

The Development of Criteria for Crime Scene Re-Enactment

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Abstract

The objectives of this research were 1) to analyze the process of crime scene re-enactment, 2) to protect the alleged offender's right, and 3) to analyze the standard practical criteria for crime scene re-enactment using the qualitative research methods which employed documentary research, in-depth interview of key informant and focus group conducted with the inquiry officers. The research found that the crime scene re-enactment is an important procedure in collecting evidence. However, it is the discretion of the inquiry officer whether he would arrange the crime scene re-enactment or not. In addition, the crime scene re-enactment shall be under the principle which presumed that the alleged offender still being innocent until the court judge that he/she is the offender. Furthermore, the alleged offender could waive his or her right to presume innocence by consenting to have confession and voluntary indication to the crime scene. The development of criteria for crime scene re-enactment are: 1) crime scene re-enactment must have the purpose to search for evidences of the case with regard of the security of life for the alleged offender; 2) there should be a lawyer during to the crime scene re-enactment; 3) there should be a control on the published media which announced the crime scene re-enactment that may abuse the alleged offender; 4) the Royal Thai Police should raise the regulation in terms of Act of all crime scene re-enactment to be obvious law of all crime scene re-enactment case that should be taken place.

Keywords: Crime Scene Re-enactment, Confession, Accused, Alleged Offender, Inquiry Officer

Introduction

The crime scene re-enactment is one step in the inquiry. Sometimes it is called a planned re-enactment means a procedure after the alleged offender has been arrested, then they make confession and voluntarily take the officer to crime scene re-enactment in order for the inquiry officer record the photos of the committed offenses procedure to present that if the alleged offender make true confession. Taking the officer to the crime scene should be consistent with each evidence that will be collected by the inquiry officer in the investigation. If the crime scene re-enactment is untrue, the alleged offender is not the culprit, but has been who accepts confession instead of the real culprit, the manner in which the alleged offender is taken the crime scene has been not consistent with other evidence, the officer must seek further evidence to find the facts in the lawsuit and investigate the next alleged offender (Wiwatwanich, 2013: 177).

The crime scene re-enactment is important in assisting to find the truth of the case in the inquiry step. The inquiry officer and the court could consider the circumstances that have been true and consistent with other evidences. It is a brief description of the offense of the alleged offender in the actual process from the beginning of the offense by planning, how they prepare weapons and equipment, how and where they act to victims and what they act

after the crime, how they carry and hide weapons, how they act to victims after that and where they hide assets etc. If the crime scene re-enactment of the alleged offender is consistent with other evidences, as a result to believe that alleged offender has been the culprit, not people claim the offense but should be a voluntary confession. If it not the real culprit or a involuntary confession, that would be difficult for the alleged offender to know the falsification procedure and the relevant evidence. Therefore crime scene re-enactment is important to find the truth and gather evidence in the inquiry process as well (Wattanachainun, 1997: 163).

The crime scene re-enactment might have the trouble issues of violation of the rights to the alleged offender as human dignity, right to be presumed innocent, right to be protected by the state. And also the media has been recording the offense process publicized. Besides, it is also the destruction of the reputation and the social value of the alleged offender.

The recording and presenting news of crime scene or planned re-enactment cause the society of creating the guided sense or the alleged offender may be judged by the primary society.

The principle of criminal procedure in Thailand is the Accusatorial System, Adversary System or Adversarial System. The defendant is the presidency of the case, as a result, accused must be part of the case as a "person" and not an "object" (Na-Nakorn, 1986: 130-131) which have the lawsuit right both "Active Right" and "Passive Right" are presumed to be innocent until the plaintiff who is the accuser will prove to the court without any suspicion the defendant has been commit the offense according to the allegation (Na-Nakorn, 2008: 166-169). The litigation must also be based on the due process (Tingsapat, 2012: 68) which hold the lawfulness and protect the rights of freedom of the people not to be unfairly abused by government officials and be against using Unlawful state power.

The procedure of crime scene re-enactment is based on the rationale and the necessity for the gathering of testimony under virtue of the Criminal Procedure Code Section 131, although the confession in the inquiry stage could not be evidence of the penalty of the alleged offender in the court, however, the evidence of the plaintiff can proof the defendant is a true offender, the confession in the inquiry stage shall be considered for the condemnation and commutation, as well as, in case that the alleged offender recant to the court, the statement and the circumstance that he pleaded in the inquiry stage shall be insisted in court including of the evidence of the plaintiff could be considering the offense of the defendant. But in case process of taking the alleged offender of serious offense to the crime scene and showing acting of offense or begging to the victim, body or relatives of the deceased, allowing the media to record the alleged offender in such a process as well as the control situation in which the people to pay attention to watch the crime scene till the alleged offender has been accused Lynch shall be the violates the rights of the alleged offender in various fields. The Researcher think that there should be a study on the problem on crime scene re-enactment and it is rational and necessary to collect evidence in the inquiry by comparative study on international approaches and preventive measures to protect the alleged offender has been violated his right by the officer in crime scene re-enactment procedure, to find the right approach according to the principle of Due Process for the lawfulness of Law enforcement duties and, to make crime scene re-enactment and plan re-enactment is valuable, acceptable legality without infringing on the rights of the alleged offender and to respect for the human dignity of all involved in the justice process.

Literature Review

Presumption of Innocence

This presumption of innocence guarantees the accused that the person who involved in criminal justice process shall treat the alleged offender or defendant as the innocent

regardless of the other facts of the case is relevant to the alleged offender or defendant (Likhasitwattanakul, 2011: 489). Nevertheless, that case will have obvious evidence, or the alleged offender make crime scene re-enactment with the police officer, those officers must act on the principle of presumption of innocence and treat the alleged offender as innocent until the judgment of the court that he is a real offender (May & Powles, 2004: 67).

Related Criminology Concepts

Deterrence Theory: "Violence, speed and certainty of the punishment is the heart of crime prevention" (Khantee, 2010: 85) This theory believes that humans will take into an account of results of the actions before any behavior. So we can prevent a person to commit an offense. If the law is effective the offender can be arrested and sentenced the strict penalty. (White, & Haines, 2004: 45) So after the arrest of the alleged offender then bring into the inquiry process promptly. And when the defendant confesses that he had committed the crime, then arrange the crime scene re-enactment can be collect the further evidences which shows the effectiveness of the action to the offender. The perception of the society through the crime scene re-enactment process can protect a person from making a wrong decision according to the principles of defense theory.

Social Control Theory: The researcher proposes an analysis of social control theory continually the deterrence theory regarding the inquiry process in the crime scene re-enactment or plan re-enactment are process that is a formal social control mechanism and is description of the concept of defense theory of the original school that is to prevent a person to make an offense by the effective law which defined strict and fast penalty. It is a social control mechanism (Khantee, 2010: 88).

Labeling Theory: When the alleged offender is guilty and confesses, they are brought into the justice process for the crime scene re-enactment, which shall act in the presence of the public and mass media and they respond to the accused in various ways according to their views and opinions of each one based on feeling and faith which is subjectivity. This performance is called "Dramatization of Evil" by Frank Tannebaun. (Arthivej, 2015: 192) These are all labeling which make permanent deviation to the offenders, despite the court did not judge whether they were the offender. Which is the attitude of the people to the alleged offender in the bias and judge that they are the offender and deserves to be punished by the public or the society to prior judge the fault of the alleged offender. This behavior conflicts to the principle of international criminal proceedings. The alleged offender must be presumed innocent even he was confessing in the inquiry.

Criminal Justice Concepts

Crime Control: It is a theory that emphasizes on the efficiency of the justice system by the purpose of controlling and suppression of crime. If the state officials cannot control or suppress the crime, it may show that there shall not be any peaceful in the society. According to this theory, the rate of arrest of the offenders is important as an indicator of the effectiveness of justice (Tingsapat, 2012: 141-142). Besides, the process must be quick and decisive to find the truth of the case. So, the efficiency of the judicial process has two approaches;

- a. Releasing the alleged offender or the innocent person quickly or
- b. Litigation against the alleged offender who has obvious evidence of the offense; or the alleged offender confesses.

Due Process: Law enforcement process must have due process of law which means in the case there is violators, there must be a process of investigation, inquiry, arrest, prosecution by the police or prosecutor and must be judged by the court, as well as there must have been advocated by attorney without any intimidation. Due process is the quarantine of rule of law in regards of law enforcement (Tingsapat, 2012: 147). All of those have been called the rule

of law that focuses on the protection of civil liberties, its process must be "liberal", disclosed, transparent, verifiable and must be able to prevent crime and bring the offender back to society. (Wipathawan, Yao-Dam, & Hormket, 2016: 112-113) The concept of this theory differs from the theory of criminal control which based on the law or the rule of law, It is not show that criminal control is truly effective, especially, searching for truth that has been conducted by the police or prosecutor or administration department, it is unreliable. The concept of this theory focuses on the legal approach of finding reliable evidence. If government officials do not fully comply with the legal process, the court may exercise discretion or release the defendant. (Siegel & Senna, 2007: 158) The crime scene re-enactment is one part of the inquiry process, it is obvious that the efficiency of the justice process has been distinct and decisive in the prosecution of the offender as Crime Control, which is beneficial to the case. The voluntary confessions can bring about the other evidences which is lawful without compulsion, temptation, or any illegal act. As a result, the prosecution is rapid, effective and achieve the objectives of crime control principles. In addition to legal prosecution, it is also necessary to focus on protecting the rights of the people not be violated by the actions of the state official. While crime prevention is important to the peace of society, the researcher must find the solution or the right approach between appropriate crime prevention and lawful procedures for all parties that involved in the criminal justice process (Wattanawanich, 1981: 171).

Research Objectives

- 1) To analyze the importance of the crime scene re-enactment procedure.
- 2) To study the principle of protecting the rights of the alleged offender in crime scene re-enactment.
- 3) To study comparative analyze to the foreign countries.
- 4) To study the standard and appropriate practices of guidance of crime scene re-enactment.

Scope of Study

Content Scope

This research studies the process of collecting evidence in the inquiry stage in case that the alleged offender make confession, the procedure and the intention of crime scene re-enactment and plan re-enactment of criminal process even the allegation system and the inquisition system, the rights of the alleged offender in matters of being violated by the conduct of the officer, mass media and the public, which the researcher has selected qualitative research method by dividing into 3 formats.

- 1) Documentary Research, the researcher studied from the textbook, the Supreme Court, academic paper, thesis and related research papers which involved with the inquiry process of criminal cases in officials class, the collection of testimony of the inquiry officer, the rights of the alleged offender.
- 2) In-Depth Interview with key informants by expert interview on all relevant issues. Then, the results from the research papers and from expert interviews. The Researcher shall be analyzed and synthesized to find the appropriate practice in collecting evidence in the inquiry, in case the alleged offender makes a confession and ask the opinion of idea to the experts, it is stipulated a format of crime scene re-enactment.
- 3) Focus Group study is a tool used as a guideline for interviewing group to study the advantage and disadvantage in implementation of the crime scene re-enactment in order to receive the appropriated approach.

Methodology

The researcher has selected qualitative research method by studied the document, textbook and related research (Documentary Research). In the in-depth interview, the researcher conducted a study of 24 key informants. And focus group discussions, researchers collected information from this group provided by the inquiry officers who are directly concerned with inquiry officers.

Key Informants

In the in-depth interview, the researcher conducted a study of 24 key informants.

- 1) 5 informants who were former high commanders of the Royal Thai Police, experienced and expert in the inquiry.
- 2) 9 informants who are, academics, researchers who examine the documents academics works, books or those who concerning human rights and the medias.
- 3) 5 informants who are lawyers and acts as a lawyer for the alleged offender and the victim in case that was publicized to the media.
- 4) 5 informants who are the alleged offender through the crime scene re-enactment.

In focus group discussions, researchers collected information from this group provided by the inquiry officers who are directly concerned with inquiry officers and instructors from the Institute of Royal Thai Police. They have experience in investigative work and is expert in the principles and theories of inquiry, total of participants 8 persons,

Research Instrument

Documentary Analysis was a table of documentation, the researcher has classified the documentation into categories, by type of documents, textbooks, articles, research papers, and the content of the documents.

Questionnaire

The questionnaire was used as an in-depth interview was designed open-ended interview as semi-structured interview, which is a flexible and wide-open research method.

Focus group interview form for the interview was used as an open-ended questionnaire, semi-structured interview.

Data Collection

The researchers recorded data in the table of documents analysis which was classified by its category as textbook, research articles, and the content of the documents.

- 1) The interview with 24 key informants were conducted by the researcher, made voice recording and thee researcher took note during the interview and transcribed the audio recorded.
- 2) Focus group discussion with the inquiry officer and the instructor from the institute of the Royal Thai Police total 8 persons, the researcher requested to the instructors from any institutes the inquiry officer from any police station to have group focus discussion by the contribution from one of provincial police station, made and organized the appointment for group focus discussion. One of the inquiry officers was the moderator. The researcher was as assistants and note takers as well as recorded the voice.

Data Analysis

The researcher analyzed the data from the research papers by content analysis method after the classification and the recording of the document. Arranging the data obtained from in-depth interviews with group focus discussion and categorized by the definition of concepts, themes and keywords as well as analysis data by interpretation. The researcher compared the data obtained that how it is consistent or different and find the data concerning in sequences. To summarize data fill in the information from the research papers by inductive analysis to find the conclusion of the appearance. The validation of data by triangulation which the researcher used the methodological triangulation that was document research, in-depth

interview and focus group discussion compared the same issue whether the data is consistent or not.

Results and Discussion

Significance of Crime scene re-enactment process

Information has been analyzed from document analysis, key informants and focus group. It was found that crime scene re-enactment is important to collect evidence as follows:

“The crime scene re-enactment is essential to the case to present the action of the offense orderly, the action before and after the crime, in actual place and time, having the rationality and the sequence of crime scene process to be consistent with the evidence obtained from the site”

“The weight of the confession was tight”

“It’s necessary to gather evidence sometimes use crime scene re-enactment in consideration in case of the recant of defendant in the court”

"In gathering testimony at the inquiry of the inquiry officer maybe is one needed step, to increase the weight of the confession to confirm what the alleged offender confessed to be the culprit. But this case is important when it becomes the gathering evidence which make weight of the confession is tight”

“...if we study from verdict of the Supreme Court will see that the court will use as evidence that defendant made voluntary crime scene re-enactment...”

The researcher analyzed key words from interview to key informants who had opinion that crime scene re-enactment has been important to collect evidence which can make reasonable confession and confirm the real offender. However, it seems not important for the information which obtained from scholars and lawyers because the details of the case have been recorded in all the rhetoric, so, it is unnecessary to have crime scene re-enactment. The key informants have the same opinion that to arranging crime scene re-enactment shall depend on the evidence in the case and the case which is relevant to location that is if the evidence is sufficient, crime scene re-enactment shall not be necessary. The types of cases are lawsuits related to body, life and property comply with command of the Royal Thai Police, No. 419/2013, dated on July 1st, 2013, subject to the prosecution of criminal cases, making file of inquiries, and measure of control, verification and acceleration the inquiry of criminal cases related to the crime scene re-enactment as follows: The alleged offender brings the inquiry officer to show how alleged offender commit offense, indicate the hidden assets which is derived from the offense, items that have been offense, which were used or will be used in the offense or suspected to be used in the offense, or may be used as evidence. Regarding the alleged offender voluntarily confessed to the inquiry officer and then he agreed to indicate the crime scene, its procedure, the gesture of offenses in order to can insist real offender as well, because the alleged offender will show the steps in the offense. The crime scene is consistent with what he gives the confession and consistent with the evidence obtained. If the alleged offender recanted to court and denied that he did not commit the confession of the alleged offender has given the inquiry officer and the voluntarily point out any places by himself have been recorded as a photo, even record of his crime scene with his signatory will be used against the refusal of the alleged offender to find that what he has been confessed to the inquiry step is more accurate. Thus, the perception of the society through the process of crime scene re-enactment, it can prevent a person from making a wrong decision according to the theory of deterrence theory.

Obtain additional evidence from the crime scene

In some cases that had been finished pointing out and then the additional evidence appeared such as weapons or property stolen by the alleged offender as the object witnesses, moreover

there may be other involved oral witnesses in the crime scene. The key informants have provided the same information as follow:

“Sometimes, it can lead to find additional evidences and complete the file case of the inquiry and get clear evidence”

“...the inquiry officers get benefit from this evidence”

“It’s necessary to gather evidence sometimes use crime scene re-enactment in consideration in case of the recant of defendant in the court”

The inquiry officer can also collect evidence that appears later in the file case to support other evidences. However, the researcher comments that when there is crime scene re-enactment and then can receive the additional evidence which is the evidence of the plaintiff to prove the defendant's guilty. Although there is no issue of preference of evidence since the evidence is already existed and the alleged offender voluntarily confesses, those are the evidences are gathered in the inquiry for the court to exercise discretion in weigh of the evidence in under section 227 of the Criminal Procedure Code. The court must determine the weight of all evidence, do not judge the punishment until the court make sure that is a real offense and the defendant is the offender. When there is reasonable doubt whether the defendant has committed the crime or not, should raise the benefit of doubt to the defendant which the weight of testimony is an international principle. (Ratammarit, 2016: 292) and it shall be credible and admissible, must depend on the discretion of the court to consider.

The Defect of crime scene re-enactment because this process has not been required by the law

Crime scene re-enactment is a step to gather the evidence in the inquiry which there has not been required by the law. If the alleged offender pleads guilty, then the inquiry officer do not take him having crime scene re-enactment, the collection of evidence in the inquiry step can continue ongoing. The Police Regulations on the case is denied the regulations regards to the crime scene and the voluntary indicating the crime scene of the alleged offender, that is to add weight of the confession of the alleged offender to be more credible which the police regulations of this case is the way of conduct but it is not compulsory or not allow to do anything. It depends on the discretion of the inquiry officer in each case will be arranged the crime scene re-enactment. If there is no this process, the criminal investigation is unable to continue going.

When considering the Code of Criminal Procedure, Section 120 which stated that "the prosecutor may not file any lawsuit to the court without any inquiry" and under Section 120 stated that is not only inquiry process, but also must be a legitimate inquiry for the prosecution. If that is unlawful inquiry especially in the substantive, the Supreme Court has ruled that it is illegal, the prosecutor does not have the power to prosecute. (Kesawapitak, 2015: 165-175) In case that the alleged offender confessed in the inquiry stage, even without the crime scene re-enactment, that inquiry still be a legitimate process.

The problems of the alleged offender has been lynched or attacked

Crime scene re-enactment has to be happened among the people who keep watching and must be photographed and presented to the media. Besides, lynching to the alleged offender which is a collective behavior to spread their emotion in a form of a busy crowded people, which came from the anger with brutal behavior of the alleged offender.

Lynching is the punishment the alleged offender or whom people understand that is the offender, it is a social sanction according to the philosophy of punishment by revenge by people in the society itself to protect the community from the culprit, without the justice process. Infringement or being lynched does not come from the crime scene re-enactment of alleged offender, but it causes from the inability of safety to the alleged offender which is the defect of the official’s performance, not the steps of crime scene re-enactment, according to

section 131 of the Criminal Procedure Code, it is a practice under the law authorize to do to gather all kinds of evidence.

The crime scene re-enactment is one of step in gathering evidence that the researcher also has opinion that the crime scene re-enactment does not cause the lynching, it is just make a chance to get lynched. Even if it is not the process of crime scene re-enactment but if there is an appearance of the alleged offender or people who has been misunderstood to be the offender there also must be the spreading of emotional behavior and the lynch as well.

Protection of the rights of the alleged offender in crime scene re-enactment

The basic right to protect the alleged offender according to the Constitution of the Kingdom of Thailand 2017, Section 2, paragraph 2 states that "in criminal cases, it must be presumed that the alleged offenders and defendants are not guilty. And before the verdict finally determined that any person has committed. It must treat the accused as an innocent person. Until the judgment of the court that he is a real offender. The accused has the right to be treated in a way that is not detained.

The research found that the right of the alleged offender to be presumed innocent is assumption that the alleged offender or defendant will have the opportunity to fully fight the case and resolve the allegations. But when the alleged offender pleaded guilty according to the allegation and volunteer to have the crime scene re-enactment, it means that alleged offender denied that right by themselves. And the crime scene re-enactment will be faster and justice in that litigation. Having crime scene re-enactment is not against the principle but just the officials have to realize to fair and appropriate principles of human rights of the alleged offender. The key informants have the same information as follow:

"...when it comes from his volunteering, his action shall not be violation of his body since everything is voluntary and consent of his own..."

"Is it fair or not, should be considered both of the alleged offenders and victims. If alleged offender is an offender and he accepts the officer that he's a wrongdoer in the case of the accused, either he's afraid of punishment or repent of his fault, when he confesses and agree to have a plan re-enactment, it shows his cooperation with the police, so the plan should be quick and does not violate his right"

"...It's because of the alleged offender has confessed so there is a plan. If has not confessed and not indicated, it will not be able to identify the crime scene, so the procedure of indicating to the crime scene should come from the consent and the volunteer of the alleged offender himself"

Protection of the rights of the alleged offender should be coexisting with social protection and crime control, that is the arrest of the culprit is an indicator of the effectiveness of the justice system. The reason and the need for people to know the information of the crime scene of the re-enactment. The duty of police officers to keep the security of society, if there is crime scene

re-enactment, it should be fast and decisive to find the truth in the case (Wiwatwanich, 2013: 177-189).

The crime scene re-enactment is considered to be an action of denunciation and may be lynched

Having crime scene re-enactment will be an action in the presence of public, will depend on the location of that crime scene. The informant who was the alleged offender in the case happened in a public place, while having to the crime scene, there was a plenty of people watching it. Police officers will keep people away from that crime scene, but it cannot be forbidden to watch. On the contrast, if the case happened in a closed room such as in the house or in the room, there will be no any people in the scene that means normal people cannot see that crime scene, there are only the alleged offender and the relevant officials, so,

an action of denunciation is less than the opened crime scene which is influenced their image and is perceived as a denunciation.

To control the alleged offender in the crime scene re-enactment is discretion in the exercise of control of the inquiry officer whether the alleged offender will be controlled by handcuffing or not. The actions that exceeded the purpose of gathering evidence are cases where already had crime scene re-enactment, the officials bring the alleged offender to publish news in order to clarify their actions including the alleged offender make apology to the victim or relatives to express his repentance. All of these does not affect the weight of the evidence, it is an idea to promote the operations of police officers that they able to arrest the offender and confess, as well as to make people confident in the performance of the police. The actions which focuses on the public relations work until overrunning the right of the alleged offender. The collective behavior of the emotional spread of the people who watch that crime scene re-enactment. The retaliation against the alleged offender by lynching has been in line with their anger in the cruel misconduct of the alleged offender which is called Dramatization of Evil (Arthivej, 2015: 192).

In criminology, it is called stigmatization which make permanent misdeeds for the offenders, in order that is no any judgment by the judicial process that he is real culprit. In case of protection of the denunciation by covering the alleged offender's face with fabric or put on a helmet while having the crime scene re-enactment to hide the appearance of the public and the media. The researcher found that the act was inconsistent with the purpose of the crime scene re-enactment because arranging the crime scene re-enactment is aimed to confirm the culprit by let the alleged offenders show the process of their offenses and the acceptance of their actions as the evidence to the inquiry officer in the inquiry step. If the alleged offenders closed their face while having the crime scene, it is not possible to notice the expression of their face and eyes to show that he is the real offender.

The assistance from an attorney

Lawyers play an important role in criminal proceedings as a security to the alleged offenders that they have the full rights to defend in the case and it is necessary to receive an assistance from lawyers (Arthivej, 2015: 125) according to the Code of Criminal Procedure, Section 7/1 states that "the arrested or the alleged offender have the right to Find and consult a person who will be an attorney personally. The attorney or the person whom the alleged offender entrusts to participate the interrogation of the inquiry. The research found that attorney will participate in the case only if the law requires an attorney to hear the interrogation of the alleged offender according to the Code of Criminal Procedure, Section 134/1 which is a case where the death penalty applied or in cases where the alleged offender is not over eighteen years on the date the inquiry officer charged. The inquiry officer will ask the alleged offender whether they have a lawyer or not, it is compulsory that the inquiry officer must provide them the lawyer. If it is a jail sentence, then the inquiry officer enquires the lawyer, if the alleged offenders do not have any lawyer and they requires to have it, so the inquiry officer have to arrange them lawyer. But if the alleged offenders do not want a lawyer, it does not need to provide to them.

The informants who are the commander of Royal Thai Police, the academicians and inquiry officer have the same opinions that the crime scene re-enactment is the process that followed the interrogation. If there is a lawyer to attend the interrogation as required by law, then it is preferable to indicate the crime scene, so there is no need to have the lawyer to go. In addition, the terms condition of detaining the alleged offender under Section 87 of the Criminal Procedure Code, the inquiry officer can detain the alleged offender only 48 hours from the date of arrest, interrogation if he confesses and consent to have the crime scene re-enactment. It must be completed within the limit period, if time is over 48 hours, the alleged

offender cannot be arrested and not be able to wait for the lawyer to stay with the alleged offender to point out the crime scene and there is no need to have an attorney since the pointing out the crime scene should be voluntariness of the alleged offender.

However, the informants who are the lawyers have different opinions that lawyers are required to accompany the alleged offender to identify the crime scene to give an advice to the alleged offender. Besides, the crime scene has been important to the case, if the lawyer accompany with the alleged offender, the facts must be obvious and have a guideline of the fight in the lawsuit. According to the interview, the data from the informants was consistent with the inquiry officer in this section. The lawyer will not be notified for the participation. The inquiry officer brings the alleged offender to point out the crime scene without notifying the lawyer. The alleged offender will not know what their rights are. Lawyers who want to know the facts in the case by themselves may go to see the crime scene later to find a way to fight the case.

With time limited 48 hours, if they cannot wait for the lawyer to accompany to the alleged offender in having the crime scene, inquiry officer can continue to work without waiting for a lawyer. The person can be consulted to the accused are lawyers. Lawyers are important in the fight against the alleged offender. The litigation is due to the rule of law (Due Process).

The researcher has further comments that the qualification or ability of the attorney who shall assist the alleged offender in the case is important according to the purpose of the alleged offender is to have a lawyer. The principle of equality of arms in criminal proceedings, the lawyer is responsible for counseling, preparing the case and determining the direction in the defense against the allegations, as well as objection the unfairness in the inquiry step and find the useful facts, even the alleged offender will make confession that he is the offender. Lawyers also play a role in their counseling and maintaining the legal right to fight the case. Lawyers must have experiences and could conduct criminal cases. The equality of arms in criminal proceedings should be real equal arms.

Analyze the crime scene re-enactment or the plan re-enactment in the inquiry and analyze to compare with foreign country

The arrangement a crime scene re-enactment or a plan re-enactment in another place which is not the actual location as in the United States that has been made in the court by jury system. The presentation of crime scene re-enactment to avoid people watching, being taken photos and to be lynched. Making a plan re-enactment in United Kingdom is bringing the alleged offender to crime scene re-enactment to show the gesture of a crime called re-enactment of crime by the alleged offender or reconstruction of a murder by the alleged offender and then it has been recorded as videotape. This action is intended to confirm that alleged offender of voluntary confession by Videotape recording of the plan has been a confession under Common law. The researcher found that the arranging of crime scene re-enactment for the alleged offender or having plan re-enactment to in other places other which is not an actual location, that is inappropriate for the system to find the truth in criminal procedure in Thailand, if those has not been indicated crime scene at the actual place, the confessions and testimony will be less reliable.

The sequence of actions of the alleged offender will be disorder and the actual place makes the alleged offender can remember how what he has done, because the real offenders have their steps, starting from making decision, planning a crime and taking action will increases the procedure of the justice process. It shall waste time in the judicial process.

Conclusions

The crime scene re-enactment is an important step which is as a part of the collection of evidence to prove the fault and innocence of the alleged offender to receiver more obvious

facts related to the seriousness of the action or the cause of the alleged offender's actions is not guilty or a commuting the penalty, such as whether it is a legitimate defense or because of the necessity. Practically, there may be a number of problems, as mentioned in the introduction, for example, the crime scene re-enactment is the steps of the investigation which must be done within the period of detention under the law. If the alleged offender is unable to identify the crime scene of the alleged confession within the legal period, this step has to be cut away. And the crime scene re-enactment of the alleged offender, the officials must assess the situation whether they can control the situation to be peaceful? If cannot get people out of the crime scene, they must avoid having the crime scene since the alleged offender will be lynched. The controller is guilty of both criminal and disciplinary action. Besides, there is no any legal requirement to have a crime scene re-enactment in every case. It is the discretion of the inquiry officer who in charge to that case that whether the crime scene can be arranged? So, crime scene re-enactment is an important procedure but unnecessary to do in every case. It is up to the discretion of the inquiry officer who is responsible to the case whether he will arrange the crime scene re-enactment or not?.

The alleged offender was lynched while having the crime scene re-enactment and the photographs have been publicized in various media. This incident was seen as a denunciation or a violation. Presenting the news of the crime scene re-enactment and showing the circumstances, patterns, procedures, methods of committing the crime without cover-up the face, name, surname, and information showing who the alleged offenders which affect to the reputation of the alleged offender and family members. The violation of this reputation has been not taken by the officers who provided the crime scene re-enactment but it is the act of the media that must control the scope of the presentation of images and information and realize to the rights of the alleged offender. The right of the alleged offender to be presumed innocent is assumption that the alleged offender or defendant will have the opportunity to fully fight the case and resolve the allegations. But when the alleged offender pleaded guilty according to the allegation and volunteer to have the crime scene re-enactment, it means that alleged offender denied that right by themselves. And the crime scene re-enactment will be faster and justice in that litigation. Having crime scene re-enactment is not against the principle but just the officials have to realize to fair and appropriate principles of human rights of the alleged offender.

For the rights of the defense of the alleged offender, even the alleged offender will confess in the inquiry officer, there still is step in the inquiry of many cases are prosecuted until the court has sentenced the offender, the lawyer must go with the alleged offender to have crime scene re-enactment in order to give advice to the alleged offender which there shall be the clarity of facts and also have clear guidelines in the defense of case. The confession of the alleged offender will be beneficial to the trial and he gave useful information to the inquiry officer with his guilty and mitigation the consequences of the offense and educated the court for the benefit of consideration. According to the Penal Code Section 78, the alleged offender may receive the commutation.

Some alleged offenders may not know that their confession and the having crime scene re-enactment, can have the commutation. The inquiry officer could not explain the benefits of this law which may be seen as a wrongful act by the inquiry officer to make commitment or incentives that are prohibited under the Criminal Procedure Code, Section 135. Therefore, the person can consult the benefits to the alleged offender is lawyer who are important in the fight against the case of allege offender and the litigation can follow to the due process.

Recommendations

Police Officer who is the official who operates as inquiry officer and must gather the evidences according to the basic principle of collection evidence, that is to follow the legal regulation to get a lawful testimony. The arranging of crime scene re-enactment must be for the purpose of gathering evidences there is one thing to be considered which is more important as the gathering evidence in rhetoric, that is the security of the life of the alleged offender and save the peace at the crime scene while having the crime scene re-enactment. Sometimes it is inevitable that there will be a confrontation between the alleged offender and the victim or relatives of the victim as well as people who wait for watch. The alleged offender shall have risk of being attacked or to be lynched. Police officers are required to have a plan and assessing the various disturbances that may occur. If the results are obtained on the basis of witnesses at the scene of the crime it is not worth to have risk of disturbance and insecurity of the alleged offender, so it should be avoid having the crime scene re-enactment.

A lawyer who is a professional and has the knowledge, the ability to consult and help the case to the alleged offender. The crime scene re-enactment is a step in the inquiry process for gathering evidence after alleged offender confessed to the inquiry. The attorneys need to stay with them in the process, especially in cases where the crime scene is important to the case to know the facts obviously and have a guideline to fight in the lawsuit as well as the lawyer can also provide useful information to the alleged offender.

Press media who are the informative presentation to the public and have a role which is an important in perception, values and attitudes of people. The media will present the news based on the fact to reflect the truth in society to appear to the public and to have knowledge of the situation in various types of offenses. But the presentation of news should not be a drama, and should not seduce people's emotions to hate the alleged offender. Although the media is responsive to the curiosity of the society. But do not violate the privacy rights, such as entering the interviewer. Regarding to the offense and motivation, the alleged offender will confess to the inquiry officer voluntarily. It does not mean that the alleged offender will voluntarily respond to the questions and agree to take photographs to present. In this regard, there is no law prohibiting the act. But the media should consider the ethics, morality and ethics of the media.

Policy recommendation

The crime scene re-enactment is the one way to gather evidence in the investigation which the Criminal Procedure Code has no provisions on procedures and process. According to the order of the Royal Thai Police, there is no any legal requirements or regulations that are clear said that what kind of case must be taken the crime scene re-enactment, what kind of action must not do, so there should be the obvious criteria and the exceptions as follows;

- a. Determine the type of case that should be done in the case where the scene involved,
- b. The lawsuit will provide a guilty verdict, it should be a case where the alleged offender confesses and is guilty of an offense punishable by imprisonment not exceeding five years, according to Section 176 of the Code of Criminal Procedure, namely, under Section 176, "the case where the defendant pleaded guilty. The court will adjudicate without further evidence. Except the case, the charges against the defendant pleaded guilty.

The definition of clear rules is a reference of protection of the duties of officials that has been done by law. The results of the evidence gathered from the scene of the confession is a reliable weight to the court heard. This is done under the rules that the law empowers. It also protects the rights of the accused. It shall not be taken to point the crime scene without the need to gather evidence in the case. The risk of facing people and media.

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