



Expat Counsel

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# CRIMINAL LAW IN THAILAND

## Part XXXVI: The criminal trial — in which court?

Last week we talked about where, geographically, in Thailand criminal defendants are tried. This week we will discuss the different criminal courts within a particular geographical area. For the reasons discussed below, it's important to know this to make sure, with your lawyer, that you aren't mistakenly tried in the wrong court. This could result in confusion and much delay.

The jurisdiction of a criminal court is its power to decide on the guilt or innocence of a defendant in a given case. In a geographic area such as a particular province, the court that has jurisdiction will depend on the maximum penalty that may be imposed for the offence.

The criminal courts of general jurisdiction in Bangkok are called, appropriately, the criminal courts. In the provinces they are called the provincial courts. There can be more than a single provincial court in a province. For example, Thanyaburi Provincial Court and Pathum Thani Provincial Court are both located in Pathum Thani province.

Generally, the criminal and provincial courts try the most serious cases and refer the lesser cases to the district courts, mentioned below. With the exception of the South Bangkok Criminal Court and the Thon Buri Criminal Court, however, lesser cases can be tried in the criminal and provincial courts, at the discretion of the criminal or provincial court judges presiding. If the maximum imprisonment for an offence doesn't exceed the limits for the district courts discussed below, the trial will be presided over by one judge. If the maximum penalties are greater, there must be at least one other judge who signs off on any verdict.

If the trial takes place in Bangkok, there are three criminal courts that have jurisdiction, and their jurisdiction is broken down geographically. First, the court known just as the Criminal Court has jurisdiction over the following areas: Phra Nakhon, Dusit, Bang Sue, Don Muang, Bang Khen (Victory Monument sub-district), Chatuchak, Bang Kapi, Lat Phrao (Lat Phrao sub-district), Bung Kum, Phaya Thai, Ratchathewi, Huai Khwang, Din Daeng, Lak Si, Wang Thonglang and Sai Mai (Khlong Thanon sub-district.)

Second, the South Bangkok Criminal Court covers: Bang Rak (sub-districts of Bang Rak, Si Phraya, Surawong, Maha Phruttharam and Silom), Yannawa (sub-districts of Chong Nonsi and Bang Phong Phang), Sathorn (sub-districts of Yannawa, Thung Wat Don and Thung Mahamek), Bang Kho Laem (sub-districts of Bang Kho Laem, Wat Phraya Krai and Bang Kho), Pathumwan (sub-districts of Pathumwan, Rong Muang, Wang Mai and Lumpini), Pomprap Sattruphai (sub-districts of Pom Prap, Wat Thep Sirin, Ban Bat, Khlong Maha



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Nak and Wat Sommanat), Samphantawong (sub-districts of Samphanthawong, Talat Noi and Chakkrawat).

Finally, the Thon Buri Criminal Court covers: Bang Khun Thian, Bang Bon, Rat Burana, Chom Thong, Thung Khru, Thon Buri, Klong San, Phasi Charoen and Bang Khae.

The rules on which of these courts would have jurisdiction over your case were discussed last time, and it's important to underscore something else we also talked about last time — the criminal courts have some discretion over keeping or transferring cases that may not have been begun in exactly the right court.

If you've been accused of a crime for which the maximum penalty is three years' imprisonment or 60,000 baht in fines or less, you may be tried in a district court. The district court system was formed to reduce the case load of the criminal and provincial courts. Trials in the district courts

may be presided over by a single judge and any sentence in the district courts of six months imprisonment or 10,000 baht fine or less can be imposed, after trial, by a single judge. Greater penalties in the district court system must be signed off on by the presiding judge and the chief judge, who may not have attended the trial, but must review the case file before signing off.

Either the public prosecutor or the accused may request that the head judge in a particular court allow the case to be transferred to another court. A transfer in this manner is referred to by lawyers as a change of venue. It will be allowed if there is likelihood that the trial might be disrupted or a breach of the peace or other danger to the proceeding or the parties because of:

- The nature of the offence (for example, a really horrible murder widely publicised locally).
- The status of the accused (for example, a celebrity).

- The sentiments of a large number of people (for example, they might be politically opposed to the defendant).
- Any other reason deemed important by the court.

The purpose of such a move to another judicial district would be to avoid members of the public taking the law into their own hands or trying to force the judge into some unfair decision that might be avoided by moving the trial to another part of the country. ■

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