

Section 494: Powers Of Arrest

What is an Arrest?

Definition and Process

An arrest is the act of detaining an individual to investigate their possible involvement in a criminal activity. It is crucial to understand that an arrested person retains certain rights, and these rights must be respected throughout the process.

Criminal Offences

Powers of Arrest Under Section 494

Section 494 of the Criminal Code of Canada (CCC) outlines the powers granted to individuals for making arrests under specific conditions. One such condition involves a "criminal offence," which includes any federal offence covered by the Criminal Code or other federal legislation. This encompasses summary offences, indictable offences, and dual offences but does not extend to offences under provincial or municipal laws.

[Criminal Code of Canada – Section 494](#)

Section 494 specifies the circumstances and the extent of authority for making arrests without a warrant, emphasizing the importance of respecting legal boundaries and individual rights during such actions.

Powers of Arrest

Fundamental Rights and Legal Standards

In Canada, one of the core rights protected by the Canadian Charter of Rights and Freedoms is an individual's freedom. This freedom can only be taken away if an individual has committed an act that severely infringes upon the rights of others. This high standard underscores the serious nature of making an arrest.

As a security guard, your authority to make an arrest is governed by Section 494 of the Criminal Code, which applies to members of the public, rather than Section 495, which is specific to police officers. Although you are providing security services, you are considered a member of the public for the purpose of arrest powers.

Arrest Authority under the Criminal Code

Section 494: Arrest without Warrant by Any Person

- **494(1):** Any person may arrest without a warrant:
 - **(a)** Someone found committing an indictable offence; or

- **(b)** Someone who, on reasonable grounds, is believed:
 - **(i)** To have committed a criminal offence, and
 - **(ii)** Is escaping from and freshly pursued by lawful authorities.

Arrest by Property Owner or Authorized Person

- **494(2):** The owner or someone in lawful possession of property, or an authorized person, may arrest without a warrant if they find someone committing a criminal offence related to the property:
 - **(a)** The arrest is made at the time of the offence; or
 - **(b)** The arrest is made within a reasonable time after the offence, with reasonable grounds to believe a peace officer cannot make the arrest promptly.

Obligation to Deliver to Peace Officer

- **494(3):** Anyone other than a peace officer who arrests a person without a warrant must promptly deliver the individual to a peace officer.

Legal Authorization

- **494(4):** This section clarifies that a person authorized to make an arrest under Section 494 is legally permitted to do so for the purposes of Section 25 of the Criminal Code.

Preventive Measures: Section 30

Section 30 of the Criminal Code allows anyone, including the public, to prevent or detain an individual committing a breach of the peace. This provision is primarily meant to support those assisting the police during serious disturbances like riots. It should not be used for minor infractions.

Security Guards and Offence Management

Security guards, such as those in your organization, may face situations involving indictable, summary, or criminal offences. It's crucial to accurately identify and categorize these offences and understand how to perform a citizen's arrest in compliance with the Criminal Code of Canada.

Your course content should reflect the responsibilities and limitations of security guards in making arrests, ensuring that all actions are within legal boundaries and respect the rights of individuals. This understanding is not only vital for effective security operations but also for maintaining professional and ethical standards in the industry.