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UTILIZATION OF FORENSIC EVIDENCE IN DRUG: A CASE STUDY OF CASES UNDER THE PROVISION OF THAI LAWS CURRENTLY APPLICABLE IN THE PROVINCIAL POLICE REGION 3

Wuttikorndej SAMNGAMYA¹

1 Graduate School, Silpakorn University, Thailand; ntawan@hotmail.com

Handling Editor:

Adjunct Research Professor Dr.Srirath GOHWONG

UMSi, Indonesia

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Reviewers:

1) Professor Police Major General Dr.Patchara SINLOYMA

RPCA, Thailand

2) Associate Professor Police Lieutenant Colonel Dr.Patchara SANTAD

RPCA, Thailand

3) Assistant Professor Dr.Wanwipa MUANGTHAM

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Abstract

This research aimed to study the factors affecting the use of forensic evidence in drug cases and the problems of drug prosecution in the Provincial Police Region 3 area. It was a mixed method consisting of quantitative and qualitative research. The research sample was police officers under the local police stations in the Provincial Police Area Region 3. The sample size was determined at a 95% confidence interval with a margin of error of 5%, and 385 samples were obtained for more comprehensive study results. In this study, 400 sample size was used. Data were analyzed statistically by percentage, mean, and standard deviation. Moreover, an in-depth interview with 14 key informants was derived by purposive selection. The results showed that: 1) Most police officers in this research were male, totaling 269 persons. 252 samples were aged 31-40, 241 had bachelor's degrees, and 187 had 5-10 years of expertise. 2) The factors that affected this research were divided into 3 aspects: 1. The external and internal factors related to the use of forensic evidence overall was at a high level. 2. The opportunity factor of the use of forensic evidence overall was at a high level. 3. The knowledge of forensic evidence collection overall was at a high level for forensic evidence collection. 3) The problems of drug prosecution in the Provincial Police Region 3 included the role of forensic science in drug cases and the external and internal factors related to the use of forensic evidence in drug cases.

Keywords: Evidence, Forensic Science, Forensic Evidence, Drug Case, Drug Prosecution

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Introduction

The importance and necessity of preventing and combating the dangerous crime of drug addiction in the present time pose significant challenges to the current criminal justice system. This is primarily due to the utilization of advanced technological methods by organizations involved in drug production and trafficking, which operate systematically and form networks. Consequently, they have become organized crime entities led by knowledgeable and expert individuals (Vimolohakarn, 2010). These activities result in severe damage and profoundly impact the country's economy, politics, and stability. As a result, the government responsible for preventing and suppressing drug proliferation must employ new measures and processes. One such measure is the pivotal role of due process, which plays a crucial part in preventing and prosecuting various forms of criminal offenses. This includes the investigative process, apprehension of offenders, gathering primary evidence, examining cases for prosecution, presenting evidence to prove guilt, and ultimately reaching a court judgment. These actions are particularly significant in dealing with major drug offenders and seeking evidence during investigations to establish relationships within drug-related organizations. Traditional investigative methods may not yield the desired results; hence, specialized investigative techniques such as wiretapping, undercover operations, and controlled delivery are employed. Although these measures may impact the civil liberties of individuals, they are necessary for preventing and suppressing drug addiction. The primary evidence obtained through these measures can be considered in court. Checks and controls are in place to ensure law enforcement officers' proper use of authority. Suppose these measures are utilized in a manner that exceeds the limits defined by law and encroaches upon the freedoms of the public. In that case, the officers involved must be subject to legal proceedings (Office of the Narcotics Control Board, 2010).

According to the annual report on drug prosecution in 2022 by the Office of the Narcotics Control Board, there has been an increase in the number of cases and the quantity of seized drugs in the northeastern region, which covers eight provinces, including Nakhon Ratchasima, Chaiyaphum, Buriram, Surin, Sisaket, Ubon Ratchathani, Amnat Charoen, and Yasothon. The highest number of arrests and cases occurred between 2018 and 2022, totaling 212,532. However, there are still challenges in the prosecution process and legal matters, such as operational issues and conflicts between the Narcotics Control Act 1979 and the Rehabilitation of Narcotic Addict Act 2002. Other countries have implemented drug decriminalization policies, considering drug users as patients within the framework and rationale of the Rehabilitation of Narcotic Addict Act 2002. However, according to the Narcotics Control Act 1979, drug use is considered a criminal offense. Projects such as needle exchange and methadone substitution therapy have not been implemented, nor have harm reduction centers established, although efforts are underway. Implementing alternative measures may lead to arrest by the police, along with other issues related to drug prosecution that are encountered (Na Ayutthaya, 2014).

Moreover, in some investigation reports, there may be mention of phone contact with drug dealers without supporting details. The accused's statements may need to be more consistent, leading to the lack of corroborating witnesses, which can also result in a dismissal of the charges. In cases where witnesses are in different provinces or remote areas and cannot be traced or reported, the summons may not be served. If witnesses are brought to court 1-2 times without being able to provide testimony, the court may consider dismissing the witness, which can be a reason for dismissing the charges. Regarding the request for judgment copies from the court, when the court has a judgment, the prosecutor will request copies or transcripts of the court's judgment. However, this process may take months in practice as the court still needs to publish the judgment, preventing the prosecutor from considering whether to appeal. The time for appeal starts from the date the court reads the judgment, and this requires the prosecutor to

request an extension for the appeal period and approval from the Secretary-General of the Office of the Narcotics Control Board (Office of the Narcotics Control Board, 2010). The Office of the Attorney General is aware of the need to improve the efficiency of drug-related prosecutions by the Office of the Attorney General. In the fiscal year 2011, a budget was allocated for the research and development of enhancing the efficiency of drug-related prosecutions by the Office of the Attorney General. The objectives were to collect and analyze the problems and obstacles in drug-related prosecutions and study human resources development to work in the Office of the Narcotics Control Board, ensuring timely response to incidents and using information systems to monitor drug-related prosecutions (Chonthawornpong, 2017). One of the significant causes of drug-related cases not being prosecuted is the reliance on current witnesses who mainly appear after the arrest. These witnesses often contradict each other, and the court has observed that significant drug cases lack background information and the ability to identify the structure and network. The Office of the Attorney General recommends that the solution to these problems is to adhere to regulations and strengthen coordination. This should start from the initial stages of the investigation, providing legal advice and primary evidence and eventually submitting the case to the Office of the Narcotics Control Board for drug rehabilitation, as stipulated in the Rehabilitation of Narcotic Addict Act 2002. The act requires investigating officers to present (Luandee, 2017).

In criminal cases involving drug offenses, the proceedings are conducted in an accusatory system, where the prosecutor alleges the accused has committed a crime. In such cases, the prosecutor bears the burden of proof to establish the guilt of the accused, according to the principles of the Criminal Procedure Code, Section 84(1), supplemented by the principles of the Criminal Code, Section 15 (Deka, 2000). Therefore, when the prosecutor charges the accused with a drug-related offense, it is considered a denial if the accused denies the charges or even remains silent. The prosecutor must present primary evidence to prove the guilt of the accused, while the accused has the right to cross-examine or challenge the prosecutor's evidence but does not have the duty or burden to prove their innocence. The prosecutor must present primary evidence before conducting any cross-examination, according to the principles of the Criminal Procedure Code, Section 174, referred to as the 'preliminary cross-examination.' Even if the accused admits the truth of the charges brought by the prosecutor, it is generally considered an admission in court based on the principles of the Criminal Procedure Code, Section 84(3), and Section 15. The court can hear the admission without relying on additional evidence. However, suppose the court finds it necessary to cross-examine further evidence, such as evidence from law enforcement officers indicating that the accused may falsely admit to being the perpetrator of the offense on behalf of their child or employer. In that case, the court may order the prosecutor to present primary evidence for further examination to prove the accused's guilt in the drug-related offense. However, suppose the offense for which the admission is made does not carry a minimum prescribed penalty of imprisonment of 5 years or a more severe penalty. In that case, the court can make a judgment without further cross-examination. This means that the admission of guilt can be accepted without relying on additional evidence. However, suppose the offense carries a minimum prescribed penalty of imprisonment of 5 years or a more severe penalty. In that case, the prosecutor must present primary evidence to prove the accused's guilt. However, there should be no reasonable doubt that the accused has committed the offense. The prosecutor must prove to the court that the accused has committed the offense under the principles of the Criminal Procedure Code, Section 176 (Baskin & Sommers, 2011).

Regarding drug-related offenses, the division and possession of drugs are considered distribution offenses, while the term 'production' usually refers to manufacturing in a factory. However, if the suspect has a mortar mixed with drugs and a hand pump capable of filling 10-

20 pills at a time, they may face production charges. Similarly, distributing drug-filled coffee tubes would be considered packaging, carrying the same penalty as production. Importing and exporting drugs typically refer to large quantities. However, if someone purchases a small number of drugs from a neighboring country for personal use (10-20 pills) and is caught at the checkpoint, they can be charged with drug importation. These scenarios require careful consideration to ensure the penalties are proportionate to the offenses.

The challenges mentioned above in legal proceedings have led researchers to take an interest in studying drug-related offenses and criminal proceedings in the jurisdiction of the Provincial Police Region 3 and aim to explore the application of legal principles and enhance the fairness and clarity of drug-related criminal proceedings for all parties involved.

This research has 2 objectives; 1) to investigate the factors that influence the utilization of forensic evidence in drug-related cases within the jurisdiction of the Police Region 3 and 2) to collect the issues related to prosecuting drug-related cases in the jurisdiction of Police Region 3.

Literature Review

Forensic Science, derived from the Latin word "forensic" or "forum" which refers to the gathering of citizens in a central meeting place during the Roman era to present their opinions, has been utilized in the investigation of various cases. Its purpose was to provide an opportunity for both the prosecution and the accused to present evidence and arguments, with the side presenting stronger reasoning or rebuttal being victorious. Over time, the use of physical evidence from the crime scene was incorporated into the decision-making process. This integration of scientific knowledge and technology played a crucial role in the verification of evidence, leading to more extensive examination of cases and ensuring accurate and just identification of offenders.

According to Sinloyma (2017), Forensic Science involves the application and adaptation of knowledge from various scientific disciplines to prove the truth in legal cases and contribute to the enforcement of law and punishment. Additionally, Chamsuwanwong (2001) states that Forensic Science refers to the utilization and application of scientific knowledge from different disciplines for the benefit of the law, including (1) the legislative benefits in the process of lawmaking and (2) the benefits of problem-solving and proving the truth in criminal cases to ensure law enforcement and punishment.

According to Suwatcharapinun (2007), Forensic Science is the application of scientific knowledge from various disciplines for legal purposes. It encompasses the benefits of legislative provisions, problem-solving, and proving the truth in criminal cases to ensure law enforcement and punishment. Forensic Science can be categorized into two types:

1) Natural Science Forensics, such as the study of evidence and the examination of crime scenes, including collecting and preserving evidence at the scene.

2) Forensic science as applied science by bringing scientific knowledge in various fields and applied to the benefit of the justice process, such as Forensic science is the application of scientific knowledge from various disciplines to establish facts in the legal process, creating confidence in the justice system because scientific evidence is immutable (Champod et al., 2004). In developed countries like the United States, European countries, and Japan, forensic science is used in investigations to apprehend perpetrators, with Japan achieving up to 90% success in solving homicide cases through the application of forensic science (Central Institute of Forensic Science, 2019). The practice of forensic science can be categorized as follows:

1) Crime Scene Investigation and Forensic Photography

2) Fingerprint, Palmprint, and Footprint Examination

3) Document Examination, including signature and handwriting analysis

4) Forensic Ballistics, involving the examination of firearms and ammunition

- 5) Forensic Chemistry, analyzing chemical components of various substances
- 6) Forensic Physics, examining physical evidence such as vehicle collision analysis
- 7) Biological Trace Evidence, including hair, bloodstain, and semen analysis
- 8) Forensic Medicine encompasses Forensic Pathology, Clinical Forensic Medicine, Forensic Psychiatry, Forensic Toxicology, Criminalistics, Forensic Serology, Traffic Medicine, and Medical Law. In the context of investigators, their work primarily involves crime scene investigation and photography (Houck & Siegel, 2009).

Research Methodology

Research on the use of legal evidence in forensic science in the area of Provincial Police Region 3 is a mixed- method research combining quantitative research, document research, and qualitative research. It involves analyzing narrative data and conducting in- depth interviews with key informants to obtain insights into the processes and methods of forensic science in drug cases. The integration of legal knowledge into drug-related forensic science research aims to achieve the objectives as stated in Kamhom (2016).

1) Reviewing on documents, theoretical concepts, and research related to the use of legal evidence in forensic science in drug cases. This includes the theories and concepts surrounding the application of legal evidence in criminal drug cases, as well as relevant laws from other countries concerning the acceptance of forensic science evidence in drug- related criminal cases.

2) Literature on the guidelines for the enforcement of legal evidence from the field of forensic science in the adjudication of criminal cases related to drug addiction, in accordance with the laws stipulated in the Compilation of Drug Laws, the Narcotics Control Act Amendment (No.2) of 2021, the Compilation of Criminal Procedure Laws, and the Compilation of Criminal Laws, applicable to law enforcement agencies, legal organizations, public prosecution organizations, judicial organizations, and the future development of the forensic science system. The study examines external and internal factors that affect the utilization of legal evidence from the field of forensic science in the process of justice. It identifies problems and obstacles encountered in the use of legal evidence in drug-related criminal cases, proposes solutions, recommendations, and strategies for utilizing legal evidence from the field of forensic science in the adjudication of drug-related criminal cases, and aims to contribute to the development of a feasible future implementation plan for relevant agencies involved in the justice process.

Research Findings

Police officers have been found to violate legal procedures during arrests, and in apprehending suspects, there are specific legal requirements that must be followed, such as Article 83 concerning informing the rights of the accused and notifying them of the circumstances of the arrest. Particularly, the practice of providing suspects with copies of arrest records as evidence for fair trial has led to some suspects becoming more assertive in court, resulting in some cases being dismissed. This investigation involves planning and various activities related to using different types of evidence, including undercover operations, surveillance, communication equipment, and employing informants to gather evidence. Evidence related to drug-related offenses, such as controlled substances, chemicals, and equipment used in drug production, as well as money obtained from drug sales, is collected. This includes packaging materials, coffee filters, plastic bags, syringes, and evidence obtained from operations, such as arrest records, statements, search records, investigative reports, and requests for funds for undercover purchases. Testimony from observing witnesses and operational officers is essential for effectively and accurately conducting cases against the accused. However, one challenge lies within the prosecutorial level, as Thai law separates the responsibilities for drug-related cases

between the investigative and prosecutorial stages. This leads to investigative officers having the freedom to conduct investigations without involvement from prosecutors, who only decide whether to prosecute or not. Prosecutors do not have the authority to conduct investigations or be part of the process of gathering evidence and can only issue indictments based on investigation reports provided by police officers. As a result, prosecutors lack the opportunity to thoroughly examine the truth and the details of the evidence. Furthermore, the implementation of the Rehabilitation of Offenders Addicted to Narcotic Drugs Act 2002 defines drug addicts as patients, not criminals. Therefore, rehabilitation procedures must be followed according to the law, and prosecutions are only allowed if the individuals do not fall under the scope of the Rehabilitation of Offenders Addicted to Narcotic Drugs Act 2002, Section 19, Paragraph 1. In conclusion, suspects involved in drug-related offenses, possession, and possession with intent to distribute, or distribution of drugs, must be brought before the court by investigative officers within 48 hours of their arrest. During this critical period, prosecutors cannot file charges through rehabilitation procedures, resulting in cases being dismissed. In some cases, drug tests conducted on suspects' urine samples at hospitals may take more than 48 hours, leading prosecutors to file charges solely based on drug test results obtained from police officers. Consequently, some cases are dismissed due to incomplete evidence. The use of forensic evidence in drug-related cases requires a comprehensive examination of various elements, such as phone records, mobile phones, and tracking devices, which necessitates collaboration with private companies under court orders to facilitate investigations. Therefore, investigative officers may face delays in carrying out their duties due to these procedures.

Conclusion & Discussion

Factors Influencing the Use of Forensic Evidence in Drug-related Cases in the Police Region 3

External and internal factors related to the use of forensic evidence, in general, significantly influence when examined individually. The top-ranked factor is problem-solving approaches, followed by the organization's plans and policies, the international standards of due process, societal, political, economic, and cultural aspects, and lastly, the problems and obstacles in order. These findings are consistent with the research conducted by Pakvat (2019) on attitudes and solutions to the problem of crime scene investigation in criminal cases by investigative officers in the jurisdiction of the Chonburi Provincial Police. The study reveals that the attitude of investigative officers towards crime scene investigation in criminal cases is generally high. Regarding regulations, the highest level is in the first rank, followed by the procedural aspects, and finally, the operational level, which is also at a high level. On the other hand, when comparing the attitudes of the investigative officers towards the problems in crime scene investigation in criminal cases based on personal factors, it is found that officers with different personal factors such as age, educational level, rank, and length of service have different attitudes towards crime scene investigation. Similarly, officers with different personal factors such as gender, age, and salary have different attitudes toward the problems in crime scene investigation. Additionally, the attitudes of investigative officers toward crime scene investigation in criminal cases differ from their attitudes toward the problems in crime scene investigation.

Factors affecting the opportunity to use forensic evidence from the perspective of forensic science can be summarized as follows: Overall, there are significant opportunities in various aspects. When considering each aspect, the primary factor is the opportunity related to the authority's duty to use forensic evidence. The next factor is the opportunity related to the standards of forensic examination. Additionally, there are opportunities associated with legal aspects relevant to forensic evidence, opportunities for organizational development,

opportunities for utilizing forensic evidence, and opportunities for scientific and technological advancements. These findings are consistent with the research conducted by Koloy & Witchuvanit (2022) on the development of knowledge regarding collecting and compiling forensic evidence by the police in Trat province. The research findings indicate the following: 1) Police officers responsible for collecting and compiling forensic evidence in Trat province have a high level of knowledge and understanding of the issues and obstacles, as well as strategies for knowledge development related to collecting and compiling forensic evidence. 2) Their age, marital status, and average income differ, leading to variations in their knowledge of forensic science, problems, and obstacles in their work, which are statistically significant at the 0.05 level. 3) There is a significant relationship between knowledge of forensic science, problems, and obstacles in their work, and the development of knowledge regarding collecting and compiling forensic evidence by the police in Trat province, with statistical significance at the 0.05 level.

Issues and Challenges of Narcotics Investigations in the Jurisdiction of Region 3 Provincial Police

The role of forensic science in narcotics investigations and its relevance to the work of narcotics officers involves planning, commanding, investigating, apprehending, expanding intelligence, collecting data, and seizing assets related to drug offenses. The team leader is responsible for planning operations, undercover operations, arrests, examining and analyzing data obtained from complaint reports, notifications, and accusations, and conducting investigations on individuals within the area. This includes receiving information from residents, online social media platforms, and serving as witnesses in court. Narcotics officers utilize their knowledge of forensic science in handling drug-related cases, such as conducting urine tests to detect narcotics substances, doing fingerprint analysis on drug packages, and collecting primary evidence materials for forensic examination.

External and Internal Factors related to the Use of Forensic Science Evidence in Drug Cases include personnel, budget, equipment, operational systems, and lack of knowledge in preserving the incident scene by relevant and unrelated personnel, such as investigating officers, commanding officers, and civilians. Environmental factors, such as soil conditions, atmosphere, and temperature, contribute to the lack of control.

References

Baskin, D., & Sommers, I. (2011). Solving residential burglaries in the United States: the impact of forensic evidence on case outcomes. *International Journal of Police Science & Management*, 13(1), 70-86.

Central Institute of Forensic Science. (2019). *2019 Annual Report*. Retrieved from www.oic.go.th/FILEWEB/CABINFOCENTER29/DRAWER097/GENERAL/DATA0002/00002379.PDF.

Champod, C., Lennard, C., Margot, P., & Stoilovic, M. (2004). *Fingerprints and other ridge skin impressions*. Oxford: Taylor & Francis.

Chamsuwanwong, A. (2001). *Forensic science 3 for crime investigation*. Bangkok: TCG Printing.

Chonthawornpong. (2017). *The Admissibility of Unlawfully Obtained Evidence under Thai Criminal Procedure Code*. Master of Laws thesis, Chulalongkorn University.

Deka. (2000). *Judgment of the Supreme Court No. 3146/2543*. Retrieved from <https://deka.in.th/view-91147.html>.

Houck, M., & Siegel, J. (2009). *Fundamentals of forensic science*. 2nd ed. Massachusetts: Academic Press.

Kamhom, N. (2016). *Research Methodology in Social Sciences*. Maha Sarakham: T-Com Printing.

Koloy, N., & Witchuvanit, W. (2022). The Guideline for the Development of Knowledge about the Collection of Evidence in Forensic Science of Provincial Police at Trat Province. *RPCA Journal of Criminology and Social Sciences*, 4(1), 85-99.

Luandee, S. (2017). *Trends of Using Forensic Evidence for Judge's Consideration*. Doctor of Philosophy Thesis, Silpakorn University.

Na Ayutthaya, T. (2014). *Hearing of scientific evidence at the court United States: Concepts and controversies that have not yet settled*. Retrieved from <https://dunlaphaha.coj.go.th/articles/361>.

Narcotic Drugs Act, 2002.

Narcotics Control Act, 1979.

Office of the Narcotics Control Board. (2010). *Survey on the Status of the Strength of Schools in the Prevention and Solution of Drug Abuse*. Bangkok: Office of the Narcotics Control Board.

Pakvat, A. (2019). *Attitude and Approach to Examine Crime Scenes in a Criminal Case of the Inquiry Officials under Chonburi Provincial Police Office*. Master of Political Science Thesis, Burapha University.

Rehabilitation of Narcotic Addict Act, 2002.

Sinloyma, P. (2017). *Supplementary Document for Lecture on Solving Criminal Problems through Legal Science*. Lampang: Police Forensic Science Center 5.

Suwatcharapinun, S. (2007). *Legal Science*. Nakhon Pathom: Royal Police Cadet Academy.

Vimollohakarn, M. (2010). *Seeking Evidence in Drugs Cases by Using Special Investigation methods*. Master of Law Thesis, Thammasat University.

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