

ABSTRACT

The evidence collection power of the law enforcement personnel is one of the things to be considered in criminal proceedings. Evidence collection methods include search and seizure, wire-tapping, interrogation etc. Whatever the method is, it is required to consider whether such method is authorized and lawfully conducted, and whether the evidence obtained from illegal, unauthorized or “ultra vires” method is admissible.

The study found that the exclusionary rule is necessary for Thai Witness Law as the refusal of the illegally obtained evidence is the most important means to deter the law enforcement personnel from using unlawful evidence collection method. Even though lawyers still differ about the exclusionary rule in the section 226 of Thai Criminal Procedure, the author is of the opinion that the section should be interpreted with the intention to protect human rights. The emergence and the obtain of evidence should not be viewed as different issues because it might lead to the loss of the court’s control over the way law enforcement personnel collect evidence, especially documentary and material evidence. Thus, the court should refuse to accept any illegally obtained evidence.

However, in some cases, the court should take both public interest and exclusionary rule into consideration to balance crime control model with due process model. Allowing judicial discretion is not intended to give law enforcement personnel more opportunities to

exploit their power, but to ensure reasonable consideration of the court regarding the admissibility of evidence.