

## Abstract

This thesis is a study on the theory of expert witness in criminal procedure focusing on the theory of presenting an expert witness into the trial, the roles of the expert witness, and the examining as well as challenging the expert witness in Thai law and other countries'.

Furthermore, the amendment of article 243 of The Criminal Procedure Code which revised the fact that there is no requirement of expert witness's appearance to testify in court, which contrasts to the theory of disclosure trial in the presence of parties. It is because the expert witness, in procedure, can be offended or challenged by the parties with the same reasons as the judges can be and also be able to cross examined. The question on the reliability of the expert witness and threats of suit from disappointed clients on of insulting or forswearing has also been raised, since it is not impartial for the expert witness that assists the court in fact finding and there is no immunity for the expert witness.

The study has shown that, the expert witness might be able to be challenged if he had, even partly, a conflict of interest. The court might substitute the expert witness in the case where the expert could not be neutral. Because parties should have a right to a fair trial. Regard to the principles, the expert witness must come to testify before court on the cross-examination by parties. The Criminal Procedure Code should be separated the hearing of an expert witness from lay witness. This due to an expert witness testifies and gives the opinions based on his expertise and reliable-knowledge. Moreover, The Criminal Procedure Code should provide the privilege and the immunity of the expert witness on not being prosecuted from rendering opinions by honesty and fearless.

The court should have active role in fact-finding in cases by appointing the expert witness, if necessary, however, the court should maintain the rights of parties in selecting their own expert witness. The court will not be obliged to the opinions of the expert witness. The court must precede with all sensible evidences before rendering the judgment so that the criminal procedure can be fair under the examination.