

Марценюк Ю., курсант Національної академії внутрішніх справ
Консультант з мови: *Скриник М.*

ARREST PROCEDURES IN CANADA

There are many factors that influence police-reported crime statistics. First, an incident must come to the attention of police. The decision by an individual to report a criminal incident to police has a considerable impact on the number of crimes ultimately recorded by police. The latest cycle of the General Social Survey on Canadians' Safety (Victimization), which provides information on the crime reporting behaviour of Canadians aged 15 and older for selected offences, indicated that about one-third (31%) of crimes are reported to police.

Second, differences between individual police services—such as available resources or departmental priorities, policies and procedures—can also have an effect on police-reported crime. For instance, as a crime prevention measure, some police services have implemented initiatives to focus attention on prolific or repeat offenders within the community. Moreover, certain crimes such as impaired driving and drug offences can be significantly affected by enforcement practices, with some police services devoting more resources to these specific types of crime. Some police services may also rely on municipal bylaws or provincial statutes to respond to minor offences such as mischief and disturbing the peace.

Third, and more broadly, social and economic factors can influence the volume of police-reported crime at a national, regional, municipal or neighbourhood level. In particular, crime rates can be affected by changes in age demographics, economic conditions, neighbourhood characteristics, the emergence of new technologies; and Canadians' attitudes toward crime and risky behaviour.

In 2019, there were significant changes for certain offences that highlight how police-reported crime is evolving in Canada. Specifically, these include the continued increase in the rate of police-reported sexual assault, as well as increases in the rates of child pornography, violent offences specific to firearms and non-violent weapons violations, harassing or threatening behaviours, fraud and shoplifting of \$5,000 or under; and legislative and reporting changes regarding cannabis and other drug offences.

Arrest means to take or hold a criminal suspect with legal authority. A formal arrest consists of actually touching a person's body with a view to his detention. The mere pronouncing of the words "you're under arrest" is not enough to constitute an arrest, unless the person being arrested submits to the process. Purpose of arrest: to lay a charge; to secure / preserve evidence; to prevent crime, arrest may not be necessary, an officer may just deliver a summons or an appearance notice.

Arrest Procedures in Canada:

- arrest with a warrant

- arrest without a warrant

In Canada, there are different types of warrants that can be issued by the court for your arrest including an arrest warrant, a bench warrant, a bench warrant to hold, and a telewarrant.

An arrest warrant is a document that is endorsed by the court which identifies the name of an accused, the offence that the accused is alleged to have committed, and which authorizes the police to arrest the accused and bring him or her before the court.

Before a warrant for your arrest can be issued, an Information (a document that officially charges you with a crime) must be sworn by a peace officer and presented to a justice or judge. It is on the basis of the Information that a warrant for your arrest can be issued. A warrant for your arrest will be issued when a justice of the peace or a judge has reasonable and probable grounds to believe that you have committed a crime and that it is in the best interests of the public for you to be arrested and brought into custody.

A justice or judge will be justified in issuing a warrant when he or she has reasonable grounds to believe that you have committed a crime and there are also grounds to believe that :

- You will not come to court without the warrant;
- You need to be arrested in order to secure evidence related to the offence;
- Your arrest is necessary to prevent the continuation or repeat of an offence;
- Your arrest is necessary to prevent you from committing a new offence; or,
- You need to be brought in by the authorities to establish your identity.

Once a warrant for your arrest has been issued, the police within the jurisdiction of the court that issued the warrant will be allowed to seek you out and bring you into custody if they find you.

Bench Warrants:

Another type of arrest warrant is a bench warrant. A bench warrant is an arrest warrant that is issued by a justice or judge when you fail to appear in court for your criminal matter. This type of warrant will often be issued when you have failed to appear in court as directed by a summons, a promise to appear, an undertaking or recognizance. Like an arrest warrant, a bench warrant authorizes the police within your jurisdiction to arrest you and to hold you in custody until you can be brought before the court.

If you have failed to appear for your court date, in some cases the court may be gracious enough not to immediately command your arrest and instead will issue a bench warrant to hold for your arrest. When a warrant to hold is issued it means that if you show up for your next court appearance, the warrant for your arrest is vacated and you will not be taken into custody.

Telewarrant:

While a peace officer will typically have to appear before a justice of the peace or judge to obtain a warrant for your arrest, in some circumstances it is possible for the police to obtain a warrant over the phone.

This type of warrant is called a *telewarrant*. A telewarrant can be granted when a police officer communicates with a justice or judge by some means of telecommunication, and informs them that there are reasonable grounds to believe that you have committed an indictable offence. However, in order for the police to obtain a telewarrant, they will also need to show that it would be impractical for them to personally appear before the justice to obtain the warrant. For example, it will be impractical for a police officer to obtain a warrant in person when there is no justice of the peace or judge available in their town at the time that the warrant is required, but waiting or travelling in order to obtain the warrant will cause them to lose the accused or evidence of the offence.

Peace officers are granted authority to perform warrantless arrests where it is authorized by law. The primary source of authority is found in section 495 of the Criminal Code. 495 (1) A peace officer may arrest without warrant:

- a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
- a person whom he finds committing a criminal offence; or
- a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII [Pt. XXVIII – Miscellaneous (s. 841 to 849)] in relation thereto, is in force within the territorial jurisdiction in which the person is found.

Consequences of arrest without warrant

Notwithstanding subsection, a peace officer acting under subsection is deemed to be acting lawfully and in the execution of his duty for the purposes of any proceedings under this or any other Act of Parliament; and any other proceedings, unless in any such proceedings it is alleged and established by the person making the allegation that the peace officer did not comply with the requirements of subsection.

Список використаних джерел

1. Greg Moreau Police-reported crime statistics in Canada. URL: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00010-eng.htm#warrant?>
2. What is an arrest warrant? URL: <https://www.oykhmancriminaldefence.com/faq/what-is-arrest-warrant>.
3. Warrantless Arrests. URL: http://criminalnotebook.ca/index.php/Warrantless_Arrests.
4. What should I do if there's a warrant for my arrest? URL: <https://stepstojustice.ca/steps/criminal-law/2-talk-lawyer-1>.