

## Abstract

Of an official prosecution, evidences are central to the success because the persons accused of crime shall be proved beyond reasonable doubt that they have committed a crime. Furthermore, witnesses are the most important due to the fact that they will not only present relevance facts to the Court but show the Court the connection of any other evidence and event as well; therefore, served with a writ of the Court, they have been determined three particularly legislative functions by means of law: to go to the court, to testify, and to testify truthfully.

Inasmuch as witnesses are the key of criminal proceedings, they have frequently been victimized to be interfered either not to comply with their legal duties or to do ineffectively. Such interference might be identified as "witness tampering" that is categorized into several types, namely inducement, intimidation, retaliation, and any other witness tampering. Give witnesses the false information, for instance, leads them to be confused, together with produces unreliable testimony. In other words, the lawyer's common acts found prior to court hearing, such as illegal coaching or misleading witness to say not absolute truth, are also other types of witness tampering.

Legal measures applied to preclude tampering witnesses are comprised of examination of witness in advance, witness protection, defendant and witness non-confrontation, and witness tampering punishment. Despite of having measure of examination of the witness before the date as designated to make a statement and non-confrontation of defendant and witness in accordance with the Criminal Procedure Code and measure on witness protection under the Witness Protection Act 2003, Thailand has no applicable provision to the act of witness tampering. Hence, this thesis has been focused on the latter point.

From the study, it is found that England, the United States, and Australia, all of are the common-law, have the tampering offences. The statutes thereof have been evolved from common law crimes, especially Contempt of Court and Perverting the Course of Justice. In contrast, the other

countries, France and Germany, which are not common law, have no particularly tampering provisions.

Similarly to France and Germany, Thailand has no legislation concerning witness tampering directly. Thus, the solution is to apply the relevance provisions, namely offences against liberty, offences against life and body, or subornation of perjury, which have not been designed for the act of tampering witnesses. It is obviously indicated that the solutions do not cover all types of witness tampering and the penalties thereof are improper for the detriment to the administration of justice.

This issue has presented the legal restriction and inappropriate legislation to prevent the act of witness tampering in Thailand and analyzed the concept of the legislation of tampering offences and the concept of elevating anyone conducting as a witness to a public officer. Lastly, the legislation of the offence of witness tampering applicable and punishable to the doing of witness tampering are recommended appropriately.