



01-01 Arrest

Status: Amended

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Replaces: 2019.12.13

Rationale

Compliance with this Procedure will ensure that arrests are conducted and reported in a manner consistent with all legal principles and best practices.

Procedure

Arrest Authority

Section 494 of the *Criminal Code* (CC) provides authorities for arrest without warrant by any person.

In addition to the authorities to arrest without warrant given to any person in s. 494 CC, a peace officer is given additional authorities under ss. 495(1), 524(2), 525(6) and 31(1) CC. A peace officer may arrest any person who

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| 495(1) | <ul style="list-style-type: none"> • has committed an indictable offence, or a person the officer believes on reasonable grounds has committed or is about to commit an indictable offence • the officer finds committing a criminal offence • on reasonable grounds, the officer believes is wanted on a warrant of arrest or committal, which is in force within the territorial jurisdiction where the person is found, or |
| 524(2) and 525(6) | <ul style="list-style-type: none"> • has contravened or is about to contravene the terms of a criminal release • has committed an indictable offence while on release for a criminal offence |
| 31(1) | <ul style="list-style-type: none"> • is found committing or it is believed on reasonable grounds is about to commit a breach of the peace |

Continuation of Arrest

A police officer shall not arrest a person without warrant for summary conviction, dual procedure or 553 indictable offences where there are reasonable grounds to believe the public interest has been satisfied having regard to all the circumstances including the need to

- establish the identity of the person
- secure or preserve evidence
- prevent the continuation or repetition of an offence
- ensure that the accused will appear in court
- ensure the safety and security of any victim or of witness to the offence.

In circumstances where the public interest is satisfied, an offender must be released

- unconditionally with no intent to proceed to court
- unconditionally with intent to seek a criminal summons, or
- by way of an Appearance Notice (Form 9).

A police officer may continue the arrest (summary, dual, indictable 553 offences) of a person where the public interest is not satisfied or for any indictable offence other than dual procedure and 553 indictable offences. The criteria for satisfying the 'public interest' are set out in s. 497 CC.

In circumstances where a continued detention is justified, the arrested person must be taken before an Officer in Charge.

- *The lack of appropriate release documentation to be served at an arrest scene is not a valid reason for the continuation of an arrest.*

Provincial Offences

A police officer may also arrest a person under other authorities found in individual Provincial Statutes such as the *Highway Traffic Act*, the *Liquor Licence Act*, and the *Trespass to Property Act*. There is no general arrest authority for contravention of a Provincial Statute, and reference must be made to individual statutes for specific arrest authorities.

Arrest in a Dwelling-House (Feeney Warrants)

As a general rule, police officers are required to obtain a warrant prior to entering a dwelling–house to arrest a person.

Entry to a dwelling–house to affect an arrest is prohibited unless

- the arrest warrant is endorsed with an authorization to enter under ss. 529(1) CC, or
- the arrest warrant is accompanied by a separate entry authorization warrant issued under s. 529.1 CC, or
- when there are reasonable grounds to suspect that entry into the dwelling–house is necessary to prevent imminent bodily harm or death to any person, or
- when there are reasonable grounds to believe that evidence relating to the commission of an indictable offence is present in the dwelling–house and that entry into the dwelling–house is necessary to prevent the imminent loss or imminent destruction of evidence, or
- in circumstances of fresh pursuit.

Prior to entering a dwelling–house to execute an arrest warrant, members shall, whenever possible, obtain

- an endorsement on the arrest warrant under ss. 529(1) CC, or
- an authorization warrant (Form 7.1) under s. 529.1 CC.

The authorization to enter may include such restrictions and conditions as the issuing Justice believes reasonable to place on the arrest process.

In all cases, members shall ensure proper announcement is made prior to entry (identification, purpose of entry, etc.) except

- as provided on the warrant, or
- where there are reasonable grounds to believe that prior announcement of the entry would
 - expose the officer or any other person to imminent bodily harm or death, or

- result in the imminent loss or imminent destruction of evidence relating to the commission of an indictable offence.

Medical Considerations

Positional Asphyxia

Members should be aware that certain restraint positions (i.e. stomach down) might compromise heart and lung functions increasing the risk of death. Unless circumstances make it impossible, persons should be restrained in a sitting position while being closely watched. Use of the sitting position permits easier breathing and cardiac function while affording good positional control over the individual.

Excited Delirium

Excited delirium is a condition that can be caused by drug or alcohol intoxication, psychiatric illness or a combination of both. Symptoms displayed by persons suffering from the condition may include any combination of

- *abnormal tolerance to pain*
- *abnormal tolerance to pepper spray*
- *acute onset of paranoia*
- *bizarre or aggressive behaviour*
- *disorientation*
- *hallucinations*
- *impaired thinking*
- *panic*
- *shouting*
- *sudden calm after frenzied activity*
- *sweating, fever, heat intolerance*
- *unexpected physical strength*
- *violence towards others.*

Due to their inclination to violence and extreme exertion, persons exhibiting the symptoms of excited delirium are often restrained for their own protection and the protection of others. Members should be cognizant of positional asphyxia when dealing with persons exhibiting the symptoms of excited delirium and, unless circumstances make it impossible, restrain the person in a sitting position as noted above.

Persons exhibiting the symptoms of excited delirium must always be treated as suffering from a medical emergency and once secured, be transported to hospital for examination.

Race and Identity-Based Data Collection

As outlined in Procedure 16–07, the Toronto Police Services Board Policy entitled “Race-Based Data Collection, Analysis and Public Reporting” requires the Toronto Police Service (Service) to collect, analyze and publicly report on data related to the race of those individuals with whom Service members interact.

Police Officer

1. When making an arrest shall
 - identify themselves as a police officer

- inform the person that they are under arrest
- inform the person of the reason for the arrest
- take physical control of the person
- inform the person of the Right to Counsel, including the existence and availability of duty counsel and free legal advice (Legal Aid)
- ensure that the person understands the Right to Counsel
- search the person in compliance with Procedure 01–02
- place the person in handcuffs in accordance with training and utilize the double lock mechanism where possible
- when handcuffs are not used, be prepared to justify this decision

➔ *Keeping in mind officer and public safety, officers may use discretion when determining whether to handcuff an individual as it may not be practical or necessary in all circumstances (e.g. due to a person's medical condition, age, disability, pregnancy, or frailty).*

- allow reasonable access to a telephone as soon as practicable
 - ensure that, when an arrested person has the care, charge or custody of another person who, because of age, physical or medical condition, is unable to care for themselves, every effort is made to obtain interim care for the dependent person
2. In all cases of arrest, regardless of the authority used or whether charges are laid, shall
 - conduct a Person Query, including a CPIC check, obtaining details on any positive result
 - record pertinent information in the memorandum book including, but not limited to
 - reason for the arrest
 - reason for the release or continued detention of the person
 - all details regarding the person (identification and description)
 - all other relevant details regarding the incident
 - complete the applicable eReports
 - comply with the applicable release/detention procedure
 - if the arrest involves an arrest warrant, check the Master Name Index (MNI); note any previous arrest number and case number and comply with the applicable procedure
 - comply with Procedure 17–01, if applicable
 - serve documents required for court on the person, if applicable
 - submit all documents to the Officer in Charge prior to the completion of the tour of duty
 3. When a non–violent person is arrested for being intoxicated in a public place shall comply with Procedure 03–05.
 4. When dealing with an arrested person who has ingested a potentially harmful substance (e.g. cocaine, methanol, etc.) and appears to require medical attention shall immediately
 - if necessary, and if qualified in standard first aid, perform first aid on that person
 - comply with Procedures 01–03 and 10–06
 - ensure the person is transported to the nearest hospital
 5. When dealing with a prisoner who cannot communicate in English or has difficulty communicating due to a medical problem shall comply with Procedure 04–09.
 6. When considering the continued detention of an arrested person who is accompanied by a guide dog due to blindness, visual impairment, hearing impairment, or other physical disability, shall
 - make reasonable effort to have the guide dog accommodated by friends or relatives, or contact the Toronto Police Operations Centre (TPOC) for further resources such as Canine Vision Canada or the Humane Society
 - not transport the guide dog to court with the prisoner

7. When releasing a person following arrest shall make reasonable efforts to ensure the safety of other persons who may be affected by the release and the safety of the person being released, having regard for the circumstances and the time and place of release.
8. When releasing a person on either a Form 9 or Form 10, or when proceeding by way of criminal summons shall serve the person with a TPS 493.
9. When dealing with an incident involving a person who provides identification as a diplomatic or consular official shall
 - comply with Procedure 04–12
 - not arrest a person on these premises

➔ *Foreign embassies and consulates are considered foreign land and outside the jurisdiction of police officers.*
10. When arresting a foreign national
 - shall comply with Procedure 04–13
 - should not normally arrest a person during a religious ceremony or judicial hearing

Officer in Charge

11. When an arrest has been made shall ensure
 - consideration is given to the public interest in deciding to continue the detention of an arrested person including the need to
 - establish the identity of that person
 - secure or preserve evidence
 - prevent the continuation or repetition of an offence
 - ensure that the accused will appear in court
 - ensure the safety and security of any victim of or witness to the offence
 - all required eReports are completed promptly
 - the particulars are recorded in the Unit Commanders Morning Report (UCMR), as required
 - compliance with the appropriate release provisions of the CC pursuant to the respective procedure
12. When releasing a person shall ensure they have been served with a TPS 493.

Supplementary Information

Governing Authorities

Federal: Canadian Bill of Rights; Constitution Act, Part I, Canadian Charter of Rights and Freedoms; Controlled Drugs and Substances Act; Criminal Code; Youth Criminal Justice Act.

Provincial: Anti-Racism Act, 2017; Highway Traffic Act; Human Rights Code; Liquor Licence Act; Police Services Act, O. Reg 3/99, Adequacy & Effectiveness of Police Services; Provincial Offences Act; Safe Streets Act; Trespass to Property Act.

Associated Governance

TPSB Policies: TPSB LE-005 Arrests; TPSB Policy Accessibility Standards for Customer Service; TPSB Policy Race-Based Data Collection, Analysis and Public Reporting.

TPS Procedures: 01–02 Search of Persons; 01–03 Person in Custody; 03–05 Withdrawal Management Centres; 04–09 American Sign Language and Language Interpreters; 04–12 Diplomatic and Consular Immunity; 04–13 Foreign Nationals; 10–06 Medical Emergencies; 16–07 Collection, Analysis and Reporting of Race and Identity-Based Data; 17–01 News Media.

Forms: eReports; TPS 493 What You Need To Know.

→ *The TPS 493 forms are available in multiple languages.*

Definitions

For the purposes of this Procedure, the following definitions will apply:

Arrest means the act of restraining the liberty of a person with the intent to detain.

Criminal Offence means any offence against an Act of Parliament.

Indictable Offence means any offence against an Act of Parliament.

Reasonable Grounds means a set of facts or circumstances that would lead a person of ordinary care and judgement to have a strong belief beyond mere suspicion.

Service Members' Perception Data means information derived from a member making a determination with respect to the race of an individual by observation, solely on the basis of that member's own perception.

We are dedicated to delivering police services, in partnership with our communities, to keep Toronto the best and safest place to be.

Learn more about our **Service Core Values and Competencies** [here](#)

