An Assessment of Enforcement of the Witness Protection Act B.E. 2546*

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= Abstract =

The research project entitled “An Assessment of Enforcement of the Witness Protection Act, B.E. 2546 (2003)” has the following objectives (1) to identify problems or constraints encountered in the course of implementing the witness protection program under the Witness Protection Act, B.E. 2546 (2003) and relevant rules and regulations; (2) to study the procedures of law enforcement and the implementation of witness protection; and (3) to develop the role, mandate and structure of the Witness Protection Office in accordance with the intent of the legislation.

The research employed a mixed qualitative and quantitative research methods. It gathered information by conducting in-depth interviews with 28 executives and relevant officials; arranging two focus group discussions,
the first of which involved 20 executives from relevant witness protection authorities, and the second involved 13 operational officials from the core agency, i.e. the Witness Protection Office. The research also organized a workshop and conducted a survey of the sample group of 214 persons drawn from witnesses who participated in the witness protection program funded by the Witness Protection Office during 2005 - 2007.

The Research found legal problems in relation to the Witness Protection Act. These are (1) the definition of witness is not clear; (2) the criteria and working standards for giving protection of relevant authorities are not consistent; (3) there is no clear practice for coordination and cooperation among the witness protection authorities. The Witness Protection Office should thus be given more explicit power and mandate.

In terms of structure, the Witness Protection Office should be empowered as an autonomous agency and acts as the key agency in supporting other agencies in overseeing witness protection. The Office should take the role of the facilitator and regulator responsible for overall witness protection system, outlining guidelines for inter-agency cooperation, formulating the criteria for admission of witness, drawing up witness protection administration system that can be applied uniformly. The witness protection authorities' witness protection procedures need to be standardized. If the Witness Protection Office is required to be responsible for a covert witness protection program, its role should be limited to the protection under special measures only.

Key words : witness protection, law enforcement, royal thai police, department of special investigation, department of provincial administration

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I. Background of the Research

Constitution of the Kingdom of Thailand Act B.E. 2540 (1997), Section 244 supports the human rights of a witness in criminal cases to be protected and treated properly and eligible to the necessary and appropriate compensation from the government. In terms of protection, the Witness Protection Act B.E. 2546 (2003) came into force in June B.E. 2546 (Witness Protection Act, 2003). According to the Act, the Witness Protection Office was established under the Ministry of Justice and shall be in charge of enforcement of this Act, in relation to Ministerial Regulations of the Department of Rights and Liberties Protection, Ministry of Justice B.E. 2545 (2002). In addition to the Act, the Witness Protection Office has following powers: carrying out witness protection under the law on witness protection in criminal cases; coordination with officials and relevant agencies; development of systems and witness protection measures to comply with the law; suggestion and amendment to laws, rules or regulations as well as witness protection measures; monitoring and evaluation of the operations and witness protection works and; cooperation with or support for the operations of other relevant agencies or appointed agencies.

In addition, the Constitution of the Kingdom of Thailand B.E. 2550(2007), Section 40(5) stipulates that a witness in a criminal case is entitled to protection and necessary and appropriate assistance from the government. The compensation and necessary expenses shall be complied with the laws. Therefore, according to the principles of the protection, compensation and payments of the witness in criminal cases still remain complying with the Witness Protection Act B.E. 2546 (2003). This Act aims to protect security in relation to life, body, health, liberty, honour, property or any lawful rights of the witness before and after becoming a witness and to treat the witness properly. In addition, the rights also apply to a case where a person close to the witness, including husband, wife, progenitor, descendant or other person with a close relationship to the witness is affected by the
person becoming a witness. Thus, it shows that the Act supports the rights of the witness rather than the duties of the witness as prescribed in the past.

Importantly, the Witness Protection Office is set up to act as a central agency for enforcement of this Act in coordinating with seven other agencies to offer witness protection, including the Royal Thai Police, Ministry of Defence, Department of Provincial Administration, Department of Corrections, Department of Juvenile Observation and Protection, Department of Special Investigation and Office of the Narcotics Control Board. Since the establishment of Witness Protection Act B.E. 2546 (2003) and the regulations of Ministry of Justice in relation to compensation and expenses of the witness himself/herself, his/her husband, wife, parent, descendant or a person with close relationship to the witness under the Criminal Act 2547 (2004) became effective, the Witness Protection Office has arranged witness protection measures for more than 700 witnesses as requested by the witnesses. At present, there are four agencies involved in protecting witness, including the Witness Protection Office, the Royal Thai Police, the Department of Special Investigation and the Department of Provincial Administration.

Although the Act has been enforced more than 3 years, the operations of the relevant agencies have some problems, including interpretation problem of laws and regulations, a lack of technical and psychology knowledge to protect witness as well as problem of coordination with the Royal Thai Police. For example, a delay because the process must be considered as a hierarchy, problem of confidential level and in a case where a witness do not want police officers in some provincial areas for protection. At the same time, the Witness Protection Office is still unable to implement witness protection thoroughly because of manpower limitations etc.

However, according to the limitations and problems, such obstacles also signified that many witnesses in criminal cases are intimidated of becoming the witnesses and participate in security protection program, in which the court orders to punish defendants sentenced to life imprisonment
or death. The result of the court judgment is the achievement of witness protection, but in fact, the Witness Protection Office cannot justify this achievement from systematic judgment of the court.

Therefore, in order to provide guidance on development of a witness protection system and to monitor the law enforcement for confidence building of a witness and person with close relationship to the witness in accordance with the intent of the Act, the Witness Protection Office recognizes the need for an assessment of enforcement of the Witness Protection Act B.E. 2546 (2003). The findings of the study will suggest guidelines for their organization, development of effective witness protection measure and the achievement of searching for the offender to punish. As such, people will ultimately have faith and believe in justice.

Objectives of their Research are as follows:

First, to identify problems or constraints encountered in the course of implementing the witness protection program under the Witness Protection Act, B.E. 2546 (2003) and relevant rules and regulations

Second, to study the procedures of law enforcement and the implementation of witness protection.

Third, to develop the role, mandate and structure of the Witness Protection Office in accordance with the intent of the legislation.

II. Literature Review

1. Witness Protection in Thailand

This section presents the concept of witness protection in Thailand, including research on witness protection, source of the Witness Protection Act B.E. 2546 (2003), the concept of witness protection in Thailand, highlights of the Witness Protection Act B.E. 2546 (2003), authority of the
Witness Protection Office, MOU on the implementation and coordination of the witness protection in criminal cases, relevant law and problem of the implementation of the Witness Protection Act B.E. 2546 (2003).

2. Research on Witness Protection

In the literature, the study of witness protection in Thailand can be divided into two major periods. The first period is the study of the witness protection before promulgation of the Witness Protection Act 2546(2003), with an aim to put the witness protection agency and witness protection measures into effect in Thailand. Later, after the Witness Protection Act B.E. 2546(2003) has become effective, the study is about the obstacles in the implementation of the policies because of ineffective enforcement of the law. The issues of interest are as follow:

Results of the research on the witness protection before promulgation of the Witness Protection Act 2546 (2003) indicated that there were a number of studies highlighting the witness protection in terms of the protection of a witness’s safety in criminal cases as the work of Keawphakdee (1999), the Constitution of the Kingdom of Thailand B.E. 2540 (1997): a case study of protection of child victim and witness during the investigation stage as the work of Thongchai (2000) and the study of witness protection in criminal cases as the work of Srinuannat (1998–1999). Main points of the studies are as follow:

First, the study of the protection of a witness’s safety in criminal cases aimed to study protection measures for the witness’s security in order to obtain participation of the valuable witness in criminal procedure. The results showed that witness protection under the lawful measures was a mechanism to assure the public confidence in the justice system. At present, if the witness has been done by a chaotic manner, whether directly or indirectly, the government shall arrange lawful measures, including the detention of the accused, issuing an arrest warrant, consideration of temporary release, transfer of case, the pre-hearing, the
hearing through video conference, as well as the adaptation of criminal measures about liability for actions related to the freedom and body for a use\(^3\).

The second is the study of the Constitution of the Kingdom of Thailand B.E. 2540(1997), with a focus on a case study of protection of child victim and witness during the investigation stage. The study aimed to study the principles of law, concepts and theories as well as any enforcement problems on the Criminal Procedure Code Amendment Act (No. 20) B.E. 2542 (1999). The amended Act has adopted procedures of the justice system which have been used in other foreign countries as the guidelines in order to make measures for preventing and protecting children’s rights to comply with international standards and the Convention on the Rights of the Child. Those procedures are different from normal criminal investigation and prosecution procedures. The study found that the enforcement of the police officer’s investigation procedures which originally are foreign was ineffective as it was meant to be due to a lack of available place, equipment, personnel, procedure and budgets. A lack of suitable organized units which are responsibility for the investigation work was also one of the reasons. Thus, the enforcement of the Act was inefficient and ineffective in accordance with the intent of the legislation\(^4\).

Third, recommendations for the witness protection in this period are as follows.

- According to a change in conditions of crime, particularly the development of corporate crime, the government must add special measures to protect a witness’s safety as well as his/her family or any person related to the witness by arranging concealment of name and domicile, change of name or relocation to a new place of residence, or safety protection in a case of unsafe/harmful circumstances, or other measures as deemed appropriate\(^5\).

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5) Ibid., p. 95.
- It was suggested that the witness protection agency should be placed under the Royal Thai Police because of having specialized officials for security protection\(^6\).

- The collaboration between government agencies and government officials as well as social awareness of the importance of the witness toward justice system should be promoted\(^7\).

- In terms of the child witness protection, it was suggested that there should be a special unit in each organization, where relevant, with the provision of special trained officials. The practical measures should be clearly adopted and protection law and regulations for the safety of child victim and witness should be assured, in accordance with the international standards\(^8\).

In addition, Police Major General Wanchai Srinuannat (1998–1999, p. 48) studied witness protection in criminal cases, with an aim to learn the measures and guidelines for protecting or providing security to a person becoming a witness in the criminal justice system in Thailand and the guidelines of other foreign countries for identifying appropriate measures and procedures to situation. At that time Thailand had no witness protection measures. It only facilitated the delivery of the summons to the prosecutor’s witness and the tracking control of investigation official for the escape prevention of witness before testifying in the court. The study found that a personal witness was important and was used as the reference more than other types of witness. The witness protection was arranged to ensure the safety from the influence or intimidation, resulting in cooperation of the witness with the justice system. Moreover, the results indicated that some countries had the witness protection measures such as the United Kingdom, Philippines and the United States.

For the second period, according to the study during the period of promulgation of the Witness Protection Act B.E. 2546 (2003), the results

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6) Ibid., p. 97.
showed that an increase in the awareness of the study of the witnesses protection was divided into 3 groups. The first group was a study of legal aspects of the Act, the second group was the study of opinions of the Act and the third group was the study of liability of the government towards a witness. Moreover, the research suggested measures for amendment of the Act.

1) Legal Aspects of the Act

Tangtaweesuko (2004) studied the Witness Protection Act B.E. 2546 (2003): a case study of legal systems or mechanisms and outcomes of witness protection. This research aimed to study the measures set up by the government to protect a witness for maximum safety in order to eliminate the problem of witness's refusal to testify or present at the court.

It studied the measures of the Witness Protection Act B.E. 2546 (2003) and compared the Security Act and the benefits of the witness in a criminal case with the Philippines. The study found that measures established in accordance with the Witness Protection Act B.E. 2546 (2003) shall be arranged for a new place of accommodation, change of name/family name, living expenses, or security protection for building confidence to witness that he/she was safe and may be eligible for compensation of economic losses, with an aim to eliminate the problem of witness's refusal to testify. On the other hand, the study found that problem of administration of Justice regarding confidentiality of witness when coordination with other agencies and a lack of its own budget made the measures not effective. Furthermore, the results indicated that there were several legal problems that were not able to ensure the witness for his/her safety9).

2) Issues Relating to Opinions of the Act

Saereerom (2004) studied the opinion of investigation officials and the opinions of witnesses toward witness protection: a case study of Metro Police. This research aimed to study the opinions of the investigation officials towards witness protection by comparing the opinions of the investigation officials towards the witness protection with personal factors. It studied the relationship between knowledge and understanding of the rules and witness protection measures, job satisfaction, coordination with relevant agencies and the opinion of officials involved with protecting witness. The sample groups used in this study consisted of Metro Police Division 1, 2, 6, 8 and 9, with a total of 161 persons.

The results showed that the sample had a high opinion of the witness protection by different factors, including age, rank and educational level but no differences in marital status, period of operation and number of cases in charge. In addition, there was an association between the opinion of the investigation officials and factors in terms of the knowledge and understanding of rules and witness protection measures but there was no association between the opinion of the investigation officials and the job satisfaction and coordinating with relevant agencies (Saereerom, 2004, abstract).

Runthong (2004) studied opinions of witnesses towards witness protection in criminal cases in Criminal Court and the Bangkok North Municipal Court aimed to study the opinions of individuals towards witness protection in criminal cases. The population of 222 persons used in the study drawn from witnesses in Criminal Court and the Bangkok North Municipal Court. The results of the study from three areas found that in terms of safety protection, the sample agreed with listen to the statement of a witness through the investigation and later causing death and a penalty for a lawyer who used verbal threats towards the witness during the taking of testimony. In terms of benefits and compensation, the sample agreed with the compensation of income loss of becoming the court’s
witness according to the real rate of the witness’s occupation, with a high specified rate. In terms of the protection of being sued, the sample agreed with the defense of case by attorney in a case where the witness was sued back from becoming a witness (Rungthong, 2004, abstract).

According to hypothesis testing, the study found that witnesses with different occupations and personal witnesses involved with different cases appeared to have different opinions towards the witness protection in criminal cases. The witnesses with different knowledge and understanding of the general law appeared to have no different opinions towards the witness protection in criminal case. Overall, the sample agreed with the witness protection in criminal cases (Rungthong, 2004, abstract).

Thanomchua (2005) studied the cooperation to be a witness in criminal cases of the people: a case study of Lumpini Police Station. This research aimed to study the cooperation to be a witness in criminal cases of people in society and public confidence towards the effectiveness of the safety witness protection program under the Witness Protection Act B.E. 2546 (2003) as well as recommend appropriate and practical measures for witness protection in Thai society. The study’s results showed that male was likely to give much more cooperation to be a witness in criminal cases than female did. The witnesses with different occupations appeared to express different levels of their cooperation. The witnesses who felt insecure tended to show less cooperation. In addition, the findings indicated further that the majority of the sample did not agree with the use of special measures under the Witness Protection Act B.E. 2546, including a change of name/surname and domicile and provision of a new career.

Such findings showed that the special measures were not practical because they were unable to help the witnesses feel safe. Therefore, the government should formulate the new measures that were consistent and suitable with Thai society, resulting in cooperation for positive impacts on crime prevention and suppression in the future.10

Suknawarat (2006) studied the witness protection in accordance with the

Witness Protection Act B.E. 2546 (2003). This research aimed to study knowledge and attitudes of officials involved with protecting a witness and guidelines for the proper operation of witness protection. The study found that the sample of the officials in special cases had high level of knowledge of the witness protection under the Act and highly agreed with protecting the rights of witness to be safe and the witness shall be entitled to basic protection for security of life, property and body. The findings also indicated that the sample with different positions and work experiences appeared to have different knowledge and attitudes of witness protection, with a statistically significance at the 0.05 level (Suknawarat, 2006, abstract).

3) The Liability of the Government Towards a Witness in the Case of Loss Occurred to the Witness

Dermkanjanadee (2006) studied the liability of the government towards a witness under special protection measures. This research studied the government’s responsibility to the witness, in a case of erroneous management of the government in relation to witness protection program under special measures. As such, a loss occurred to the witness who participates in the witness protection program by the actions of government. The causes of the government’s liability can be explanation in the case where the government are unable to meet the rights of witness in criminal cases under the Constitution providing to participants of witness protection project or the government cannot meet the constitutional rights of witness, including the government’s failure in protection of the witness’s security, improper witness treatment of the government and unpaid for necessary and appropriate compensation to a witness by the government.

The scopes of the government’s responsibility to the witness consisted of compensation, commitment and specific obligations of debt payment.

Furthermore, since the responsibility of the government to witness is a loss incurred by a person who becomes a witness by the actions of
persons that the government appoints for protecting witness under special measures. Thus, the government officials must be responsible for the witness in conjunction with the government in some cases. That is, if the government officials made a breach of the special witness protection measures with the intent or serious negligence, the government officials would have to pay compensation back to the government agencies in relation to their respective agencies after the government agencies has paid compensation to witness.\textsuperscript{11}

For the recommendations of measures to amend the Act, the findings are as follows:

- Safety measures for witness should be added by avoiding witness confronting the defendant. This can be done by the way of investigation of child witness under the Code of Criminal Procedure Section 133 and Section 172 to reduce fear of witness and add intensive measures to complete trial within a short the time. And the lawful rights of witness would be prescribed to reduce the duration of the risk of witness.\textsuperscript{12}

- Obstruction of Justice should be stipulated as a specific criminal offense in order to make fear towards the offender and build the witness’s confidence. As such the problem of a witness’ refusal to testify would be eliminated and witness protection under the Witness Protection Act B.E. 2546 (2003) would become more effective.\textsuperscript{13}

- It was suggested that relevant agencies should provide training and knowledge on witness protection, the special protection measures and the impact of the rights of witness on witness protection\textsuperscript{14}.

- Guidelines on proper and practical witness protection should be drawn up. The witness should be assured of his or her security and the witness protection should be arranged before or at the time of or

\textsuperscript{12} Tangtaweesuko(2004), p. 86.
\textsuperscript{13} Ibid., p. 88.
\textsuperscript{14} Jaihan, Artiwet, and Potiwijit.(2008), pp. 104-105.
after becoming a witness\textsuperscript{15}.

- There should be coordination and cooperation in the witness protection among witness protection agencies in order to make witness protection more effectively\textsuperscript{16}.

- It was suggested that the admission of witness into a witness protection system under special measures should be changed by providing preliminary memorandum of understanding between the government and the witness and writing statement for the consent of the witness. These were useful to have the same understanding about the rights and duties of witness and properly placing people in the witness protection program under the special measures\textsuperscript{17}.

In addition, Don Bunnag and Khanithnan Apihansakorn (2004) studied witness protection and organized crime prevention and suppress and influential person. The results showed that the situation of violence and statistics of organized crime and the influential person were the important factors to implement measures for witness protection, with an aim to enhance effectiveness. However, since the enforcement of Witness Protection Act B.E. 2546 (2003), there were no operations of witness protection work under the Witness Protection Act due to several reasons such as interpretation problem of Witness Protection Act BE 2546 (2003), geographical issues, attitude and way of life in Thai society, the problem of the budget for witness protection, legal issues and regulations that would be supported or supporting witness protection and the problems of coordination between relevant agencies and key agencies etc.

\textsuperscript{15} Jaihan et al.(2008), pp. 105-106.


\textsuperscript{17} Dermkanjanadee(2006), p. 136.

Before 1997, there was a call for improving the criminal justice system and the government’s personnel, with a focus on the victim already existed in a criminal case in terms of healing and protecting security. Such call was in response to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 proposed by the UN, which was generally accepted that the witness (including witness who saw general event take place and witness who saw the event that a victim was directly bad affected) were very important to trial of the court.

If a key witness testified the case, the court’s judgment would be fairly. Offenders would not be able to release from the justice system. The truly testifying of witness would result in reliable judgment of the court, make the most effective justice system and create trust for the public and faith in the criminal justice system. However, economic growth and development caused a complicated offense. The criminal offenders had more knowledge, power and influence, so that witness may be easily distorted by intimidations and threats from offender, resulting in fear and insufficient courage to testify truthfully. Therefore, the witness’s testimony in the court would be affected, or may cause fear to appear in the court to give evidence\(^\text{18}\).

Moreover, intimidating a witness not to testify in the court or give evidence to government officials made the court dismiss judgement due to the witness’s testimony given in favour of the defendant or no key witness testifying the fault of the defendant in the court etc. Also, according to the political culture of Thailand in the past, some groups that were responsible for law enforcement used their powers over the limit such as military and police officers. As such, some people distrusted, suspected and feared that they used their authorities improperly so that may cause injured person

\(^{18}\) Bunyopas(2007), p. 120.
who was a victim of any action hardly dared litigate the offender, or person who saw the action did not dare to be a witness for testifying in the court owing to fear of danger to the witness himself/herself or his/her family members if there were no legal protection measures for the witness’s security. Then, criminal justice system would be gradually weakened because the court could not punish the offender.

According to the above problems and the need of the government for witness’s testimony contribution to trial procedure, the witness must be free from fear and have a feeling that his/her security was fully protected. This would result in returning to the effectiveness of the justice. The proof of the truth would be more reliable. Thus, there was a drive to legislate the concept of witness’s security protection as one of the principles of the Constitution of the Kingdom of Thailand B.E. 2540(1997).

The motivation measures were established to compensate the witness for testifying and giving evidence to the government officials as well as compensation for loss of the witness. The more details were provided in the later law.

1) The Concept of Witness Protection in Thailand

Before the promulgation of the Witness Protection Act (or prior to the year 2003), witness protection and witness’s security protection in criminal cases were the roles of police officers without legal support. At that time the police protected the witness depending only on its organization guideline\(^{19}\). In other words, in the past, the police officers took the role of witness protection works without a prescription by the law stipulating that it was the duty of the police.

Witness protection in Thailand has established after the promulgation of the Constitution Act B.E. 2540(1997). There were the establishment of several law enforcements and many new institutions, with an aim for people to be eligible to the privilege in many areas that did not exist

\(^{19}\) Ibid., p. 14.
under earlier constitution. One of them is law on witness protection in criminal cases under the Constitution Act 2540 (1997).

Many years later, the Witness Protection Act B.E. 2546 (2003) was enacted for enforcement by applying the provisions in some Sections of the earlier constitution to establish law. The Act had the same provisions as Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act B.E. 2544 (2001).

At that time the establishment of several new laws and organizations under the Constitution B.E. 2540 (1997) were prepared hurriedly and lacked readiness for the implementation in accordance with the intent of the legislation. Moreover, the Witness Protection Act B.E. 2546 (2003) still lacked detailed provisions and the Witness Protection Office was established under Rights and Liberties Protection Department.

The Witness Protection office and the Office for Public Compensation were established in 2004 for educating provincial police officials from all nine sectors nationwide on witness protection. Officials of the Rights and Liberties Protection Department would be sent to all provinces in order to meet representatives of seven witness protection agencies that signed on memorandum of understanding or MOU, including 1) the Royal Thai Police; 2) The Royal Thai Amy; 3) Bureau of Internal Security Affairs, Ministry of Interior (under the Office of the National Security Council in the Prime Minister’s Office); 4) Department of Special Investigation, Ministry of Justice; 5) Department of Corrections, Ministry of Justice; 6) Office of the Narcotics Control Board, Ministry of Justice and; 7) Department of Juvenile Observation and Protection, Ministry of Justice (The Witness Protection office, 2008).


Witness Protection Act B.E. 2546 (2003) which was promulgated in the Government Gazette on 20 June 2003 contains significant subjects as follows (Witness Protection Act, 2003):
Witness protection in criminal cases shall be arranged for the follow person:
- Witness means a person who commits himself/herself to be present at, or testify, or give evidence to a competent official for investigation, a criminal interrogation or a court for criminal proceedings, but not to include a defendant who himself/herself is a witness.
- A witness’s husband or wife
- A witness’s progenitor such as parents and grandparents
- A witness’s descendant such as children, grandchild, great-grandchild
- Person with a close relationship to the witness who is requested by the witness may lose security from becoming a witness in a criminal case.

Witness protection Measures: witness protection in a criminal case is divided into 2 categories by the Act, as follow (Witness Protection Act, 2003):

(1) General Protection Measures

General protection measures is a case where a witness loses his/her security, a competent official from criminal investigation, interrogation, prosecution or the Witness Protection Office as the case may be shall design for the witness protection measures as deemed appropriate or as requested by the witness or other concerned party. Where necessary the said person may request a police officer or other official for protection and this must be subject to the witness’s consent. Protection measures may include arrangements for a safe place for the witness; concealment of name/family name, domicile, identification, and information that would reveal the identity of the witness as appropriate, and the personal status of the witness and nature of the criminal case.

In addition, the measures not only protect the witness but also any person who is requested by the witness, including a witness’s husband,
wife, progenitor, descendant, or person with a close relationship to the witness is affected by the person becoming a witness and may lose security.

(2) Special protection measures

A witness in the following [types of] cases may be eligible to the privilege of special protection measures:
- A case under the law on narcotic drugs, money laundering law, anti-corruption law, or customs law
- A case related to national security under the Penal Code
- A sexual offense under the Penal Code relating to the luring of a person for the obscenity or the sexual gratification of another and child abduction, an offense under the measures in prevention and suppression of trafficking in women and children law, or an offense under the prevention and suppression of prostitution law, or an offense relating to prostitution business owner or organized prostitution, or a brothel or brothel operator.
- A criminal offence in the nature of organized crime relating to mafia and criminal association under the Penal Code, including any crime committed by a criminal group with a well-established and complicated network
- A case punishable with at least ten years of imprisonment or the heavier penalty
- A case that the Witness Protection Office deems appropriate to arrange for protection

Whenever there are explicit circumstances or suspicions that affect witness’s security or other concerned party, a competent investigation official, competent interrogation official or competent criminal case prosecution official may apply to the Minister of Justice or his appointed official to arrange for special protection measures, with the principles,
procedures, and conditions stipulated in the Ministerial Regulations.

The “Witness Protection Office” which is an agency under the Department of Rights and Liberties Protection, the Ministry of Justice shall arrange for one or more of the following special protection measures (Witness Protection Act, 2003):

- A new place of accommodation
- Daily living expenses for the witness or his/her dependants not exceeding 1 year, with extensions as necessary for 3 months each time, not exceeding 2 years
- Coordination with the relevant agencies in order to change the first name, family name and registered information that may contribute to knowledge of the personal identity of the witness, including arrangements for a return to original status, with the witness’s request.
- Action to help the witness have his/her own career, or training, education or other means of proper living for his/her life
- Assistance or action on behalf of a witness for his/her lawful rights
- Arrangements for a bodyguard service for a necessary period of time
- Other actions to assist and support a witness with his/her security as appropriate

In acting under the prior paragraph, the officials of the relevant agencies must keep confidentiality; it is not lawful to disclose the information except with the authorization of the Minister of Justice.

4. Compensation and Payment of a Witness in Criminal Case

In a case where any right was impaired in relation to the life, body, health, liberty, honour, property, or other rights of a witness, his/her husband, wife, progenitor, descendant or a person with a close relationship to the witness caused by a deliberately criminal offense due to his becoming a witness, he/she is entitled to compensation as appropriate (Witness Protection Act, 2003).
The termination of the special protection measures are under the following circumstances:
- The witness’s request
- The witness has failed to comply with the provisions of the Ministry of Justice’s Regulations or Rules on special protection measures for witnesses
- The circumstances have changed and there is no more need for special protection measures
- The witness irrationally refuses to give evidence or testify
- The Court delivers a judgment against the witness to punish the witness for falsely testifying or false testimony in the trial court because the witness in the case is protected.

5. Penalties

A person who discloses information on the housing, place, name, family name, domicile, photograph, or other kinds of information to identify a witness, or his/her husband, wife, progenitor, descendant, or a person with a close relationship to the witness where protection measures were arranged with the likelihood of losing security shall be punished with a term of imprisonment not exceeding 1 year or fine not exceeding 20,000 Baht or both. In addition, whoever acts as mentioned before thereby causing bodily or mental injury or death shall be punished depending on the seriousness of harm caused to the witness, a maximum penalty with a term of imprisonment not exceeding 7 years or fine not exceeding 140,000 Baht or both. Moreover, whoever acts as mentioned before with intent to cause the person to lose his or her security shall be punished 1/2 heavier than the punishment as mentioned in the beginning of the paragraph (Witness Protection Act, 2003).
6. Authority of the Witness Protection Office

According to the Witness Protection Act B.E. 2546 (2003) Section 13 (Act, 2003), the Witness Protection Office was established under the Ministry of Justice, with the following mandates.
- General and special protection measures
- Proper practices
- Coordination and arrangement to obtain results among public agencies, and private organisations, where relevant, and to make protection measures effective under this Act

At present, the Witness Protection Office has been established by Ministerial Regulation of the Rights and Liberties Protection Department, the Ministry of Justice 2002 and shall be placed under the Rights and Liberties Protection Department and the Ministry of Justice. The Office’s roles and mandates are as follows:
- Action to protect witness under the Witness Protection Act
- Coordination with investigation officials and relevant agencies for witness protection.
- Development of witness protection systems and measures in accordance with law.
- Recommendations for improvements and amendments of laws, rules or regulations as well as measures on witness protection
- Monitoring and evaluation of the witness protection
- Coordination with or support the work of other relevant or assigned agencies

7. Terms of the Memorandum of Understanding on Implementation and Coordination of the Witness Protection in Criminal Cases

The memorandum of understanding (MOU) on implementation and
coordination of witness protection in criminal cases between the Rights and Liberties Protection Department and seven relevant agencies became effective on 17 September 2005, including the Royal Thai Police (coordination unit is the Criminal Affairs Division), the Department of Provincial Administration (coordination unit is the Investigation and Legal Affairs Bureau), the Department of Special Investigation (coordination agency is the Witness Protection Agency), Ministry of Defence (coordination unit is Military Legal Advisory Division), Office of the Narcotics Control Board (coordination unit is Narcotics and Litigation Division), the Department of Corrections (coordination unit is Legal Division, and in emergency case coordinating directly with the prison, Correctional Institution and detention facility) and the Department of Juvenile Observation and Protection (coordinating directly with the Department of Juvenile Observation and Protection without the formation of any special coordination unit, however, permission to coordinate with the Juvenile Vocational Training Center as well).

The Memorandum of Understanding or MOU has covered the coordination for the witness protection in criminal cases under general and special protection measures. Compensation and payment shall be provided in accordance with regulations of the Ministry of Justice on the compensation and payment of a witness himself/herself, his/her husband, wife, progenitor, descendant of or a person with close relationship to the witness under Criminal Case B.E. 2547 (2004) except that the Office of the Narcotics Control Board shall arrange compensation, for which the Office of the Narcotics Control Board signed on the MOU. In addition, all seven agencies must report the implementation of witness protection to the Witness Protection Office every 6 months (Memorandum of Understanding or MOU the Royal Thai Police, the Department of Provincial Administration, the Department of Special Investigation, Ministry of Defence, the Office of the Narcotics Control Board, the Department of Corrections, the Department of Juvenile Observation and Protection, 2005).
8. Statistical Performance of the Witness Protection Office

According to report on implementation of witness protection under the Witness Protection Act B.E. 2546 (2003), the Witness Protection Office received a budget of 25 million per year since 2005 to 2008 for support the implementation of witness protection. The witnesses made requests for security protection funded by the Witness Protection Office, Rights and Liberties Protection Department, Ministry of Justice. Since fiscal year 2004 to 2008 there were a total of 704 requests, with 129 refusals and 575 acceptances for protection project including both general and special measures, in which the acceptances were categorized into completed protection of 408 cases and under the protection of 167 cases (Witness Protection Office, 2008).

In addition, the classification of types of crime by a number of witnesses who requested the Rights and Liberties Protection Department, Ministry of Justice for protection found that since the fiscal year 2004 to 2008 the majority group of offenses consisted of offenses against life, followed by offenses against the body and property, respectively. Importantly, the consideration of a number of witnesses requested for protection funded by the Witness Protection Office, the Rights and Liberties Protection Department, the Ministry of Justice found that the largest number of protected witnesses was arranged by the Royal Thai Police, with 214 cases and arranged by the Witness Protection Office, with 20 cases. In addition, the statistical comparison of 927 witnesses across the country requested for safety protection during the fiscal year 2004 and 2008 indicated that the majority of witnesses requested the Witness Protection Office for protection at 75.94 percent, followed by 20.49 percent of the requests made to the Royal Thai Police and 3.56 percent of the requests made to the Department of Special Investigation (Witness Protection Office, 2008).
III. Data and Method

The research was an evaluation research that combined both qualitative and quantitative research methods. It collected data by conducting in-depth interviews with 28 executives and relevant officials; arranging two focus group discussions, the first of which involved 20 executives from relevant witness protection authorities, and the second involved 13 operational officials from the key agency, i.e. the Witness Protection Office. The research also organized a workshop with 113 persons and conducted a survey of the sample group of 214 persons drawn from witnesses who participated in the witness protection program funded by the Witness Protection Office during 2005 - 2007.

The research selected samples by purposive and convenient sampling methods because access to data was limited in relation to concern for the informants’ rights and confidentiality of witnesses under protection of officials. The Witness Protection Office’s officials clarified information to witnesses and collected questionnaires from the witnesses. The sample groups of 214 persons which some completed the protection and the protection was terminated. Therefore, the sample size was lower than expected due to the limitation of access to witnesses and the concern for confidentiality of witnesses as well as the consent of the witnesses to provide information on a voluntary basis only.

According to data analysis, the research analysed the quantitative data by using descriptive statistics, mean, standard deviation, percentage and ANOVA. On the other hand, the qualitative data of in-depth interviews with executives was analysed by transcribing the interview records and observation notes and carefully extracting important information from documents and records for the interpretative framework and the identification of important points, with very high accuracy and reliability. Then, content analysis developed by Krippendorf\(^{20}\) was employed to

analyse the qualitative data in order to define the topic / category and main patterns / themes.

IV. Findings

The summary of the research’s findings in accordance with its objectives are as follows:

1. Problems or Constraints Encountered in the Course of Implementing the Witness Protection Program under the Witness Protection Act, B.E. 2546 (2003) and Relevant Rules and Regulations

   1) There are only 22 officials as manpower according to the structure of the Witness Protection Office. This causes problem of human resource management. This means that the manpower cannot be expanded. In addition, the job appointment must be considered from the criterion and working standards of the agencies under Rights and Liberties Protection Department. As such, the structure of the Witness Protection Office has very limited manpower and is inconsistent with heavy workload throughout the country established by the law.

   At present, the unclear role and authority of the Witness Protection Office’s official regarding the operation and management as well as existing structure of manpower are problematic because the law operation and management of the officials imply that the Witness Protection Office has authority to control and regulate or take the role of the regulator.

   Therefore, there is no clear practice that the Witness Protection Office must take the role of witness protection operations or the role of the regulator of witness protection works of all relevant agencies.
2) Problem of Coordination

Problem of the implementation of witness protection program under the law was inconsistent with the actual work because the coordination within the organization must go through too many processes. For example, the official responsible for the case must submit the disbursement of budget to hierarchical lines of force.

3) Problem of Level of Confidentiality

In terms of the structure of the agency’s organization, its organizational behaviour which has been under the Rights and Liberties Protection Department, the Ministry of Justice must operate its work through a means of multi-layer structure. A hierarchical structure with multi-layer command may impact on confidential level. The witness protection procedures must be strictly confidential, so the issue on how to maintain the shortest chain of command should be considered, particularly special measures with a special confidential level.

4) Problems of a witness’s compensation

When the witness has already given evidence or testified to a competent official for investigation, he/she is eligible for allowance or payment which the law is called compensation. However, the problem is that there is no clear guideline on the criteria for the compensation and payment of a witness whether the presence of the witness for testimony or transportation expense is more appropriate. This is a practical problem particularly in a case where the witness does not participate in the witness protection program concerning whether the compensation should be paid when the witness has already given evidence or when the witness has testified at the Court. Therefore, according to the practical problem, the clear guidelines on the criteria for the compensation and payment of a witness should be designed in terms of compensation as well as transportation and accommodation expenses. The actual expenses or average rate of payment should be taken into consideration for the witness
who participates and does not participate in witness protection project.

According to the prescribed amount of compensation under the provision of Section 8, a witness who has resided in the province and comes to give the evidence will receive a compensation of 200 Baht whereas a witness who has an accommodation outside the province and comes to give the evidence will receive a compensation of 500 baht. The provision of the compensation regardless of the expenses incurred for the witness who necessarily comes to testify is not necessary and appropriate compensation entitled for a witness, as defined in Section 17. Therefore, the recommendation is that the compensation under the provision of Section 8 should be amended. The payment of travel expense should be provided according to real charge but not exceeding the prescribed rate and the compensation should not exceed the prescribed rate in order to design the appropriate compensation for the identity of the witness and the benefits to the government.

5) Problems of no legal framework to protect the officials in performing their duties

The roles of the Witness Protection Office’s official should be defined clearly in a case where his/her duty has been appointed to protect the witness. The amendment of authority should be considered whether or not to carry weapons as same as the Royal Thai Police’s officials.

The limitation of the official of the Witness Protection Office is that he/she has no power to carry weapons same as police or special investigation official responsible for witness protection. Therefore, in order to appoint the authority responsible for witness protection, the issue concerning on the limitation of the powers of the official of the Witness Protection Office should be considered in terms of how to be empowered and how to use the power if the Act wants the Witness Protection Office to implement witness protection work as an operation unit.
6) Problem of no guidelines on the witness protection procedures in accordance with the Witness Protection Act

The Witness Protection Act has regulated in terms of the witness protection only. However, there are no clear guidelines on witness protection procedures. Previously, Section 6 stipulated how to treat a witness appropriately and show respect for witness and human rights. Later, it has been abolished and then Section 13 has been established, stipulating only that the Witness Protection Office shall have the role to implement witness protection as deemed appropriate. Thus, the witness protection is one part of witness treatment which is essential to define guiding principle in the Witness Protection Act, suggesting what guidelines of witness treatment should be drawn up, which important elements should be included in the witness treatment etc.

2. To Study the Procedures of Law Enforcement and the Implementation of Witness Protection

The qualitative data showed that there were some problems such as problem of unclear statement, problem of the change of identity (name and family name) and problems about the scope and clarity of witness under the Act, which are as follow:

1) That is the meaning of “witness” under section 3 of the Act is too narrow. This research, therefore, recommends that the Act should be amended in terms of the definition of the “witness” to be more appropriate for the practice in accordance with the principles and the intent of the law. For example, “witness” means “a person who might see an event/circumstance take place or have evidence related to any action that cause the investigation or inquiry of a criminal case or the offense. Thus, his/her words may be useful to the investigation or inquiry of the Commission and a competent official for investigation or a criminal interrogation a court for criminal proceedings etc.
2) Problem of the difficulty of the law involves witness protection measures, including general protection measure under Section 6 and special protection measure under Section 8.

There is the practical problem concerning the definition of general measures which stipulates that the official shall arrange the witness protection as deemed appropriate since the law gave no clear guidelines and scope of the general measures. Moreover, the closure of the name, family name, domicile, photograph, or information that would reveal the identity of the witness is complicated measure, with the links with other agencies. In addition, the provisions which are very important to witness protection are too broad in details, thus the implementation of law is impractical due to a lack of detailed guidance on the coordination and operation. Therefore, sub-law should be designed to support.

According to the special measures under Section 8, the following [types of] cases (e.g.) may be eligible to the privilege of the special witness protection measures and a case that the Witness Protection Office deems appropriate to arrange for protection. However, the problem is that the law on prevention and combating trafficking in women and children has been abolished by the Prevention and Suppression of Human Trafficking Act B.E. 2551 (2008). As such, the problem of the request for the special measures under the Prevention and Suppression of Human Trafficking Act B.E. 2551 (2008) concerning how a witness in the case is entitled to special protection measures under Section 8.

The recommendation is that the special measures under Section 8 should be amended by abolishing types of cases and should set guidelines for special measures for witness protection into two cases. The first case is where a witness may be threatened by influential, politicians, and officials and the second case is that the Witness Protection Office deems appropriate to arrange for protection. In addition, the types of cases, the guidelines and procedures shall be considered in accordance with the Ministerial Regulation.
Moreover, there is a problem in how to arrange special measures for witness protection under section 9. It is required to make the request to the Minister of Justice for consideration, so the processes of the request take time in accordance with the rules. Since the request for special measures must be made for the important case and must be arrange quickly, however, the law does not define the procedures. For example, which agencies can make the request as necessary? This could cause damage to the case, particularly in a case where the request made by other agencies that are not directly under the Ministry of Justice. Thus, it may take more time and processes.

3) Quantitative Data

According to the quantitative data, the survey of 214 witnesses who were arranged for protection by agencies responsible for witness protection, including the Royal Thai Police, the Witness Protection Office, the Department of Provincial Administration, the Department of Corrections, and the National Intelligence Agency, with the financial support by the Witness Protection Office. The survey findings of opinions of the witnesses towards the operation of the witness protection officials are as follows.

According to the comparison of the witness protection implementation of the agencies, the survey of the witnesses’ opinions indicated that the protected witnessed had different opinions and levels of satisfaction for the performance or operations of all six agencies. The results are as follows:

Firstly, the findings showed that the protected witnessed had different opinions for the performance or operations of all six agencies in terms of an overview of issues on relevant authorities, place, period of time, budget and the willingness of the witnesses. The Department of Special Investigation and the National Intelligence Agency had the highest means whereas the Thai Royal Police and the Department of Corrections had the lowest means. This research suggests that the witnesses had the highest level of satisfaction with the operation of the Department of Special
Investigation and the National Intelligence Agency in terms of the overall input factor.

In addition, the results indicated that the protected witnesses had different levels of satisfaction for the performance or operations of all six agencies in terms of the implementation of witness protection such as admission of the witness to the witness protection program, right notification, treatment of witness, and monitoring and assistance after the completion of the witness protection program. The Department of Special Investigation and the National Intelligence Agency had the highest means whereas the Thai Royal Police and the Department of Corrections had the lowest means. This research suggests that the witnesses had the highest level of satisfaction with the operation of the Department of Special Investigation and the National Intelligence Agency in terms of the overall operation of admission of the witness to the witness protection program, the right notification, the treatment of witness and the monitoring and assistance after the completion of the witness protection program.

Lastly, the findings presented that the protected witnesses had different levels of satisfaction for the performance or operations of all six agencies in terms of the overall outcome of the witness protection. The Department of Provincial Administration and the National Intelligence Agency had the highest means whereas the Thai Royal Police had the lowest mean. This research suggests that the witnesses had the highest level of satisfaction for the overall operations of the Department of Provincial Administration and the National Intelligence Agency.

3. The Development of the Role, Mandate and Structure of the Witness Protection Office in Accordance with the Intent of the Legislation

According to the comparison of the witness protection operation in Thailand with six countries such as the U.S., Australia, Germany, the United Kingdom, Hong Kong Special Administrative Region (SAR), and
Indonesia, the researchers provide recommendations according to the limitations and the strengths of Thai witness protection agencies. The alternatives organizational structures are as follows:

The first alternative is that the existing status or status quo remains the same. The Witness Protection Office is still an agency under the Rights and Liberties Protection Department, Ministry of Justice but the Office’s management should be more flexible than ever before, manpower should be added, organizations and personnel should be developed independently in which human resource development is not tied to the Rights and Liberties Protection Department, Ministry of Justice. In other words, the structure remains the same as defined in Section 13, but needs to allocate manpower in accordance with the workload or allocate one group of people who are competent to protect witnesses in only critical cases. In addition, workflow should be organized properly and unnecessary work processes and procedures should be reduced in order to increase speed and maintain confidentiality of its operation. However, to maintain the status quo is useful when the Office is not able to expand its workforce and has limitations in terms of rules and regulations for the management that cannot increase its manpower. However, limitations of maintaining the status quo is that the development of the Office responsible for the witness protection is unable to cope with the ongoing situation because the Office does not have enough manpower to meet their all own tasks. Thus, if the Office’s primary goal is to be the agency for witness protection, only 22 officials are not able to serve its mission in accordance with the intent of the legislation so that could affect the performance of the Office.

The limitation of resources and capacity and a lack of manpower for distribution to regions or districts would obstruct the expansion of the organization.

The second alternative is that guidelines should be set for the Witness Protection Office to be an agency under the Ministry of Justice, with an independent management or autonomy under the Ministry of Justice. Or the Office may be an agency under the former Rights and Liberties
Protection Department or may be transferred to place under the Department of Special Investigation but need to develop people and organization to be a professional unit for the witness protection. That is, the structure should be changed or modified for more flexible management.

The autonomy of witness protection work may be promoted the Office to the Department under the Ministry of Justice. Moreover, the Office’s mission should be limited to the witness protection under the special measures only and manpower should be added as necessary to match with its role.

According to the role of the Witness Protection Office, the Office should take the role of the facilitator and regulator responsible for overall witness protection system and guiding the witness protection authorities’ witness protection procedures to be standardized. In addition, it should outline guidelines for inter-agency cooperation by drawing up witness protection administration system that can be applied uniformly. It should also develop competency of all agencies’ officials by providing training for all relevant agencies.

The structure of Thailand’s Witness Protection Office may adjust the witness protection system in accordance with the mission and capabilities.

Restructuring Thailand’s Witness Protection Office would compare to the Hong Kong Special Administrative Region (SAR) because the Office of Thailand has similar size of workforce to the Witness Protection Unit, Hong Kong Police.

The third alternative is that the Witness Protection Office should be placed separable from the Ministry of Justice as an independent agency for witness protection. In other words, the Witness Protection Office must implement both the general and special measures without the support of other agencies. That is, the Office does not need the police or other agencies in a manner of sending the witness to another unit for the protection work. The Witness Protection Office must be an operational unit, arrange the structure by assigning teamwork responsible for the witness protection, for tracking cases, for compensation, and for
management. The new structure must be arranged in order of system. The Office should be independent for the maximum of flexible management and the interference reduction, have operational plans of the organization itself, and be able to perform all three parts with more comprehensive and complete witness protection work.

The advantage of this system is that the Witness Protection Office is an independent unit without interference from any party. However, the limitation is that it is very difficult to drive or push the small unit with only 22 staff to empower as an independent agency in the short term.

V. Recommendations for Practice

First of all, the Witness Protection Office should be the main driver for formulating witness protection procedures to be standardized by coordination and cooperation among the witness protection authorities. Also, the draft should be outlined and presented policy makers for concrete action.

Secondly, the suitability of agencies for the witness protection work should be assessed in order to arrange appropriate roles to the agencies. For example, the U.S. and Hong Kong Special Administrative Region (SAR) have arranged which agency is responsible for admission of witness, which agency is responsible for change of name and family name, who are in charge for decision making on the admission of witness of all witness protection program etc., with an aim to avoid the public confusing about the role of each agency.

Thirdly, the Witness Protection Office must coordinate and cooperate with the witness protection agencies and other agencies such as Office of the Attorney General and the Courts of Justice in order to formulate witness treatment, confidentiality of the witness and confidentiality of the agencies’ statement in any step of overall justice system.
Fourthly, the compensation should be standardized and the witness should be informed about the expenses incurred for the transparency of the officials’ operation.

Fifthly, the performance or operations of all witness protection agencies should be monitored and evaluated in accordance with the Witness Protection Act in order to promote the operational evaluation of the Witness Protection Office and a planning of the country’s central witness protection program. These aim to allocate adequate budget for overall witness protection implementation and a training plan for relevant witness protection agencies.

**VI. Recommendations for Policy**

According to the Act, the Ministry of Justice has been established as a main unit in charge of the country’s witness protection program. Therefore, policies must be encouraged to promote and support the cooperation and coordination between agencies involved in protecting the witness. The first step is that the Witness Protection Office must be encouraged to have its role as a core unit for cooperation of multilateral witness protection agencies to draw up witness protection administration system that can be applied uniformly and the witness protection procedures need to be standardized, with an aim to develop a national witness protection system.

Therefore, the policy makers should promote the Witness Protection Office under the Ministry of Justice to be a key unit that provides and facilitates witness protection program. As such, the Office’s role will be recognized as controlling, regulating and monitoring the performance of the country’s witness protection program for a concrete action. In addition, the coordination between relevant agencies, seven witness protection agencies and other agencies such as the Office of the Attorney General and Courts of Justice should be supported to establish procedures of witness protection, the witness’s confidentiality, the confidentiality of statement etc.
In terms of the structure of the Witness Protection Office in accordance with the Act, the office has been established under the Ministry of Justice, which houses both the Witness Protection Office and the Department of Special Investigation. Therefore, the policy makers may need to assess the capabilities of officials and the suitability of the agencies that will drive to provide guidance for the central witness protection program on how the structure supports the procedures. The feasibility practice is that the central unit which has very limited resources and capacity should not focus on general protection measures, but may put emphasis on the special measures. Thus, the policy makers should consider alternative management practice, whether the Witness Protection Office should be under the former Rights and Liberties Protection Department or be transferred to be placed under the Department of Special Investigation, or administered by the Ministry of Justice. The special expertise or qualification should be the most important factor for the consideration.
태국 증인 보호법(불기 2546년) 시행에 대한 평가

Srisombat Chokprajakchat** · Dol Bunnag***

= 국문초록 =

증인보호 법의 시행에 대한 평가에 관한 연구 프로젝트는 다음과 같은 목표 하에서 시도되었다.

첫째, 증인 보호법(불기 2546년: 서기 2003년) 하에서 시행되는 보호 프로그램과 관련 규정, 조례 등의 적용 과정에서 직면하는 제한점과 문제점의 파악

둘째, 증인 보호의 시행 및 법집행 과정에 대한 연구

셋째, 입법 취지와 연관된 증인 보호국의 역할과 권한, 구조의 발전 등이다.

본 연구에서는 정량적 정성적 연구방법을 혼용하였으며 이를 위해 28명의 법 집행관과 관련 공무원들과의 심층 면접을 통하여 필요한 자료를 수집하고 두 개의 핵심 집단 토의를 통해 이루어졌다. 첫번째 집단은 증인 보호 관련 기관에서 근무하는 20명의 행정 공무원, 두 번째 집단은 증인 보호국과 같은 핵심 기관에서 근무하는 13명의 실무자로 구성되었다.

연구는 2005년부터 2007년 이간 증인 보호국의 재정 지원하에서 시행된 증인 보호 프로그램에 참가한 경험이 있는 증인들 중 214명의 표본 집단에 대해 강습회를 조직하고 이들을 대상으로 설문조사를 실시하였다.

본 연구의 결과 증인 보호법과 관련한 법적 문제가 있음을 발견하였다.

첫째, 증인에 대한 정의가 명확하지 않으며 둘째, 관련 기관의 보호 제공에 대한 규범과 업무기준의 일관성이 없고 셋째, 증인 보호 기관간에 협조와 협력을 위한 명확한 혼란이 없다는 것이다. 따라서 증인 보호국은 좀더 명확한
권한과 힘을 부여받아야만 한다.

구조적 측면에 있어서 증인보호국은 독자적 권한을 가진 기관이 되어야 할 것이며 증인 보호 업무에 대한 감독 측면에서 기타 기관들을 지원하는 핵심 기관으로서의 역할을 하여야 한다.

증인 보호국은 상호 기관간의 협조를 위한 기준선 제시, 증인 자격에 대한 기준점의 정형화, 동일성을 적용할 수 있는 증인 보호 행정의 입안 등을 위해 전체 증인 보호 시스템에 대한 조정 및 촉진의 역할을 담당하여야 한다.

증인 보호 기관들의 증인 보호 처리과정이 표준화될 필요가 있다. 만일 증인 보호국이 비밀 보장 증인 보호 프로그램에 대한 책임이 있다면 그 역할은 관련된 것이라면 오직 특별한 방법하에서의 증인 보호로 그 범위가 제한되어져야 한다.

주제어 : 증인보호, 법집행, 왕립태국경찰, 특별수사국, 지방행정국
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