

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

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31 January 2014

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Honduras: Arrest warrants, including appearance, signatory, issuance procedures, means and agent of delivery; whether the warrant can be received by a person other than the individual in case they cannot be located (2013)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

According to Article 84 of the *Constitution of the Republic of Honduras*,

[n]o one may be arrested or detained except by virtue of a warrant from a competent authority, issued in accordance with the legal formalities and for reasons previously established by law.

Notwithstanding, a person *in flagrante delicto* may be apprehended by anyone, for the sole purpose of being handed over to the authority.

The detainee must be informed upon arrest and with total clarity of his rights and the charges against him; furthermore, the authorities must permit him to report his detention to a relative or to a person of his choice. (Honduras 1982, Art. 84)

Article 71 of the Constitution states that

[n]o one may be detained nor held incommunicado for longer than twenty-four hours, without being placed at the disposal of the competent authorities for trial.

Judicial detention for investigation may not exceed six days from the moment of such detention. (*ibid.*, Art. 71)

The US Department of State's *Country Reports on Human Rights Practices for 2012* indicates that

[t]he law requires police to inform a person of the grounds for arrest and bring the detainee before a competent authority within 24 hours. It stipulates that the prosecutor has 24 hours to decide if there is probable cause for indictment. A judge then has 24 hours to decide whether to issue a temporary detention order that may last up to six days, by which time the judge must hold a pretrial hearing to examine probable cause and decide whether pretrial detention should continue. The law provides for bail for persons charged with some felonies and the right of prisoners to have prompt access to family members. The law allows suspected criminals to be released pending formal charges with the provision that the suspect periodically report to authorities. (19 Apr. 2013, 7)

In correspondence with the Research Directorate, a criminal lawyer in Honduras explained that arrest warrants (*órdenes de detención* or *órdenes de captura*) are submitted to a judge by the Public Prosecutor's Office (*Ministerio Público*); the judge then evaluates the submission and determines whether to arrest the accused person (Lawyer 20 Jan. 2014). If the judge decides to proceed with the arrest, the arrest warrant is sent to the police authorities who execute the order (*ibid.*). In correspondence with the Research Directorate,

a representative of the National Human Rights Commission (*Comisionado Nacional de los Derechos Humanos, CONADEH*), which is responsible for [translation] "guaranteeing the rights and freedoms enshrined in the Constitution" (Honduras n.d.), similarly stated that arrest warrants are referred to police authorities, who then execute them (ibid. 28 Jan. 2014). The lawyer noted that only police authorities may deliver arrest warrants (Lawyer 20 Jan. 2014). According to the lawyer, the arrest warrant cannot be received by a family member of the accused or by any other person (ibid.). If the person cannot be located, the arrest warrant is placed on a special list of the police force (ibid.).

The lawyer described the arrest warrant as follows: the arrest warrant is written on a letterhead of a court that issued it; it is signed by a judge who approved it and a court clerk (ibid.). The representative of the CONADEH similarly stated that the arrest warrants are signed by a judge and a clerk (Honduras 28 Jan. 2014). Further information on the delivery and the appearance of arrest warrants could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Without providing details about the source of information, *La Tribuna*, a Tegucigalpa-based newspaper, indicates that national police had 13,284 arrest warrants pending (*La Tribuna* 20 Aug. 2012). *La Tribuna* provides the following information on the number of pending arrest warrants between 2007 and August 2012:

Received and executed arrest warrants (2007 - 7 August 2012)

	Received	Executed	Pending	% Executed	% Pending
Total	25,816	12,532	13,284	49%	51%

(ibid.)

According to *La Tribuna*, the cities with the highest number of unexecuted arrest warrants were: San Pedro Sula, Tegucigalpa, La Ceiba and Choluteca (ibid.). Further statistics on arrest warrants in Honduras could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Honduras. 28 January 2014. Comisionado Nacional de los Derechos Humanos (CONADEH). Correspondence from a representative to the Research Directorate.

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La Tribuna [Tegucigalpa]. 20 August 2012. "Más de 13 mil órdenes de captura pendientes." <<http://www.latribuna.hn/2012/08/20/mas-de-13-mil-ordenes-de-captura-pendientes>> [Accessed 16 Jan. 2014]

Lawyer, Tegucigalpa. 20 January 2014. Correspondence with the Research Directorate.

United States (US). 19 April 2013. Department of State. "Honduras." *Country Reports on Human Rights Practices for 2012*. <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204460>> [Accessed 16 Jan. 2014]

Additional Sources Consulted

Oral sources: Attempts to contact the following were unsuccessful within the time constraints of this Response: criminal lawyers in Honduras; Honduras – Corte Suprema de Justicia, Dirección Nacional de Investigación Criminal, Embassy of the Republic of Honduras in Ottawa, Ministerio Público, Oficina de Atención al Público de Poder Judicial, Policía Nacional, Secretaría de Estado en el Despacho de Seguridad; Universidad Nacional Autónoma de Honduras.

Internet sites, including: Amnesty International; Centro por la Justicia y el Derecho Internacional; ecoi.net; *El Herald*; *El Mundo*; Factiva; Front Line Defenders; Honduras – Corte Suprema de Justicia, Dirección Nacional de Investigación Criminal, Embassy of the Republic of Honduras in Ottawa, Ministerio Público, Poder Judicial, Policía Nacional, Secretaría de Estado en el Despacho de Seguridad; Hondured.tv; InSight Crime; *La Prensa*; Latin Laws; Organization of American States; United Nations – Refworld; Universidad Nacional Autónoma de Honduras; World Organisation Against Torture.

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