


 Expat Counsel

By James Finch and Nilobon Tangprasit

We're going to start our series on criminal law and procedure in Thailand with an explanation of the basic concepts. You must know these to understand how to deal with specific problems that we will discuss later.

The first basic concept is arrest. This simply means the police take you into custody and you're not free to go. In later columns we'll expand on for how long and where a suspect can be kept and what rights he or she has under arrest, but for now just assume arrest means the suspect is not free to go.

If a police officer comes to your house or office and questions you about something, say a work permit violation, or asks you to come with them, are you under arrest?

A police officer will normally tell you that you are under arrest if you are. If nothing is said, which can happen with foreigners if only because of the language barrier, you can simply ask if you're under arrest. The police officer must tell you.

A short aside. You're practically always better off dealing with the police when you have a native Thai-speaking friend with you, ideally one who is adept at inter-cultural situations. Thus if you're not under arrest and can politely arrange an alternative to

CRIMINAL LAW IN THAILAND: Part II — About getting arrested

an immediate trip to the police station, make an appointment to appear at a later time with your friend in tow. Or a lawyer.

How do the police get the right to arrest someone? Section 66 of the Criminal Procedure Code of Thailand allows a court to issue an arrest warrant against you if there is reasonable evidence to believe:

- That you have committed a crime for which the maximum penalty is more than three years in jail, or;
- that you have committed a crime and you are evading arrest, or;
- that you may cause some danger to the public as a result of a crime.

If you have no fixed address or don't show up when summoned by the police, the court may decide you are evading arrest and also issue a warrant to have you arrested on this ground.

There are other grounds on which a police officer can arrest you, and we'll start dealing with these next week. For now,

however, in the space allotted, we want to give you our two rules for dealing with the police in Thailand. These will eliminate 75% of all potential problems with the police you may have, so please read the following carefully.

RULE ONE

Always be polite and even friendly with the police if you can manage it. In Western countries it may (sometimes) be useful to be irate, angry or act like Perry Mason with public servants such as the police. Perry Mason, you'll recall, was the famous TV lawyer who was always right, but told everybody off. In Thailand it is never the correct time to act like Perry Mason. Even if you are a lawyer.

RULE TWO

Don't be without the basics, ever. Always carry a photocopy of your passport photo and visa pages and your work permit if you

have one. These can be folded small enough to fit in your wallet. Always have a mobile phone with the number of a Thai friend or associate who is culturally sensitive as discussed above.

You should take these items with you everywhere — shopping, out with friends, on a short drive to the beach. Even (or especially) places where you would never expect to have a run-in with the police. Because that's where it's going to happen.

More about arrest next time. ■

James Finch of Chavalit Finch and Partners (finch@chavalitfinchlaw.com) and Nilobon Tangprasit of Siam City Law Offices Ltd (nilobon@siamcitylaw.com)

Researcher: Chanakarn Boonyasith. For more information visit www.chavalitfinchlaw.com. Comments? Questions?

Contact us at the email addresses above.

