



Expat Counsel

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CRIMINAL LAW IN THAILAND: Part VII Getting arrested without a warrant — more grounds

ILLUSTRATION: NATIKSA SINSAWANG

We're talking about situations in which a police officer can arrest you without a warrant. Last time we mentioned that a police officer may arrest without a warrant if the crime is committed in their presence, or if it is obvious the perpetrator just committed the crime. These are examples of the "flagrant" offence, as discussed. This time we will discuss the three additional grounds for an officer to arrest without a warrant.

Here's the first. If the police officer becomes aware that a person is armed or is carrying tools that can be used to commit a crime, such as a crowbar, and suspects they will be used in the commission of a crime he or she may arrest without a warrant. The obvious example is that a police officer sees Mr X, a known burglar, running late at night down an alley with a crowbar. The officer could arrest Mr X on this ground.

But here's another example of the same exception that shows the subtleties of criminal procedure. What if you are in a bar

having a drink? It's in a pretty rough neighbourhood, so you've brought a knife with you for protection. The blade is about 10cm long, and it's in a sheath on your belt. A police officer in the bar happens to see it. Can the officer arrest you on the suspicion that the knife may be used in the commission of a crime?

The answer to this question depends on whether the officer's suspicion is reasonable. So we must look to other facts. For example, does the officer know you? And do you have past convictions for stabbing people in bar fights? If so, his suspicion would be reasonable. Likewise, are you acting belligerently, reasonably suggesting to the officer that you might be getting ready to use the knife? This is another factor that should be weighed in making a decision whether or not to arrest.

Here's another reason a police officer can arrest a suspect without a warrant — urgent circumstances. This is when a police officer sees a situation that would require

a warrant to arrest the suspect, but because of the pressure of time, and/or emergency circumstances, there isn't the opportunity to obtain one.

Let's say, for example, a police officer sees a known bank robber running down the street, toward a bank. None of the reasons for arrest without a warrant mentioned earlier would apply, because the officer is not aware that any crime has been committed. Likewise, the officer doesn't see tools of crime or a weapon. But because the officer is trying to prevent a crime, and can't wait to get a warrant to do so, he or she may arrest the suspect based on the necessity of time pressure.

The final ground for arresting without a warrant is that an officer can arrest an escaped or accused offender. Let's say, for example, a policeman sees an escaped prisoner, who was convicted for robbery and the policeman knows has escaped. The policeman can arrest this escapee without a warrant.

Likewise, and we will discuss this at length later, the police often arrest a suspect and release him or her, explaining that if they need this suspect for further proceedings the suspect may again be called in by the police.

If a suspect has been called again by the police as part of an ongoing investigation but is evading the police, such a suspect can be arrested without a warrant.

Next time we'll begin discussing what happens if you're arrested, and what you can do if the arrest is unlawful. ■

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