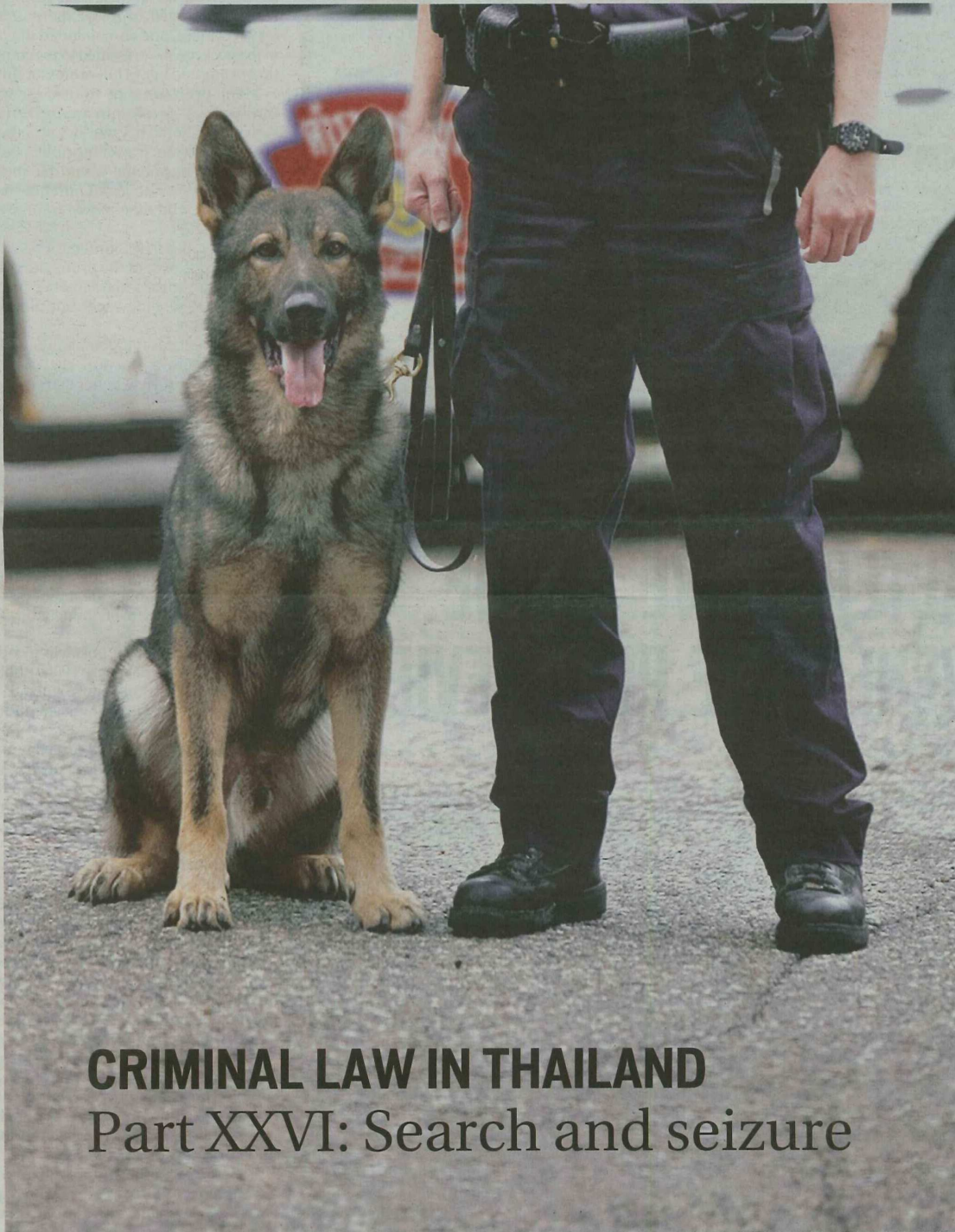




Expat Counsel

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# CRIMINAL LAW IN THAILAND

## Part XXVI: Search and seizure

This week we'll begin our discussion of search and seizure. This means when and under what circumstances the police are allowed to search your person or your private property such as your car or your house to look for evidence of a crime.

Today we will cover a couple of the

basics, search warrants and searches in connection with arrest.

The basic way the police can search your person or your private property is after obtaining a search warrant. This is written permission from a judge allowing police to search and seize. It must be signed and sealed by the court.

Here are the circumstance under which a judge will order such a warrant:

- To find and/or seize evidence such as drugs or weapons that can be used as evidence in a criminal proceeding, are against the law to possess or that are believed to have been used in committing a crime.

- To find and/or rescue a person wrongfully confined.
- To find a person against whom an arrest warrant has already been issued.
- To find or seize anything already subject to a court judgment order that can't be found or seized in any other way.

Here's a fictitious example of circumstances under which a warrant might be issued. Mr X's girlfriend broke up with him and was packing her bags to leave when he beat her and tied her up. He's now keeping her as a prisoner. A neighbour saw her tied up in the house through a window and went to the police.

Shortly thereafter a police officer applied to a judge for a warrant to search Mr X's house on suspicion that someone was being unlawfully detained there. The neighbour told the judge what he had seen and the judge granted the warrant.

The police went to Mr X's door. They knocked, rang the doorbell and went around to the back, but nobody answered.

The police then broke the door open. Inside they found Mr X hiding in a cupboard with his girlfriend, bound and gagged. They arrested Mr X for illegally detaining or confining another person under Section 310 of the Criminal Code of Thailand and released the girlfriend.

We'll continue to discuss search and seizures permitted under warrant later, but we want to cover one issue now, because we've been talking about arrest for the last few columns.

What if you are arrested for one offense, say a work permit violation, but happen to have illegal drugs in your possession when you are taken to the police station? May the police ask you to show them what's in your pockets and then arrest you for the drugs?

Probably yes. Usually the police search arrestees only in connection with the crime for which they've been arrested.

For example, if someone's been arrested for a violent crime, that person would be searched for weapons at the police station. But the police have the right to search anyone who's been arrested, even if they don't have a search warrant to do so. And the fact that contraband is found in connection with an arrest for another offence will not prohibit the police from arresting and pursuing a conviction for the possession of the contraband.

The police can't search a suspect's pockets or belongings in public unless there are grounds to suspect that the suspect is in possession of contraband or weapons or tools to commit a crime. Otherwise, such a search has to be at the police station or other government location. ■

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