



Expat Counsel

By James Finch and Nilobon Tangprasit

This week we'll continue with our discussion of the grounds on which you can be arrested in Thailand, and police procedure during the arrest. In the case of an arrest warrant issued by a court, the warrant must contain the following information and be signed and sealed by the judge:

- The date of the warrant;
- the address from which the judge issued the warrant;
- the ground on which the warrant is issued (we discussed the grounds for the issuance of an arrest warrant last week);
- the name or description of the person who will be arrested.

Often a warrant is issued when the exact name of the suspect is not known. For example, an informant might tell the judge that a man, a foreigner, is dealing in drugs at his residence at a particular address. The warrant might be issued for the arrest of that person at that address without knowing his name. Hence, a warrant might be issued with only a description of the person to be arrested, and no name.

Someone being arrested under a warrant has the right to see a copy of the warrant. Of course, it will be in the Thai language, and this again highlights the need to have someone on your side who speaks Thai.

If the warrant is issued for an offence that was committed long ago, or has been revoked by the judge, it cannot be used to make an arrest. Of course, these facts are difficult to determine at the moment of arrest, but if there is a warrant you will want to see it and get a copy, because doing so will always be useful in your future legal defence.

The police may also arrest a suspect without a warrant, and we will discuss this in a later column.

But what about the actual procedure of going and arresting someone? How much force can they use? Let's look at an example. Suppose a police officer arrives at the address of Mr X with a warrant, and informs Mr X he is under arrest. What if Mr X slams the door, locks it and refuses to come out?

The police, in the course of a lawful arrest, are entitled to use suitable force to arrest the subject. The level of force always depends on the circumstances. Can the police break down the door in this situation? Yes, if there's no other way to get in and apprehend him.

But what if Mr X's estranged wife Z is with the police, made a statement to the judge and has a key? In this case, the police can't break down the door and must use the key, because the key is simply more "suitable" than brute force.

Next time we'll talk more about what the police can and can't do in the course of an arrest. ■

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Comments? Questions?

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CRIMINAL LAW IN THAILAND: Part III — Getting arrested, more about the procedure

