



Expat Counsel

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CRIMINAL LAW IN THAILAND

Part LXXVII: Drugs; What if you're arrested?

Oh, I don't have to read this one, you're thinking. I don't do illegal drugs. But consider this. What if the police show up at a party and arrest everyone there because they suspect someone is in possession. Haven't you ever been to a party where you didn't know everyone and couldn't be sure whether somebody might have drugs? If the police are tipped off that there are drugs at a party, how will they know one individual at the party is innocent?

Or how about this? Have you ever been falsely accused of anything? In Thailand, civil suits take a long time. Also, the complaining party has to post a fee of 2% of the claim, up to 200,000 baht, and more if the suit is for more. Thus many civil claimants try to start a criminal action, because it doesn't cost anything and the police are civil servants; if they will get involved, their services don't cost anything.

In short, to pressure you about something else, someone might tell the police you're a drug dealer.

So what happens if you're detained in the context of drugs?

First, we hope you'll remember our basic rules about getting arrested:

- Be polite to the Thai authorities and never tell them off;
- Have a folded-up copy of your passport and, if you have one, your work permit;
- Have a mobile phone and the number of a tactful, diplomatic friend, colleague or lawyer who can communicate with the police in fluent Thai.

These rules apply wherever you are in Thailand and you should never leave your house without the document copies and the mobile phone.

As discussed earlier, the Thai authorities can make drug arrests either with or without a warrant. If a Thai official detains you, you should politely ask if you're under arrest, and if so, is there a warrant. If there is a warrant, you should ask to see it. Of course, it will be in Thai, and that's a good reason

to have your friend or colleague come to where you are immediately to help you, if you are detained.

The warrant must contain:

- A date of issuance;
- The grounds for arrest. If you're being arrested for drugs, this must be stated in the warrant;
- A name or description of the person to be arrested. If your name isn't mentioned in the warrant, there must be some description of you, for example, your address or your physical characteristics.

At this stage, if you've just been arrested and there's an obvious defect in the warrant, you should just show it to the arresting officer.

For example, if the warrant is for the arrest of someone with a name different from yours, you should just point this out to them, using a copy of your passport as proof.

There are legal grounds on which a warrant may be invalid. For example, the statute of limitations may have elapsed on the crime or the judge may have cancelled the warrant for a variety of reasons. It is for this reason that having a copy of the warrant is important. Your lawyer should later check the warrant's validity. Thus when you are at the police station you should do your best to get a copy.

If there is no warrant, or if the police insist on going forward with the arrest even though the warrant is wrong, do not resist arrest. This can be straightened out with your lawyer later.

Next week we'll continue our discussion on your rights and what to do if you're arrested for drugs. ■

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