



Expat Counsel

By James Finch and Nilobon Tangprasit

Last week we gave a couple of examples of arrest situations and how your rights are protected under Thai law. This week we'll cover one additional area of the law concerning your rights when arrested — the confession.

The fictitious example we will use this time is that you are involved in a car accident. You were going over the speed limit, and couldn't stop for a red light. You hit a car turning legally into your lane. It went off the road, having been hit quite hard. The police and an ambulance arrive. The lady in the passenger side of the other car has hit the windscreen and has bruises on her forehead. Her hand is bleeding and she has to be taken to a local hospital.

You are told you're under arrest and taken to the police station with your wife, who is Thai and who is translating for you. No one says anything else. For a while you wait in a room containing several desks at which police officers are meeting with groups of people. Finally, you are told to go to one of the desks, where there is a young officer, recording statements in a logbook. He asks you for your name and address and for a copy of your passport, which you give him. That's all. Then he asks you what happened.

You tell the officer that you ran the red light because you were in a hurry to get home because your wife wasn't feeling well. Also, you go on, though the arresting officer may have thought you were drunk, you weren't. You say you'd had a few drinks, but know your limit and had no trouble driving. This is written down in the log book and you sign it.

CRIMINAL LAW IN THAILAND

Part XIII — Arrest and confession

What you said to the officer who took your statement was a confession. You admitted you ran the light and had been drinking in a situation that caused an accident. Forget the self-deceiving justifications you gave about your wife being sick and the fact that you're a good driver even when drinking. Confessions always contain a few of these.

But can this confession be used against you in a criminal case against you for speeding, failing to stop at a red light or drink-driving?

Probably not. The Criminal Code of Thailand provides that defendants must be informed of their rights to make a statement, but if they do, it can be used against them in evidence. Also, defendants have to be told they have a right to have a lawyer present and that lawyers will be provided at state expense if the defendants can't afford them. Confessions made before these warnings are given, as in your

case, cannot be used in evidence.

You should understand, however, that the rules regarding admissibility of confessions in later proceedings are complex. For example, if you have been fully informed of the details and reason for the arrest or read the arrest warrant, things you say that are not a confession but that might incriminate you may be later used against you.

In the above case, let's say the arresting officer had told you that you were under arrest for drink-driving, running a red light and causing an accident, and the officer taking your statement had said the same thing, but still neglected to tell you your full rights as mentioned above. Other statements you made that did not amount to a confession, but that might incriminate you, could be used against you in the future.

For example, you might have said in your statement that you went straight

from buying alcohol to the place where everybody was drinking together. You might also have told the police that your wife told you to slow down just before the accident. Neither of these statements is a confession, because they don't necessarily mean you were at fault. A judge, however, might infer from them that you had been drinking, and driving too fast. Because they are not confessions they might be used against you later.

More next time about the defendant's rights in cases of wrongful arrest. ■

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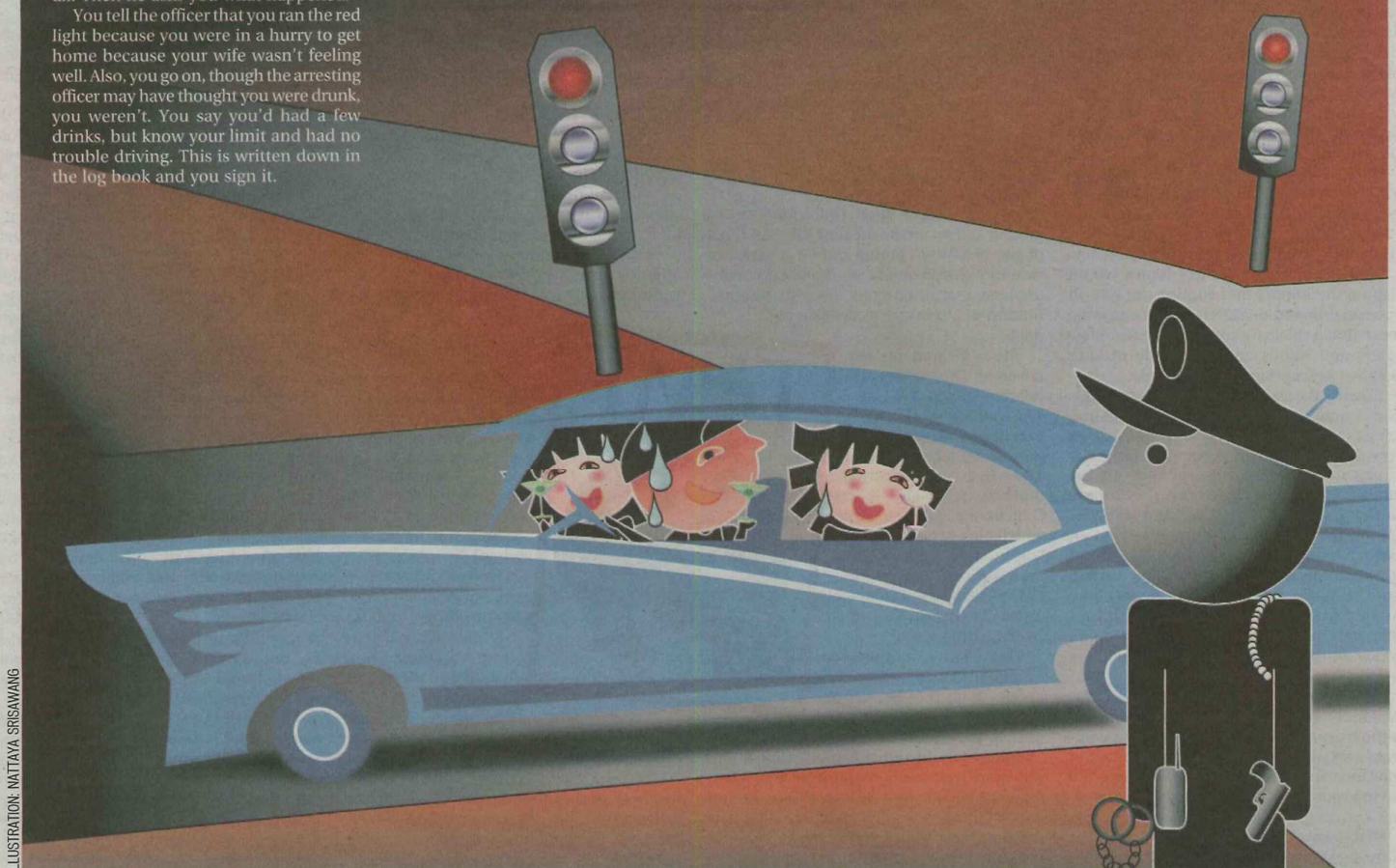


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