WPP requires conscious of

1. Nature of risk endangering witness
2. Security of community if admit witness to the project
3. Nature and importance of investigation, inquiry, charge and importance of witness
4. Importance of testimony or evidence given or to be given or co-witnessing
5. Possibility of witness adaptable to the project conscious of maturity, decision-making, personality and internal relation with family.
6. Expenses in admission
7. Other alternative possibility rather than this admission
8. Other worthwhile consideration

Upon agreeing to admit any witnesses, the person must follow conditions specified by law such as providing information or evidence or share in the investigation project, charge as the person being protected; never commit anything violating laws, or affecting security of the protected or others or the project and so on.

If the witness gives lies, not disclose some information related as reason for admission or seriously violates obligation and with pre-consideration; the Police Commander might terminate the protection.

Australia

The Witness Protection Code 1994 allow the WPP for witnesses having the Police Commander runs the program and with full authority to consider admission and design patterns of protection and proper assistance for the protected. However, the petitioner of protection and persons involved must disclose personal data such as the criminal records, liability, property details, cash, and health and so on for admission examination. The Police Commander might ask the witness for medical check and mental check as well as order investigation, and interrogation either way necessary before deciding to admit the witness for protection, i.e.

1. Does the witness offend specially serious case and do the records prove possible damage to public if admitted?

2. Psychoanalysis by expert that the witness worth the project
3. Seriousness of the offence with linkage of evidence or document
4. Pattern and importance of evidence or document linkage
5. Any other way for protection
6. Nature of danger possible for the witness
7. Relationship of the witness with other witness in the admission.

When the Police Commander consider any witnesses for admission, there must be consent and later recorded the preliminary agreement to set detail of protection and assistance, conditions to terminate protection and agreement of financial supports.

Witness admitted will be necessarily treated and with rationale for safeguarding over life, property and living at the same time the officers must also be protected. Such practices are:

1. Change all documents necessary for the witness to change residence for protection
2. Permit officers consigned use other name and last-name during protection and to hold documents in other names changed.
3. Change the witness' residence
4. Provide lodging and food for witness
5. Provide vehicles for moving the witness' property
6. Provide living allowance and other financial supports
7. Provide expenses for address changed
8. Provide career and education
9. Provide other helps for self-sufficiency
10. Any action necessary to secure the witness

Upon admission but later the protected violates agreement or lies or the Police Commander further find unnecessary of protection, it will be terminated as well as the protected wills in written to terminate protection and supports; the Police Commander order termination of protection and supports the case.

Germany

The witness protection is coded in Article 68 of the Criminal Procedure Code of Germany aiming to improve witness protection that are at risk with principle and risk the witness will be supported.

With low-risk witness in Article 68 – individual can provide address of the affairs replacing residence of witness. Leveraging the high-risk in Article 68 identifying witness will be confidential if disclosed, it will be endangering witness both life and liberty. Document involved will be kept confidential. Further, arrest warrant to the accused or defendant is conditioned if the witness is tampered.

Philippines

Philippines prioritize criminal problem solutions by protecting witnesses and enforced by the Ministry of Justice organizing the WPP and benefits of the witnesses in the criminal cases. There are agreements and responsibility over the state; agreement to avoid committing crimes, willing to follow obligation for necessary protection and considerably cooperation with state officers and staff under laws including reporting residence or affairs before the state routine officers. Witness gains benefits as follows:

1. Having secure residence will testimony or till cession or reduction of intimidation and threats till being handled by other way.
2. With possible cause by facts, the witness is eligible to change residence or name, lastname with state expenses and for family expenses.

Japan

Intimidating witness is subject to punishment by the Criminal Code of Japan. This is to ensure witness will not be intimidated before trial or during trial. In addition, the Criminal Procedure Code; witness will be inquired by the public prosecutor before trial. If testimony changed during hearing the testimony before trial can replace if it were better accountable. In the case of witness has been forced to contradict the commander and at the presence of the commander. Later upon hearing of both parties, the court holds authority to dismiss the accused to leave the court-room but the lawyer could stay. However the lawyer of the accused can make cross-examination to protect

the accused. In addition, testimony of the witness must be read at the presence of the accused upon returning the court-room. Besides the above Articles, the Japanese government compensates witnesses if they have been physically damaged upon involvements in the hearing and also medication fees. Such measures have begun since 1958. In the case of intimidating witnesses, threats and assaults by the organized crime are least found in Japan. 30,000 cases are arrested each year but only 19 cases intimidate witnesses for the past 35 years and after enforcing Compensation Law, there are just 5 cases arisen.

Korea

Protecting witness in Korea is the most interesting, i.e. by mail-statement to avoid encounter between witness and public prosecutor; between witness and the lawyer to the accused. The witness might be request to make statement and it will be sent to the proper officer and it is certain that these witnesses are protected by police. Another type is rejection of bail for the organized crimes.

Papua New Guinea

If witnesses are intimidated, the public prosecutor will plead the court for protecting them by police around the clock. In some cases, the witnesses have to temporarily move away from the residence. At present there are around 200 witnesses being protected.

An international conference on Policy Perspectives for Organized Crime Suppression, all participants unanimously agree the WPP is important and necessary most in the justice administration specially to counter the organized crimes. Just a caution is the project requires large amount of budget and it might be obstruction for the developing countries. Besides limitations of money, it is important to adopt methods and advanced technology used in the court-rooms in order to protect witnesses testifying at the presence of the court. For example, the witness is able to present evidence in the monitor screen of the lawyer and of the accused and it will be corrected through electronic techniques till reality and will be kept secret. Such thing helps adjudication without witness's' presentation. Such technique will be used when witness cannot appear before the court so that hearing will flow without fear of

intimidation. Another issue is raised whether bail should be merited to the organized crime or not. Obstruction in most countries is given bail by right in the Constitutions. However, finally, participants unanimously agree that if possible protecting witnesses must be designed and constructed for communities to trust that they can support without fear from intimidation of physical harms to them and their families.

2.6 Related Researches

Wanchai Srinuannad (1999:60-61) studies, ‘Protecting witness, key law necessary’ and notes that proving truth in the justice administration is that evidences are indispensable. In the criminal cases, witnesses involve and are referred much more than other evidences. They are facts all parties agree of their easier distortion than other evidences. This might come from feeling, moods, thinking, and wants. If fact is impossible, it will finally affect the justice administration. Fearing influences and danger of witnesses leads to avoidance, escape, and rejection of cooperation to appear as witness. At present, there are no real measures to protect witnesses but just only facilitating in sending summon warrant, facilitation, and contact to enable witness to appear to court only. The case witnesses being intimidated or harmed and escaped pressures the interrogation officers to find temporal safe-house for the witnesses before testimony. After hearing what witnesses are continuously intimidated by the influential finds no official measures of specific protection. Witnesses have to take risk and self-assistance as other common people. This weakness sends many fear and refuse to be witnesses because the existing measures cannot create peace of mind and trust for those who dare to risk being witnesses.

The case any alleged provide fact useful to lawsuit or punishment the accomplice but more seriousness; the interrogation officers or the public prosecutors will be barred for witnessed by not order charge and inquiry as witnesses. Such the case might be charge by victim of the case because Thailand has no law to protect such type of witnesses. This makes the accused barred to be witness trapped in the risk of trial prolong as offence prescription. It is better after comparing integrating foreign measures to fit Thailand in the following proposals.

1. Set an office responsible to protecting witnesses alike US Marshal in USA.

2. This office is under the same umbrella of the office of the General Attorney, interrogation officers (case job) or any office in justice administration so to have the same direction in coordination and administration such as the Ministry of Justice.

3. Primarily, offences must be classified such as narcotics, organized crimes, crimes involve influences so as to best complete and expand to cover other types of cases.

4. Improve the criminal justice process in some areas such as identifying the picture of the accused rather than the show-up and hearing in court, the defendant should not see the face of witnesses it creates fear and strictly undisclosed the names, addresses and careers of the witnesses. Transgression is counted offence. The temporal release of some serious case should ask witnesses as complementary to discretion.

5. The case witness being assaulted and/or dead; the state must compensate worthily to create trust among witnesses.

6. Increase penalty on intimidation or assaulting witnesses stronger than the offence against others.

7. Enforce law of protecting witness by unable to file lawsuit with the accused barred to be witness in the case of accomplice.

Prayuth Kaewpakdee (cited in Dejrabhi Khongdee, 2003:97-98) notes that measures to protect witness for having the quality witnesses in the prosecution is based on at present to have witnesses must be met with many obstructions such as attitude and trust of public on the justice administration. Trails take longtime. Another cause is witness fear dangers being the witness. Thus the provisions for witness security by legal measures are a mechanism guaranteeing public to trust the justice administration. At present, witnesses have been tampered either directly or indirectly. The state has legal measures to control the accused by issuing arrest warrant, temporal release, case transfer, anterior hearing, sound hearing and applicability of criminal measures responsible for offence against liberty and physiology.

Unfortunately, the changes of criminal condition specially the organized crime pressure the state to raise special measures to protect witnesses in the criminal cases and families or people involved the witnesses must cover their names, their addresses. It needs to allowing witnesses to change names, addresses and protection in case of

danger or other ways worth protection. It needs to code actions of tampering witnesses and the state hold rights to access information upon tampering with evident office responsible possibly the Office of the National Police Bureau because it has experts of security, scientific ship development to reduce importance of witnesses. It requires to build cooperation among the state offices and state officers as well as public are aware about the importance of witness on the justice administration.

Methinee Chalothorn (2000:134-139) studies “Treating Witnesses in the Criminal Cases.’ She finds that witnesses are indispensable in the criminal case because they witness facts turning issues in case evident and leads to precise adjudication. This enables to punish offenders as well as free the innocent by treating witnesses for best effective to the nature of cases. There should be VDO showing the accused in case of identification or the virtual picture for witness to check. It needs to arrange the building to facilitate by being conscious the witness visits. Offices in the justice administration should be well coordinating with a center and to take care witnesses so as to make them realize that they are witnesses, provides assistance, protection when needed and security to appear as witness, compensation of witness’ fees, and with least steps of approval, rights to counter temporal release, using TV media, closed circuit TV or video conferencing or producing evidence using modified picture technique or witness’ sound to cover the real identification of the witness, and allowing privilege to the witness who are the family member of the defendant.

In addition, there must be law to protect witness by establishing office to protect witnessed specially in the ministry of justice authorized to admit witness under protection, set measures and evident patterns of protection by the state is responsible for expenses. And information must be confidential; coding intimidation or any actions distorting statements is crime and if being the state officers they must suffer punishment more and the punishment imposed on those disseminating witness’ personal data to public upon if do not consent.

Offices involve in the justice administration should fix practices for witnesses evidently in the code of ethics, regulations, and obligations and enforced immediately by treating witness with admiration, honoring, and conscious of human dignity and polite to all witnesses. There must be publicize among witness on rights and duties in general. Court, the public prosecution, the office of the national police bureau, and

lawyer council should encourage their own staff to be conscious of rights and importance of witnesses by organizing training and disseminating knowledge and understanding, building integrity to secure and to protect witnesses in the criminal cases with honor, praise, attentive to and being aware of their feelings.

The state should conduct public relation to implant integrity of public to cooperate in the justice administration to be witnesses and seeing the significance of being witnesses, encouraging, praising, admiring, spreading the honors of witnesses as the person of sacrifice and to support budget sufficient to secure witnesses.

Dejrabhi Khongdee (2003: Abstract) studies “Protecting Witnesses in Criminal Cases at the Inquiry Stage of the Suppression Police.” The objectives are to review concepts regulations and measures of protecting witnesses at the inquiry stage; to study attitude of the suppression police protecting witnesses and to study problems and limitations in protecting witnesses, and to apply findings in order to improve police job for better efficiency. Samples were 168 suppression police from 5 sections. Interviews have additionally conducted with the commissioned police specialize in investigation, and interrogation and statistical applications are percentage, means, SD and results are.

Most suppression police are 31-40 years old being single and graduated bachelor degree working most as the interrogation officer (commissioned). Working experience for 5-10 years, having 1-50 cases top attend in a year. Most have positive attitude to profession; self-reporting as a person of promptness and well-informed, understanding to follow the constitutional laws, applicable on skills in working in order to properly protect witness in criminal case. They have ever thought to change job. Documentary research and interview show that in the past witnesses in the criminal cases in Thailand are still not quite protected by the state because of no laws, no discipline or no measures coded authority. Responsible jobs in the interrogation position are overloaded which weaken overall supervision and protection of witnesses. Personnel to protect witnesses are inadequate and its budget does not match the expensive expenditure on protecting witnesses.

Suddhiphol Thaweekhaikarn et al. (2005: Abstract) study, “Protecting Witnesses and Aiding and Securing Victims” (UN Convention on Counter Organized Cross-national Crimes 2000 No. 24 and 25). They find that by UN Convention, No. 24

and 25 are very important measures to counter cross-national crimes because they are strong in manpower and wealth and always intimidating witnesses and victims. If there is security guarantee for victims and witnesses upon cooperation with enforcers to prove guilty of criminals, it should turn counter organized crime effective. At present, some statutes are unfound such as measures to protect witnesses as reaction or intimidation which might happens during prosecution or to regulate on witnesses permitted to give evidence by nature of securing witnesses or to compensate victims covering all offences by the UN Conventions and so on or there is a proper process to compensate victims caused by offenders. Comparing legal measures and other areas of different countries and measures coded in the UN Convention No 24 and 25, it is found that they are not enough to protect witnesses including effective aiding and protecting victims as in the motive of the UN Conventions. To these causes, the country needs to amend new statute and to enforce other measures appropriate to protect witnesses including providing aids and to protect victims. Also the officers must enforce law in the justice administration related in every stage prioritizing protection and aids directly and indirectly.

From concepts and theories review as above, it shows that witnesses are strongly indispensable and will be key to truth about incidents or disputes in courts. And most are from the human deeds. Goals of the justice administration is when offence has been committed, the offender must be punished by law for peace and order of public. Aims of justice administration will fail if there is no cooperation for witnesses who see incident. From the changed societal conditions at present, crimes are more violent and more complicated and found organized crime and some of their members are arrested only while others are unarrested but running captivities outside prisons. Eliminating witnesses or able to intimidate witnesses creating problems in the justice administration. In particular, witnesses are deviant and easily changing all the time. In the past, the cases those offenders are influential, witnesses fear and by intimidation or coercion of different forms turned witness deviant and changing in truth. Having witnesses for prosecution and to have best and most valuable witnesses with best evidence, require the state to seek measures to protect and to secure witnesses. Making witnesses confident and willing to appear as witnesses in the criminal cases. Needs of witnesses based on theories and in researches related would be a way to better meet and to better solve problems of witnesses to gain justice and to secure peace and order in societies and so on.

CHAPTER III

RESEARCH METHODOLOGY

This research is a survey research to study “Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9”. The research methodology is a quantitative research a technique of the survey research is conducted in to 2 parts, i.e.

- Documentary study – it is the review literature from textbooks, references, collecting the theoretical concepts, research papers officie4la documents and related theses.

- Field study – data are collected by questionnaire modified by the researcher as a tool. Data collected are later analyzed.

This chapter show steps running the research methodology as follows

3.1 Population and Sampling

Population in this investigation are interrogation officers at the level of commissioned police under supervision of Metropolitan Police Division 9 allocated in all it police stations. Because the number is not large, the researcher collect all data without any sampling with following details.

Table 1 Population distributed by police stations under supervision of Metropolitan Police Division 9

Metropolitan Police stations under supervision of Metropolitan Police Division 9	No. of population
1. Nongkhaem	15
2. Petchkhasem	15
3. Phasicharoen	13
4. Laksong	13
5. Nongkhangplu	11

Table 1 Population distributed by police stations under supervision of Metropolitan Police Division 9

Metropolitan Police stations under supervision of Metropolitan Police Division 9	No. of population
6. Bangbon	14
7. Bangkhuntian	17
8. Samaedam	14
Total	112

3.2 Research Instrument

A questionnaire is an instrument for this data collection modified from document and related researches covering content for investigation and used for data collection. Formulation methods are as below:

1) Questionnaire formulation

- Theoretical concepts have been taken from textbooks, academic papers, theses and reports and on
- Set content of the questionnaire covering what will be investigated and the respondents are able to provide true answer as closest to the research objectives.
- The drafted questionnaire is submitted to 3 experts for improvements and corrections to gain content validity and reliability. The improved questionnaire has been conducted its try-out with 30 interrogative police stationed in 2 police station under supervision of the Metropolitan Police Division 8. The 2 police stations are Buppharam and Bangmod; adjoining the Metropolitan Police Division 9.
- Questionnaire has been re-improved following the previous pre-test for further data collection.

2) Contents of the questionnaire is divided into 4 parts, i.e.

Part 1: The personal background involving gender, age, years of government services, rank, position, education, income, police station, tenure, training /seminar of protecting witness.

Part 2: Questions related to the interrogation officers, i.e. job cognition by Constitution, applicability of skills in job, thoughts of job change, problems and limitations in protecting witness.

Part 3: Question about attitudes involving the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9; i.e. the protection of witnesses at the policy level; safeguarding by legal measures and the protection of witnesses by the Constitutional Provisions. 5 level-rating scales are used, i.e. strongly agree, much agree, moderately agree, less agree and least agree.

Part 4: Additional suggestion for solutions.

Nature of the questionnaire

2 types of questionnaire are used, i.e.

1. The open-ended type with choices
2. The summated rating questionnaire based on Likert's scale

Contents to measure variables contain both positive and negative. The former will be corresponded with the meaning of variables needed to be measured; while the latter will contradict the meaning of the variables alternated to prevent bias. Responses formulated in rating scale with 5 levels of opinions i.e. strongly agree, much agree, moderately agree, less agree and least agree. Scoring is two-ways scales, i.e.

Likert Scale	Application	Positive Item	Negative Item
strongly agree,	strongly agree,	5	1
agree	much agree,	4	2
uncertain	moderately agree,	3	3
disagree	less agree	2	4
strongly agree	least agree	1	5

Criteria of average is divided into 3 levels, i.e.

- Measuring positive attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases at inquiry stage

- Average 1.00-2.33: Low attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases
- Average 2.34-3.66: Moderate attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases
- Average 3.67-5.00: Strong attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases

- Measuring negative attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases at inquiry stage

- Average 1.00-2.33: Strong attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases
- Average 2.34-3.66: Moderate attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases
- Average 3.67-5.00: low attitude or opinion of police on supportive factors, problems and limitations during protecting witness in the criminal cases

3.3 Readability Test

3.3.1 Validity

Test the content validity by submitting the drafted questions to the thesis advisors and 3 experts to check content validity, linguistics, proper syntax and structures including analysis and comments for improvement covering every dimension of contents. After comment for the experts the researcher has improve the questionnaire.

3.3.2 Reliability

The improved questionnaire by advice of thesis advisors and 3 experts; it has been conducted try-out with 30 interrogative police stationed in 2 police station under supervision of the Metropolitan Police Division 8. The 2 police stations are Buppharam and Bangmod; adjoining the Metropolitan Police Division 9. The Coefficient is based on Cronbach's Alpha Coefficient with the following formula.

$$\alpha = \left[\frac{n}{n-1} \right] \left[1 - \frac{\sum s_1^2}{s_1^2} \right]$$

- α = reliability of the questionnaire
 n = number of in the questionnaire
 S^2_1 = variance of each item
 Σs^2_1 = overall variance

$$\text{Alpha } (\alpha) = 0.85$$

The questionnaire is re-improved and submitted to the thesis advisors and 3 experts for re-checks that all item covers what will be investigated and for further data collections.

3.4 Data Collection

Data are collected by the researcher himself with following steps

1. Request recommendation letter from the Faculty of Social Sciences and Humanities, Mahidol University to seek cooperation from the Commander of the Metropolitan Police Division 9 for permission o collect data from interrogation police in every metropolitan police stations under Division 9
2. Self-collecting data by explaining the research objectives and research details before data collection process.
3. When all questionnaire have been responded and returned, the research re-check all sets for their completeness

4. Upon 112 set have been collected, all sets are summarize, and analyzed as guide in the analysis data key.

3.5 Data Processing

Questionnaire has been classified by type of measurement and variables for computerized processing. SPSS is applied for analysis and results are presented in Tables in Chapter 4 .

3.6 Statistical Applications

SPSS issued in processing and analyzing and statistical applications are as below, i.e.

1. Percentage
2. Mean and Standard Deviation
3. ANOVA
4. Multiple Classification Analysis

And statistical significance is 0.05 levels.

CHAPTER IV

RESULTS

The study “Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9”. Results are divided into 4 major parts, i.e.

4.1 Personal Background

4.2 Factors Related to Interrogation Officers

4.3. Individual Witness Protection in Criminal Case at the Level of Interrogation under supervision of Police in Metropolitan Police Division 9

4.4 Test of Hypotheses

Table 2 Frequency and percentage of samples distributed by personal background

Personal Background	F=(112)	% (100)
Gender		
Male	100	89.3
Female	12	10.7
Age		
< 30 years	39	34.8
30-35years	25	22.3
36-40 years	20	17.9
> 40 years	28	25.0
Years in government services		
1-5 years	40	35.7
6-10 years	23	20.5
11-15 years	20	17.9
> 15 years	29	25.9
Ranks		
Pol. Sub-lieutenant.	23	20.5
Pol. Lieutenant.	33	29.5
Pol. Captain	19	17.0

Table 2 Frequency and percentage of samples distributed by personal background
(cont.)

Personal Background	F=(112)	% (100)
Ranks		
Pol. Major	21	18.8
Pol. Lt.-Colonel	16	14.3
Current position		
Interrogation officer (Commissioned 1)	74	66.1
Interrogation officer (Commissioned 2)	25	22.3
Interrogation officer (Commissioned 3)	13	11.6
Education		
Bachelor degree	52	46.4
Master degree	40	35.7
Others	20	17.9
Income		
< 10,000 B	29	25.9
10,000-15,000 B	33	29.5
16,000-20,000 B	23	20.5
> 20,000 B	27	24.1
Consigned to police station of		
Nongkhaem	16	14.3
Petchkhasem	15	13.4
Phasicharoen	13	11.6
Laksong	14	12.5
Nongkhangplu	11	9.8
Bangbon	14	12.5
Bangkhuntian	17	15.2
Samaedam	12	10.7
Tenure in interrogation job		
1-3 years	40	35.7
4-6 years	42	37.5
> 6 years	30	26.8
Training /seminar of protecting witness organized by outsiders		
never		
1-2 times	48	42.9
3-4 times	56	50.0
	8	7.1

Table 2 Frequency and percentage of samples distributed by personal background (cont.)

Personal Background	F=(112)	% (100)
Training /seminar of protecting witness organized by office of national Police Bureau		
never	54	48.2
1-2 times	48	42.9
3-4 times	10	8.9
Training /seminar of protecting witness organized by in-house training		
Never	60	53.6
Yes	52	46.4

4.1 Factors of Personal Background (Table 2)

4.1.1 89.3 % of the samples are male while 10.7 % are female.

4.1.2 34.85 % are younger than 30 years; 22.3 % are 30-35 years; 17.9 % are 36-40 years and 25.0% are older than 40 years.

4.1.3 35.7 % are police for 1-5 years; 20.5 % are police for 6-10 years; 17.9 % are police for 11-15 years; 25.9% are police more than 15 years.

4.1.4 20.5 % are pol. Sub-lieutenant; 29.5 % are pol. Lieutenant; 17.0 % are pol. Captain; 18.8 % are pol. Major; and 14.3 % are pol. Lt. Colonel.

4.1.5 66.1 % are interrogation officers (commissioned 1); 22.3 % are interrogation officers (commissioned 2); and 11.96% are interrogation officers (commissioned 3).

4.1.6 46.4 % earned bachelor degree; 35.7 % earned master degree and 17.9 % earned other degree.

4.1.7 25.9 % earned lower than 10,000 Baht; 29.5 % earned 10,000-15,000 Baht; 20.5 % earned 16, 0-20,000 Baht; and 24.1 % earned more than 20,000 Baht.

4.1.8 14.3 % stationed in the metropolitan police station of Nongkhaem ; 13.4 % in Petchkhasem; 11.6 % in Phasicharoen; 12.5 % in Laksong; 9.8 % in Nongkhangplu; 12.5 % in Bangbon; 15.2 % Bangkhuntian; and 10.7 % Samaedam

4.1.9 35.7 % have tenure in interrogation for 1-3 years; 37.5 % for 4-6 years and 26.8 % for more than 6 years.

4.1.10 42.9 % never attend training/seminars on protecting witness organized by outsiders, 50.0 % for 1-2 times and 7.1 % for 3-4 times

4.1.11 48.2 % never attend training/seminars on protecting witness organized by Office of National Police Bureau, 42.9 % for 1-2 times and 8.9 % for 3-4 times

4.1.12 53.6 % the office never sent officers to attend training/seminars on protecting witness organized by outsiders, 46.4 % ever sent.

Table 3 Frequency and percentage of samples distributed by other factors of interrogation police

Other factors of interrogation police	F= (112)	% (100)
Being interrogation officer, you know and understand the Constitutional law – based working in protecting witnesses in the criminal case at level of ...		
Most	15	13.4
Much	20	17.9
Moderate	37	33.0
Less	29	25.9
Least	11	9.8
Being interrogation officer, you can apply skills, knowledge related to Constitutional law based in protecting witnesses in the criminal case with effectiveness at level of	18	16.1
Most	23	20.5
Much	39	34.8
Moderate	20	17.9
Less	12	10.7
Least		
Ever think to quit interrogation job to other new lines?		
Never	45	40.2
Yes	67	59.8
Protecting witness in the criminal case at the stage of inquiry is met with problems and limitations affecting the protecting witness at level of		
Most	21	18.8
Much	45	40.2
Moderate	24	21.4
Less	12	10.7
Least	10	8.9

Table 3 Frequency and percentage of samples distributed by other factors of interrogation police (cont.)

Other factors of interrogation police	F= (112)	% (100)
Any factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i. e/ tools, utility, and materials for inquiry.		
1 st rank	21	18.8
2 nd rank	11	9.8
3 rd rank	11	9.8
No choosing	69	61.6
Laws, regulations and obligations		
1 st rank	3	2.7
2 nd rank	5	4.5
3 rd rank	4	3.6
No choosing	100	89.3
Cooperation in giving statement of victims ผู้เสียหาย		
1 st rank	12	10.7
2 nd rank	7	6.3
No choosing	93	83.0
Limit number of police		
1 st rank	21	18.8
2 nd rank	13	11.6
3 rd rank	1	0.9
No choosing	77	68.8
Cooperation of giving testimony of witness		
1 st rank	13	11.6
2 nd rank	3	2.7
3 rd rank	5	4.5
No choosing	91	81.3
Policy of the Commander		
2 nd rank	13	11.6
3 rd rank	1	0.9
No choosing	98	87.5
Homeless witness		
1 st rank	14	12.5
2 nd rank	26	23.2
3 rd rank	17	15.2

Table 3 Frequency and percentage of samples distributed by other factors of interrogation police (cont.)

Other factors of interrogation police	F= (112)	% (100)
No choosing	55	49.1
Budget		
1 st rank	5	4.5
2 nd rank	2	1.8
3 rd rank	13	11.6
No choosing	92	82.1
Witness reject to appear before court		
1 st rank	5	4.5
2 nd rank	4	3.6
3 rd rank	8	7.1
No choosing	95	84.8
Period of time in trial		
2 nd rank	6	5.4
3 rd rank	5	4.5
No choosing	101	90.2
Intimidation, assaults, threats on witness from influential persons		
1 st rank	8	7.1
2 nd rank	4	3.6
3 rd rank	13	11.6
No choosing	87	77.7
Reporting news		
1 st rank	3	2.7
2 nd rank	1	0.9
3 rd rank	1	0.9
No choosing	107	95.5
Intervention by the influential persons		
2 nd rank	4	3.6
3 rd rank	11	9.8
No choosing	97	86.6
Documents and evidences		
2 nd rank	9	8.0
3 rd rank	1	0.9
No choosing	102	91.1

Table 3 Frequency and percentage of samples distributed by other factors of interrogation police (cont.)

Other factors of interrogation police	F= (112)	% (100)
Public cooperation in supplying information		
2 nd rank	3	2.7
3 rd rank	9	8.0
No choosing	100	89.3
Dishonest in the government offices		
3 rd rank	10	8.9
No choosing	102	91.1
Absence of cooperation from other offices		
1 st rank	2	1.8
2 nd rank	1	0.9
3 rd rank	7	6.3
No choosing	102	91.1
Others		
No choosing	112	100.0

4.2 Other factors of interrogation of the police (Table 3)

4.2.1 Being interrogation officers, 13.4 % of samples most know and understand the Constitutional law –based working in protecting witnesses in the criminal case; 17.9 % much know and understand; 33.0 % moderately know and understand; 25.9 % less know and understand and 9.8 % least know and understand.

4.2.2 Being interrogation officers, 16.1 % of sample can most apply skills, knowledge related to Constitutional law based in protecting witnesses in the criminal case with effectiveness; 20.5 % can much apply; 34.8 % can moderately apply; 17.9 % can less apply; and 10.7 % can least apply.

4.2.3 40.2 % never think to change job but 6-59.6 % ever think.

4.2.4 18.8 % samples think protecting witness in the criminal case at the stage of inquiry is most met with problems and limitations affecting the protecting witness; 40.2 % much met; 21.4 % moderately met; 10.7 % less met and 8.9 % least met.

4.2.5 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i. e. tools, utility, and materials for inquiry which 18.8 % of

samples think they are first rank; 9.8% think they are 2nd rank; 9.8% think they are 3rd rank and 61.6% think they do not choose

4.2.5.1 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i. e. laws, regulation and obligations which 2.7 % of samples thinks they are first rank; 4.5 % think they are 2nd rank; 3.6 % think they are 3rd rank and 89.3 % do not choose.

4.2.5.2 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Cooperation for giving statement of victims which 10.7 % of samples thinks they are first rank; 6.3 % think they are 2nd rank; - % think they are 3rd rank and 83.0 % do not choose

4.2.5.3 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. limit number of police which 18.8 % of samples thinks they are first rank; 11.6 % think they are 2nd rank; 0.9 % thinks they are 3rd rank and 68.8 % do not choose.

4.2.5.4 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Cooperation of testimony by witness which 11.6 % of samples thinks they are first rank; 2.7 % think they are 2nd rank; 4.5 % think they are 3rd rank and 81.3% do not choose.

4.2.5.5 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. policy of the Commander which - % of samples thinks they are first rank; 11.6 % think they are 2nd rank; 0.9 % thinks they are 3rd rank and 87.5 % do not choose

4.2.5.6 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Homeless witnesses which 12.5 % of samples thinks they are first rank; 23.5 % think they are 2nd rank; 15.2 % think they are 3rd rank and 49.1 % do not choose.

4.2.5.7 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Budget which 4.5 % of samples thinks they are first rank; 1.8 % think they are 2nd rank; 11.6 % think they are 3rd rank and 82.1 % do not choose

4.2.5.8 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Witness reject to appear before court which 4.5 % of samples thinks they are first rank; 3.6 % think they are 2nd rank; 7.1 % think they are 3rd rank and 84.8 % do not choose.

4.2.5.9 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. period of trial which - % of samples thinks they are first rank; 5.4 % think they are 2nd rank; 4.5 % think they are 3rd rank and 90.2 % do not choose.

4.2.5.10 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. intimidation, assaults, and threats from the influential which 7.1 % of samples thinks they are first rank; 3.6 % think they are 2nd rank; 11.6 % think they are 3rd rank and 77.7 % do not choose

4.2.5.11 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. Reporting news which 2.7 % of samples thinks they are first rank; 0.9 % think they are 2nd rank; 0.9 % think they are 3rd rank and 95.5 % do not choose

4.2.5.12 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. intervention of the influential which - % of samples thinks they are first rank; 3.6 % think they are 2nd rank; 9.8% think they are 3rd rank and 86.6 % do not choose

4.2.5.13 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. documents and evidences which - % of samples thinks they are first rank; 8.0 % think they are 2nd rank; 0.9 % thinks they are 3rd rank and 91.1 % do not choose

4.2.5.14 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. cooperation of public on information which - % of samples thinks they are first rank; 2.7 % think they are 2nd rank; 8.0 % think they are 3rd rank and 89.3 % do not choose

4.2.5.15 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. dishonest to government service which - % of samples thinks they are first rank; - % think they are 2nd rank; 8.9 % think they are 3rd rank and 91.1 % do not choose.

4.2.5.16 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. absence o cooperation among offices in which 1.8 % of samples thinks they are first rank; 0.9 % think they are 2nd rank; 6.3 % think they are 3rd rank and 91.1 % do not choose.

4.2.5.17 Factors are key problems and limitations affecting protecting witnesses at the inquiry levels, i.e. other matters which and 100 % give no responses.

Table 4 Frequency and percentage of samples distributed by individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9

Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
PIW at Policy Level					
1. At present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection	34 (30.4)	27 (24.1)	20 (17.9)	17 (15.2)	14 (12.5)
2. The office should provide equipment, and tools in protecting witness job adequately so that its process will be efficient.	38 (33.9)	29 (25.9)	18 (16.1)	15 (13.4)	12 (10.7)
3. Officers working on protecting witnesses should be trained additionally on knowledge and necessary skills in protecting witnesses in the criminal cases.	37 (33.0)	30 (26.8)	22 (19.6)	13 (11.6)	10 (8.9)
4. Physical and mental promptness of the interrogation officer affect seeking individual witnesses to complement as evidence in the inquiry level.	41 (36.6)	32 (28.6)	25 (22.3)	14 (12.5)	0 (0.0)
5. Problems of shortage on personnel or officers in protecting witness turns the pursuit and protection of victims and witness in the criminal cases unlikely effective	40 (35.7)	31 (27.7)	20 (17.9)	21 (18.8)	0 (0.0)
6. Unclear domicile address or change domicile and not report the interrogation officers make summon warrant does not reach the witnesses.	40 (35.7)	30 (26.8)	22 (19.6)	20 (17.9)	0 (0.0)
7. Shortage of budgeting in the office makes most interrogation officers pay for protecting witnesses and measures of safety provided to victims and witnesses.	39 (34.8)	29 (25.9)	26 (23.2)	18 (16.1)	0 (0.0)

Table 4 Frequency and percentage of samples distributed by individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 (cont.)

Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
8. Interrogation officers build good relation with public for the benefits of their cooperation in witnessing in the criminal cases.	39 (34.8)	30 (26.8)	27 (24.1)	16 (14.3)	0 (0.0)
9. Incase of lawsuit, the interrogation officers must without delay notify the public prosecutors on taking evidence.	32 (28.6)	22 (19.6)	39 (34.8)	19 (17.0)	0 (0.0)
10. Amendments of laws, regulations and obligations related in order to gain cooperation from public in witnessing in the criminal cases.	38 (33.9)	26 (23.2)	24 (21.4)	13 (11.6)	11 (9.8)
11. The case of the key witnesses fail to appear in court , the interrogation officers should take time to meet them at their places or their office by request cooperation and revise incidents for giving statement and report the Commander without delay.	32 (28.6)	21 (18.8)	36 (32.1)	12 (10.7)	11 (9.8)
Protection by Legal Measures					
12. The interrogation officers must in detail check addresses of witnesses for contact by visit and always pursue in order to have them given testimony in court	29 (25.9)	17 (15.2)	33 (29.5)	14 (12.5)	19 (17.0)
13. In case being the key witness in the criminal case and homeless or believing that the witness is endangering before giving testimony or to prevent escape; the interrogation officer must report or clarify causes of allowance to provide safe residence serving the key witness.	38 (33.9)	25 (22.3)	29 (25.9)	20 (17.9)	0 (0.0)
14. Identifying offender or the accused at inquiry level relies on discretion of the interrogation officer whether should there been encountering between the accused and the witnesses.	35 (31.3)	26 (23.2)	25 (22.3)	14 (12.5)	12 (10.7)
15. In case of necessity of unable to identify the accused; the interrogation officer must replace by identifying on photos	40 (35.7)	34 (30.4)	23 (20.5)	15 (13.4)	0 (0.0)
16. Identifying the accused, if the witness being youth not more than 18 years there must be proper place and the accused must not see the face of the witness at the presence of the public prosecutor and the social welfare staff	36 (32.1)	29 (25.9)	21 (18.8)	14 (12.5)	12 (10.7)

Table 4 Frequency and percentage of samples distributed by individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 (cont.)

Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
17. Sending summon warrant to victims or witnesses by the public prosecutor or court, it is the duty of the interrogation officer of the case to send it to the receiver in order to appear as witness.	33 (29.5)	25 (22.3)	20 (17.9)	18 (16.1)	16 (14.3)
18. The state must 24 hours protect witness either traveling to give statement or giving testimony in court or living at home or living at temporal residence	40 (35.7)	23 (20.5)	30 (26.8)	19 (17.0)	0 (0.0)
19. The government office must allocate money for the service fees for witnesses such as for inquiry, meeting the public prosecutor, giving evidence in court, that the witnesses need not spend personal money.	38 (33.9)	29 (25.9)	26 (23.2)	19 (17.0)	0 (0.0)
20. Fear and anxiety of dangers to witnesses and their families in the case of influential offenders; this make them avoid testifying to complete evidence.	41 (36.6)	30 (26.8)	22 (19.6)	19 (17.0)	0 (0.0)
21. Proceeding to bring witnesses for testimony in court takes prolong time creating witness unconfident what known with the past incident	40 (35.7)	34 (30.4)	23 (20.5)	15 (13.4)	0 (0.0)
Protection by the Constitutional Clauses					
22. The state should establish an office for directly protecting witnesses beginning from entering justice process till finalization and beyond considerable time	38 (33.9)	21 (18.8)	25 (22.3)	15 (13.4)	13 (11.6)
23. At present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection	35 (31.3)	29 (25.9)	19 (17.0)	17 (15.2)	12 (10.7)
24. Expose witness to media or in public makes witness fear to be endangered; so fails to cooperate as witness.	36 (32.1)	25 (22.3)	27 (24.1)	24 (21.4)	0 (0.0)
25. Being without any measures in protecting witness after hearing make witnesses shortage of warranty to cooperate with the state to be witness or to submit evidence for the virtue of the case.	35 (31.3)	29 (25.9)	20 (17.9)	15 (13.4)	13 (11.6)
26. The state should migrate the witness's family from deadly area to the securer one.	38 (33.9)	23 (20.5)	30 (26.8)	21 (18.8)	0 (0.0)

Table 4 Frequency and percentage of samples distributed by individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 (cont.)

Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
27. The state should plead court for changes of names, last names for witnesses and their families and complete all new documents related to replace the previous ones.	34 (30.4)	29 (25.9)	20 (17.9)	13 (11.6)	16 (14.3)
28. The state should provide shelter, schools for children, and job by knowledge, ability, aptitude and other welfares necessary for witnesses and should support preliminary allowances.	35 (31.3)	29 (25.9)	25 (22.3)	23 (20.5)	0 (0.0)
29. In case of unable to find other witnesses, the office of the justice administration should use sciences to reduce the importance of witness and it is then difficult to hinder trial.	35 (31.3)	30 (26.8)	25 (22.3)	22 (19.6)	0 (0.0)
30. Testimony must be covered and protected for witnesses in identifying the accused during inquiry	40 (35.7)	35 (31.3)	21 (18.8)	16 (14.3)	0 (0.0)
31. In case the victims or witnesses are poor, the interrogation officers must support for transportation fees or allowances and certifying poverty to the office of the general prosecutor for further action.	38 (33.9)	26 (23.2)	30 (26.8)	18 (16.1)	0 (0.0)
32. The state office should protect all witnesses beginning from before trial and after trial for true security of the witnesses.	30 (26.8)	36 (32.1)	28 (25.0)	18 (16.1)	0 (0.0)

4.3 Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 (Table 4)

PIW at Policy Level

4.3.1 30.4 % of samples most agree with at present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection; 24.1 % much agree; 17.9 % moderately agree; 15.2 % less agree and 12.5 % least agree.

4.3.2 33.9 % of samples most agree with the office should provide equipment, and tools in protecting witness job adequately so that its process will be efficient; 25.9 % much agree; 16.1 % moderately agree; 13.4 % less agree and 10.7 % least agree.

4.3.3 33.0 % of samples most agree with Officers working on protecting witnesses should be trained additionally on knowledge and necessary skills in protecting witnesses in the criminal cases; 26.8 % much agree; 19.6 % moderately agree; 11.6 % less agree and 8.9 % least agree.

4.3.4 36.6 % of samples most agree with Physical and mental promptness of the interrogation officer affect seeking individual witnesses to complement as evidence in the inquiry level; 28.6 % much agree; 22.3 % moderately agree; and 12.5 % less agree.

4.3.5 35.7 % of samples most agree with Problems of shortage on personnel or officers in protecting witness turns the pursuit and protection of victims and witness in the criminal cases unlikely effective; 27.7 % much agree; 17.9 % moderately agree; and 18.8 % less agree.

4.3.6 35.7 % of samples most agree with unclear domicile address or change domicile and not report the interrogation officers make summon warrant does not reach the witnesses; 26.8 % much agree; 19.6 % moderately agree; and 17.9 % less agree.

4.3.7 34.8 % of samples most agree with shortage of budgeting in the office makes most interrogation officers pay for protecting witnesses and measures of safety provided to victims and witnesses; 25.9 % much agree; 23.2 % moderately agree; and 16.1 % less agree.

4.3.8 34.8 % of samples most agree with interrogation officers build good relation with public for the benefits of their cooperation in witnessing in the criminal cases; 26.8 % much agree; 24.1 % moderately agree; and 14.3 % less agree.

4.3.9 28.6 % of samples most agree with In case of lawsuit, the interrogation officers must without delay notify the public prosecutors on taking evidence; 19.6 % much agree; 34.8 % moderately agree; and 17.0 % less agree.

4.3.10 33.9 % of samples most agree with amendments of laws, regulations and obligations related in order to gain cooperation from public in witnessing in the criminal cases; 23.2 % much agree; 21.4 % moderately agree; 11.6 % less agree and 9.8 % least agree.

4.3.11 28.6 % of samples most agree with the case of the key witnesses fail to appear in court, the interrogation officers should take time to meet them at their places

or their office by request cooperation and revise incidents for giving statement and report the Commander without delay; 18.8 % much agree; 32.1 % moderately agree; 10.7 % less agree and 9.8 % least agree.

Protection by Legal Measures

4.3.12 25.9 % of samples most agree with the interrogation officers must in detail check addresses of witnesses for contact by visit and always pursue in order to have them given testimony in court; 15.2 % much agree; 29.5 % moderately agree; 12.5 % less agree and 17.0 % least agree.

4.3.13 33.9 % of samples most agree with In case being the key witness in the criminal case and homeless or believing that the witness is endangering before giving testimony or to prevent escape; the interrogation officer must report or clarify causes of allowance to provide safe residence serving the key witness; 22.3 % much agree; 25.9 % moderately agree; and 17.9 % less agree.

4.3.14 31.3 % of samples most agree with Identifying offender or the accused at inquiry level relies on discretion of the interrogation officer whether should there been encountering between the accused and the witnesses; 23.2 % much agree; 22.3 % moderately agree; 12.5 % less agree and 10.7 % least agree.

4.3.15 35.7 % of samples most agree with In case of necessity of unable to identify the accused; the interrogation officer must replace by identifying on photos; 30.4 % much agree; 20.5 % moderately agree; and 13.4 % less agree.

4.3.16 32.1 % of samples most agree with Identifying the accused, if the witness being youth not more than 18 years there must be proper place and the accused must not see the face of the witness at the presence of the public prosecutor and the social welfare staff; 25.9 % much agree; 18.8 % moderately agree; 12.5 % less agree and 10.7 % least agree.

4.3.17 29.5 % of samples most agree with Sending summon warrant to victims or witnesses by the public prosecutor or court, it is the duty of the interrogation officer of the case to send it to the receiver in order to appear as witness; 22.3 % much agree; 17.9 % moderately agree; 16.1 % less agree and 14.3 % least agree.

4.3.18 35.7 % of samples most agree with The state must 24 hours protect witness either traveling to give statement or giving testimony in court or living at home

or living at temporal residence; 20.5 % much agree; 26.8 % moderately agree; and 17.0 % less agree .

4.3.19 33.9 % of samples most agree with The government office must allocate money for the service fees for witnesses such as for inquiry, meeting the public prosecutor, giving evidence in court, that the witnesses need not spend personal money; 25.9 % much agree; 23.2 % moderately agree; and 17.0 % less agree.

4.3.20 36.6 % of samples most agree with Fear and anxiety of dangers to witnesses and their families in the case of influential offenders; this make them avoid testifying to complete evidence; 26.8% much agree; 19.6 % moderately agree; and 17.0 % less agree.

4.3.21 35.7 % of samples most agree with Proceeding to bring witnesses for testimony in court takes prolong time creating witness unconfident what known with the past incident ; 30.4 % much agree; 20.5 % moderately agree; and 13.4 % less agree.

Protection by the Constitutional Clauses

4.3.22 33.9 % of samples most agree with The state should establish an office for directly protecting witnesses beginning from entering justice process till finalization and beyond considerable time; 18.8 % much agree; 22.3 % moderately agree; 13.4 % less agree and 11.6 % least agree .6

4.3.23 31.3 % of samples most agree with at present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection; 25.9 % much agree; 17.0 % moderately agree; 15.2 % less agree and 10.7 % least agree.

4.3.24 32.1 % of samples most agree with expose witness to media or in public makes witness fear to be endangered; so fails to cooperate as witness; 22.3 % much agree; 24.1 % moderately agree; and 21.4 % less agree.

4.3.25 31.3 % of samples most agree with being without any measures in protecting witness after hearing make witnesses shortage of warranty to cooperate with the state to be witness or to submit evidence for the virtue of the case; 25.9 % much agree; 17.9 % moderately agree; 13.4 % less agree and 11.6 % least agree.

4.3.26 33.9 % of samples most agree with the state should migrate the witness's family from deadly area to the securer one; 20.5 % much agree; 26.8 % moderately agree; and 18.8 % less agree.

4.3.27 30.4 % of samples most agree with the state should plead court for changes of names, last names for witnesses and their families and complete all new documents related to replace the previous ones; 25.9 % much agree; 17.9 % moderately agree; 11.6 % less agree and 14.3% least agree.

4.3.28 31.3 % of samples most agree with The state should provide shelter, schools for children, and job by knowledge, ability, aptitude and other welfares necessary for witnesses and should support preliminary allowances; 25.9 % much agree; 22.3 % moderately agree; and 20.5 % less agree.

4.3.29 31.3 % of samples most agree with In case of unable to find other witnesses, the office of the justice administration should use sciences to reduce the importance of witness and it is then difficult to hinder trial ; 26.8% much agree; 22.3% moderately agree; and 19.6% less agree.

4.3.30 35.7% of samples most agree with Testimony must be covered and protected for witnesses in identifying the accused during inquiry; 31.3 % much agree; 18.8 % moderately agree; and 14.3 % less agree.

4.3.31 33.9 % of samples most agree with In case the victims or witnesses are poor; the interrogation officers must support for transportation fees or allowances and certifying poverty to the office of the general prosecutor for further action; 23.2 % much agree; 26.8 % moderately agree; and 16.1 % less agree.

4.3.32 26.8 % of samples most agree with the state office should protect all witnesses beginning from before trial and after trial for true security of the witnesses; 32.1 % much agree; 25.0 % moderately agree; and 16.1 % less agree.

4.4 Test of Hypotheses

It is hypothesized that

Hypothesis 1: Personal backgrounds affect approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9

Hypothesis 2: other factors related affect approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9

Test of Hypothesis 1: ANOVA and MCA are used in these analyses, i.e.

This test is to find whether Personal backgrounds affect approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9. The researcher has designed Model and which one has relationship with approaches in protecting individual witness in the criminal cases at the inquiry level to what extent police have attitude or approaches to protect individual witnesses.

Model Hypothesis 1: The dependent variable is approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9

The independent variables are the personal backgrounds, i.e.

Year in the government service

Rank

Education

Tenure in interrogation job

Training/seminar on protecting individual witness

The control variables are cognition to follow the constitutional clauses and applicability of skills in working.

Table 5 ANOVA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by personal background

Source of Variation	Hierarchical Method				
	Sum of Squares	df	Mean Square	F	Sig.
Covariates (Combined)	2.864	2	1.432	14.134	.000*
Cognition to follow the constitutional clauses	2.234	1	2.234	22.049	.000*
Applicability of skills in working	.630	1	.630	6.220	.014*
Main Effects (Combined)	7.243	14	.517	5.107	.000*
Years in government service	1.082	3	.361	3.561	.017*
Rank	1.090	4	.273	2.691	.636*
Education	3.493	2	1.747	17.240	.000*
Tenure in interrogation	1.225	2	.613	6.046	.003*
Training and seminar	.169	2	.847	.836	.437
Sending personnel to training/seminar	.182	1	.182	1.801	.183
Model	10.107	16	.632	6.235	.000*
Residual	9.625	95	.101		
Total	19.732	111	.178		

*p < 0.05

Table 6 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by personal background

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Years in gov. service							
- 1 - 5 years	40	3.68	3.81		.26	-.24	
- 6 – 10 years	23	3.76	3.70		.10	.18	
- 11 – 15 years	20	3.67	3.62		.19	.32	
- > 15 years	29	3.52	3.44		.19	.42	
				.201			.347
Ranks							
- Pol. Sub.Lt.	23	3.81	3.71		.15	.05	
- Pol. Lt.	33	3.51	3.55		-.15	.10	
- Pol. Capt.	19	3.63	3.86		-.02	.25	
-Pol. Maj.	21	3.74	3.56		.08	.31	
- Pol. Lt. Col.	16	3.67	3.56		.09	.39	
				.268			.275
Education							
- Bachelor degree	52	3.54	3.56		-.11	-.09	
- Master degree	40	3.88	3.87		.22	.21	
- others	20	3.50	3.49		.15	.16	
				.399			.377
Tenure in interrogation							
- 1 – 3 years	40	3.59	3.53		-.06	-.13	
- 4 – 6 years	42	3.59	3.62		-.07	.22	
- > 6 years	30	3.85	3.88		.19	.36	
				.275			.337
Training/seminar							
- never	48	3.75	3.73		.09	.07	
- 1 – 2 times	56	3.58	3.59		.17	.16	
- 3 - 4 times	8	3.61	3.67		.24	.19	
				.192			.159

Table 6 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by personal background (cont.)

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Sending to training /seminar							
- never	60	3.63	3.60		-.02	-.05	
- ever	52	3.68	3.72		.14	.06	
				.155			.139
Multiple R							.716
Multiple R Square							.512

From the tables, it is found that given the independent variables, i.e. years in government service, rank, education, tenure in interrogation, training/seminar to be analyzed with the dependent variable, i.e. approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9; all the independent variables affect the dependent variable by statistical significance at 0.05 level (Sig. = 0.000). In addition, all the independent variables co-explain the Model by statistical significance at 0.05 level (Sig. = 0.000).

Significantly, the independent variables and covariates can explain the dependent variable by statistical significance at 0.05 level (Model or Explained, Sig. = 0.000).

Taking the control variables, which are cognition to follow the constitutional clauses and applicability of skills in working for analysis, it is found that they influence the dependent variable, i.e. approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9 by statistical significance at 0.05 level (Covariates, Sig. = 0.000).

In details, and by significance order of affecting, it found that education (Sig. = 0.000); tenure in interrogation (Sig. 0.003); years in Gov. Service (Sig. = 0.017) and rank (Sig. = 0.036) respectively.

Additionally considering the independent variables affecting dependent variable, it is found that

Education – police in the Metropolitan Police Division 9 with higher education have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with lower education have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with master degree in the Metropolitan Police Division 9; have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.21), followed by police with doctoral degree or vocational diploma (.16). Police with bachelor degree have least approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.09) respectively. Education has relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 37% (Beta = .377).

Tenure in Interrogation – police in the Metropolitan Police Division 9 with longer time in interrogation have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police in the Metropolitan Police Division 9 with more than 6 years in interrogation have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.36) followed by police with 4-6 years in interrogation have moderate approaches in protecting individual witnesses in the criminal cases at the inquiry level (.22). Police with 1-3 years in interrogation have least approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.13) respectively. Tenure in interrogation has relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 33% (Beta = .337).

Years in Government services – police in the Metropolitan Police Division 9 with longer years in government service have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with shorter year in government services have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with more than 15 years in government

services have most approaches (.42) followed by police with 11-15 years (.32) in government services; police with 16-10 years (.18) in government services and police with 1-5 years in government services have least approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.24) respectively. Years in government services has relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 34 % (Beta = .347).

Rank – police in the Metropolitan Police Division 9 with higher rank have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with lower rank have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police ranked Police Lt. Colonel have most approaches (.39) followed by police ranked Pol. Major (.31); police ranked Pol. Captain (.25); police ranked Pol. Lieutenant (.10) and police ranked Pol. Sub-Lieutenant have least approaches in protecting individual witnesses in the criminal cases at the inquiry level (.05) respectively. Police ranks have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 27 % (Beta = .275).

However, considering rate of relationship between the independent variables and the dependent variable, it is found that factors with strongest relationship with approaches in protecting individual witnesses in the criminal case at inquiry level (by Beta serial value) are education (Beta = .37); years in government service (Beta = .34); tenure in interrogation (Beta = .33) and ranks (Beta = .27) respectively.

In summary, the independent variables, i.e. education; years in government service; tenure in interrogation and ranks have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 71.6% (Multiple R = .716) and co-explain the dependent variables at 51.2% (Multiple R Square = .512).

Hypothesis 2: other factors related affect approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9

Test of Hypothesis 2: ANOVA and MCA are used in these analyses, i.e.

Model Hypothesis 2: The dependent variable is approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9

The independent variables are other factors related to interrogation officer, i.e.

- Cognition of the constitutional clauses
- Applicability of skills in working
- Thinking to change job line
- Problems and limitations in protecting witnesses
- Problems and limitations in protecting witnesses on number of police
- Problems and limitations in protecting witnesses on cooperation in testimony
- Problems and limitations in protecting witnesses on budget
- Problems and limitations in protecting witnesses on intimidation of the influential

The control variables are problems and limitations about equipments used in inquiries and problems and limitations about homeless witnesses.

Table 7 ANOVA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police

Source of Variation	Hierarchical Method				
	Sum of Squares	df	Mean Square	F	Sig.
Covariates (Combined)	.887	2	.443	6.079	.000*
Problems and limitations about equipments used in inquiries	.246	1	.246	3.368	.007*
Problems and limitations about homeless witnesses.	.641	1	.641	8.789	.004*
Main Effects (Combined)	12.719	25	.509	6.976	.000*
- Cognition of the constitutional clauses	5.739	4	1.435	19.674	.000*
- Applicability of skills in working	.437	4	.109	1.497	.211
- Thinking to change job line	.629	1	.629	8.624	.004*
- Problems and limitations in protecting witnesses	1.957	4	.489	6.708	.000*

Table 7 ANOVA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police (cont.)

Source of Variation	Hierarchical Method				
	Sum of Squares	df	Mean Square	F	Sig.
- Problems and limitations in protecting witnesses on number of police	.957	3	.319	4.373	.007*
- Problems and limitations in protecting witnesses on cooperation in testimony	1.172	3	.391	5.355	.002*
- Problems and limitations in protecting witnesses on budget	1.276	3	.425	5.834	.001*
- Problems and limitations in protecting witnesses on intimidation of the influential	.553	3	.184	2.526	.063
Model	13.606	27	.504	6.910	.000*
Residual	6.126	84	.007		
Total	19.732	111	.178		

*p < 0.05

Table 8 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Cognition of the constitutional clauses							
- least	11	3.67	3.67		.19	.11	
- little	29	4.02	3.76		.36	.12	
- Moderate	37	3.48	3.54		.18	.17	
- much	20	3.63	3.87		.23	.21	
- Most	15	3.42	3.44		.24	.29	
				.542			.349

Table 8 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police (cont.)

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Applicability of skills in working							
- least	12	4.04	3.75		.38	.18	
- little	20	3.83	3.64		.18	.26	
- Moderate	39	3.52	3.59		-.14	.36	
- much	23	3.52	3.73		-.14	.37	
- Most	18	3.67	3.65		.17	.39	
				.422			.139
Thinking to change job line							
- never	45	3.51	3.57		.14	.18	
- ever	67	3.75	3.72		-.19	-.16	
				.280			.174
Problems and limitations in protecting witnesses							
- nil	10	4.14	3.46		.48	.35	
- few	12	3.51	3.60		.14	.32	
- moderate	24	3.88	3.91		.22	.26	
- many	45	3.44	3.53		.26	.11	
	21	3.72	3.75		.25	-.19	
				.551			.378

Table 8 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police (cont.)

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Problems and limitations in protecting witnesses on number of police							
- nil	77	3.55	3.50		-.11	-.16	
- few	21	3.79	3.80		.13	.15	
- moderate	13	4.08	4.32		.43	.66	
- many	1	3.57	4.25		.68	.67	
				.431			.654
Problems and limitations in protecting witnesses on cooperation in testimony							
- nil	91	3.64	3.64		-.18	.47	
- few	13	3.84	3.90		.18	.27	
- moderate	3	3.44	3.12		.22	.23	
- many	5	3.52	3.70		.33	-.19	
				.186			.290

Table 8 MCA of individual witness protection in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9 distributed by other factors of interrogation police (cont.)

Variable & Category	N	Predicted Means		Eta	Deviation		Beta
		Unadjusted	Adjusted for Factors and Covariates		Unadjusted	Adjusted for Factors and Covariates	
Problems and limitations in protecting witnesses on budget							
- nil	92	3.67	3.76		.15	.39	
- few	5	3.19	3.57		.18	.28	
- moderate	2	3.41	3.38		.24	.11	
- many	13	3.77	2.97		.32	-.29	
				.265			.615
Problems and limitations in protecting witnesses on intimidation of the influential							
- nil	87	3.69	3.70		.13	.38	
- few	8	3.59	3.29		.16	.36	
- moderate	4	3.63	3.51	.152	.20	.24	.255
- many	13	3.49	3.65		.35	.14	
Multiple R							.830
Multiple R Square							.690

From tables given the independent variables, i.e. Cognition of the constitutional clauses; Applicability of skills in working ; Thinking to change job line; Problems and limitations in protecting witnesses; Problems and limitations in protecting witnesses on number of police; Problems and limitations in protecting witnesses on cooperation in testimony; Problems and limitations in protecting witnesses on budget and Problems and limitations in protecting witnesses on intimidation of the influential to be analyzed by ANOVA and MCA with the

dependent variable , i.e. approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9 ; all the independent variables affect the dependent variable by statistical significance at 0.05 level (Sig. = 0.000). In addition, all the independent variables co-explain the Model by statistical significance at 0.05 level (Sig. = 0.000).

Significantly, the independent variables and covariates can explain the dependent variable by statistical significance at 0.05 level (Model or Explained, Sig. = 0.000).

Taking the control variables, which are Problems and limitations about equipments used in inquiries; and Problems and limitations about homeless witnesses, it is found that they influence the dependent variable, i.e. approaches in protecting individual witness in the criminal cases at the inquiry level under supervision of the Metropolitan Police Division 9 by statistical significance at 0.05 level (Covariates, Sig. = 0.000).

In details, and by significance order of affecting, it found that problems and limitations of cognition of the constitutional clauses (Sig. = 0.000); of budget (Sig. = 0.001); of cooperation in testimony of individual witnesses (Sig. = 0.002); of thinking to change job line (Sig. = 0.004); and of number of police (Sig. = 0.007).

Additionally considering the independent variables affecting dependent variable, it is found that:

Problems and limitations of cognition of the constitutional clauses – police in the Metropolitan Police Division 9 with strong cognition of the constitutional clauses have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with poor cognition of the constitutional clauses have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police in the Metropolitan Police Division 9 with strongest cognition of the constitutional clauses have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.29). Followed by police with strong cognition of the constitutional clauses have more approaches in protecting individual witnesses in the criminal cases at the inquiry level (.21); Police with moderate (.17) cognition of the constitutional clauses; Police with little (.12) cognition of the constitutional clauses and police with least (.11) cognition of the constitutional clauses have fewest

approaches in protecting individual witnesses in the criminal cases at the inquiry level, respectively. Cognition of the constitutional clauses has relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 34% (Beta = .349).

Problems and limitations in protecting witnesses - police in the Metropolitan Police Division 9 with few problems and limitations in protecting individual witness have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with many problems and limitations in protecting individual witness have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with fewest problems and limitations in protecting individual witness have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.35). Then, police with few problems and limitations in protecting individual witness have more approaches in protecting individual witnesses in the criminal cases at the inquiry level (.32). Police with moderate problems and limitations in protecting individual witness have moderate approaches in protecting individual witnesses in the criminal cases at the inquiry level (.26). Police with many problems and limitations in protecting individual witness have few approaches in protecting individual witnesses in the criminal cases at the inquiry level (.11). Police with most problems and limitations in protecting individual witness have fewest approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.19), respectively. Problems and limitations in protecting individual witness have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 34 % (Beta = .349).

Problems and limitations in protecting witnesses on budget - police in the Metropolitan Police Division 9 with few problems and limitations in protecting individual witness on budget have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with many problems and limitations in protecting individual witness on budget have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police without problems and limitations in protecting individual witness on budget have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.39). Then, police with few problems and limitations in protecting individual witness

on budget have more approaches in protecting individual witnesses in the criminal cases at the inquiry level (.28). Police with moderate problems and limitations in protecting individual witness on budget have moderate approaches in protecting individual witnesses in the criminal cases at the inquiry level (.11). Police with most problems and limitations in protecting individual witness on budget have fewest approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.29), respectively. Problems and limitations in protecting individual witness on budget have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 61 % (Beta = .615).

Problems and limitations in protecting witnesses on cooperation in testimony – police in the Metropolitan Police Division 9 with few problems and limitations in protecting individual witness on cooperation in testimony have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with many problems and limitations in protecting individual witness on cooperation in testimony have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police without problems and limitations in protecting individual witness on cooperation in testimony have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.47), followed by police with few problems and limitations in protecting individual witness on cooperation in testimony (.27); police with moderate problems and limitations in protecting individual witness on cooperation in testimony (.23). Police many problems and limitations in protecting individual witness on cooperation in testimony have fewest approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.19), respectively. Problems and limitations in protecting individual witness on cooperation in testimony have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 29 % (Beta = .290).

Thought to change jobline – police in the Metropolitan Police Division 9 without thinking to change jobline have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those thinking to change jobline have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police without thinking to change jobline have more approaches in protecting individual witnesses in the criminal cases at the inquiry level (.18). Police

thinking to change jobline have few approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.16) respectively. Thought to change jobline has relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 17 % (Beta = .174).

Problems and limitations in protecting witnesses on number of police- police in the Metropolitan Police Division 9 with few problems and limitations in protecting individual witness on number of police have more approaches in protecting individual witnesses in the criminal cases at the inquiry level while those with many problems and limitations in protecting individual witness on number of police have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police without problems and limitations in protecting individual witness on number of police have most approaches in protecting individual witnesses in the criminal cases at the inquiry level (.67), followed by police few problems and limitations in protecting individual witness on number of police (.66); Police moderate problems and limitations in protecting individual witness on number of police (.15). Police many problems and limitations in protecting individual witness on number of police have fewest approaches in protecting individual witnesses in the criminal cases at the inquiry level (-.16), respectively. Problems and limitations in protecting individual witness on number of police have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 65 % (Beta = .654).

However, considering rate of relationship between the independent variables an the dependent variable, it is found that factors with strongest relationship with approaches in protecting individual witnesses in the criminal case at inquiry level (by Beta serial value) are problems and limitations of protecting individual witnesses on number of police (Beta=.65); on budget (Beta = .61); on cognition of constitutional clauses (Beta = .34); on cooperation of testimony (Beta = .29) and on thought of changing jobline (Beta = .17) respectively.

In summary, the independent variables, i.e. problems and limitations of protecting individual witnesses on number of police on budget on cognition of constitutional clauses on cooperation of testimony and on thought of changing jobline have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level at 83 % (Multiple R = .830) and co-explain the dependent variables at 69 % (Multiple R Square = .690).

CHAPTER V

DISCUSSIONS

The study “Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9” is to study cognition levels of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage and enabling to apply for working; to study attitude of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage; to study attitude of police under supervision of the Metropolitan Police Division 9 about problems and limitations in protecting witnesses at the interrogation stage; to study relationship between personal data and the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9; and to study relationship between other factors related to the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9.

Findings show that the personal background and the other factors related to 112 interrogation officers under supervision of the Metropolitan Police Division 9 affect the approaches in protecting the individual witnesses in the criminal cases. But one of the factors is **Years in Government Services** - police in the Metropolitan Police Division 9 with longer years in government service have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with shorter year in government services have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. By reasons, police with longer years in the government services should have more job experiences; better cognition of procedures in counter different types of crimes. Also, protecting witness is the sensitive mission but help gaining more experiences than those with few years in government services. This mission requires persons of more experiences to protect witnesses in the criminal cases. Job is so complicated because safeguarding life of witness is aiming to have witnesses to give evidence in trails of protecting rights and

liberty of public. What related to La Surete or Liberte individuelle; basic human rights for all. Therefore, securing witness is primary and requires high experiences police to fulfill it. It is corresponded with Dejrabhi Khogndee (2003: Abstract) studying “Protecting Witnesses in Criminal Cases at the Inquiry Stage of the Suppression Police” and finds that 5 divisions of the suppression police have prolong working and longer years in government services.

In addition, the tenure in interrogation – it is found that Tenure in Interrogation - police in the Metropolitan Police Division 9 with longer time in interrogation have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with few years in interrogation have few approaches in protecting individual witnesses in the criminal cases. Results are corresponded with the years in the government services. Police with longer years accumulate more job experiences in association with tenure in interrogation which allow them gaining cognition of work. Interrogation certainly requires long experiences specially in protecting witnesses in the criminal cases and they link each other with Intimidation of Witness in Criminal Justice System from the ill-wishers or gain-losers, or opposition to the witness. There are many kinds of intimidation, e.g. threat of physical harm; threat of economic; or prospects of advancement which the testimony requires police protecting the witness must be well equipped with skills and well-round ability to achieve effective protection. Those with long experiences in inquiry are advantageous and enable to successfully fulfill protecting witness. It is corresponded with Dejrabhi Khogndee (2003: Abstract) studying “Protecting Witnesses in Criminal Cases at the Inquiry Stage of the Suppression Police” and finds that 5 divisions of the suppression police have prolong working and longer years in government services and 5-10 years of tenure in interrogation.

Rank – police in the Metropolitan Police Division 9 with higher rank (Police Captain – Police Lt. Colonel) have more approaches in protecting individual witnesses in the criminal cases at the inquiry level. Police with lower rank have fewer approaches in protecting individual witnesses in the criminal cases at the inquiry level. By reasons, being the line of command, the higher rank police or the senior commissioned police will be the Commander or Chief to control the subordinates with lower ranks. By regulations, there must be planning and well understanding the

procedures of protecting witness in order to achieve effective protection of witness in the criminal case. It is corresponded with Dejrabhi Khogndee (2003: Abstract) studying "Protecting Witnesses in Criminal Cases at the Inquiry Stage of the Suppression Police" and finds that 5 divisions of the suppression police have highest number of the commissioned police in the interrogation job.

It is further found the problems and limitations in protecting individual witnesses on number of police; on budget; on protecting individual witness; on cognition of the constitutional clauses; on cooperation of testimony from witness and on thinking to change jobline. They have relationship with the dependent variables, i.e. approaches in protecting individual witness in the criminal case at the inquiry stage at 83 % (Multiple R = .830) and co-explain the dependent variables at 69 % (Multiple R Square = .690). Variables related to the interrogation officers strongly affect the witness protection.

Had police involving with protecting witness in the criminal cases taken interests to explore knowledge to follow the constitutional clauses in this mission either the checking of addresses or protecting witness is to safeguard life of the witnesses in the trial to be free from intimidation, assaults, and threats so that the state gains best evidences supporting the effectiveness of the justice administration. This is counted preliminary protection and protecting the testimony of individual to be saved from outsiders or protecting the witness to give evidence without affecting the testimony and this is the higher level of protection. With above reasons, many factors may affect witness to distort seen truth. For example, distortion might come from natural factors e.g. age, maturity, ability of delivery, or memory or human deeds. Such issues must be prioritized and understood by police protecting witnesses so as to reduce problems and limitations in working but raising efficiency in working. So office involved specially the National Police Bureau should encourage personnel involved to upgrade their knowledge and workability e.g. technical training on counter intimidation of witness from ill-wishers; intelligence probes and so on. It will raise performance of the police-force and turn witness protection effective. It is corresponded with Cumming and Schwab recommending that factors affecting individual performance in an organization are from environments and personal factors; budget, and material for working. It is found that whether it is the number of police or

budget to support protecting individual witnesses; the Office of the National Police Bureau should provide budget, effective and modern equipment to help working. This will lead to the efficient witness protection. With obligation related, it needs regulations of protecting individual witnesses in the criminal cases fit the existing situations contending social protection, e.g. society honoring and admiring individuals acting as witnesses, receiving necessary services from the state and so on. It is also found that besides social protection there is legal instrument used in protecting witnesses and that is the personal rights of an individual has been protected and it is part the individual witness's rights, which contain:

1. Rights to give full testimony without any illegal intervention and rights not to directly or indirectly respond which might be later upgraded into prosecution.
2. Rights to have protection and properly treated – this rights are not directly coded in laws but in the justice administration and the state must cooperate with public and being the individual witness and human; therefore, treating human it also needs to be conscious of *Menschenwurde* so as this can be called the nature der sache.
3. Rights to earn fees.

Protecting individual witnesses in the criminal cases is to welcome an individual witness to the proceeding in order to protect rights and liberty of public related to *La surete* or *Liberte individuelle*, which is counted basic liberty desired by human. So, protecting witnesses is the primary protection. If the state enforces the evident measures in protecting witnesses with prudence, coverage, and more absolute; it will be fruitful and more constructive. The state involved should provide adequate budget for welfare or service fees to appear as witness worth the geographic conditions, distance, and convenience for the witnessing of an individual and specific more in the criminal case, for example, expenses of police to lead witnesses for testimony, leading witnesses to meet public prosecutors, and give testimony in court. Police should not pay personally and if they have to pay and the witness has to pay, it makes them unhappy to fulfill duties and will fail to cooperate with the state in appearing as witness in court.

In addition, this research shows that problems and limitations of protecting witness are partly from administration. It is found that measures and action plans in

protecting witness are increasing but unlikely evidently constructive and there is no office hosts it but just police are playing the major parts and no coordination among offices. So, the Office of the National Police Bureau, the Office of General Attorney and specially the Office of Witness Protection” an office under supervision of Department of Rights and Liberty Protection, Ministry of Justice needs to efficiently protect witnesses by any special measures and requires to fulfilling the following:

- (1) Move to new residence or find a new proper shelter
- (2) Pay considerable living allowance for witness or person under fostering for not more than a year except by necessity in prolonging a period of not exceeding 3 months a time within no more than 2 years period.
- (3) Coordinate with office involved to change name, last-name, and demographic registration eligible to identify witnesses including to return to the same status if requested by the witnesses.
- (4) Provide profession or training or any provisions that witnesses can live with self-sufficiency
- (5) Help to claim rights witnesses deserve
- (6) Provide officers for protection upon necessary period
- (7) Any preparations witnesses deserve aids and protection.

The above actions must be in secret and prohibited the offices involved disclose those information except permitted by the Ministry of Justice only.

Further, there are shortages of good leaders equipped with knowledge and ability to take the helm in protecting individual witnesses in the criminal cases. It is corresponded with the concepts of Porter and Lawler citing about individual ability and skills affecting performances. Also procedures and line of command are bureaucratic – independent working which is key to inefficiency and fruitless. There must be an overhaul of the administration system to gain efficiency in order to achieve goal of protecting witnesses in the criminal cases: to exist individual witness and its worth to the trail. Primary, it is to organize individuals to be witnesses secure from illegal dangers of all forms. But in fact, the proceedings prioritize testimony or statements of the witnesses at the hearing on their extent of accountability. Significance of protecting witnesses is therefore the authority of the state overseeing

that best evidence or the material evidence is collected. This brings efficiency of the justice administration and also to secure the basic rights of an individual. Intimidation, threats, and assaults or intervention by any forms are therefore not only the criminal offence but also the offence of obstruction of justice.

CHAPTER VI

CONCLUSIONS AND RECOMMENDATIONS

6.1 Research Objectives

6.1.1 To study cognition levels of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage and enabling to apply for working;

6.1.2 To study attitude of police under supervision of the Metropolitan Police Division 9 in protecting witnesses at the interrogation stage;

6.1.3 To study attitude of police under supervision of the Metropolitan Police Division 9 about problems and limitations in protecting witnesses at the interrogation stage;

6.1.4 To study relationship between personal data and the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9; and

6.1.5 To study relationship between other factors related to the protection of witnesses in the criminal cases at the interrogation stage of police under supervision of the Metropolitan Police Division 9.

6.2 Population and Samples

The researcher investigates 112 commissioned police allocated to interrogation job in 8 metropolitan police stations under supervision of the Metropolitan Police Division 9, i.e. the metropolitan police stations of Nongkhaem, Petchkhasem, Phasicharoen, Laksong, Nongkhangphu, Bangbon, Bangkhunthian, and Samaedam. Questionnaire is used in data collections and statistical applications were percentage, means, standard deviation, ANOVA and MCA (Multiple Classification Analysis).

6.3 Conclusions

6.3.1 Most samples were male with less than 30 years of age being police for 1-5 years and ranked at Police Lieutenant with position of interrogation officer

(Commissioned 1) earning income of 10,000 – 15,000 Baht a month, consigned to the metropolitan police station of Bangkhuntian, working on interrogation job for 4-6 years and ever having attended training /seminars on protecting individual witnesses in the criminal cases for 1-2 times, never attend training/seminars organized by the Office of the National Police Bureau on protecting individual witnesses in the criminal cases.

6.3.2 Other factors related to the interrogation officers in areas of protecting individual witness in criminal cases are found that most samples own moderate cognition of the constitutional clauses; moderate applicability of skills in working ; ever think to change job line; many problems and limitations in protecting witnesses. Problems and limitations in protecting witnesses are respectively by equipments, tools, and materials for interrogation; cooperation in testimony of witnesses; unfixed address; and intimidation of the influential and so on.

6.3.3 Protecting individual witnesses in the criminal cases in the Metropolitan Police Division 9 is found that

Protecting Individual Witness at Policy Level

Most sample agree with at present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection. The office should provide equipment, and tools in protecting witness job adequately so that its process will be efficient. Officers working on protecting witnesses should be trained additionally on knowledge and necessary skills in protecting witnesses in the criminal cases. Physical and mental promptness of the interrogation officer affect seeking individual witnesses to complement as evidence in the inquiry level. Samples most agree with problems of shortage on personnel or officers in protecting witness turns the pursuit and protection of victims and witness in the criminal cases unlikely effective. Samples most agree with unclear domicile address or change domicile and not report the interrogation officers make summon warrant does not reach the witnesses. Shortage of budgeting in the office makes most interrogation officers pay for protecting witnesses and measures of safety provided to victims and witnesses. Interrogation officers should build good relation with public for the benefits of their cooperation in witnessing in the criminal cases. In case of lawsuit, the interrogation officers must without delay notify the public prosecutors on taking

evidence. Laws, regulations and obligations related must be amended in order to gain cooperation from public in witnessing in the criminal case. Samples moderately agree with the case of the key witnesses fail to appear in court, the interrogation officers should take time to meet them at their places or their office by request cooperation and revise incidents for giving statement and report the Commander without delay.

Protection by Legal Measures

Samples moderately agree with the interrogation officers must in detail check addresses of witnesses for contact by visit and always pursue in order to have them given testimony in court. It is strongly agree that in case being the key witness in the criminal case and homeless or believing that the witness is endangering before giving testimony or to prevent escape; the interrogation officer must report or clarify causes of allowance to provide safe residence serving the key witness. Most agree with Identifying offender or the accused at inquiry level relies on discretion of the interrogation officer whether should there been encountering between the accused and the witnesses. Samples mostly agree with in case of necessity of unable to identify the accused; the interrogation officer must replace by identifying on photos. Most agree with identifying the accused, if the witness being youth not more than 18 years there must be proper place and the accused must not see the face of the witness at the presence of the public prosecutor and the social welfare staff. Samples mostly agree with sending summon warrant to victims or witnesses by the public prosecutor or court; it is the duty of the interrogation officer of the case to send it to the receiver in order to appear as witness. Most samples agree with the state must 24 hours protect witness either traveling to give statement or giving testimony in court or living at home or living at temporal residence and the government office must allocate money for the service fees for witnesses such as for inquiry, meeting the public prosecutor, giving evidence in court, that the witnesses need not spend personal money. Most samples agree with fear and anxiety of dangers to witnesses and their families in the case of influential offenders; this make them avoid testifying to complete evidence and proceeding to bring witnesses for testimony in court takes prolong time creating witness unconfident what known with the past incident.

Protection by the Constitutional Clauses

Most samples agree with the state should establish an office for directly protecting witnesses beginning from entering justice process till finalization and beyond considerable time and at present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection. samples most agree with expose witness to media or in public make witness fear to be endangered; so fails to cooperate as witness. Samples mostly agree with being without any measures in protecting witness after hearing make witnesses shortage of warranty to cooperate with the state to be witness or to submit evidence for the virtue of the case and the state should migrate the witness's family from deadly area to the securer one. Most samples agree with the state should plead court for changes of names, last names for witnesses and their families and complete all new documents related to replace the previous ones and the state should provide shelter, schools for children, and job by knowledge, ability, aptitude and other welfares necessary for witnesses and should support preliminary allowances. Samples mostly agree with in case of unable to find other witnesses, the office of the justice administration should use sciences to reduce the importance of witness and it is then difficult to hinder trial and testimony must be covered and protected for witnesses in identifying the accused during inquiry. Most samples agree with In case the victims or witnesses are poor; the interrogation officers must support for transportation fees or allowances and certifying poverty to the office of the general prosecutor for further action and agree with the state office should protect all witnesses beginning from before trial and after trial for true security of the witnesses.

6.3.4 Test of Hypotheses

- The personal background of officers under the Metropolitan Police Division 9, i.e. education; years in government service; tenure in interrogation and ranks have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level.

- The other factors related to interrogation officers under the Metropolitan Police Division 9, i.e. problems and limitations of protecting individual witnesses on number of police on budget on cognition of constitutional clauses on

cooperation of testimony and on thought of changing jobline have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level.

6.4 Recommendations from the Research

In the study “Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9”; the researcher would recommend that.

6.4.1 Personnel/policeforce – there should be encouragement and supports to acquire cognition in working and educating new approaches in protecting individual witnesses in the criminal cases. For example, it needs to organize training to upgrade knowledge in working on prevention and suppression of intimidating witnesses; computerized program to counter intimidating witnesses, educational visits on protecting individual witnesses in the criminal cases with the international offices involved with performances effectively, efficiently and internationally accepted. It requires to assign adequate policeforce to meet increasing rate of protecting individual witnesses including in training on laws related to witness protection for more non-ambiguity performance.

6.4.2 Budget/material in working – they must be allocated adequately for protecting individual witnesses such as computer, recorders, tapping devices and other necessary electronic devices, vehicles to transport witnesses during hearing and its petrol. Budgeting should be supportively approved for missions of witness protection.

6.4.3 Laws, regulations and obligations related – they must be improved and amended to cover and to restrict for witness protections like child protections specially for woman witnesses, woman victims under sexual abuses, and woman and child trades/trafficking.

6.4.4 Coordination – it should be improved for better flow among government offices involved for more cooperation specially in working e.g. Office of the General Attorney, Department of Special Investigation, Office of the National Police Bureau, Office of Witness Protection under the Department of Rights and Liberty Protection, Ministry of Justice.

6.4.5 Administration – Office of the National Police Bureau, in particular, should clearly set measures and action plans for witness protections and be more constructive, stop bureaucratic red-tape to facilitate and to speed order of witness protection. Achievement target of the organization and each sub-unit must be fixed for better cooperation and reciprocal supports within the same unit and inter-units by indicators and official certification and to reach target assigned by the state on witness protection.

6.4.6 The personal background of officers under the Metropolitan Police Division 9, i.e. years in government service; rank; and tenure in interrogation have relationship with approaches in protecting individual witnesses in the criminal case at inquiry level. It is recommended that all officers must be equally supported. It needs in-depth studies into each personal background affecting the witness protection, e.g. officers during 25-30 years of age or the single groups on what factors do they require which might autonomy or instrumental supports and so on. Further, Office of the National Police Bureau should support each officer by ability and performance. Critical consignment should be for personnel with strong experiences and high expertise to create value integrity and with fair promotion. Challenge job assignment and career advancement must be prevailing the police organization.

6.4.7 Even Thailand applies special inquiry measures for children under the Criminal Procedure Code Article 133 (bi) but restricted the individual age of not more than 18 years. This should adopt picture and sound recording for cross and direct examination in other cases, e.g. woman witness specially woman victims victimized by sex abused by organized crimes and eligible to non-stop on-air as witness in order to be sued in hearing and also be used in the organized crimes regardless of ages for individual admitted to witness protections.

6.4.8 The should be Amendment of the existing Witness Protection Act setting criteria to apply measures of video conferences without age and gender -limit for those admitted in the witness protection program. This helps systematize in enforcement and the unity of law.

6.4.9. Criteria should be set in case of the organized crimes enforcing the clauses of the Criminal Procedure Code related to child testimony *mutatis mutandis*. It is to permit special direct and cross examination by video conferences to secure

witness in the organize crime trail. Also, general protection and special measures must be reciprocally meet and serve the purposes and the objectives of the UN Convention to counter cross-national organized crimes No. 24.

6.4.10 There should be requirements for the interrogation officers or public prosecutors in order of separate any offender to be witness by necessity particularly, offender from the organized crime to prove guilty the accused or defendant so as to incapacitating resources and property gained by the groups of the organized crime.

6.5 Recommendations for Further Studies

6.5.1 Research should be conducted on factors relating witness protection in the criminal case of police under other Metropolitan Police Divisions to compare their findings.

6.5.2 Problems and limitations of witness protection in criminal cases should be investigated among police under the Metropolitan Police Division 9 to seek solutions and improvements for best effectiveness in witness protection program.

6.5.3 Other variables should be selected for the study such as attitude over investigations of police; perception of information related to witness protection program; cognition of special witness protection program; public support of WPP and so on in order to gain diverse summaries and to further apply the findings for improving police performances.

6.5.4 Problems and limitations or model of individual witness protection program in the offices of the public prosecutors and the court.

6.5.5 This study employs questionnaire for data collections. So for better completeness to investigate opinions of police under supervision of the Metropolitan Police Division 9 should employ other approaches such as a comparative researches or experimental researches, and in-depth researches and so on.

6.5.6 Future research should use PAR (Participatory Action Research) which can give real data and more in-depth findings.

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APPENDIX

พระราชบัญญัติคุ้มครองพยานในคดีอาญา พ.ศ. 2546

ภูมิพลอดุลยเดช ป.ร.

ให้ไว้ ณ วันที่ 13 มิถุนายน พ.ศ. 2546 เป็นปีที่ 58 ในรัชกาลปัจจุบัน

พระบาทสมเด็จพระปรมินทรมหาภูมิพลอดุลยเดช มีพระบรมราชโองการโปรดเกล้าฯ ให้ประกาศว่า โดยที่เป็นการสมควรให้มีกฎหมายว่าด้วยการคุ้มครองพยานในคดีอาญา

พระราชบัญญัตินี้มีบทบัญญัติ บางประการเกี่ยวกับการจำกัดสิทธิและเสรีภาพของบุคคล ซึ่ง มาตรา 29 ประกอบกับ มาตรา 31 มาตรา 36 และ มาตรา 37 ของรัฐธรรมนูญแห่งราชอาณาจักรไทย บัญญัติให้กระทำได้โดยอาศัยอำนาจตามบทบัญญัติแห่งกฎหมาย

จึงทรงพระกรุณาโปรดเกล้าฯ ให้ตราพระราชบัญญัติขึ้นไว้โดยคำแนะนำและยินยอมของรัฐสภา ดังต่อไปนี้

มาตรา 1 พระราชบัญญัตินี้เรียกว่า "พระราชบัญญัติ คุ้มครองพยานในคดีอาญา พ.ศ. 2546"

มาตรา 2 พระราชบัญญัตินี้ให้ใช้บังคับเมื่อพ้นกำหนดหนึ่งร้อยแปดสิบวันนับแต่วันถัดจากวัน

ประกาศในราชกิจจานุเบกษา เป็นต้นไป

มาตรา 3 ในพระราชบัญญัตินี้ "พยาน" หมายความว่า พยานบุคคลซึ่งจะมาให้ หรือได้ให้ข้อเท็จจริง ต่อ พนักงานผู้มีอำนาจสืบสวนคดีอาญา พนักงานผู้มีอำนาจสอบสวนคดีอาญา พนักงานผู้มีอำนาจฟ้องคดีอาญา หรือ ศาลในการดำเนินคดีอาญา รวมทั้งผู้ชำนาญการพิเศษ แต่มิให้หมายความรวมถึงจำเลยที่อ้างตนเองเป็นพยาน

"ความปลอดภัย" หมายความว่า ความปลอดภัยในชีวิต ร่างกาย อนามัย เสรีภาพ ชื่อเสียง ทรัพย์สิน หรือ สิทธิอย่างหนึ่งอย่างใดของพยาน ทั้งก่อน ขณะและหลังมาเป็นพยาน

"รัฐมนตรี" หมายความว่า รัฐมนตรีผู้รักษาการตามพระราชบัญญัตินี้

มาตรา 4 การเรียกร้องหรือการได้มาซึ่งสิทธิหรือประโยชน์ตามพระราชบัญญัตินี้ ไม่เป็นการตัดสิทธิ หรือประโยชน์ที่พยานพึงได้รับตามกฎหมายอื่น

มาตรา 5 ให้นายกรัฐมนตรี รัฐมนตรีว่าการกระทรวงกลาโหม รัฐมนตรีว่าการกระทรวงมหาดไทย และ รัฐมนตรีว่าการกระทรวงยุติธรรมรักษาการตามพระราชบัญญัตินี้ และเพื่อการนั้นให้มีอำนาจออกกฎกระทรวงวาง ระเบียบการงานตามหน้าที่ กับให้มีอำนาจแต่งตั้งพนักงานเจ้าหน้าที่เพื่อปฏิบัติการตามพระราชบัญญัตินี้ ทั้งนี้ ใน ส่วนที่เกี่ยวกับอำนาจหน้าที่ของแต่ละกระทรวง กฎกระทรวงและระเบียบนั้น เมื่อได้ประกาศในราชกิจจานุเบกษา แล้วให้ใช้บังคับได้

หมวด 1 มาตรการทั่วไปในการคุ้มครองพยาน

มาตรา 6 ในกรณีที่พยานไม่ได้รับความปลอดภัยพนักงานผู้มีอำนาจสืบสวนคดีอาญาพนักงาน ผู้มีอำนาจ สอบสวนคดีอาญาพนักงานผู้มีอำนาจฟ้องคดีอาญาศาลหรือสำนักงานคุ้มครองพยานแล้วแต่กรณีอาจจัดให้พยาน อยู่ในความคุ้มครองตามที่เห็นเป็นการสมควรหรือตามที่พยานหรือบุคคลอื่นใด ซึ่งมีประโยชน์เกี่ยวข้องได้ร้อง ขอและในกรณีจำเป็นบุคคลดังกล่าวจะขอให้เจ้าพนักงานตำรวจ หรือเจ้าหน้าที่อื่นช่วยให้ความปลอดภัยแก่พยาน ได้ตามความจำเป็นทั้งนี้ต้องได้รับความยินยอม ของพยานด้วย

การแจ้งและวิธีการที่เจ้าพนักงานตำรวจหรือเจ้าหน้าที่อื่น จะให้ความคุ้มครองแก่พยานตามคำขอและการสิ้นสุดลงซึ่งการคุ้มครอง ตามวรรคหนึ่ง ให้เป็นไปตามระเบียบที่กำหนด โดยผู้บัญชาการตำรวจแห่งชาติหรือหัวหน้าหน่วยงานของรัฐของเจ้าหน้าที่ที่เกี่ยวข้องแล้วแต่กรณี

การคุ้มครองให้พยานได้รับความปลอดภัย ให้รวมถึงการจัดให้พยานอยู่ในสถานที่ที่ปลอดภัย เว้นแต่พยานจะไม่ให้ความยินยอมและการปกปิดมิให้มีการเปิดเผยชื่อตัว ชื่อสกุล ที่อยู่ ภาพหรือข้อมูลอย่างอื่นที่สามารถระบุตัวพยานได้ ทั้งนี้ ตามความเหมาะสมแก่สถานะและสภาพของพยานและลักษณะของคดีอาญาที่เกี่ยวข้อง

มาตรา 7 ในกรณีที่มี ภริยา ผู้บุพการี ผู้สืบสันดานของพยาน หรือบุคคลอื่นที่มีความสัมพันธ์ใกล้ชิดกับพยานซึ่งมีผลต่อการที่พยานจะมาเป็นพยานอาจไม่ได้รับความปลอดภัยและพยานได้ร้องขอให้เจ้าหน้าที่ที่ผลิตเกี่ยวข้องพิจารณา นำมาตรการทั่วไปในการคุ้มครองพยานมาใช้บังคับแก่บุคคลดังกล่าว ได้ตามความจำเป็นที่เห็นสมควร เว้นแต่บุคคลดังกล่าวจะไม่ให้ความยินยอม

หมวด 2 มาตรการพิเศษในการคุ้มครองพยาน

มาตรา 8 พยานในคดีอย่างหนึ่งอย่างใดดังต่อไปนี้ อาจได้รับความคุ้มครองตามมาตรการพิเศษได้

(1) คดีความผิดตามกฎหมายเกี่ยวกับยาเสพติด กฎหมายว่าด้วยการป้องกันและปราบปรามการฟอกเงิน กฎหมายว่าด้วยการป้องกันและปราบปรามการทุจริต หรือกฎหมายว่าด้วยศุลกากร

(2) คดีความผิดเกี่ยวกับความมั่นคงแห่งราชอาณาจักรตาม ประมวลกฎหมายอาญา

(3) คดีความผิดเกี่ยวกับเพศตามประมวลกฎหมายอาญา เฉพาะที่เกี่ยวกับการเป็นกระจัดหาล่องไปหรือพาไปเพื่อการอนาจารเพื่อสนองความใคร่ของผู้อื่นและความผิดฐานพรากเด็กและผู้เยาว์ ความผิดตามกฎหมายว่าด้วยมาตรการในการป้องกันและปราบปรามการค้าหญิงและเด็กหรือความผิดตามกฎหมายว่าด้วยการป้องกันและปราบปรามการค้าประเวณี หรือความผิดเกี่ยวกับการเป็นเจ้าของกิจการค้าประเวณี ผู้ดูแลหรือผู้จัดการกิจการค้าประเวณีหรือสถานการค้าประเวณีหรือเป็นผู้ควบคุมผู้กระทำการค้าประเวณีในสถานการค้าประเวณี

(4) คดีความผิดเกี่ยวกับองค์การอาชญากรรม ได้แก่ ความผิดฐานอั้งยี่และช่องโจรตาม ประมวลกฎหมายอาญา และให้หมายความรวมถึงความผิดอื่นใดที่มีลักษณะเป็นการกระทำร่วมกันโดยกลุ่มอาชญากร ที่มีการวางแผนอย่างเป็นระบบและมีการวางเครือข่ายเป็นขบวนการหรือองค์กรลับอย่างซับซ้อนและเป็นสัดส่วน

(5) คดีความผิดที่อัตราโทษอย่างต่ำให้จำคุกตั้งแต่สิบปีขึ้นไป หรือโทษสถานหนักกว่านั้น

(6) คดีซึ่งสำนักงานคุ้มครองพยานเห็นสมควรให้ความคุ้มครองพยาน

มาตรา 9 เมื่อปรากฏแน่ชัดหรือมีเหตุอันควรสงสัยว่าพยานจะไม่ได้รับความปลอดภัย ยานหรือบุคคลอื่นใดซึ่งมีประโยชน์เกี่ยวข้อง พนักงานผู้มีอำนาจสืบสวนคดีอาญา พนักงานผู้มีอำนาจสอบสวนคดีอาญา หรือพนักงานผู้มีอำนาจฟ้องคดีอาญา อาจยื่นคำร้องต่อรัฐมนตรีว่าการกระทรวงยุติธรรมหรือผู้ซึ่งได้รับมอบหมาย เพื่อใช้มาตรการพิเศษในการคุ้มครองพยาน ทั้งนี้ ต้องได้รับความยินยอมของพยานด้วยเมื่อได้รับคำร้องตามวรรคหนึ่ง ให้รัฐมนตรีว่าการกระทรวงยุติธรรมหรือผู้ซึ่งได้รับมอบหมายพิจารณาสั่งการ โดยด่วน ถ้ามีเหตุอันควรเชื่อได้ว่าพยานจะไม่ได้รับความปลอดภัย ก็ให้สั่งให้ใช้มาตรการพิเศษในการคุ้มครองพยานการยื่นคำร้องตามวรรคหนึ่ง และการดำเนินการตามวรรคสอง ให้เป็นไปตามหลักเกณฑ์ วิธีการ และเงื่อนไขที่กำหนดในกฎกระทรวง

มาตรา 10 ให้สำนักงานคุ้มครองพยานดำเนินการเพื่อคุ้มครองพยานตามมาตรการพิเศษอย่างหนึ่งอย่างใดดังต่อไปนี้

- (1) ย้ายที่อยู่ หรือจัดหาที่พักอันเหมาะสม
- (2) จ่ายค่าเลี้ยงชีพที่สมควรแก่พยาน หรือบุคคลที่อยู่ในความอุปการะเลี้ยงดูของพยานเป็นระยะเวลาไม่เกินหนึ่งปีเว้นแต่มีเหตุจำเป็นอาจขอขยายระยะเวลาครั้งละไม่เกินสามเดือนแต่ไม่เกินสองปี
- (3) ประสานงานกับหน่วยงานที่เกี่ยวข้องเพื่อดำเนินการเปลี่ยนชื่อตัว ชื่อสกุล และหลักฐานทางทะเบียนที่สามารถระบุตัวพยาน รวมทั้งการดำเนินการเพื่อกลับคืนสู่ฐานะเดิมตามคำขอของพยานด้วย
- (4) ดำเนินการเพื่อให้มีอาชีพหรือให้มีการศึกษาอบรม หรือดำเนินการใดเพื่อให้พยานสามารถดำรงชีพอยู่ได้ตามที่เหมาะสม
- (5) ช่วยเหลือในการเรียกร่องสิทธิที่พยานพึงได้รับ
- (6) ดำเนินการให้มีเจ้าหน้าที่คุ้มครองความปลอดภัยในระยะเวลาที่จำเป็น
- (7) ดำเนินการอื่นใดในพยานได้รับความช่วยเหลือ ได้รับความคุ้มครองตามที่เห็นสมควร

ในกรณีที่ได้มีการดำเนินการ ตามวรรคหนึ่งให้หน่วยงานที่เกี่ยวข้องปฏิบัติตามคำขอดังกล่าว โดยให้ถือว่าข้อมูลดังกล่าวเป็นความลับ และห้ามมิให้หน่วยงานที่เกี่ยวข้องเปิดเผยข้อมูลนั้น เว้นแต่จะได้รับอนุญาตจากรัฐมนตรีว่าการกระทรวงยุติธรรม

มาตรา 11 ในกรณีที่สามี ภริยา ผู้บุพการี ผู้สืบสันดานของพยาน หรือบุคคลอื่นที่มีความสัมพันธ์ใกล้ชิดกับพยานซึ่งมีผลต่อการที่พยานจะมาเป็นพยานอาจไม่ได้รับความปลอดภัย และพยานได้ร้องขอให้นำมาตรการพิเศษ ในการคุ้มครองพยานมาใช้บังคับแก่บุคคลดังกล่าวได้ เว้นแต่บุคคลดังกล่าวจะไม่ให้ความยินยอม

มาตรา 12 รัฐมนตรีว่าการกระทรวงยุติธรรมหรือผู้ซึ่งได้รับมอบหมายอาจสั่งให้การคุ้มครองพยาน ตามมาตรการพิเศษสิ้นสุดลง เมื่อมีเหตุอย่างหนึ่งอย่างใด ดังต่อไปนี้

- (1) พยานร้องขอ
- (2) พยานไม่ปฏิบัติตามกฎกระทรวง หรือระเบียบของกระทรวงยุติธรรมว่าด้วยการคุ้มครองพยานตามมาตรการพิเศษ
- (3) พฤติการณ์เกี่ยวกับความปลอดภัยของพยานเปลี่ยนแปลงไป และกรณีไม่มีความจำเป็นที่จะต้องให้การคุ้มครองพยานตามมาตรการพิเศษอีกต่อไป
- (4) พยานไม่ให้การเป็นพยาน โดยไม่มีเหตุสมควร
- (5) ศาลมีคำพิพากษาถึงที่สุดให้ลงโทษพยาน ในความรับผิดชอบแจ้งข้อความอันเป็นเท็จ ความผิดฐานเบิกความอันเป็นเท็จในการพิจารณาคดีต่อศาล หรือความผิดฐานทำพยานหลักฐานอันเป็นเท็จอันเนื่องมาจากการเป็นพยานในคดีที่พยานได้รับความคุ้มครอง

หมวด 3 สำนักงานคุ้มครองพยานและการดำเนินคดี

มาตรา 13 ให้จัดตั้งสำนักงานคุ้มครองพยานขึ้นในกระทรวงยุติธรรม และให้มีอำนาจหน้าที่รับผิดชอบเกี่ยวกับการคุ้มครองพยานตามมาตรการทั่วไปและมาตรการพิเศษ การปฏิบัติที่ไม่เหมาะสม รวมทั้งประสานการปฏิบัติงานและข้อมูลเกี่ยวกับหน่วยงานที่เกี่ยวข้อง ทั้งภาครัฐและภาคเอกชน เพื่อประโยชน์ในการคุ้มครองความปลอดภัยแก่พยานตามพระราชบัญญัตินี้

มาตรา 14 ในกรณี que เห็นว่ามีความจำเป็น กระทรวงยุติธรรมจะแต่งตั้งข้าราชการในสังกัดกระทรวงยุติธรรม ซึ่งมีคุณวุฒิไม่ต่ำกว่าปริญญาตรีทางนิติศาสตร์ เพื่อให้มีอำนาจดำเนินคดีแพ่ง ตามพระราชบัญญัตินี้ตามที่กระทรวงยุติธรรมมอบหมายก็ได้ โดยแจ้งให้ศาลทราบ

การดำเนินคดีตามพระราชบัญญัตินี้ ให้ข้าราชการผู้ได้รับแต่งตั้งให้ดำเนินคดีหรือพนักงานอัยการได้รับยกเว้นค่าฤชาธรรมเนียมทั้งปวง

หมวด 4 ค่าตอบแทนและค่าใช้จ่ายแก่พยาน

มาตรา 15 ในกรณีเกิดความเสียหายแก่ชีวิต ร่างกาย อนามัย เสรีภาพ ชื่อเสียง ทรัพย์สิน หรือสิทธิอย่างหนึ่งอย่างใดของพยานหรือสามี ภริยา ผู้บุพการี ผู้สืบสันดานหรือบุคคลอื่นที่มีความสัมพันธ์ใกล้ชิดกับพยาน เพราะมีการกระทำผิดอาญาโดยเจตนาเนื่องจากการที่พยานจะมา หรือ ได้มาเป็นพยานบุคคลนั้น มีสิทธิได้รับค่าตอบแทนที่จำเป็นและสมควร

ค่าตอบแทนตามวรรคหนึ่ง ให้เป็นไปตามระเบียบที่กระทรวงยุติธรรมกำหนด โดยความเห็นชอบของกระทรวงการคลัง

ในกรณีที่บุคคลตามวรรคหนึ่งปฏิเสธการได้รับความคุ้มครองตาม มาตรา 6 มาตรา 7 มาตรา 9 หรือ มาตรา 11 แล้วแต่กรณี บุคคลดังกล่าวไม่มีสิทธิได้รับค่าตอบแทน

มาตรา 16 ให้บุคคลซึ่งได้รับความเสียหายที่มีสิทธิขอรับค่าตอบแทนตาม มาตรา 15 หรือทนายชั้นคำขอต่อสำนักงานคุ้มครองพยานตามแบบที่สำนักงานคุ้มครองพยานกำหนดภายในหนึ่งปี นับแต่วันที่บุคคลนั้น ได้รู้ถึงการกระทำความผิดหลักเกณฑ์ วิธีการยื่นคำขอ และวิธีพิจารณาคำขอ ให้เป็นไปตามระเบียบที่กระทรวงยุติธรรมกำหนด

มาตรา 17 เมื่อพยานได้ให้ข้อเท็จจริงต่อ พนักงานผู้มีอำนาจสืบสวนคดีอาญา พนักงานผู้มีอำนาจสอบสวนคดีอาญา พนักงานผู้มีอำนาจฟ้องคดีอาญา หรือเบิกความต่อศาลแล้ว พยานพึงมีสิทธิได้รับค่าตอบแทนที่จำเป็นและสมควร ทั้งนี้ ตามระเบียบที่กระทรวงยุติธรรมกำหนด โดยความเห็นชอบของกระทรวงการคลัง แต่ในกรณีที่พยานโจทก์ในคดีความผิดต่อส่วนตัวซึ่งผู้เสียหายเป็นโจทก์ หรือเป็นพยานจำเลยให้อยู่ในดุลพินิจของศาลที่จะมีคำสั่งให้มีการจ่ายค่าตอบแทนดังกล่าว แต่ไม่เกินอัตราตามระเบียบที่กระทรวงยุติธรรมกำหนด โดยความเห็นชอบของกระทรวงการคลัง

มาตรา 18 ค่าใช้จ่ายในการคุ้มครองพยาน สามี ภริยา ผู้บุพการี ผู้สืบสันดานหรือบุคคลอื่นที่มีความสัมพันธ์ใกล้ชิดกับพยาน ให้เป็นไปตามระเบียบที่กระทรวงยุติธรรมกำหนด โดยความเห็นชอบของกระทรวงการคลัง

มาตรา 19 หากปรากฏในภายหลังว่าพยานไม่มา ไม่ให้ถ้อยคำหรือเบิกความเป็นพยานโดยไม่มีเหตุสมควร หรือมีคำพิพากษาถึงที่สุดให้ลงโทษพยานในความผิดฐานแจ้งข้อความอันเป็นเท็จ ความผิดฐานเบิกความอันเป็นเท็จในการพิจารณาคดีต่อศาล หรือความผิดฐานทำพยานหลักฐานอันเป็นเท็จในคดีที่บุคคลนั้นเป็นพยาน ให้บุคคลนั้นคืนหรือชดใช้ค่าตอบแทนตาม มาตรา 15 หรือ มาตรา 17 หรือคืน หรือชดใช้ค่าใช้จ่ายในการคุ้มครองพยานและบุคคลอื่นตาม มาตรา 18 แล้วแต่กรณี ที่รัฐได้จ่ายไปจริงภายในสามสิบวันนับแต่วันที่ได้รับคำสั่งจากพนักงานคุ้มครองพยาน

ในหน่วยงานที่ได้จ่ายค่าตอบแทน หรือค่าใช้จ่ายประสานงานกับสำนักงานคุ้มครองพยาน ในการเรียกเก็บหรือเรียกให้ชดใช้ค่าตอบแทนหรือค่าใช้จ่ายตามวรรคหนึ่ง

หมวด 5 การอุทธรณ์

มาตรา 20 ในกรณีที่ผู้ได้รับคำสั่งตาม มาตรา 6 มาตรา 7 มาตรา 9 มาตรา 10 มาตรา 11 มาตรา 12 มาตรา 16 มาตรา 17 หรือ มาตรา 19 อันมิใช่คำสั่งของศาล ไม่พอใจคำสั่งดังกล่าวให้มีสิทธิอุทธรณ์คำสั่งนั้น โดยยื่นเป็นคำร้องต่อศาลยุติธรรมชั้นต้น ซึ่งมีศาลแขวงและมีอำนาจพิจารณาพิพากษาคดีอาญาหรือศาลทหารชั้นต้น ที่มีเขตอำนาจเหนือคดีนั้นหรือบุคคลเหล่านั้นมีที่อยู่ภายในสามสิบวันนับแต่วันที่ได้รับแจ้งคำสั่ง

การยื่นอุทธรณ์ตามวรรคหนึ่งให้ได้รับยกเว้นค่าฤชาธรรมเนียมทั้งปวง ให้การอุทธรณ์คำสั่งตาม มาตรา 19 เป็นการทุเลาการบังคับตามคำสั่งสำนักงานคุ้มครองพยาน การอุทธรณ์คำสั่งตามมาตรา 6 มาตรา 7 มาตรา 9 มาตรา 10 มาตรา 11 หรือ มาตรา 12 ให้ศาลพิจารณาเป็นการลับและให้เฉพาะบุคคลที่เกี่ยวข้องกับคดีตามที่ศาลเห็นสมควรมีสิทธิเข้าฟังการพิจารณาคดีได้ ทั้งนี้ให้ศาลพิจารณาแล้วมีคำสั่งให้แล้วเสร็จภายในสามสิบวันนับแต่วันที่ศาลได้รับอุทธรณ์เว้นแต่มีเหตุอันสมควรศาลอาจขยายระยะเวลาออกไปได้ตามความจำเป็นแก่กรณีแต่ต้องจดรายงานเหตุนั้นไว้

ในการพิจารณาอุทธรณ์ให้ศาลมีอำนาจหมายเรียกเอกสาร ข้อมูล หรือเจ้าพนักงานที่เกี่ยวข้อง มาศาลเพื่อทำการไต่สวนโดยไม่ชักช้าและสืบพยานหลักฐานเพิ่มเติมได้ตามที่เห็นสมควร คำสั่งของศาลมาตรานี้ให้เป็นที่สุด

หมวด 6 บทกำหนดโทษ

มาตรา 21 ผู้ใดเปิดเผยความลับที่เกี่ยวกับสถานที่อยู่ ชื่อตัว ชื่อสกุล ที่อยู่ ภาพ หรือข้อมูลอย่างอื่นที่สามารถระบุตัวพยาน สามี ภริยา ผู้บุพการี ผู้สืบสันดานหรือบุคคลอื่นที่มีความสัมพันธ์ใกล้ชิดกับพยาน ซึ่งได้มีการดำเนินการเพื่อให้เกิดความปลอดภัยตาม มาตรา 6 มาตรา 7 มาตรา 10 หรือ มาตรา 11 โดยประการที่น่าจะเป็นเหตุให้บุคคลเหล่านั้นไม่ได้รับความปลอดภัย ต้องระวางโทษจำคุกไม่เกินหนึ่งปี หรือปรับไม่เกินสองหมื่นบาท หรือทั้งจำทั้งปรับ

ถ้าการกระทำตามวรรคหนึ่งเป็นเหตุให้บุคคลดังกล่าวได้รับอันตรายแก่กายหรือจิตใจผู้กระทำความต้องระวางโทษจำคุกไม่เกินสองปีหรือปรับไม่เกินสี่หมื่นบาทหรือทั้งจำทั้งปรับ

ถ้าการกระทำตามวรรคหนึ่งเป็นเหตุให้บุคคลดังกล่าวถึงแก่ความตาย ผู้กระทำความต้องระวางโทษจำคุกไม่เกินเจ็ดปีหรือปรับไม่เกินหนึ่งแสนสี่หมื่นบาทหรือทั้งจำทั้งปรับ

มาตรา 22 ถ้าการกระทำตาม มาตรา 21 เป็นการกระทำเพื่อให้บุคคลตามมาตราดังกล่าวไม่ได้รับความปลอดภัยผู้กระทำความต้องระวางโทษหนักกว่าที่บัญญัติไว้ในมาตรานั้นกึ่งหนึ่ง

มาตรา 23 ผู้ใดกระทำความผิดอาญาต่อบุคคลใดเพราะเหตุที่บุคคลนั้น สามี ภริยา ผู้บุพการี ผู้สืบสันดานหรือบุคคลนั้นจะมาหรือได้มาเป็นพยานต้องระวางโทษหนักกว่าที่บัญญัติไว้ในมาตรานั้นกึ่งหนึ่ง

ผู้สนองพระบรมราชโองการ

พันตำรวจโท ทักษิณ ชินวัตร

นายกรัฐมนตรี

หมายเหตุ :

เหตุผลในการประกาศใช้พระราชบัญญัติฉบับนี้ คือ โดยที่บทบัญญัติ มาตรา 244 ของ รัฐธรรมนูญแห่งราชอาณาจักรไทย บัญญัติรองรับสิทธิของบุคคลซึ่งเป็นพยานในคดีอาญาให้ได้รับความคุ้มครอง การปฏิบัติที่เหมาะสมและค่าตอบแทนที่จำเป็นและสมควรจากรัฐ และเนื่องจากปัจจุบันพยานยังไม่ได้รับความคุ้มครองเท่าที่ควร ทั้งที่พยานมีความสำคัญยิ่งต่อการพิสูจน์ความจริงในทางอรรถคดี เป็นเหตุให้เกิดผลเสียต่อกระบวนการยุติธรรม ดังนั้น เพื่อเพิ่มความคุ้มครองพยานให้สอดคล้องกับบทบัญญัติของ รัฐธรรมนูญแห่งราชอาณาจักรไทย จึงจำเป็นต้องตราพระราชบัญญัตินี้ (รก. ล.120 ต.58 ก น.4)

QUESTIONNAIRE

Title

“Approaches in Protecting Individual Witnesses in Criminal Cases at the Interrogation of the Police: a case study of the Metropolitan Police Division 9”

Instructions Complete the blanks ✓ or in as you find fact or closest to your opinion.

Part 1: Personal Background

1. Gender

<input type="checkbox"/> Male	<input type="checkbox"/> Female
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2. Age.....years
3. Years in government servicesyearsmonths
4. Ranks

<input type="checkbox"/> Pol. Sub-lieutenant.	<input type="checkbox"/> Pol. Major
<input type="checkbox"/> Pol. Lieutenant.	<input type="checkbox"/> Pol. Lt.-Colonel
<input type="checkbox"/> Pol. Captain	<input type="checkbox"/> Pol. Colonel
5. Current position

<input type="checkbox"/> Interrogation officer (Commissioned1)	<input type="checkbox"/> Deputy Superintendent
<input type="checkbox"/> Interrogation officer (Commissioned 2)	<input type="checkbox"/> Superintendent
<input type="checkbox"/> Interrogation officer (Commissioned 3)	<input type="checkbox"/> Others (specified)
6. Education

<input type="checkbox"/> Bachelor degree	
<input type="checkbox"/> Master degree	
<input type="checkbox"/> Others (Specified).....	
7. IncomeB/month
8. Consigned to police station of

<input type="checkbox"/> Nongkhaem	<input type="checkbox"/> Nongkhangplu
<input type="checkbox"/> Petchkhasem	<input type="checkbox"/> Bangbon
<input type="checkbox"/> Phasicharoen	<input type="checkbox"/> Bangkhuntian
<input type="checkbox"/> Laksong	<input type="checkbox"/> Samaedam
9. Tenure in interrogation jobyearsmonths
10. Training /seminar of protecting witness organized by outsiders

<input type="checkbox"/> Never	<input type="checkbox"/> 5-6 times
<input type="checkbox"/> 1-2 times	<input type="checkbox"/> More than 7 times
<input type="checkbox"/> 3-4 times	<input type="checkbox"/> Others (Specified).....
11. Training /seminar of protecting witness organized by office of national Police Bureau

<input type="checkbox"/> Never	<input type="checkbox"/> 5-6 times
<input type="checkbox"/> 1-2 times	<input type="checkbox"/> More than 7 times
<input type="checkbox"/> 3-4 times	<input type="checkbox"/> Others (Specified).....
12. Training /seminar of protecting witness organized by in-house training

<input type="checkbox"/> Never	<input type="checkbox"/> Yes
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Part 2: Other factors of interrogation police

1. Being interrogation officer, you know and understand the Constitutional law –based working in protecting witnesses in the criminal case at level of ...
Most Much Moderate Less Least
2. Being interrogation officer, you can apply skills, knowledge related to Constitutional law based in protecting witnesses in the criminal case with effectiveness at level of
Most Much Moderate Less Least
3. Ever think to quit interrogation job to other new lines?
 Never Yes
4. Protecting witness in the criminal case at the stage of inquiry is met with problems and limitations affecting the protecting witness at level of
Most Much Moderate Less Least
5. Any factors are key problems and limitations affecting protecting witnesses at the inquiry levels, **(prioritize 1-3)**
 - 1.Tools, utility, and materials for inquiry.
 - 2.Laws, regulations and obligations
 - 3.Cooperation in giving statement of victims
 - 4.Limit number of police
 - 5.Cooperation of giving testimony of witness
 - 6.Policy of the Commander
 - 7.Homeless witness
 - 8.Budget
 - 9.Witness reject to appear before court
 - 10.Period of time in trial
 - 11.Intimidation, assaults, threats on witness from influential persons
 - 12.Reporting news
 - 13.Intervention by the influential persons
 - 14.Documents and evidences
 - 15.Public cooperation in supplying information
 - 16.Dishonest in the government offices
 - 17.Absence of cooperation from other offices
 - 18.Others (specified).....

Part 3: Protecting individual witness (PIW) in the criminal cases at the level of interrogation police under supervision of Metropolitan Police Division 9

Descriptions	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
PIW at Policy Level					
1. At present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection					
2. The office should provide equipment, and tools in protecting witness job adequately so that its process will be efficient.					
3. Officers working on protecting witnesses should be trained additionally on knowledge and necessary skills in protecting witnesses in the criminal cases.					
4. Physical and mental promptness of the interrogation officer affect seeking individual witnesses to complement as evidence in the inquiry level.					
5. Problems of shortage on personnel or officers in protecting witness turns the pursuit and protection of victims and witness in the criminal cases unlikely effective					
6. Unclear domicile address or change domicile and not report the interrogation officers make summon warrant does not reach the witnesses.					
7. Shortage of budgeting in the office makes most interrogation officers pay for protecting witnesses and measures of safety provided to victims and witnesses.					
8. Interrogation officers build good relation with public for the benefits of their cooperation in witnessing in the criminal cases.					
9. Incase of lawsuit, the interrogation officers must without delay notify the public prosecutors on taking evidence.					
10. Amendments of laws, regulations and obligations related in order to gain cooperation from public in witnessing in the criminal cases.					
11. The case of the key witnesses fail to appear in court , the interrogation officers should take time to meet them at their places or their office by request cooperation and revise incidents for giving statement and report the Commander without delay.					
Protection by Legal Measures					
12. The interrogation officers must in detail check addresses of witnesses for contact by visit and always pursue in order to have them given testimony in court					
13. In case being the key witness in the criminal case and homeless or believing that the witness is endangering before giving testimony or to prevent escape; the interrogation officer must report or clarify causes of allowance to provide safe residence serving the key witness.					
14. Identifying offender or the accused at inquiry level relies on discretion of the interrogation officer whether should there been encountering between the accused and the witnesses.					
15. In case of necessity of unable to identify the accused; the interrogation officer must replace by identifying on photos					
16. Identifying the accused, if the witness being youth not more than 18 years there must be proper place and the accused must not see the face of the witness at the presence of the public prosecutor and the social welfare staff					

Descriptions	Levels of opinions				
	Most agree	Much agree	Mod. agree	Less agree	Least agree
17. Sending summon warrant to victims or witnesses by the public prosecutor or court, it is the duty of the interrogation officer of the case to send it to the receiver in order to appear as witness.					
18. The state must 24 hours protect witness either traveling to give statement or giving testimony in court or living at hoe or living at temporal residence					
19. The government office must allocate money for the service fees for witnesses such as for inquiry, meeting the public prosecutor, giving evidence in court, that the witnesses need not spend personal money.					
20. Fear and anxiety of dangers to witnesses and their families in the case of influential offenders; this make them avoid testifying to complete evidence.					
21. Proceeding to bring witnesses for testimony in court takes prolong time creating witness unconfident what known with the past incident					
Protection by the Constitutional Clauses					
22. The state should establish an office for directly protecting witnesses beginning from entering justice process till finalization and beyond considerable time					
23. At present you have overloaded responsibility in the interrogation job so that you are unable to prevailly protecting witness if there are petition for protection					
24. Expose witness to media or in public makes witness fear to be endangered; so fails to cooperate as witness.					
25. Being without any measures in protecting witness after hearing make witnesses shortage of warranty to cooperate with the state to be witness or to submit evidence for the virtue of the case.					
26. The state should migrate the witness's family from deadly area to the securer one.					
27. the state should plead court for changes of names, last names for witnesses and their families and complete all new documents related to replace the previous ones.					
28. The state should provide shelter, schools for children, and job by knowledge, ability, aptitude and other welfares necessary for witnesses and should support preliminary allowances.					
29. In case of unable to find other witnesses, the office of the justice administration should use sciences to reduce the importance of witness and it is then difficult to hinder trial.					
30. Testimony must be covered and protected for witnesses in identifying the accused during inquiry					
31. In case the victims or witnesses are poor; the interrogation officers must support for transportation fees or allowances and certifying poverty to the office of the general prosecutor for further action.					
32. The state office should protect all witnesses beginning from before trial and after trial for true security of the witnesses.					

BIOGRAPHY

Name	Pol. Lt. Theerayut Sutthiponpisarn
Date of Birth	February 2, 1981
Place of Birth	Bangkok, Thailand
Education	Royal Police Cadet Academy B.A. Public Administration (Police) Batch 57 Sukhothaimathirath University, 2005 B.A. Bachelor of Law Mahidol University, 2008 M.A. (Criminology and Criminal Justice)
Worklife	Deputy Inspector: Royal Police Cadet Academy (Feb.1- Dec.30, 2004) Interrogation Officer: (Commissioned 1: Jan.1, 2005 - present): Provincial Police Station of Samkwaipuek, Provincial Police Command of Nakhonpathom Regional Police Division 7
Residence	261 Moo.5 Tambol Nongmakhamong, Amphoe Danchang, Suphanburi