



Pros and cons: The role of prosecutors toward criminal investigation under check and balance procedure in the criminal justice system of Thailand

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Abstract

The public frequently questions the transparency and justice issues of the Thai police investigation system. This uncertainty leads to a lack of public confidence in the investigation processes whenever major cases occur, especially cases involving police officers. In efforts to reform the criminal investigation system, the Thai government has established several committees to resolve problems caused by the system's faults, enhance its reliability, and provide genuine justice for all. These committees have suggested that from the beginning, prosecutors should be allowed to engage in criminal investigations to increase investigative standards and provide more transparency to the public. These proposed changes may also resolve fundamental problems in the current system, such as inadequate evidence, delays in the investigation processes, and the intervention of influential figures. In answer to the above issues, this research examines the role of prosecutors in the criminal investigation processes. This study found three possible options consisting of: (1) Public prosecutors can participate in the investigation process at the beginning of every criminal case; (2) Public prosecutors are involved in the investigation process at the beginning of the criminal investigation based on their discretionary power; and (3) Public prosecutors perform their role with the inquiry police at the beginning investigation process only in special or serious cases for enhancing the criminal investigation system in Thailand by allowing prosecutors to be early on involved in criminal investigations. Finally, the study provides pros and cons for each option for developing the investigation system in Thailand.

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Introduction

In recent years, the investigation system within Thailand's criminal justice process has been immensely criticized, especially regarding the cases which gained widespread public attention or cases related to national security. Consequently, there have been numerous demands for reforming the investigation process (National Police Policy Board, 2007). The primary purpose of the reform is to generate a fair, transparent investigation system in that politicians or influential figures cannot intervene. The reform also aims to prevent neglected cases or inappropriate case dismissals (known as 'case blowing' in Thai contexts) (Komchadluek Online, 2016; Srisilarak & Chantuk, 2017). More importantly, the reform would allow the inquiry officers within the Royal Thai Police to perform their duties more effectively, bringing peace and security to the Thai public.

Over the past few decades, numerous approaches to investigation system reform have been proposed by scholars and government organs; for instance, the separation of the investigation wing from the Royal Thai Police Headquarters (Sirivunnabood, 2016) or the relocation of the investigation wing to the public prosecution offices (Matichon Online, 2017; Meebunsarang, 2011). The debate on the development of investigation in the Thai criminal justice system remains inconclusive, leading to the lack of public trust in the criminal investigation process. Therefore, the central focus of this study is to explore alternative approaches to investigation system development, particularly the involvement of public prosecutors in the investigation procedure to bring about a fair and transparent criminal justice system.

Issues with Thailand's Investigation System under the Collaboration between Public Prosecutors and Inquiry Officers

The public has recurrently denounced the performance of Thai inquiry officers. Most Thai people, in general, are not confident in the outcomes of the investigation process by the Thai police. For numerous major cases, external agencies have often been requested to engage in the process and scrutinize the inquiry officers. In Thailand, public prosecutors are widely respected legal representatives allowed to participate in investigation activities alongside the inquiry officers. However, there are numerous challenges to the cooperation between public prosecutors and inquiry officers in Thailand.

First, the absence of a public prosecutor at the beginning of the investigation process may cause public distrust in the investigation process. The primary role of public prosecutors is to make investigation and prosecution orders rather than directly investigating the cases along with inquiry officers (Sirivunnabood et al., 2014). From the inquiry police officers' point of view, however, they do not support the idea of including public prosecutors at the beginning of the investigation process. In many cases, public prosecutors are more likely to give orders and increase the workload for the inquiry police during the investigation process instead of supporting their tasks. Moreover, the prosecutors should only play the role of a legal assistant for the police, such as providing them with advice on critical legal issues or investigation reports.

Second, even though the Code of Criminal Procedure allows public prosecutors to participate in the investigation process of special cases, such as cases outside the Kingdom of Thailand, in reality, prosecutors do not have the responsibility to investigate a case or conduct an investigation report from the beginning together with the police (Office of the Council of State, 2021; Srinuam, 2021). The conventional responsibilities of Thai public prosecutors in the investigation process are providing legal advice and reviewing the investigation reports completed by inquiry police officers. This explanation indicates why the public prosecutors are not engaged at the beginning of the investigation process. Thus, the reports submitted by the inquiry officers are frequently evidence-deficient or require more information, making it difficult to issue an appropriate prosecution or non-prosecution order. Consequently, inquiry officers are instructed to conduct a further investigation immediately or within a short period to resubmit the investigation reports with more concrete evidence to the prosecutors. Due to the limited time available, the inquiry officers are unlikely to achieve sufficient investigation or appropriately revise the reports. This oversight means the case files remain incomplete despite further investigation and report revisions. Even if the public prosecutors issue a prosecution order, the case would be dismissed, or the offenders would not be punished, owing to the lack of evidence or witnesses in court.

Third, in some cases, public prosecutors who issued the prosecution orders were not the same prosecutors who had been involved in the investigation process since its early stage. It has been found that in some cases the prosecutor joins the investigation process from the beginning to give advice and assist police investigators in preparing the investigation file until completion.

Accordingly, the public prosecutors who finalized the prosecution order sometimes disagreed with those who had investigated the case with the inquiry officers. Such a disagreement could lead to redundant investigations or incoherent judgments.

Fourth, a considerable difference in the number of public prosecutors and inquiry officers causes difficulty for prosecutors to join the investigation team in all criminal cases. Presently, there are 1,482 police stations under the Royal Thai Police all over the country, including in remote areas (Personnel Planning and Design Division, 2016). However, unlike police stations, provincial public prosecution offices are only located in the central areas of each province. Therefore, inquiry police officers have to take victims and offenders to meet public prosecutors in the central areas when an offense or any criminal case occurs in remote areas. Traveling from remote districts to the center area is an obstacle for local police, particularly when they must take victims or criminals together. More importantly, when there are sensitive cases, for example, cases involving children or juveniles, traveling across areas to meet public prosecutors are challenging in the criminal investigation process due to the safety of the children.

Fifth, a limited time is provided to public prosecutors when examining the investigation reports. Inquiry officers are frequently demanded to conduct further investigations despite limited time, leading to insufficient evidence and information acquisition. In contrast to the significant number of cases and inquiry officers, Thailand has a massive shortage of public prosecutors. The public prosecutors are overloaded with criminal cases and therefore have limited time to review all the investigation reports. This burden affects their decisions on the issues of prosecution and non-prosecution orders, which may contradict the inquiry officers' expectations. Furthermore, if a public prosecutor issues a prosecution order with inadequate evidence, the court of justice would eventually be compelled to dismiss the case (Sirivunnabood et al., 2014).

Lastly, the public highly doubts the transparency of the criminal investigation system. Even though the Royal Thai Police has implemented various mechanisms to scrutinize the performance of inquiry officers, the investigation process is still prone to the interference of their commanders or influential political figures. This interference is because the criminal investigation process is mainly under the control of police station chiefs and the Royal Thai Police Headquarters (Jitsujaritwong, 2018; Wantanasombut, 2016).

Due to the dilemmas mentioned above, this study aims to explore the potential approaches to increase the participation of public prosecutors in the Thai criminal investigation system. The expected outcomes of the study are the growth in public trust and the higher effectiveness of the Thai criminal justice system.

Methodology

This study applied the qualitative research method by which focus group discussions and in-depth interviews were conducted to collect primary data from key informants. The research team first reviewed books, journal and academic articles, newspapers, legal documents, and previous studies related to Thai and foreign criminal investigation systems. Existing bills that are under the development process were also considered. The information from the literature review was later used to develop interview and focus group questions.

Participants

The key informants were selected by purposive sampling and snowball sampling methods. Based on the experts' recommendations during the interviews, a further 59 potential key informants were identified by the characteristics of research samples: (1) 8 prosecutors, (2) 25 police investigators, (3) 5 Department of Special Investigation officers who had been in police investigation, (4) 11 specialist investigators, and (5) 10 scholars, criminologists and lawyers.

Data Collection

Focus groups

The research team conducted nine focus groups with 59 participants based on Thailand's regional zones and the unique characteristics of the research samples. Five focus groups were arranged according to the regional zones, including the Northern, Eastern, Western, and Southern regions, and Bangkok Metropolis. Another four focus groups were classified by the characteristics of research samples: (1) specialist investigators, (2) criminologists and criminal justice experts, (3) Department of Special Investigation officers who had been inquiry officers, and (4) common inquiry officers.

In-depth interviews

The research team conducted in-depth interviews with five experts in the field of criminal investigation to

verify the data obtained from the focus group discussions. This data triangulation technique was designed to enhance the efficacy of the data analysis process.

Data Analysis

The research team analyzed the data collected from the focus group discussions and in-depth interviews by applying the content analysis method. The content analysis process consisted of three stages: data interpretation, constant comparison, and data synthesis. This inductive reasoning approach explained the facts found in the events and phenomena studied in this research. The research results were presented descriptively. A report and a policy brief were carried out to provide helpful information to the public. The data could be further applied to the drafting or the amendment of relevant laws.

Results

According to the research results, there were both advantages and disadvantages to the involvement of public prosecutors in the criminal investigation process. The participation of public prosecutors in the criminal investigation process could be categorized into three options as follows.

Option 1: Public prosecutors can participate in the investigation process at the beginning of every criminal case.

Option 2: Public prosecutors are involved in the investigation process at the beginning of the criminal investigation based on their discretionary power.

Option 3: Public prosecutors perform their role with the inquiry police at the beginning of investigation process only in special or serious cases such as terrorism and cybercrime.

Each individual option has its own pros and cons as discussed below.

Option 1: Public Prosecutors can Participate in the Investigation Process at the Beginning of Every Criminal Case

Public prosecutors, in this scenario, perform their role as legal advisors who provide helpful information for inquiry officers in all criminal cases. A public prosecutor would participate in the criminal investigation process from when a complaint was made to an inquiry officer. The complaint is recorded in the daily report, allowing

the public prosecutor to review and acknowledge the evidence and witness (es) at the beginning process of the investigation. The record is also helpful for the public prosecutor when they visit the crime scene to investigate the physical environment and remaining evidence. This checks-and-balances approach between the prosecutors and inquiry police would increase the transparency in the evidence acquisition and investigation report-making processes.

Pros

1. Diminishing the delays in criminal case submission from inquiry police officers.

If the prosecutors gain more power in the investigation process, they can select which case they want to be involved in. The prosecutors, thus, are responsible for filing charges, arresting, investigating, interrogating, collecting evidence, conducting investigation reports, and making prosecution decisions. This situation can shorten the period of the investigation process and the case transfer from the inquiry officers to the public prosecutors.

“Many people expect that if the public prosecutors are involved in the investigation process just like other law enforcement officers, they could provide justice to society rightfully, rapidly, and effectively.”

(Fifth focus group, criminal justice officer, 25 October 2021).

2. Preventing falsified or misleading evidence Public prosecutors can directly control all stages of the investigation process as the primary officers responsible for the investigation process. They can ensure that evidence is obtained by transparent and rightful means intended to protect the rights of the victims and offenders. More importantly, the right to the presumption of innocence is secured. As a result, society and citizens will have more confidence in the investigation process and the criminal justice system. As one of the informants from the focus group pointed out,

“Numerous victims and their families have been suffering from the unlawful evidence-seeking process, for instance, torture. This results from intentional or unintentional mistakes that cause more comprehensive investigation reports, which effectively prove the guilt beyond a reasonable doubt by the police officers.”

(Personal interview, criminal justice officer, 5 November 2021).

3. Minimizing non-prosecution orders and case dismissals in court

By investigating by themselves, public prosecutors would clearly understand the contexts and details of the criminal cases. They can extensively collect evidence and conduct more comprehensive investigation reports, which effectively prove the guilt beyond a reasonable doubt. Through this, public prosecutors can confirm whether the alleged offenders committed and whether influential political figures interfered with the crimes, resulting in a more effective decision on the prosecution determination. Moreover, the cohesive information and first-hand experiences thoroughly obtained from the investigation process would help prosecutors to present and clarify the cases in court. In addition, concrete evidence would also support the prosecutors to interrogate witnesses and answer the opposition's questions more precisely. If the judges provide sufficient and cohesive evidence on any criminal cases, the risks of case dismissals will also be decreased at the court. The judges can further decide appropriate sentences for the criminals.

4. Lessening the possibility of case intervention from influential figures, especially from the top police officers and notorious politicians

Public prosecutors are judicial officers. Their organizational structure and human resources management differ from the Royal Thai Police. In terms of personnel selection, appointment, and assignment, these activities within the Royal Thai Police are more influenced by the patronage system than the merit system or the police's personal successful performance. This patronage system within the police bureau allows powerful police officers and influential political figures to interfere in the investigation processes. Thus, if public prosecutors are allowed to participate in the investigation process, they can control and prevent power intervention from powerful elites. This matter would lead to more freedom in the investigation system and bring the excellent justice system back to society.

“Police commanders often interfered with the matters of cases. They usually order the inquiry officers to take sides with either the victims or the offenders.”

(First focus group, criminal justice officer, 8 October 2021).

Cons

1. Lack of investigation knowledge and expertise compared to inquiry police officers.

According to the Code of Criminal Procedure and other relevant laws, public prosecutors play a major role in making prosecution or non-prosecution orders and conducting all criminal prosecutions. Thereby, they shall have a superior legal understanding. However, compared with the inquiry officers, prosecutors rarely have sufficient knowledge, skills, and know-how to investigate criminal cases. Additionally, they are not well-equipped with criminal investigation equipment, materials, and budget. If public prosecutors are involved in the evidence-seeking and investigation reporting processes in the same way as today's inquiry officers, they would not be capable of collecting evidence as much as specially trained inquiry officers.

“If we, the prosecutors, were asked to conduct investigation reports by ourselves, we would not be able to do so. Our capacity is still lacking. We have not been trained for investigation and conducting reports.”

(Fifth focus group, criminal justice officer, 25 October 2021).

2. Corruption in the criminal investigation process due to the lack of external scrutiny.

Suppose public prosecutors are responsible for every criminal investigation activity, including making prosecution decisions and appearing in court. In that case, this can lead to an unbalance of power and the lack of external scrutiny. When public prosecutors have the authority to independently select and investigate their responsible cases, inquiry officers would not be allowed to join them and investigate the cases together. This means public prosecutors dominate every step in the investigation process. Like the current criminal investigation system, it could further lead to corruption and other dilemmas due to the absence of external scrutiny from other agencies.

“We need public trust in the criminal justice system as well as the criminal justice officers. We need such faith for encouraging obedience to laws and promoting the rule of law.”

(Fifth focus group, criminal justice officer, 25 October 2021).

OPTION 2: Public Prosecutors are Involved in the Investigation Process at the Beginning of the Criminal Investigation based on Their Discretionary Power

In this option, public prosecutors perform their duties similarly to the inquiry police. They collect evidence and conduct investigation reports with the police before making prosecution decisions. The public prosecutors must review the complaints recorded in the daily reports conducted by inquiry officers. They then decide what criminal charges to file. Once the prosecutors accept the complaints, they have the authority to file criminal charges, arrest, investigate, interrogate, collect evidence, and find witnesses for their responsible cases. They can exercise their power to conduct investigation reports with the police and issue a prosecution or non-prosecution order.

Pros

1. Reducing delays in the criminal prosecution process, which could be caused by inefficient evidence collection

Generally, public prosecutors are legal advisors for inquiry officers. They provide information and legal details for the police on how to search for and collect reliable evidence. The prosecutors also advise inquiry police to prepare good investigation reports to prevent possible challenges during the prosecution procedure. Cohesive and concrete evidence is vital for public prosecutors' decision-making on the issue of prosecution or non-prosecution orders. As one of the prosecutors participating in a focus group states.

"If the public prosecutors were involved in the criminal investigation process from the beginning, the delays in the process would be reduced. Responsibilities would be shared; otherwise, justice delayed is justice denied."

(Third focus group, criminal justice officer, 20 October 2021)

2. Preventing re-order for investigation, non-prosecution orders, and case dismissals

As public prosecutors play a role as legal advisors for the police, they could give some guidance on how to prepare investigation reports and other relevant documents from scratch. This action not only reduces the delays in the investigation report submission process but also increases the reliability of the investigation reports and their supporting evidence. When the submitted reports and evidence prove the guilt or innocence of the

accused persons, the public prosecutors do not have to investigate further. The solid evidence also prevents undesirable case dismissals in court. A key informant elaborated that:

"The discussions with public prosecutors before the issue of prosecution orders can prevent deficiencies in the investigation reports. If the reports were found to have some errors, the cases would, unfortunately, get dismissed."

(Seventh focus group, criminal justice officer, 8 November 2021).

3. Improving the efficiency of court hearings Being involved in all investigation levels allows

public prosecutors to clearly understand the cases. The prosecutors can understand the investigation reports conducted by inquiry police officers. Since the public prosecutors have participated in the investigation process alongside the inquiry officers, they will be more confident when making statements or presenting evidence in court. By reliable evidence and direct cooperation with the inquiry officers, they can confidently interrogate the opposition party and make the judges believe in the information they are presenting. As the informant expresses that

"Public prosecutors should have seen every piece of evidence. Experienced public prosecutors know what to present in court. They know what the judges look for."

(Third focus group, criminal justice officer, 20 October 2021).

4. Enhancing checks and balances in the investigation process

When the checks and balances in the investigation process are enhanced, the misuse or falsification of evidence is likely to decrease. To illustrate, a forced confession or a false piece of evidence would be obtained from a suspect using threat, torture, or physical force. Sometimes, evidence would be concealed or fabricated to create a scapegoat. With assistance from public prosecutors, these problems could be avoided because the inquiry officers are guided to seek evidence appropriately and lawfully. The public prosecutors are responsible for scrutinizing and warning the inquiry officers whenever a human rights violation of a suspect occurs. The legally and rightfully obtained evidence and the valid investigation reports are the key to the success of the criminal investigation. They also contribute to proper

judicial consideration and decisions on prosecution and non-prosecution orders.

"If the evidence is not falsified, destroyed, or concealed, it could be properly brought before the judge. This results in fairness and justice for the victims and the defendants."

(First focus group, criminal justice officer,
8 October 2021).

Cons

1. Inadequate human resources in the public prosecutor section to participate in investigating all criminal cases

The inadequate number of prosecutors across the country to participate in the investigation of all criminal cases leads to delays in the investigation process. In 2019, while there were around 100,000 inquiry officers nationwide (Personnel Planning and Design Division, 2016), only 3,100 public prosecutors were appointed in all 77 provinces and 33 districts of provincial prosecutor offices (Matichon Online, 2019; Office of the Attorney General, 2021). These public prosecutors not only make decisions about whether to issue prosecution or non-prosecution orders but also act as the lawyers appointed by the government to represent the state in a court of law. These missions require complete and thorough investigation to avoid errors, ensure justice, and protect the citizens' human rights. If the public prosecutors were obliged to participate in all stages of the investigation process, they would have more tasks and duties to be responsible for. Thus, the small number of prosecutors compared to the number of inquiry police does not allow the prosecutor to participate in the investigation process of all criminal cases.

"We rarely have enough public prosecutors to work with inquiry officers. This occasionally causes some problems between them because the prosecutors tend to give orders instead of working together."

(Eighth focus group, criminal justice officer,
10 January 2022).

2. Delays in the criminal investigation and prosecution processes

Public prosecutors will be overwhelmed with a massive workload if assigned to investigate all criminal cases throughout the investigation process. This would later result in the mismanagement of their work responsibilities. Aside from the small workforce in the prosecutor section, most prosecutors need to gain the

investigation skills the inquiry police officers acquire. The police have been trained as an investigator since they were in Cadet School, but prosecutors have never been trained to be an investigator, as most of them were taught in law school. With the lack of investigating skills, prosecutors may not perform their investigating skills well or better than the police. More importantly, the public prosecutor's office does not receive a budget from the government for the investigation process. This budget for investigation is mainly allocated to the police and its investigation section. The police can utilize this budget to purchase vital equipment for investigation. Without the state budget to support their investigation process, the prosecutor's office cannot be ready to perform their task as an investigator along with the police.

3. The intervention of prosecutors in the investigation process may weaken the check and balance of power within the criminal justice system.

In the investigation system, the prosecutors play two critical roles. First, upon receiving a file of criminal cases, a public prosecutor reviews the inquiry file made by the police and then delivers it to another public prosecutor for further action. Second, the public prosecutor decides on a prosecution or non-prosecution order against the alleged offender. At this point, the second public prosecutor examines all the details, including the evidence and witnesses, stated in the investigation report to decide whether to file a prosecution. If the person who investigates the case together with the inquiry police and the person who makes prosecution decisions are not the same person, there would be a conflict of opinion concerning a file of criminal cases and a decision on prosecution or not.

4. The participation between the prosecutor and the inquiry policy in the investigation process may lead to corruption in the decision process of criminal cases.

Suppose public prosecutors are involved in the investigation process in every criminal case from the beginning to the end. In that case, this could cause possible corruption with cooperation between the prosecutor and inquiry police. The collaboration between the two sections within the criminal justice system may weaken the check and balance process between the prosecutor and the police, leading to wrongful accusation or falsification and concealment of evidence (Sirivunnabood, 2016). This matter may also damage the public trust in the criminal justice system, increasing fear of crime and victimization. As confirmed by participants from the focus group,

"I am afraid that the public would believe the criminal justice system is impacted due to the conflict of interest between the prosecutor and inquiry police officers."

(Fifth focus group, criminal justice scholar,
25 October 2021).

OPTION 3: Public Prosecutors Perform Their Role with the Inquiry Police at the Beginning of Investigation Process Only in Special or Serious Cases Such As Terrorism and Cybercrime

With this option, public prosecutors act as legal advisors for inquiry officers in the event of special or serious cases. In the beginning, inquiry officers may receive complaints and record them in the daily reports. Then, they submit the daily reports to public prosecutors, who will review and acknowledge the evidence and witnesses obtained from the crime scenes. Public prosecutors may also visit the crime scenes to investigate the physical environment and search for leftover evidence. This approach benefits the evidence management and drafting of investigation reports. More importantly, it can enhance transparency and checks and balances in the investigation process.

Generally, special cases refer to any complex or sensitive criminal cases which require special inquiry, investigation, and collection of evidence. This type of criminal case may involve multiple parties, magnifying its complexity to a great extent. In Thailand, these special cases usually include:

1. criminal cases receiving excessive public attention
2. criminal cases impacting a vast number of individuals
3. criminal cases affecting the country's economy as a whole
4. criminal cases related to influential figures or government officers
5. criminal cases facing public complaints against administrative injustice

Special cases are determined by the criminal behavior characteristics and the degree of damage or violence to the victims and society. The level of penalties does not always indicate the significance of criminal cases. Some cases with a high penalty are not considered complex or require the involvement of public prosecutors. It can be said that these cases do not demand special legal knowledge for collecting evidence or conducting investigation reports. Meanwhile, some low or moderate-penalty cases may need such knowledge and assistance from the public prosecutors. Some types of crimes are

complex, such as organized and cybercrime. In such cases, the perpetrators may not always receive severe sentences, or they would be able to avoid the penalties due to interference or assistance from influential people behind the scenes.

On the other hand, serious criminal cases are defined as any criminal cases with a high penalty, such as imprisonment, fines, or both. Capital punishment is also another possible penalty. The serious cases are also determined by the degree of damage or violence emerging from the offenders' behavior. Based on the research findings, statistics, or judgments handed down by the Supreme Court, the involvement of public prosecutors as fellow criminal investigators are required for these cases. The cooperation between the public prosecutors and the inquiry officers can build public trust in the investigation process and effectively protect offenders' rights.

Pros

1. Minimizing non-prosecution orders and case dismissals in court
2. Reducing delays in the criminal prosecution process caused by insufficient evidence collection
3. Diminishing further investigation
4. Improving the efficiency of court hearing
5. Enhancing checks and balances and preventing falsified or misleading evidence

These five advantages of Option 3 are comparable to the benefits of Option 1 and 2. This is because, with all these options, public prosecutors act as the legal advisors for inquiry officers from the beginning of the investigation process. Nevertheless, Option 3 focuses on special cases (excluding the cases under the existing authorities) or serious cases only.

Cons

1. Improper interference damaging the balance of power between public prosecutors and inquiry officers
2. Inconsistency in the investigation process due to the transfer of public prosecutors to other provincial public prosecution offices

Both disadvantages, as mentioned above, may also occur with Options 1 and 2. However, since the public prosecutors in Option 3 are involved in only special or serious cases from the beginning of the investigation, this might not be considered a significant issue. Due to the small number of special and serious cases, the public prosecution offices under the Office of the Attorney General can manage their human resources systematically. As a result, public prosecutors can investigate the cases from the initial stage alongside the police.

3. Corruption in the criminal investigation due to the lack of external scrutiny.

Like Option 2, this disadvantage will likely happen with Option 3. Nonetheless, the involvement of public prosecutors in this option would not tremendously affect the entire system because they are only involved in special and serious cases.

In conclusion, although all three approaches have their strengths and weaknesses, each can be independently applied to the criminal justice system. Each option can genuinely increase transparency in the investigation process and bring justice to the people. The Thai government must reconsider which option is the best solution for the country. Any of the three can lead society to collaboration, checks and balances, or even conflict between public prosecutors and inquiry officers at the crossroads.

Discussion

Based on the analysis of the research findings, the third option is the best possible approach to developing authority in reference to specific laws of the Thai criminal justice process. The solution allows the public prosecutors to be involved in the criminal investigation process from the beginning, by which they shall act as the legal advisors for the inquiry officers when special criminal cases or serious criminal offenses occur. Public prosecutors already have this kind of authority over certain laws. To illustrate, according to the Special Case Investigation Act B.E. 2547 (2004), they can be involved in the investigation of special cases from the beginning of the process. Additionally, they can conduct a factual inquiry alongside the National Anti-Corruption Commission (NACC) officers or investigate with the Office of Election Commission of Thailand (ECT) officers.

Another critical duty of public prosecutors is to facilitate fairness in the investigation process and court for juvenile justice and protect victims' right to perform an autopsy. The responsibilities mentioned above are a standard code of conduct. However, it is crucial to include their involvement in special and serious cases in all relevant laws. With this, the public prosecutors will be equipped with legal authority to perform their duties. Another reason this option is applicable is the public prosecutors' current workforce. Since the number of special or serious cases is usually smaller than other criminal cases, the existing public prosecutors can manage them adequately and effectively. They are more

likely to engage in the investigation process without burdens. Public confidence in the criminal justice system would increase if public prosecutors could be involved in the investigation process.

Conclusion and Recommendation

An efficient criminal justice process is a vital factor contributing to social and national security. Since a criminal investigation is a gateway to criminal justice, it must be rightful, transparent, and immune from influential figures' intervention. Accordingly, later stages of the criminal justice process will be correspondingly legit, unambiguous, and fair for all. The research findings suggested that public prosecutors should be involved from the beginning of the investigation to increase transparency and fairness in the criminal investigation process. However, they should be mainly engaged in certain types of criminal cases, such as serious and complex offenses, cybercrime, and transnational organized crime (TOC). With the assistance of public prosecutors, police investigators would perform their duties more effectively, ultimately leading to a higher level of public trust. Nevertheless, public prosecutors should act as fellow responsible officers who assist inquiry officers instead of commanders who give orders to the police. The cooperation between the two parties during the evidence acquisition or investigation report conducting process will subsequently enhance the transparency of the criminal investigation process and build public trust in the criminal justice system.

Limitations of the Study

Police investigators rarely provide information during focus groups if there are staff from other agencies joining the focus group, especially the prosecutors. Therefore, the researcher held one focus group for police investigators to discuss this issue.

Suggestions for Future Research

1. Such should study the roles of investigative officers in other departments to lead to expanding the work in the preparation of research reports on investigative work.

2. There should be study on guidelines for cooperation in investigative procedure between police investigators and prosecutors.

Conflict of Interest

The authors declare that there is no conflict of interest.

Ethical Clearance

This study was approved by the Mahidol University Office of the Committee for Research Ethics (Social Sciences) (MUSSIRB) Thailand with COA No. MUSSIRB 2021/132 (B1).

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References

Jitsujaritwong, R. (2018). ค่าปรัชญาและระบบการสอบสวนคดีอาชญากรรมไทย เพื่อสันติสุข ความยุติธรรมให้กับประชาชน: กรณีศึกษา การสอบสวนคดีอาชญาโกร径พนักงานฝ่ายปกครอง [Reformation of Thailand's criminal inquiry system, to promote justice to the people: Case study of criminal inquired by administrative officials]. *King Prajadhipok's Institute Journal*, 16(3), 99–115. https://so06.tci-thaijо.org/index.php/kpi_journal/article/view/243961 [in Thai]

Komchadluek Online. (2016, August 3). ความรับผิดชอบของหัวหน้าคนสอบสวน [Responsibilities of the investigating officer]. <https://www.komchadluek.net/scoop/236409> [in Thai]

Matichon Online. (2017, September 22). ผู้ชี้อุตุนต์ แยกงานสอบสวนจากตัวรัว ให้ไปที่คนบันทึกการถูกต้อง โถวเรืองฤทธิ์ ["Saree" pushes for separation of the investigation from the police to the Attorney General without rank]. https://www.matichon.co.th/politics/news_672649 [in Thai]

Matichon Online. (2019, March 14). หัวหน้าทั่วประเทศโหวตหน้าดีเดือด ให้ผู้ร่วม ลงคะแนน ชี้ “อตพะโยย” ให้เป็น “อธิการบดี” [Prosecutors across the country poured their votes to choose “Attaphol Yaisawang” as the Office of the Prosecutor’s Board chairman]. https://www.matichon.co.th/local_crime/news_1405359 [in Thai]

Meebunsarang, N. (2011). ระบบงานคดีอาชญากรรมของไทยที่อยู่ [Comparative criminal justice system]. Soutpaisal. [in Thai]

National Police Policy Board. (2007). ชื่อเสนอเบื้องต้นในการพัฒนาระบบงานด้านรักษาความสงบเรียบร้อย [Initial proposal for police system development]. National Police Policy Board, Ministry of Justice. [in Thai]

Office of the Attorney General. (2021). เว็บไซต์สำนักงานในสังกัดสำนักงานอัยการ แห่งชาติ [Website of the office under the Office of the Attorney General]. <https://www3.ago.go.th/center/agoinside/> [in Thai]

Office of the Council of State. (2021). พระราชนัฐบัญญัติให้ใช้ประมวลกฎหมายวิธีพิจารณาความอาญา พ.ศ. 2477 [Act Promulgating Criminal Code B.E. 2477]. <https://www.krisdika.go.th/librarian/get?sysid=711251&ext=pdf> [in Thai]

Personnel Planning and Design Division. (2016, May 30). รายชื่อสถานีตำรวจนครบาลทั่วประเทศ [List of police stations across the country]. http://www.pdd.police.go.th/download/2559/02_Positionanalysis1/Conclusion59_3/allpolicestation.pdf [in Thai]

Sirivunnabood, P. (2016). แนวทางการปฏิรูประบบงานสอบสวนของสำนักงานอัยการ [Guidelines for the reform of inquiry police in Thailand]. *Journal of Social Sciences Faculty of Political Science*, 46(2), 131–146. <http://www.library.polsci.chula.ac.th/dl/3d8f00eac473c1aa73ade0a55e32b05b> [in Thai]

Sirivunnabood, P., Chaiakaraphong, N., & Itsaranuwat, W. (2014). เอกสาร สรุปผลการวิเคราะห์และข้อเสนอแนะเชิงนโยบาย: การปฏิรูปงานสอบสวนคดีอาชญากรรม ของสำนักงานอัยการ แห่งชาติ [Policy briefs and research summary of the reform of inquiry police: How to make people believe in independence and efficiency]. Asia Foundation. [in Thai]

Srinuam, T. (2021). ประมวลกฎหมายวิธีพิจารณาความอาญา ฉบับปรับปรุง พ.ศ. 2564 [Criminal Procedure Law B.E.2564 (2021)]. Nitidhammalai Institute. [in Thai]

Srisilarak, R., & Chantuk, T. (2017). ปัญหาอุปสรรคและแนวทางการพัฒนาประสิทธิภาพ ในการปฏิรูปシステムของสำนักงานอัยการ. สารสารวิชาการ คณะนิติศาสตร์ มหาวิทยาลัย ทักษิณ ที่ 17 ปีที่ 1 ฉบับที่ 1 [Problems, impediments and guidelines to improve the efficiency and performance of judicial investigation officers]. *Huachiew Chalermprakiet Law Journal*, 8(1), 1–11. <https://so01.tci-thaijо.org/index.php/lawhcu/article/view/157468> [in Thai]

Wantanasombut, A. (2016, February 21). นโยบายของสำนักงานอัยการ ที่มุ่งเน้นการบูรณาการ 3 แนวทาง คือ คุ้มครองผู้ต้องหา คุ้มครองผู้ต้องหา คุ้มครองผู้ต้องหา [The inquiry policies are stressed, boss has put on pressure, hard work, the three guidelines to reform (dissolve, relocate & new division)]. <https://www.teijthai.com/news/2016/21/scoop/6067> [in Thai]