

ABSTRACT

Arresting is an exercise in the primary stage of a justice process which eliminates rights of citizen by the state of authorities aiming to process further action in criminal law trial. The state officers exercise arresting and detention of person only when the state authorities provided. According to the Anti-Money Laundering Act B.E. 2542 article 38/1, this specific law provides authority to the Secretary General , the Deputy Secretary General and competent officials assigned in writing by the Secretary General to arrest the money laundering crime offender with or without notice of arresting.

According to the provided law, the Anti-Money Laundering officer possess exact status of authorized state officer or police officer possessing authority in investigating crime cases and auto-authority in arresting the money laundering crime offender providing more effectiveness in formulation of criminal justice in which the Anti-Money Laundering officer can take immediate action over the case while the police officer might be engaged with other duties. However, the immediate action of the Anti-Money Laundering officer in arresting the crime offender affects the right and liberty of individuals provided by the current Thai constitution.

By providing the law which affects rights and liberty of citizen, the state requires to limit their exercises only when it is necessary and weighs between benefit of state and benefit of individuals. The state adopts law which affects right of the citizen only when prominent benefit of the state is foreseeable otherwise the mentioned law will unnecessarily limit rights and liberty of the citizen. Money laundering offense is considered as an offense under criminal law and the police officer has authority and duty; moreover, it is regarded as a main institution in providing law and order to citizen and society. Therefore, the Act providing the power of seizing to the Anti-Money Laundering officer does not lessen the power of the police officer or the state authorities in seizing predicative money laundering crime offender.

According to the United State and French law, there is no specific law describing power in arresting money laundering crime offender, the authority of arresting refers to the provision under the constitution and the formulation of criminal law which the power of the state officer is described. In addition, concerned organizations in anti-money laundering either in United States of America and France only act upon the duties of analyzing and investigating documentation and transferring the analyzed information to the police officer for further process leading to seizing. To sum up, the power in arresting belongs to the police.

This research discovers the power in arresting the money laundering offender confronting several problems and difficulties i.e. problem in evidence collecting by the officer in order to call for a arresting notice from court and problem in invasion one's property without notify by the officer. The researcher suggests an amendment in the law providing the Anti-Money Laundering officer the right of intrusion into properties or vehicles to arrest predicative criminal without notification. Finally, lacking of experiences and skills in investigating and seizing, this could be amended by offering training courses to the officer.

Finally, unless the anti-money laundering officer exercises their duties in accordance with the principle of the law, arresting will affect all parties involved including the state officer, criminal and the criminal law practice. Therefore, domestic audit on utilizing power of arresting the anti-money laundering officer is recommended.