

## รายการอ้างอิง

ภาษาไทย

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## SINGAPORE

## LEGISLATION ON VIDEO-CONFERENCING

## Criminal Procedure Code

Evidence  
through live  
video or live  
television  
links.  
Cap. 97.

364A.—(1) Notwithstanding any other provision of this Act or the Evidence Act, a person in Singapore (other than the accused person) may, with leave of the court, give evidence through a live video or live television link in any trial, inquiry, appeal or other proceedings if —

- (a) the witness is below the age of 16 years;
- (b) the offence charged is an offence specified in subsection (2);
- (c) the court is satisfied that it is expedient in the interest of justice to do so; or
- (d) the Minister certifies that it is expedient in the public interest to do so.

(2) The offences specified for the purposes of subsection (1) (b) are —

- (a) an offence which involves an assault on, or an injury or a threat of injury to, persons including but not limited to sections 319 to 338 of the Penal Code; Cap. 224.
- (b) an offence under Part II of the Children and Young Persons Act (relating to protection of children and young persons); Cap. 38.
- (c) an offence under sections 354 to 358 and sections 375 to 377 of the Penal Code;
- (d) an offence under Part X of the Women's Charter (relating to offences against women and girls); and Cap. 353.
- (e) such other offences as the Minister may, after consulting the Chief Justice, prescribe.

(3) Notwithstanding any other provision of this Act or the Evidence Act, the court may, in its discretion, order an accused person to appear before it through a live video or live television link whilst in remand in Singapore in proceedings for any of the following matters:

- (a) any application for bail;
- (b) any extension of the remand of an accused person under section 198; and
- (c) such other matters as the Minister may, after consulting the Chief Justice, prescribe.

(4) The court may, in the exercise of its powers under subsection (1) or (3), make an order on any or all of the following matters:

- (a) the persons who may be present at the place where the witness is giving evidence;
- (b) that a person be excluded from the place while the witness is giving evidence;
- (c) the persons in the courtroom who must be able to be heard, or seen and heard, by the witness and by the persons with the witness;
- (d) the persons in the courtroom who must not be able to be heard, or seen and heard, by the witness and by the persons with the witness;
- (e) the persons in the courtroom who must be able to see and hear the witness and the persons with the witness;
- (f) the stages in the proceedings during which a specified part of the order is to have effect;
- (g) the method of operation of the live video or live television link system including compliance with such minimum technical standards as may be determined by the Chief Justice; and
- (h) any other order which the court considers necessary in the interests of justice.

(5) The court may revoke, suspend or vary an order made under this section if —

- (a) the live video or live television link system stops working and it would cause unreasonable delay to wait until a working system becomes available;
- (b) it is necessary for the court to do so to comply with its duty to ensure that the proceedings are conducted fairly to the parties thereto;
- (c) it is necessary for the court to do so so that the witness can identify a person or a thing or so that the witness can participate in or view a demonstration or an experiment;
- (d) it is necessary for the court to do so because part of the proceedings is being heard outside a courtroom; or
- (e) there has been a material change in the circumstances after the court has made an order.

(6) The court shall not make an order under this section, or include a particular provision in such an order, if to do so would be inconsistent with the court's duty to ensure that the proceedings are conducted fairly to the parties to the proceedings.

(7) An order made under this section shall not cease to have effect merely because the person in respect of whom it was made attains the age of 16 years before the proceedings in which it was made are finally determined.

(8) Evidence given by a witness through a live video or live television link by virtue of this section shall be deemed for the purposes of sections 193, 194, 195, 196, 205 and 209 of the Penal Code as having been given in the proceedings in which it is given.

Cap. 224

Cap. 97.

(9) Where a witness gives evidence in accordance with this section, he shall for the purposes of this Act and the Evidence Act be deemed to be giving evidence in the presence of the court, the accused person or his advocate, as the case may be.

(10) In subsections (4), (8) and (9), a reference to "witness" shall include a reference to an accused person who appears before a court through a live video or live television link under subsection (3).

(11) The Chief Justice may make such rules as appear to him to be necessary or expedient for the purpose of giving effect to this section and for prescribing anything which may be prescribed under this section.



## Evidence Act

Evidence  
through live  
video or live  
television  
links.

62A.—(1) Notwithstanding any other provision of this Act, a person may, with leave of the court, give evidence through a live video or live television link in any proceedings, other than proceedings in a criminal matter, if —

- (a) the witness is below the age of 16 years;
- (b) it is expressly agreed between the parties to the proceedings that evidence may be so given;
- (c) the witness is outside Singapore; or
- (d) the court is satisfied that it is expedient in the interests of justice to do so.
- (g) the method of operation of the live video or live television link system including compliance with such minimum technical standards as may be determined by the Chief Justice; and
- (h) any other order the court considers necessary in the interests of justice.

(4) The court may revoke, suspend or vary an order made under this section if —

- (a) the live video or live television link system stops working and it would cause unreasonable delay to wait until a working system becomes available;
- (b) it is necessary for the court to do so to comply with its duty to ensure that the proceedings are conducted fairly to the parties thereto;
- (c) it is necessary for the court to do so, so that the witness can identify a person or a thing or so that the witness can participate in or view a demonstration or an experiment;
- (d) it is necessary for the court to do so because part of the proceedings is being heard outside a courtroom; or
- (e) there has been a material change in the circumstances after the court has made an order.

(5) The court shall not make an order under this section, or include a particular provision in such an order, if to do so would be inconsistent with the court's duty to ensure that the proceedings are conducted fairly to the parties to the proceedings.

(6) An order made under this section shall not cease to have effect merely because the person in respect of whom it was made attains the age of 16 years before the proceedings in which it was made are finally determined.

Cap. 224.

(7) Evidence given by a witness, whether in Singapore or elsewhere, through a live video or live television link by virtue of this section shall be deemed for the purposes of sections 193, 194, 195, 196, 205 and 209 of the Penal Code as having been given in the proceedings in which it is given.

(8) Where a witness gives evidence in accordance with this section, he shall, for the purposes of this Act, be deemed to be giving evidence in the presence of the court.

Cap. 322.

(9) The Rules Committee constituted under the Supreme Court of Judicature Act may make such rules as appear to it to be necessary or expedient for the purpose of giving effect to this section and for prescribing anything which may be prescribed under this section.

ศูนย์  
จุฬาลงกรณ์มหาวิทยาลัย

## ENGLAND

## (1) Evidence through television link

## Criminal Justice Act 1988, s.32

32.—(1. A person other than the accused may give evidence through a live television link in proceedings to which subsection (1A) below applies if—

- (a) the witness is outside the United Kingdom; or
- (b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies,

but evidence may not be so given without the leave of the court.

(1A) This subsection applies—

- (a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the *Criminal Appeal Act 1968*; and
- (b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.

(2) This subsection applies—

- (a) to an offence which involves an assault on, or injury or a threat of injury to, a person;
- (b) to an offence under section 1 of the *Children and Young Persons Act 1933* (cruelty to persons under 16);
- (c) to an offence under the *Sexual Offences Act 1956*, the *Indecency with Children Act 1960*, the *Sexual Offences Act 1967*, section 54 of the *Criminal Law Act 1977* or the *Protection of Children Act 1978*; and
- (d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.

(3) A statement made on oath by a witness outside the United Kingdom and given in evidence through a link by virtue of this section shall be treated for the purposes of section 1 of the *Perjury Act 1911* as having been made in the proceedings in which it is given in evidence.

(3A) Where, in the case of any proceedings before a youth court—

- (a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and
- (b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,

the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the

purposes of this subsection by the justices acting for the petty sessions area for which the court acts.

(3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purposes of the jurisdiction of the justices acting for that area.

(4) Without prejudice to the generality of any enactment conferring power to make rules to which this subsection applies, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.

(5) The rules to which subsection (4) above applies are Magistrates' Courts Rules, Crown Court Rules and Criminal Appeal Rules.

(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.

[This section is printed as extensively amended by the *Criminal Justice Act 1991*, s.55(2)-(6). These provisions (i) substituted the words "in proceedings to which subsection (1A) below applies" for the original words in subsection (1); (ii) substituted a new paragraph (b) in subsection (1); (iii) inserted new subsections (3A) and (3B); (iv) amended subsection (5); and (v) added subsection (6).]

Section 32, except subs. (1)(a) and (3) came into force on January 5, 1989: *Criminal Justice Act 1988* (Commencement No. 4) Order 1988 (S.I. 1988 No. 2073). The *Criminal Justice Act 1988* (Commencement No. 12) Order 1990 (S.I. 1990 No. 2084) brought the remainder of the section into force on November 26, 1990 for the following purposes:

- (a) proceedings for murder, manslaughter or any other offence consisting of the killing of any person;
- (b) proceedings being conducted by the Director of the Serious Fraud Office under section 1(5) of the *Criminal Justice Act 1987*;
- (c) proceedings (other than those falling within para. (b) above) in which a notice of transfer has been given under section 4 of that Act by any of the authorities designated by subsection (2) of that section.

The proceedings must be by way of trial on indictment, appeal to the criminal division of the Court of Appeal or the hearing of a reference under section 17 of the *Criminal Appeal Act 1968*. If the trial, appeal or hearing began before November 26, 1990 the new provision has no application. Where a preparatory hearing has been ordered under section 7 of the *Criminal Justice Act 1987* the effect of section 8 of that Act, which provides that the trial is to begin with the preparatory hearing, is to be disregarded and the trial is to be taken to begin with the swearing of the jury: S.I. 1990 No. 2084, art. 3.

The amendments effected by the 1991 Act (*ante*) took effect on October 1, 1992: *Criminal Justice Act 1991* (Commencement No. 3) Order 1992 (S.I. 1992 No. 333).

For section 32A(7) (see subs.(6), *ante*), which defines "child," see *post* § 8-53c.

For rules of court made under this section, see rules 23A and 23B of the *Crown Court Rules* 1982, *post*, and rules 9A and 9B of the *Criminal Appeal Rules* 1968, *ante*, §§ 7-217, 7-217a.

As to the prohibition on cross-examination of a child witness by an accused in person, who is charged with an offence to which section 32(2) applies, see section 34A of the 1988 Act, *post*, § 8-160a.

#### Crown Court Rules 1982, rr. 23A, 23B

*Evidence through television link where witness is a child or is to be cross-examined after admission of a video recording*

23A.—(1) Any party may apply for leave under section 32(1)(b) of the *Criminal Justice Act* 1988 for evidence to be given through a live television link where—

- (a) the offence charged is one to which section 32(2) applies; and
- (b) the evidence is to be given by a witness who is either—
  - (i) in the case of an offence falling within section 32(2)(a) or (b), under the age of 14; or
  - (ii) in the case of an offence falling within section 32(2)(c), under the age of 17; or
  - (iii) a person who is to be cross-examined following the admission under section 32A of that Act of a video recording of testimony from him;

and references in this rule to an offence include references to attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of, that offence.

(2) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Schedule 5 or a form to the like effect.

(3) An application under paragraph (1) shall be made within 28 days after the date of the committal of the defendant, or of the consent to the preferment of a bill of indictment in relation to the case, or of the service of notice of transfer under section 53 of the *Criminal Justice Act* 1991, or of the service of Notice of Appeal from a decision of a youth court or magistrates' court, as the case may be.

(4) The notice under paragraph (2) shall be sent to the appropriate officer of the Crown Court and at the same time a copy thereof shall be sent by the applicant to every other party to the proceedings.

(5) A party who receives a copy of a notice under paragraph (2) and who wishes to oppose the application shall within 14 days notify the applicant and the appropriate officer of the Crown Court, in writing, of his opposition, giving the reasons therefor.

(6) An application under paragraph (1) shall be determined by a judge of the Crown Court without a hearing, unless the judge otherwise directs, and the appropriate officer of the Crown Court shall notify the parties of the time and place of any such hearing.

(7) The appropriate officer of the Crown Court shall notify all the parties and any person who is to accompany the witness (if known) of the decision of the Crown Court in relation to an application under paragraph (1). Where leave is granted, the notification shall state—

- (a) where the witness is to give evidence on behalf of the prosecutor, the name of the witness, and, if known, the name, occupation and relationship (if any) to the witness of any person who is to accompany the witness, and

(b) the location of the Crown Court at which the trial should take place.

(8) The period specified in paragraph (3) may be extended, either before or after it expires, on an application made in writing, specifying the grounds of the application and sent to the appropriate officer of the Crown Court, and a copy of the application shall be sent by the applicant to every other party to the proceedings. The appropriate officer of the Crown Court shall notify all the parties of the decision of the Crown Court.

(9) An application for extension of time under paragraph (8) shall be determined by a judge of the Crown Court without a hearing unless the judge otherwise directs.

(10) A witness giving evidence through a television link pursuant to leave granted under paragraph (7) shall be accompanied by a person acceptable to a judge of the Crown Court and, unless the judge otherwise directs, by no other person.

*Evidence through television link where witness is outside United Kingdom*

23B.—(1) Any party may apply for leave under section 32(1) of the *Criminal Justice Act 1988* for evidence to be given through a live television link by a witness who is outside the United Kingdom.

(2) An application under paragraph (1), and any matter relating thereto which, by virtue of the following provisions of this rule, falls to be determined by the Crown Court, may be dealt with in chambers by any Judge of the Crown Court.

(3) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Schedule 6 or a form to the like effect.

(4) An application under paragraph (1) shall be made within 28 days after the date of the committal of the defendant or, as the case may be, of the giving of a notice of transfer under section 4(1)(c) of the *Criminal Justice Act 1987*, or of the preferment of a bill of indictment in relation to the case.

(5) The period of 28 days in paragraph (4) may be extended by the Crown Court either before or after it expires, on an application made in writing, specifying the grounds of the application. The appropriate officer of the Crown Court shall notify all the parties of the decision of the Crown Court.

(6) The notice under paragraph (3) or any application under paragraph (5) shall be sent to the appropriate officer of the Crown Court and at the same time a copy thereof shall be sent by the applicant to every other party to the proceedings.

(7) A party who receives a copy of a notice under paragraph (3) shall, within 28 days of the notice, notify the applicant and the appropriate officer of the Crown Court, in writing—

(a) whether or not he opposes the application, giving his reasons for any such opposition, and

(b) whether or not he wishes to be represented at any hearing of the application.

(8) After the expiry of the period referred to in paragraph (7), the Crown Court shall determine whether an application under paragraph (1) is to be dealt with—

(a) without a hearing, or

(b) at a hearing at which the applicant and such other party or parties as the court may direct may be represented,

and the appropriate officer of the Crown Court shall notify the applicant and, where necessary, the other party or parties, of the time and place of any such hearing.

(9) The appropriate officer of the Crown Court shall notify all the parties of the decision of the Crown Court in relation to an application under paragraph (1) and, where leave is granted, the notification shall state—

- (a) the country in which the witness will give evidence,
- (b) if known, the place where the witness will give evidence,
- (c) where the witness is to give evidence on behalf of the prosecutor, or where disclosure is required by section 11 of the *Criminal Justice Act 1967* (alibi) or by rules under section 81 of the *Police and Criminal Evidence Act 1984* (expert evidence), the name of the witness,
- (d) the location of the Crown Court at which the trial should take place, and
- (e) any conditions specified by the Crown Court in accordance with paragraph (10).

(10) The Crown Court dealing with an application under paragraph (1) may specify that as a condition of the grant of leave the witness should give the evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the trial judge may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

As to the *Crown Court Rules 1982* (S.I. 1982 No. 1109) generally, see *ante*, §§ 2–213 *et seq.* Rule 23A was inserted therein by the *Crown Court (Amendment No. 5) Rules 1988* (S.I. 1988 No. 2160). The original rule 23A was substituted as from October 1, 1992 by the current version by virtue of the *Crown Court (Amendment) Rules 1992* (S.I. 1992 No. 1847). Rule 23B was inserted therein by the *Crown Court (Amendment) Rules 1990* (S.I. 1990 No. 2157) which also added a new schedule, Schedule 6, to the 1982 rules. The schedule contains a specimen “Notice of Application for leave to use television link where witness is outside the United Kingdom, under Section 32(1)(a) of the *Criminal Justice Act 1988*.”

## (2) Video recordings of testimony from child witnesses

### Criminal Justice Act 1988, s.32A

#### *Video recordings of testimony from child witnesses*

32A.—(1) This section applies in relation to the following proceedings, namely—

- (a) trials on indictment for any offence to which section 32(2) above applies;
- (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the *Criminal Appeal Act 1968* in respect of any such offence; and
- (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.

(2) In any such proceedings a video recording of an interview which—

- (a) is conducted between an adult and a child who is not the accused or one of the accused “the child witness”; and
- (b) relates to any matter in issue in the proceedings.

may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.

(3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—

- (a) it appears that the child witness will not be available for cross-examination;
- (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
- (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;

and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.

(4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.

(5) Where a video recording is admitted under this section—

- (a) the child witness shall be called by the party who tendered it in evidence;
- (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.

(6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—

- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
- (b) no such statement shall be capable of corroborating any other evidence given by him;

and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).

(7) In this section "child" means a person who—

- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
- (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.

(8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.

(9) In this section—

"statement" includes any representation of fact, whether made in words or otherwise;



"video recording" means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.

(10) A magistrates' court inquiring into an offence as examining justices under section 6 of the *Magistrates' Courts Act 1980* may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.

(11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.

(12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.

[This section was inserted by the *Criminal Justice Act 1991*, s.54 as from October 1, 1992: see S.I. 1992 No. 333, *ante*, § 8-53.]

#### Crown Court Rules 1982, r.23C

##### *Video recordings of testimony from child witnesses*

23C.—(1) Any party may apply for leave under section 32A of the *Criminal Justice Act 1988* to tender in evidence a video recording of testimony from a witness where—

- (a) the offence charged is one to which section 32(2) of that Act applies;
- (b) in the case of an offence falling within section 32(2)(a) or (b), the proposed witness is under the age of 14 or, if he was under 14 when the video recording was made, is under the age of 15;
- (c) in the case of an offence falling within section 32(2)(c), the proposed witness is under the age of 17 or, if he was under 17 when the video recording was made, is under the age of 18; and
- (d) the video recording is of an interview conducted between an adult and a person coming within sub-paragraph (b) or (c) above (not being the accused or one of the accused) which relates to any matter in issue in the proceedings;

and references in this rule to an offence include references to attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of, that offence.

(2) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Schedule 7 or a form to the like effect. The application shall be accompanied by the video recording which it is proposed to tender in evidence and shall include the following, namely—

- (a) the name of the defendant and the offence or offences charged;
- (b) the name and date of birth of the witness in respect of whom the application is made;
- (c) the date on which the video recording was made;
- (d) a statement that in the opinion of the applicant the witness is willing and able to attend the trial for cross-examination;
- (e) a statement of the circumstances in which the video recording was made which complies with paragraph (4) below;
- (f) the date on which the video recording was disclosed to the other party or parties.

## AMERICA

VA. CODE ANN. § 19.2-3.1 (Michie Supp. 1994). The American Legislative Exchange Council has likewise prepared a model Remote Video Court Appearance Act, which provides in relevant part:

Section 1. [Title.] This act shall be known and may be cited as the Remote Video Court Appearance Act.

Section 2. [Definitions.] The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(A) "Independent audio-visual system" means an electronic system for the transmission and receiving of broadcast-quality audio and visual signals, encompassing encoded signals, frequency domain multiplexing or other suitable means to preclude the unauthorized reception and decoding of the signals by commercially available television receivers, channel converters, or commercially available receiving devices.

(B) "Electronic appearance" means an appearance in which various participants, including the defendant, are not present in the court, but in which, by means of an independent audio-visual system

(1) all of the participants are simultaneously able to see and hear reproductions of the voices and images of the judge, counsel, defendant, police officer, and any other appropriate participant as well as appropriate visual evidence and or pre-trial information; and

(2) counsel is present with the defendant, or if the defendant waives the presence of counsel on the record, the defendant and their counsel are able to see and hear each other and engage in private conversation via a private telephone line.

Section 3. [Policy and rules.]

(A) Notwithstanding any other provision of law and except as provided in Section 4 of this article and where otherwise Constitutionally mandated, the court, in its discretion, may dispense with the personal appearance of the defendant, and conduct an electronic appearance in connection with a criminal action pending provided that the chief administrator of the courts has authorized use of electronic appearance.

(B) If, for any reason, the court determines on its own motion or on the motion of any party that the conduct of an electronic appearance may impair the legal rights of the defendant, it shall not permit the electronic appearance to proceed. If, for any other articulated reason, either party requests at any time during the electronic appearance that such appearance be terminated, the court may grant such request and adjourn the proceeding to a date certain.

(C) The electronic appearance shall be conducted in accordance with rules issued by the chief administrator of the courts.

(D) When the defendant makes an electronic appearance, the court stenographer shall record any statements in the same manner as if the defendant had made a personal appearance. No electronic recording of any electronic appearance may be made, viewed or inspected except as may be authorized by the rules issued by the chief administrator of the courts.

Section 4. [Conditions and limitations.] Electronic appearances shall have the following conditions and limitations:

- (A) The defendant may not enter a plea of guilty to, or be sentenced upon a conviction of, a felony.
- (B) The defendant may not enter a plea of not responsible by reason of mental disease or defect.
- (C) The defendant may not be committed to the state department of mental hygiene.
- (D) The defendant may not enter a plea of guilty to a misdemeanor conditioned upon a promise of incarceration unless such incarceration will be imposed only in the event that the defendant fails to comply with a term or condition imposed under the original sentence.
- (E) A defendant who has been convicted of a misdemeanor may not be sentenced to a period of incarceration which exceeds the time the defendant has already served when sentence is imposed.

Section 5. [Approval by the chief administrator of the courts.] The appropriate administrative judge shall submit to the chief administrator of the courts a written proposal for the use of electronic appearance in their jurisdiction. If the chief administrator of the courts approves the proposal, installation of an independent audio-visual system may begin.

Section 6. [Parole hearings.] Notwithstanding any other provision of law, the department may install, maintain, and operate an independent audio-visual system in each correctional institution of the department that has committed persons eligible for parole and at the principal office of the Prisoner Review Board for the purpose of the conduct of parole hearings by the Prison Review Board and the taking of any testimony of victims by means of electronic appearance.

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*E.g.*, the Virginia Code provides:

Personal appearance by two-way electronic video and audio communication; standards—(A) Where an appearance is required or permitted before a magistrate or, prior to trial, before a judge, the appearance may be by (i) personal appearance before the magistrate or judge or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a magistrate or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by electronically transmitted facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

(B) Any two-way electronic video and audio communication system used for an appearance shall meet the following standards:

1. The persons communicating must simultaneously see and speak to one another;
2. The signal transmission must be live, real time;
3. The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating; and
4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

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## Federal Criminal Code and Rules

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SUPREME COURT OF THE UNITED STATES

Thursday, April 27, 1995

ORDERED:

1. That the Federal Rules of Criminal Procedure for the United States District Courts be, and they hereby are, amended by including therein amendments to Criminal Rules 5, 40, 43, 49, and 57.
2. That the foregoing amendments to the Federal Rules of Criminal Procedure shall take effect on December 1, 1995, and shall govern all proceedings in criminal cases thereafter commenced and, insofar as just and practicable, all proceedings in criminal cases then pending.
3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Criminal Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

### PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE

#### Rule 5. Initial Appearance Before the Magistrate Judge

(a) IN GENERAL. Except as otherwise provided in this rule, an officer making an arrest under a warrant issued upon a complaint or any person making an arrest without a warrant shall take the arrested person without unnecessary delay before the nearest available federal magistrate judge or, if a federal magistrate judge is not reasonably available, before a state or local judicial officer authorized by 18 U.S.C. Section(s) 3041. If a person arrested without a warrant is brought before a magistrate judge, a complaint, satisfying the probable cause requirements of Rule 4(a), shall be promptly filed. When a person, arrested with or without a warrant or given a summons, appears initially before the magistrate judge, the magistrate judge shall proceed in accordance with the applicable subdivisions of this rule. An officer making an arrest under a warrant issued upon a complaint charging solely a violation of 18 U.S.C. Section(s) 1073 need not comply with this rule if the person arrested is transferred without unnecessary delay to the custody of appropriate state or local authorities in the district of arrest and an attorney for the government moves promptly, in the district in which the warrant was issued, to dismiss the complaint.

\* \* \* \* \*

Rule 40. Commitment to Another District

(a) APPEARANCE BEFORE FEDERAL MAGISTRATE JUDGE. If a person is arrested in a district other than that in which the offense is alleged to have been committed, that person shall be taken without unnecessary delay before the nearest available federal magistrate judge, in accordance with the provisions of Rule 5. Preliminary proceedings concerning the defendant shall be conducted in accordance with Rules 5 and 5.1, except that if no preliminary examination is held because an indictment has been returned or an information filed or because the defendant elects to have the preliminary examination conducted in the district in which the prosecution is pending, the person shall be held to answer upon a finding that such person is the person named in the indictment, information or warrant. If held to answer, the defendant shall be held to answer in the district court in which the prosecution is pending -- provided that a warrant is issued in that district if the arrest was made without a warrant -- upon production of the warrant or a certified copy thereof. The warrant or certified copy may be produced by facsimile transmission.

\* \* \* \* \*

Rule 43. Presence of the Defendant

(a) PRESENCE REQUIRED. The defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

(b) CONTINUED PRESENCE NOT REQUIRED. The further progress of the trial to and including the return of the verdict, and the imposition of sentence, will not be prevented and the defendant will be considered to have waived the right to be present whenever a defendant, initially present at trial, or having pleaded guilty or nolo contendere,

(1) is voluntarily absent after the trial has commenced (whether or not the defendant has been informed by the court of the obligation to remain during the trial),

(2) in a noncapital case, is voluntarily absent at the imposition of sentence, or

(3) after being warned by the court that disruptive conduct will cause the removal of the defendant from the courtroom, persists in conduct which is such as to justify exclusion from the courtroom.

(c) PRESENCE NOT REQUIRED. A defendant need not be present:

(1) when represented by counsel and the defendant is an organization, as defined in 18 U.S.C. Section(s) 18;

(2) when the offense is punishable by fine or by imprisonment for not more than one year or both, and the court, with the written consent of the defendant, permits arraignment, plea, trial, and imposition of sentence in the defendant's absence;

(3) when the proceeding involves only a conference or hearing upon a question of law; or

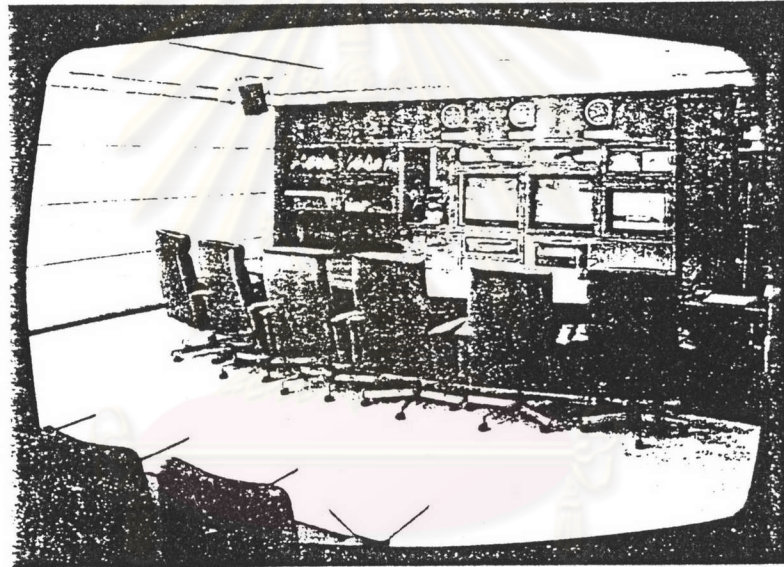
(4) when the proceeding involves a correction of sentence under Rule 35.

CITE 18 USC APPENDIX - RULES OF CRIMINAL PROCEDURE Rule 10  
EXPCITE TITLE 18 - CRIMES AND CRIMINAL PROCEDURE  
TITLE 18 - APPENDIX  
FEDERAL RULES OF CRIMINAL PROCEDURE  
HEAD IV. ARRAIGNMENT, AND PREPARATION FOR TRIAL  
STATUTE Rule 10. Arraignment  
Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to the defendant the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the indictment or information before being called upon to plead. (As amended Mar. 9, 1987, eff. Aug. 1, 1987.)

SOURCE MISC1 NOTES OF ADVISORY COMMITTEE ON RULES - 1944  
1. The first sentence states the prevailing practice.  
2. The requirement that the defendant shall be given a copy of the indictment or information before he is called upon to plead, contained in the second sentence, is new.  
3. Failure to comply with arraignment requirements has been held not to be jurisdictional, but a mere technical irregularity not warranting a reversal of a conviction, if not raised before trial, *Garland v. State of Washington*, 232 U.S. 642.

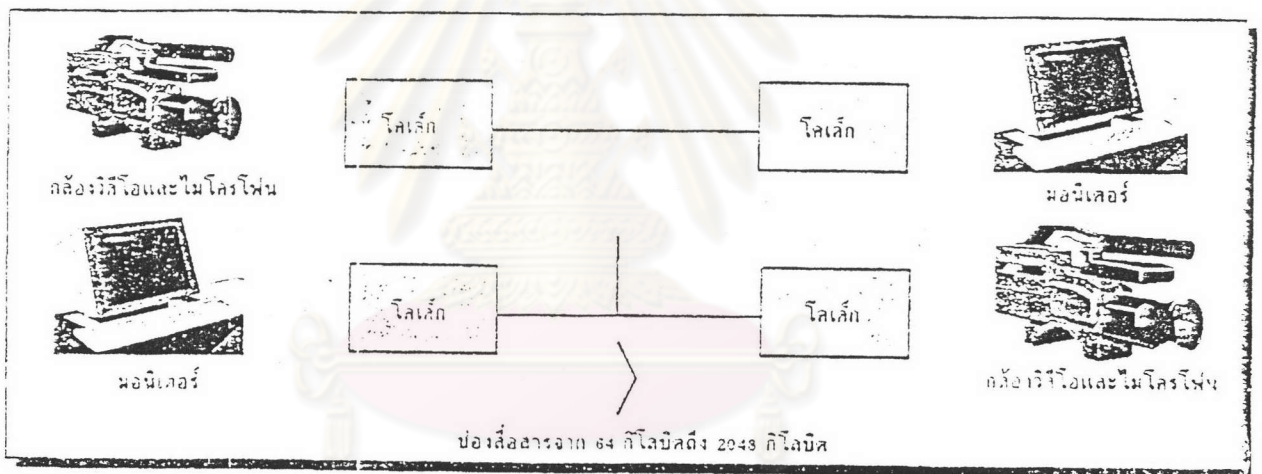
CROSS NOTES OF ADVISORY COMMITTEE ON RULES - 1987 AMENDMENT  
The amendments are technical. No substantive change is intended.  
CROSS REFERENCES  
Assignment of counsel in preliminary proceedings, see note under rule 44.  
Bill of particulars before arraignment, see rule 7.

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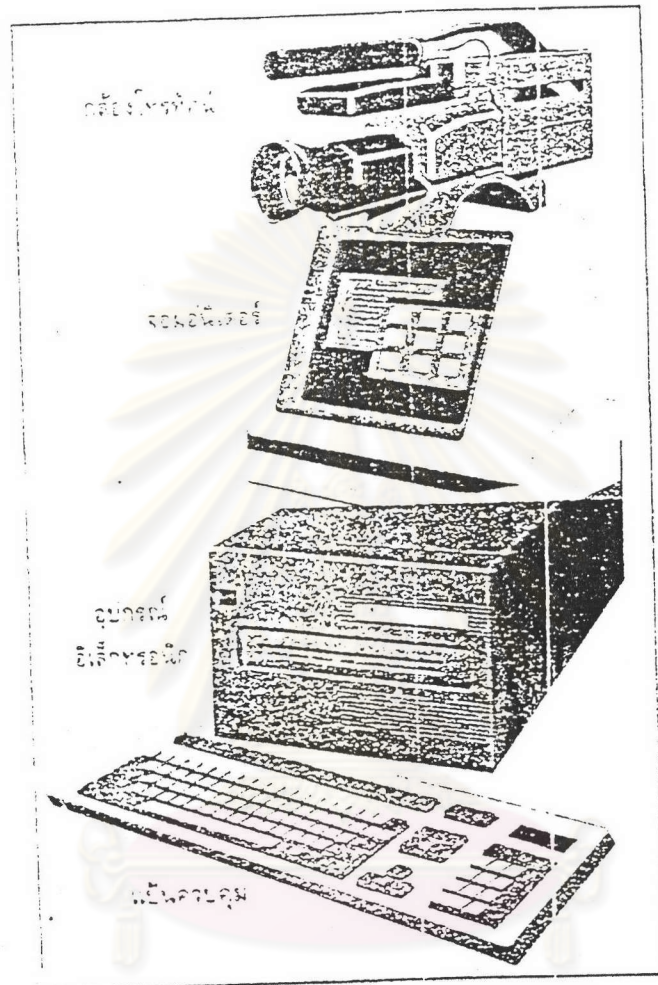
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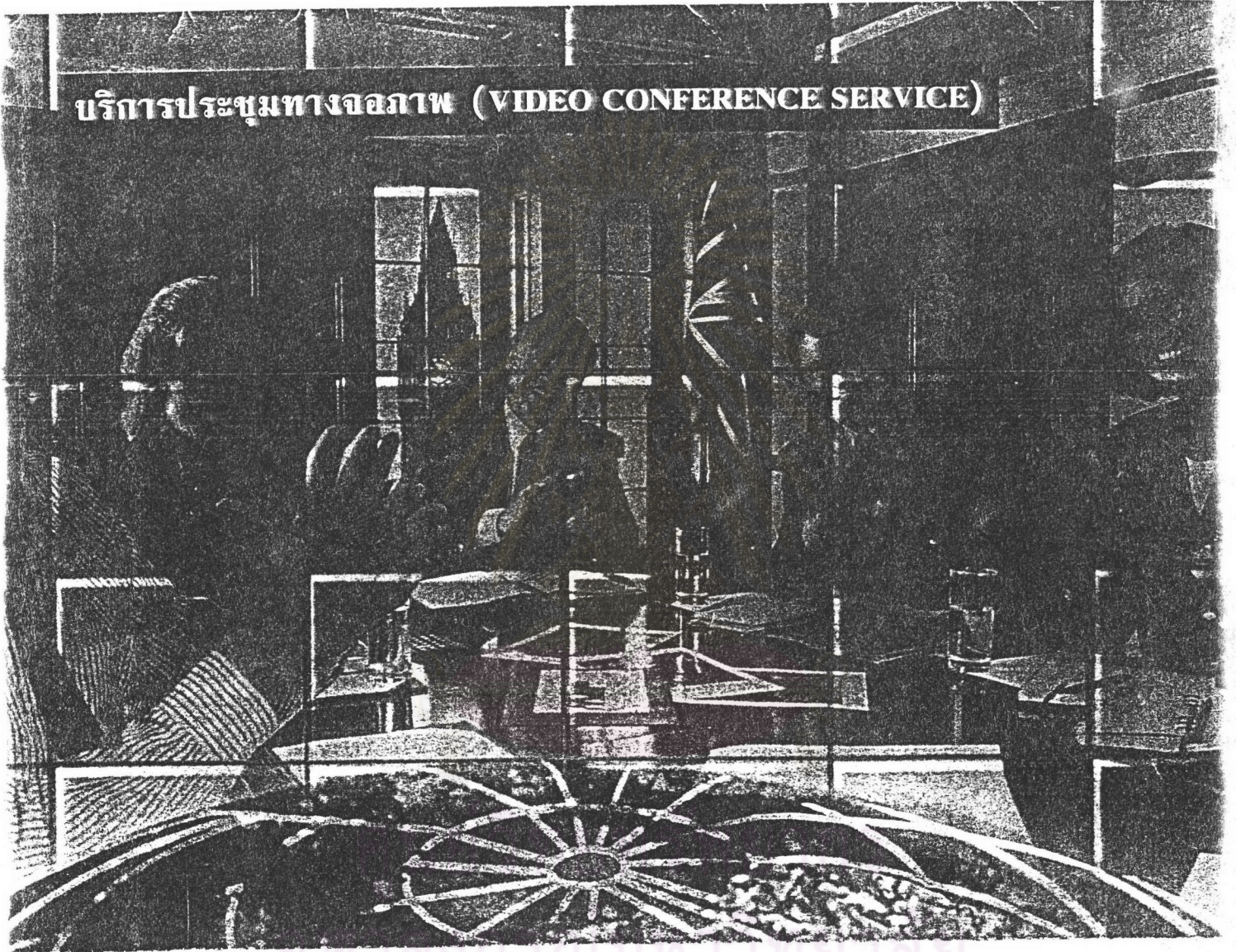
รูปที่ 1. เครือข่ายวิดีโอคอนเฟอเรนซ์

# ศูนย์วิทยทรัพยากร จุฬาลงกรณ์มหาวิทยาลัย



ศูนย์วิทยบริการ  
จุฬาลงกรณ์มหาวิทยาลัย

บริการประชุมทางจอภาพ (VIDEO CONFERENCE SERVICE)



ศูนย์ส่งเสริมเทคโนโลยี

### ประวัติผู้เขียน

นางพนิดา เสวตสุนทร เกิดเมื่อวันที่ 7 ธันวาคม 2501 ที่กรุงเทพมหานคร สำเร็จการศึกษาชั้นมัธยมศึกษาปีที่ 5 เมื่อ พ.ศ. 2519 สำเร็จการศึกษาศิลปศาสตรบัณฑิต (รัฐศาสตร์) ที่มหาวิทยาลัยรามคำแหง เมื่อ พ.ศ. 2522 เริ่มรับราชการที่สำนักงานคุมประพฤติกลาง สำนักงานส่งเสริมงานตุลาการ กระทรวงยุติธรรม เมื่อ พ.ศ. 2527 สำเร็จนิติศาสตรบัณฑิต ที่มหาวิทยาลัยรามคำแหง เมื่อ พ.ศ. 2532 เข้าศึกษาต่อในหลักสูตรนิติศาสตรมหาบัณฑิต สาขากฎหมายอาญาและกระบวนการยุติธรรมทางอาญา ที่จุฬาลงกรณ์มหาวิทยาลัย เมื่อ พ.ศ. 2537 สำเร็จเนติบัณฑิตไทยที่สำนักอบรมกฎหมายแห่งเนติบัณฑิตยสภา เมื่อ พ.ศ. 2539 ปัจจุบันรับราชการในตำแหน่งนิติกร 6 (ว) สำนักงานอนุญาตตุลาการ สำนักงานส่งเสริมงานตุลาการ กระทรวงยุติธรรม



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย