

# The Principles of Public Prosecutor's Discretion Not Prosecuting the Non Public Interest Criminal Cases in Thailand

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## Abstract

People understand that a public prosecutor only has the authority to conduct criminal prosecution to put someone in a jail. In fact, the public prosecutor can exercise discretion by not prosecuting the non public interest criminal cases. By doing so, the public prosecutor can maintain social order, deliver social justice and protect citizens' rights. However, the public prosecutors do not pursue their power, such as not prosecution those non public interest criminal cases due to corruption allegations. In this study, the researcher studied the relationships among various important variables and the public prosecutor's decision on not to prosecute or prosecute the non public interest criminal cases. The study reveals that the public prosecutor's personal background, including gender, age, education, work experiences, as well as the positive attitudes toward the discretion not to prosecute the non public interest criminal cases, does not influence the decision of not public prosecutor to prosecuting those kind of cases. The only factor that affects the public prosecutors' decision not to prosecute the non public interest criminal cases is the due process of law and its relevant regulations.

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**Keywords:** Public Prosecutor, Criminal Case, Criminal Prosecution

## Introduction: Background and Significance of the Problem

To bring legal proceedings against any individual is a critical issue. Therefore the fair and effective proceedings are very significant to maintain law and order in the society. Even in a case involving a petty offense, the criminal proceedings will affect all parties involved, including the defendant, family and relatives of the defendant as well as victims, witnesses and criminal justice personnel, such as the case of VCD seller at the market. According to first paragraph section 38 and 79 (1) in the Film and Videotape Act (B.E. 2551), a person commits the offenses of trading cinematographic films without authorization and receives an amount of income in return. In this case the defendant was a garbage collector, a temporary worker, at the Bangkok Metropolitan Administration. He was arrested and prosecuted by police officers because he collected old VCDs from the garbage dump. And then, he resold them at an occasional market for 20 baht each. The public prosecutor filed a lawsuit against him and since he had confessed, the court sentenced him to pay a fine of 133,400 baths.

Another interesting occurring case in Lop Buri Province, Thailand. The defendant was a poor housewife with two kids who earned her living as a seamstress. In order to earn more money, this defendant sold 10 used DVDs that she bought to entertain her children. Unluckily, by doing so, she was arrested by police officers and had a lawsuit filed against her. The court has ordered her to face a fine of 100,000 baths.

According to these two cases the sentence of imprisonment shouldn't have been imposed to whom. Due to the two defendants the lack of financial resources, those two defendants, however, were sent to jail. The outcome of this judgment resulted in public dissatisfaction and criticizes on the judgmental process. The consideration of the public interest is involved and whether public prosecutors who prosecute criminal actions on behalf of the state only have a duty to put someone in a jail even though they can use their discretion not to prosecute if the cases are not in the public interest.

This case can be compared to the following cases in which public prosecutors exercised their discretion not to prosecute the cases due to the lack of public interest. For the first case, a 15-year-old boy who worked at Tesco Lotus, a retail store, gave a free extra bun to his mother who bought buns for his brother. Although that extra bun expired, it was illegal to give that expired food to any customers. The boy, therefore, was accused eventhough he was unintentionally to give that extra bun to his mother. By considering any necessarily information about that boy such as his age, behavior, educational background, mental state, habit, career, status and other relevant environmental factors, it was clear that the defendant only wanted to support his family rather than attempting to commit crime. The prosecution, therefore, was not implemented in this case.

Another interesting case is a 21-year-old pregnant woman who committed crime by using a hammer to break a bank's glass door. By doing so, she expected to earn money for the childbearing. However, she wasn't succeed to steal money from the bank. The alarm turned on and she was arrested before stealing money. The public prosecutor did not report this case to the court. By considering her personal information, this woman did not intend to commit crime. Moreover, she did not have any previous criminal case records. To sentence hers, it would also cause more trouble to her family, particularly her children, if she delivered and raised her baby in jail; moreover, it would cause more trouble in the future.

From the two cases that public prosecutors exercised their discretions not to prosecute as they are not in the public interest. We can see that the cases are more serious than the old VCD cases under The Film and Videotape Act (B.E. 2551) which are not serious and both are a victimless crime that are not in the public interest. Besides, defendants did not have a commercial purpose and they have acquired the old VCDs honestly and have had the right of ownership. Both of them did not have any criminal record. They were just two innocent people who do not have enough money to support their families. The VCDs' prices were very low, compared with a fine of 200,000-1,000,000 baht and a further fine not exceeding 10,000 baht per day throughout the violation period. Since both defendants did not have enough money to pay the fine, they were sent to jail. In these cases, defendants were not supposed to face a stigma of prison. The Act, however, is intended to benefit capitalism or the economic system which in turn reduces the individual's rights. These reasons could be taken into consideration when the prosecutorial decisions were made. However, the cases had brought many questions and the process of judgment was criticized by the society. Some of the questions are "Are these actions really against the law?",

“Does the court or sovereignty properly exercise its power?”, “Was the Act enacted to protect the capitalists by using the process of judgment as a tool?” and “Were the innocent people abused by the law or the process of judgment?”

According to the Labeling Theory, when individuals who has the mentioned behaviors is detained under the social control especially under the government’s process of judgment, he or she is labeled as a criminal and will not have their normal life back. The person will then assume that it is an irreparable situation which results in their permanent criminal behaviors. The chart explains the criminal behaviors based on the labeling theory: Primary Deviance ---> Labeling Process ---> Criminal Self-image ---> Secondary Deviance. Moreover, individuals who have low economic and social status, the minority or powerless group has a strong tendency to be labeled from the process of judgment as these people do not have power to fight against the process or the organization regulates the mechanism of social control. They will have to just accept the labeled status. Although individual’s self-identity or personality tends to cause the negative label more than the criminal behaviors. (Becker, 1963)

From the prosecution of the two accused in the cases of selling the old VCDs under The Film and Videotape Act (B.E. 2551), the defendants were punished with shame and they might think of themselves as a criminal which might make them continue to have the criminal behaviors in the future. Braithwaite (1989) calls this punishment as a new labeling or stigmatization which influences the person to continue their behavior as classified by social norms. Therefore, it is more appropriate to forgive them and to make them respect the social norms. This more appropriate method of punishment is called the reintegrative shaming process. Any society in which this process is applied usually has the low crime rates. In opposite, the shaming punishment will only make the criminals feel shame and become alienated. Keeping them away from the society will only make them stay in their own group and may lead to another crime in the futures. Hence, this research is carried out to study the prosecutorial discretion to dismiss the non public interest criminal cases and to find its advantages and disadvantages as well as to study the attitudes of the public prosecutors toward the discretion.

The study population is the public prosecutor who is responsible for the issuance of orders involving criminal cases in 2012. There are all together 235 respondents in the position of Provincial Chief Public Prosecutor (nationwide) and Executive Director (in Bangkok area). To make the study more explicit, the researcher also studies 20 other public prosecutors in charge of the management within the Office of the Attorney General, ranging from the Deputy Director General to Executive Director, and Director General in various offices, the Inspector General, Deputy Attorney General and the Senior Executive as well as 10 other legal experts in the field of Justice Administration, Criminal Justice System and Criminology. Each person has at least 10 years of experience. The Mixed Methods Research is chosen for this study. Both quantitative and qualitative research methods are used with the main focus on the quantitative research with descriptive statistics (percentage).

**Do the public prosecutors’ personal backgrounds influence his/her discretion on not prosecuting the non public interest cases?**

The study shows that the majority of sampling group 232 respondents (57.30%) will prosecute the cases if there is sufficient evidence. They will prosecute when a confession is made, 113 respondents (27.90%). The prosecution will be certainly made since the investigation time is limited, 33 respondents (8.10%). They will prosecute because they want the court to decide whether to punish the accused or not, 19 respondents (4.80%). Some of them have other reasons to persecute such as the victim to be compensated by offender, 8 respondents (1.90%) as seen in Table 1.

**Table 1** Reasons to prosecute the criminal cases

Public prosecutors will prosecute criminal cases when (The survey respondents may answer more than one opinion)	Frequency (respondents)	Percentage
- Having sufficient evidence	232	57.30
- Confessing by the offenders	113	27.90
- Preferring to have court to judge the case	19	4.80
- Limiting time for investigation process	33	8.10
- Other reasons	8	1.90
<b>Total</b>	<b>405</b>	<b>100.00</b>

When analyzing the personal background of survey respondents such as gender, age, highest educational level, experience in the public prosecutor position, it reveals that the personal background does not affect the prosecutorial discretion as most public prosecutors will prosecute when there is enough evidence. This is consistent with the in-depth interview with an executive in Office of the Attorney General who expressed his opinions that the public prosecutor will adhere to the law principles and evidence appeared in the investigation report. If the evidence is sufficient, the prosecution will usually take place. As mentioned by a Deputy Attorney General <sup>(2)</sup>.

*The public prosecutors act by adhering to the facts and evidence appeared in the investigation report and legal principles. If evidence is not sufficient, the prosecution will not be filed.*

**Do the positive attitudes toward using their discretion not to prosecute the non public interest criminal cases affect the public prosecutors' decisions in not bringing the criminal charges?**

The results show that the majority of the sampling group, 176 respondents (74.90%), considers the consequences for the offenders such as offenders may be suffered from being stigmatized or labeled. 49 respondents (20.90%) do not take consequences for the offenders into consideration. 10 respondents (4.20%) mentioned that their decisions vary from case to case as seen in Table 2.

**Table 2** Attitude toward the consequences for the offenders if the prosecution takes place

Before making decision to file the criminal charges, are there any awareness of the consequences for offenders; for example, offenders may be suffered from being stigmatized or labeled?	Frequency (respondents) (n= 235)	Percentage
- Unaware	49	20.90
- Aware	176	74.90
- Others, e.g. consideration varies from case to case	10	4.20
<b>Total</b>	<b>235</b>	<b>100.00</b>

According to Table 3, the majority of the sampling group, 176 respondents (74.90%), also agree that the justice system, by bringing the criminal charges, would have negative impacts on offenders. 54 respondents (23.00 %) believe there are no negative impacts on offenders. Only 5 respondents (10.2%) select others; for example, depending on circumstances surrounding the case.

**Table 3** Attitude of public prosecutors toward the prosecution that affects the offenders

Does the criminal Justice System in terms of prosecution have negative effects on offenders?	Frequency (respondents) (n= 235)	Percentage
- There is no negative effect.	54	23.00
- There are some negative effects.	176	74.90
- Others, e.g. the negative effects will also depend on the acts of offenders in each case.	5	2.10
<b>Total</b>	<b>235</b>	<b>100.00</b>

In addition, the majority of the sampling group, 202 respondents (86.00%), believes that the discretion not to prosecute the non public interest criminal cases will give the offenders the opportunity to reform. 20 respondents (8.50%) do not believe it can help them reform themselves. 13 respondents (5.50%) select others; such as, the results also depend on other measures as seen in Table 4.

**Table 4** Attitude toward the discretion not to prosecute the non public interest criminal cases and the opportunity offered to the offenders in order to behave

The discretion not to prosecute the non public interest criminal cases will help the offenders to turn over a new life.	Frequency (respondents) (n= 235)	Percentage
- No, it will not help.	20	8.50
- Yes, it will help.	202	86.00
- Others, e.g. take other measures into consideration	13	5.50
<b>Total</b>	<b>235</b>	<b>100.00</b>

From Table 2 to 4, the majority of public prosecutors have a positive attitude toward using their discretion not to prosecute the non public interest criminal cases. However, in order to effectively evaluate and analyze whether the positive attitudes of public prosecutors will affect their decision to dismiss the non public interest criminal cases, the researcher also considered the facts and previous cases that were dismissed by the Attorney General and included them in the questionnaire. The findings reveal that the majority of public prosecutors decide to issue the prosecution for those cases by narrating the facts in their prosecution order, followed by the group of public prosecutors who choose not to prosecute as the cases are not in the public interest and the number of respondents says further investigation is required, respectively as seen in Table 5, 6 and 7.

**Table 5** Attitude toward non-vital criminal cases that the offenders tend to repent

Decision on issuing the order for a lesser criminal offense with proof that the offender tends to behave	Frequency (Respondents) (n= 235)	Percentage
- Prosecute	72	30.60
- Prosecute with a description of facts attached to the report	116	49.40
- Not prosecute	5	2.10
- Not prosecute due to non-public interest	27	11.50
- Others, e.g. further interrogate about surrounding circumstances to see if the offenders can reform	15	6.40
<b>Total</b>	<b>235</b>	<b>100.00</b>

The survey result indicate that the majority of the sampling group, 116 respondents (49.40%), will prosecute the petty crime by describing the facts in the accusation report. 72 respondents (30.60%) will prosecute the case. 27 respondents (11.50%) will not prosecute due to non-public interest. 15 respondents (6.40%), require further investigation on surrounding circumstances to see whether the offender can behave themselves in the future. 5 respondents (2.10%) decide not to prosecute.



**Table 6** Attitude toward the case in which a low income offender trespassed in the National Reserved Forest

Decision on issuing the order for the case in which a low income offender encroached on the small area of the decadent National Forest Reserves to occupy the land and make their living	Frequency (respondents) (n= 235)	Percentage
- Prosecute	53	22.60
- Prosecute with a description of facts attached to the report	121	51.50
- Not prosecute	1	.40
- Not prosecute due to non-public interest	53	22.50
- Others, e.g. further investigate for more details	7	3.00
<b>Total</b>	<b>235</b>	<b>100.00</b>

Table 6 indicates that the majority of the sampling group, 121 respondents (51.50%), will prosecute the case by describing the facts in the accusation report. 53 respondents (22.50 %) will prosecute and the same number of persons will not prosecute due to non-public interest. 7 respondents (3.00%) require further investigation for more details and only one person (0.40%) will not prosecute.

**Table 7** Attitude toward the case in which the offender, collected used VCDs from the garbage and sold them in a market as money as to support his family

Decision on issuing the order for the case in which the offender, a collected used VCDs from the garbage and sold them for small amount of money to support his poor family. The offender in this case has no criminal history	Frequency (respondents) (n= 235)	Percentage
- Prosecute	72	30.60
- Prosecute with a description of facts attached to the report	113	48.10
- Not prosecute	14	6.00
- Not prosecute due to non-public interest	27	11.50
- Others, e.g. further investigate for more details	9	3.80
<b>Total</b>	<b>235</b>	<b>100.00</b>

Table 7 shows that the majority of the sampling group, 113 respondents (48.10%), will prosecute the case by describing the facts in the accusation report. 72 respondents (30.60%) will prosecute. 27 respondents (11.50%) will not prosecute as the case is not in the public interest. 14 respondents (6%) will not prosecute and 9 respondents (3.80%) needs further investigation.

In conclusion, the public prosecutors' positive attitude toward the prosecutorial discretion not to prosecute the non public interest cases does not affect their discretion not to prosecute the charges. The sampling group will, however, charge the offenders for their crimes by describing useful facts which are beneficial to the offenders in the indictments for the court to use its discretion to pass a light sentence. This, however, does not bring the offenders out of the criminal justice system (diversion) entirely because the offenders still have to be punished for their crimes. The further study is therefore carried to find the reasons for this situation as seen in Table 8.

**Table 8** Attitude case toward the public prosecutors' discretion in not prosecuting the non public interest criminal cases and the scandal the public prosecutor

The discretion not to prosecute the non public interest criminal cases will cause a corruption scandal.	Frequency (respondents) (n= 235)	Percentage
- Do not agree	91	38.70
- Agree	124	52.80
- Others, e.g. it depends on the explanation giving to the society and whether it is acceptable	20	8.50
<b>Total</b>	<b>235</b>	<b>100.00</b>

Table 8 illustrates that the majority of the sampling group, 124 respondents (52.80%), thinks that the prosecutors' discretion choosing not to prosecute the non public interest criminal cases will cause a scandal. 91 respondents (38.70%) disagree with the idea, while 20 respondents (8.50%) thinks that it depends on the explanation and whether people in the society will accept it or not.

The findings of this interview are also relevant to the in-depth interview is result. One of the vital information from Office of the Attorney General pointed out that the public prosecutor's discretion not to prosecute the non public interest criminal cases is an exception in the general procedures of prosecution and it may cause a scandal. As mentioned by a Deputy Attorney General <sup>(3)</sup>.

*A problem which public prosecutors encounter when deciding not to prosecute the cases with no public interest involved is that they are afraid to exercise their discretion as it should be done in the first place and throughout the legal proceedings until the end. To consider whether the non-prosecution is appropriate for the cases that have enough evidence to prosecute is one exception in prosecution. When the decision is made, the victims and the society will be skeptical about the reasons and they will probably make an allegation of bribery against the prosecutors. To protect themselves from trouble, the public prosecutors usually decide to bring the cases to court.*

In addition, everybody in the sampling group gives similar additional information to this subject. It can be inferred that they believe the prosecutorial discretion not to prosecute such cases. Therefore, it will make the society and the victims speculate about the reasons for case dismissal; despite the fact that there is sufficient evidence. As a result, it will create the corruption scandal. Furthermore, offenders will not be truly enforced to accept their mistakes and the victims may not be compensated for damages. The same kind of crime may be committed by someone else in the future as they realize that the case will not be brought to court. Therefore, the public prosecutor organization should clarify the point and present the roles of the public prosecutor to the society to earn their trust. The principles of prosecutorial discretion not to prosecute the non public interest criminal cases should also be included in the training courses for all levels of prosecutors. The practical manual of the related issues and the pronouncements of former dismissed cases should be published as well.

**Do laws and regulations relating to the public prosecutors' criminal discretion affect the public prosecutors' decision?**

From the study, the majority of the sampling group, 193 respondents (82.10%), agrees that the legal procedures to prosecute are less complicated than not to prosecute. 181 respondents (77.00%) agree that there is less investigation for making a prosecution. 200 respondents (85.10%) think that issuing the order of non-prosecution because the cases are not in the public interest has the most complicated legal procedures and regulations. And the complicated procedure will affect the criminal prosecution, 194 respondents (82.60%). 150 respondents (63.80%) think that the nature of the offenses of non public interest criminal cases is not clearly stated in the related laws and regulations. As regards the unclearly stated nature of the offenses, 134 respondents (57.00%), say if there is any accusation, complaint or scandal arising from the discretion not to prosecute, there is no proof that the public prosecutors have carried out their duty with integrity and fairness. There are 200 respondents (85.10%) who agree that prosecution policy and guidance not to prosecute such cases from other countries such as England Wales and Scotland should be applied when the public prosecutors review the criminal cases. In addition, those Western Laws should be applied to our laws and regulations as seen in Table 9.

**Table 9** The consequences of the laws and regulations relating to the discretion not to prosecute the non public interest criminal cases.

Data	Agree		Do not agree	
	Amount	Percentage	Amount	Percentage
1. To file a charge against the offender in a criminal case, the legal procedures are less complicated than not to.	193	82.10	42	17.90
2. To file a charge against the offender in a criminal case, the investigation procedures are less complex than not to.	181	77.00	54	23.00
3. To issue the order of non-prosecution because the cases are irrelevant to public interest factors has the most complicated legal procedures and regulations.	200	85.10	35	14.90
4. The complicated legal procedures and regulations to cancel the non public interest criminal cases affect the criminal prosecution.	194	82.60	41	17.40
5. The nature of the offenses of non public interest criminal cases is clearly defined in the related laws and regulations.	85	36.20	150	63.80

**Table 9** The consequences of the laws and regulations relating to the discretion not to prosecute the non public interest criminal cases. (Continue)

Data	Agree		Do not agree	
	Amount	Percentage	Amount	Percentage
6. If there is any accusation, complaint or scandal arising from the discretion not to prosecute, the public prosecutors can use related laws and regulations to prove that they have carried out their duty with integrity and fairness.	101	43.00	134	57.00
7. Prosecution policy and guidance not to prosecute such cases from other countries such as England Wales and Scotland should be employed when the prosecutors consider the criminal cases and be applied to our laws and regulations as well.	200	85.10	35	14.90

This is consistent with the answers given during an in-depth interview with an executive from Office of the Attorney General. The interview mentioned that laws and regulations relating to non-prosecution of the criminal charges that are not in the public interest affect public prosecutors' discretion not to bring the charge. As mentioned by a Deputy Attorney General<sup>(4)</sup>.

*There are many time-consuming stages to declare non-prosecution of the cases that contain no public interest factors. As a result, the public prosecutors may choose to prosecute the charges instead. To do so is also faster and more convenient for the public prosecutors, victims and offenders and can save the time and effort involved in traveling. Apart from this, a time limit on a criminal investigation is another factor that makes the prosecutors decides not to prosecute the charges that are not in the public interest. Therefore, there should be amendments to laws and regulations to fasten the process of presenting the*

*charges not to prosecute such cases by decentralizing the authority of the Attorney General to the Director General of the offices.*

All the legal experts offer similar opinions during the interview. They believe that the related laws and regulations have long working processes and are unclear about types of crimes that are not in the public interest. Accordingly when performing their duties, sometimes public prosecutors choose to protect themselves from corruption scandals. Besides, it is more likely to gain public acceptance if the charges are filed. As mentioned by an expert in the field of justice administration <sup>(5)</sup>.

*When comparing between prosecution and non-prosecution processes as the cases are not in the public interest, it turns out that using prosecutors' discretion not to prosecute requires a more complicated process because the public prosecutors have to send their proposals through the line of authority from the superior level to the Attorney General. And clear definitions of cases that are not in the public interest have never been defined in the related laws. If the prosecution is finally made and there is proof that it has sufficient evidence to prosecute but the public prosecutor does not file the charge. He or she may be blamed.*

Which indicates that laws and regulations relating to types of crimes that are not in the public interest are written in an ambiguous way? There is also a long and slow process to present proposals from the operational level to chief executive officer or the Attorney General which is unnecessary and is the cause of work delay. Therefore, they think it will be useful if the clear definitions of non public interest criminal cases are defined. As well as if they can shorten the proposal process to issue the non-prosecution orders by decentralizing the power from the top. The authority to consider not prosecuting such cases may be given to the Director General of each office instead and they can send a report to the Attorney General later.

## Conclusion & Suggestion

The principles of public prosecutor's discretion to not prosecuting the non public interest criminal cases deliver from the present innovative theories of punishment in the rehabilitation aspects. These principles are also conformed to the Utilitarian Theory. The main objective of punishment here is an act of deterrent to prevent offenders from committing crimes. The punishment will also have reformative and rehabilitative effects to make the offenders change their attitude and make them commit to the laws. Strong punishments are not always a good choice as they will stimulate the offenders and commit crime again. In addition, the discretion of public prosecutors in such cases corresponds to the reintegrative shaming theory which gives the offenders an opportunity to conform to social norms again. The principles of public prosecutor's discretion not prosecuting the non public interest criminal cases are considered a diversion that takes the offenders away from the justice system and saves them from being excoriated. However, the key objective of the diversion is to take the offenders out of the justice system as fast as one can do to protect them from the negative effects which may prevent them to return to normal life in the society. The public prosecutors should therefore understand these factors.

From this study, the following suggestions should be point out:

1. The prosecutorial discretion not to prosecute the non public interest criminal cases is an exception in prosecution principles. It means the prosecutors have decided not to prosecute the cases even though it is a criminal case and there is sufficient evidence to prove offenders' guilt. The public prosecutors have already used their discretion and considered the cases as not being in the public interest and the non-prosecution is granted. However, the non-prosecution order may lead to the corruption and the society may become suspicious of the public prosecutors' performance. Thus, public prosecutors usually do not consider issuing the non-prosecution order in such cases to protect themselves. On the contrary, the public prosecutors will pursue a prosecution order to bring the case to court. In conclusion, the Attorney General should publicize the roles of the public prosecutors to the society and they should make the public prosecutors feel confident to implement decisions, for example, by giving them the work manual for this issue.



2. The characteristics of the non public interest criminal cases are not properly defined in laws and regulations relating to such cases. In addition, there are many stages to propose the non-prosecution through the line of command from the operational level to the highest position or the Attorney General. The length and slow processes are frequently led to the public prosecutors' decision to prosecute to bring the cases to court. Therefore, suggestions are to clearly state the characteristics of the non public interest criminal cases and to reduce the processes of presenting the non-prosecution proposals by decentralizing the authority to consider non-prosecution orders of such cases from the top to the Director General of the offices instead. Then, the public prosecutors can report to the Attorney General later after the decisions are made.

3. Exercising prosecutorial discretion not to prosecute the non public interest criminal cases is an approach to encourage the offenders to commit the laws by forgiving and protecting them from being stigmatized as criminals (reintegrative shaming). This process is an importance to prevent crimes in society. In addition to the public prosecutors, other organizations in the justice system should adopt and integrate this approach. For example, the inquisitors can perform an investigation and present their opinions not to prosecute to the public prosecutors.

#### Endnote

- (1) The Film and Videotape Act (B.E. 2551)

Section 38 (first paragraph): "Prohibits the sale, exchange or lease of any films with remuneration, except with the permission of the Registrar."

Section 79: "Whoever violates first paragraph in section 37, first paragraph in Section 38 or operates such a business during the suspension or revocation of their license shall be liable to a fine between two hundred thousand and one million baht and a further fine not exceeding ten thousand baht throughout the period of violation."

- (2) Interview information on October 8, 2012 at 12.10 p.m. at Office of the Attorney General.
- (3) Interview information on October 25, 2012 at 12.30 p.m. at Office of the Attorney General.
- (4) Interview information on November 16, 2012 at 08.10 a.m. at Office of the Attorney General.

- (5) Interview information on October 9, 2012 at 12.30 p.m. at The Government Complex Commemorating His Majesty The King's 80th Birthday Anniversary, 5th December, B.E.2550 (2007)

## References

- Adisorn Chaikupt. (1999). *Discretion of the Prosecutor to Order Non-prosecution*. Thailand: Ramkhamheng University.
- Howard S, Berker. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press.
- Braithwaite, John. (1989). *Crime, Shame, and Reintegration*. Cambridge: Cambridge University Press.
- Chaninya Chaisuwan. (1983). *The Discretion of the Prosecutor in the Criminal Proceedings*. Chulalongkorn University, Bangkok.
- Emile, Durkhiem. (1965). *The Rule of Sociological Method*. New York. Catlin New York.
- Miller, Frank W. (1974). *Prosecution: The Decision to Charge a Suspect with a crim*: U.S.A. Brown and Co.(Canada) Ltd.
- Kanit Na-Nakorn. (1993). *The Concept on Rights Protection of the Prosecutors*. Bangkok: Chalong Rattana.
- Kanit Na-Nakorn. (1993). *The Criminal Procedural*. Bangkok: Nititham.
- Kanlaya Tansiri. (2002). *The problem concerning to Criminal Justice Sytem in regard to when a child aged less than 7 years old committed criminal offece: A study in consistent with International Declaration on Children's rights and Constitution 2540*. B.E. Bangkok.
- Kiattikajorn Watchanasawadi. (1978). *Discretion of non-prosecution in criminal cases which have sufficient evidence of American Prosecutor: The Journal of Law*.
- Kittipong Kittiyarak. (2008). *Code of ethics and standards of conduct of the prosecutors in various countries*. Bangkok: Justice Development Foundation.
- Kullapol Pollawan. (1977). *The principle of delay indictment: The Law Journal of Law Faculty, Chulalongkorn University*.

- Ministry of Justice. (2002). *Reduction on the case to court: consideration on the issue of the lawsuit and non-prosecution of the prosecutor*. The Journal of Justice Edition (2).
- Natee Chitsawang. (2003). *Rehabilitation Program for Offenders*. Bangkok: Wattanawong.
- Mun, Norman L. (1971). *Introduction to Psychology*. Boston: Houghton Mifflin.
- Office of the Attorney General. (2006). *Justice as alternative for prosecutor*. Bangkok: Office of the Attorney General.
- Office of the Attorney General. (1993). *Evolutionary of Attorney General Regime in 100 years*. Bangkok: Chalongrat.
- Office of the Attorney General. (2012). *Manual for operation on the case report at the Attorney General Office*. Bangkok: Office of the Attorney General.
- Office of the Attorney General. (2003). *The Justice Administration Training Provincial Chief Prosecutor*. Bangkok: Office of the Attorney General.
- Ponchai Kantee. (2000). *Criminal Law on Punishment and Safety Procedures*. Bangkok: Winyuchon.
- Pratuang Taniyapol. (1995). *Criminology and Penology*. Bangkok: Sangchan .
- Royal Academy, Retrieved February, 2013 from. <http://rirs3royin.go.th/new-search/word-search-all-x.asp>
- Sataneti Netipattarachuchote. (2009). *Discretion Standards of the prosecutor on the Issuance of Criminal Case*. Bangkok: Thammasat University.