



Type of law:
CRIMINAL LAW

A 2018 Alberta Guide to the Law

Arrest & Arrest Warrants



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GENERAL

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I've been arrested.

Why have I been arrested?

- The arresting officer may have reasonable and probable grounds to believe that you have committed a crime.
- The arresting officer has reasonable and probable grounds to believe that you are about to commit a serious crime.
- The arresting officer could have witnessed you committing a crime.
- You may have a warrant out for your arrest.

What is an Arrest Warrant?

An arrest warrant is a Court Order that allows the police to arrest you. An arrest warrant may be issued when:

- You miss a court date for a charge.
- You have been avoiding the police to deal with a potential, or formal, criminal charge.
- You are intentionally avoiding being served with court documents (eg. in a civil or family matter).
- You are disobeying a court order, including Notices to Appear.

What can I do if I have an Arrest Warrant?

If you have a warrant out for your arrest, you can turn yourself into the police. Just because there is a warrant out for your arrest does not mean you will necessarily and automatically be arrested. It depends on the circumstances, such as how serious the offence is. The police may just provide you with a new court date as well as conditions. You can speak to a lawyer as to what they think you can do and what may happen. If you do not turn yourself in, the warrant will continue in force until it is dealt with.

What can I do now?

- You can exercise your right to remain silent.
- You can ask for the name and badge number of the officers you interact with.
- You can ask for the reason as to why you have been arrested.
- You can ask to call a lawyer.

What happens next?

- You could be formally charged and released within 24 hours
- It may be decided that they will not charge you, and they will release you.
- If they do not plan to release you immediately after you are charged, they are required to bring you before a justice at the soonest available time to determine whether your detention is valid or if you can be released, with or without conditions, while the charge is being dealt with in the courts.

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What Does It Mean To Be "Stopped" vs "Detained" vs "Arrested"?



- You have been "**stopped**" if the police stop you and ask you a question
- You have been "**detained**" if, after having stopped you, the police tell you (or imply by their behavior) that you aren't free to leave, and you'll face legal consequences if you leave
- You have been "**arrested**" if the police tell you that you are under arrest

When Can Police Stop Me?

Police are free to engage citizens in conversation and to ask questions, however they have no right to randomly detain you to do so.

Police sometimes engage in a controversial practice known as "carding" in which they seek identification documents when they have no reasonable suspicion that you are engaged in criminal activity. This is not generally considered to be a lawful practice under the *Canadian Charter of Rights and Freedoms*.

What Are My Rights If I Am Stopped By The Police?

When you are stopped by police without any suggestion by them that you are under any form of detention you are free to quickly be on your way after providing any volunteered or required (if any) information.

What Are My Obligations If I Am Stopped By The Police

- You are generally not obligated to provide name, address or any other information to police.
- You are obligated to identify yourself and to provide certain documentation if you are engaged in certain regulated activities such as operating a motor vehicle or vessel.
- You are obligated to tell the truth if you choose, or are otherwise required, to speak to the police. Failing to tell the truth can lead to criminal charges such as obstruction of justice or public mischief.

When Can Police Detain Me?

Police can lawfully detain you under three general circumstances: if they reasonably suspect you may have committed a crime, observe you committing a crime or you are engaged in a regulated activity such as driving a motor vehicle.

When Could You Be Arrested?

You could be arrested when:

- There is a warrant out for your arrest or if the police officer has reasonable and probable grounds to believe that there is one;
- An officer has reasonable and probable grounds to believe that you have committed a crime;
- An officer witnessed you committing a crime; or
- An officer has reasonable or probable grounds to suspect that you are about to commit a serious and indictable offence.
 - When a crime is classified as indictable, it means that the prosecutors will likely seek jail time if you are convicted.

What Are My Rights If Arrested Or Detained By Police?

If you are arrested or detained, you have the right:

- To be informed of the reason for your arrest or detention;
- The right to remain silent;
- To be informed that of your right to retain and instruct a lawyer;
- To be informed of the availability of free duty counsel and Legal Aid;
- The right to speak with a lawyer, in private, as soon as possible.

An arrest occurs when the police intend to physically detain you and place you in their custody. When you are being arrested, you have the right:

- To have a justice determine if your arrest is valid and appropriate, and if not, to be released
 - The law requires that your arrest is reviewed at the soonest possible time, within 24 hours of being placed under arrest, if a justice is available.
 - If a justice is not available within 24 hours, then the next soonest available time.
 - Within the first 24 hours, you can also be released without appearing before a justice

If you have been arrested, you can call a lawyer. If you cannot afford a lawyer, call the **Legal Aid Society of Alberta** at 1-866-845-3425.

Arrest With A Warrant

A warrant is a document that is issued by the court when there are reasonable and probable grounds to believe that someone has committed an offence.

An arrest warrant gives the police the power to arrest the individual named in the warrant, so that he or she can be brought before the court.

Obtaining a warrant requires an officer to follow certain rules. These include:

- Information alleging the offence must be sworn and brought before a justice of the peace or judge who will hear and consider the information. The justice or judge may then issue an appearance notice or an arrest warrant.
- A warrant must contain the name or description of the accused, a brief description of the offence alleged, and an order that the accused be arrested. The warrant remains in force until the accused is arrested and is outstanding until that time.



When executing an arrest warrant, the police officer must have the arrest warrant with him or her, when possible, and they should be able to produce it when asked. However, the Courts also recognize that, in certain situations, it is not feasible for the police officer to have the warrant with them at the time of the arrest.

The police officer also has a duty to give notice to the person he/she is arresting of the:

- Warrant under which he/she makes the arrest; or
- The reason for the arrest

If you feel that the police did not follow these rules and you would like to make a complaint, consider taking a look at our pamphlet on *“How to Initiate a Public Complaint Against the Edmonton Police Service.”*

When Is an Arrest Warrant Issued?

It is most common for police officers to seek a warrant when an accused has avoided the police, or the court, and a warrant is the only way to get the accused to court. Warrants are also issued when an accused:

- Fails to appear in court when required to do so, such as on a summons, appearance notice, promise to appear, or recognizance;
- Avoids service of a court document; or
- Ignores a subpoena or avoids being served with a subpoena.

If you miss a court date and have not sent someone to appear on your behalf, then the court can

issue a warrant for your arrest. This can happen even if you accidentally miss your court date or were unable to appear for a specific reason. It is very important that you make every effort to attend your court date, or at the very least, that you send someone on your behalf. While it is accepted for minor offences (where the Crown proceeds by way of summary conviction) that you can send someone to appear on your behalf, make sure that the Crown is not proceeding by way of indictment or specifically required that you appear in person as in these situations your personal attendance is required.

What Can I Do If There Is A Warrant Out For My Arrest?

If there is a warrant out for your arrest you can do nothing, or you can report to the nearest police station to try and deal with it. If you report to a police station, the police may issue a "promise to appear" and release you with a new court date. However, sometimes depending on the circumstance and the seriousness of the offense, the police may arrest and detain you until your next court appearance. These types of detentions usually take place if the police believe that your detention is in the public's best interest or if they believe that you will not attend your court date.



If you are taken into custody, then you will be brought before a justice or a judge within 24 hours to determine if staying in custody is justified. If it is not, they can order that you are released but on the stipulation that you will appear before the court to deal with your charges at specified date and they can also impose certain conditions.

Sometimes, you are required to pay "bail" in order to be released. You will get your bail back if you comply with all conditions of your release order. Other times, you will be released on your own "recognizance", which means that you promise to pay a certain amount of money if you fail to comply with your conditions. You may also be released on a "promise to appear", which does not necessarily require any agreement that you will pay a certain amount if you breach your conditions. Often, the police are able to provide you with a promise to appear without requiring that you appear before a justice.

If you do not report to the police, then the warrant will remain outstanding until you are arrested.

What Happens If The Police Stop Me And They Discover That I Have A Warrant?

If the police discover that there is a warrant out for your arrest then you could potentially be arrested and held in custody. If you are arrested and held in custody you will then be brought before a justice or a judge, typically within 24 hours to determine whether you should be released.

Are Arrest Warrants Only Valid In The Province It Was Issued?

Typically, an arrest warrant signed by a justice or judge is only valid in the province where the justice or judge has jurisdiction. This means that an arrest warrant signed in Edmonton is usually valid anywhere in Alberta but it would not be valid in another province. **However**, this does not mean that the police cannot arrest you outside of Alberta. If a police officer in another province believes a certain arrest warrant is serious enough to arrest and detain you, then they can arrest you and then contact the police in the province where the warrant was issued. Once contacted, the police from the issuing province will then contact the Crown to decide how they wish to continue. Depending on the circumstances, they may decide that you can be released, or they can have you transported back to the province where the warrant was issued.

Note that an out-of-province arrest warrant can also be pursued when it has been endorsed by a judge or justice in another province. For example, if a police officer in Vancouver arrests an individual who is wanted on an arrest warrant signed by a justice or judge in Alberta, then the arrest warrant must be signed by a justice or judge who has jurisdiction in British Columbia in order for it to be valid.

What If I Have A Warrant Elsewhere But I'm Arrested In Alberta For Something Else?

The main concern of the police who arrest you in Alberta is the offence that you have committed in Alberta. However, the Alberta can call the police in the province where the warrant was issued in order to inform them that you have been arrested. If the warrant is out because you avoided police custody on a fairly serious offense, then you may be sent back to face those charges after you have dealt with the charges in Alberta.

Can An Arrest Warrant Prevent Me From Traveling?

An arrest warrant will probably not prevent you from traveling within Canada, unless the police stop you and determine that the criminal offence underlying the warrant is serious enough for you to be prevented from continuing your travels within Canada.

If you are planning to travel outside of the country there is a chance that you will be detained at the border. The border guards and customs officers can choose to run your identification and often do random checks to prevent people from slipping across the border when they are the subject of an arrest warrant. If they run your identification and discover that there is a warrant out for your arrest, then you will typically be denied entry and possibly detained at the border until the police can come and pick you up.

Who Can I Call For More Help Or Information?

Legal Resources

Student Legal Services – Criminal Law Project #203, 9924 106 Street NW Edmonton, AB T5K 1C7	Ph: 780-492-8244 Admin: 780-425-3356 Fax: 780-420-0065
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The Criminal Law Project looks to assist adults who have been charged with an offence but are unable to afford a lawyer or qualify for Legal Aid Alberta. A law student will volunteer their time to provide free legal assistance where they can act as an agent for you while acting under the supervision of advising lawyers.

Provincial Court Clerks – Criminal	Edmonton: 780-427-7868
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The Provincial Court Criminal Clerks are able to assist in providing information for Provincial Court Criminal matters regarding judicial procedures, court appearances, trial dates, adjournments, outstanding warrants, summonses, subpoenas, witness fees, and payment of fines. It is not their role to provide you with legal advice. *The criminal division does not handle traffic matters.*

Provincial Court Clerks – Traffic	Edmonton: 780-427-5913
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The Provincial Court Traffic Clerks are able to assist in providing information for Provincial Court Traffic matters regarding judicial procedures, court appearances, trial dates, adjournments, outstanding warrants, summonses, subpoenas, witness fees, and payment of fines. It is not their role to provide you with legal advice. *The criminal division does not handle traffic matters.*

Lawyer Referral Service	Toll Free Ph: 1-800-661-1095
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The Lawyer Referral Service can help you find out contact information for practicing lawyers as well as who an appropriate lawyer may be for your matter. When you call, you will speak to an operator and you will describe the nature of your problem to them. The operator will then provide you with the contact information for up to three lawyers who may be able to assist you. When contacting these referred lawyers, make sure you let them know that you were given their information by the Lawyer Referral Service. The first half hour of your conversation with a referred lawyer will be free and you can discuss your situation and explore options. **Note:** This free half hour is more for consultation and brief advice and is not intended for the lawyer to provide free work.

Legal Aid Society of Alberta Revillon Building Suite 600 – 10320 102 Avenue Edmonton, AB T5J 4A1	Toll Free Ph: 1-866-845-3425
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The Legal Aid Society of Alberta functions to assist low-income Albertans with certain types of legal matters. Assistance is provided through information, referrals, advice, and/or representation, depending on what your matter is and which eligibility guidelines you meet.