

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	646
Land:	Kina
Kilde:	Immigration and Refugee Board of Canada
Titel:	China: Format of notices of detention and notices of arrest, including signatures, letterhead and information contained in the documents (2019-September 2021)
Udgivet:	7. oktober 2021
Optaget på baggrundsmaterialet:	6. november 2023

[Home](#) → [Country of Origin Information](#) → Responses to Information Requests

Responses to Information Requests

Responses to Information Requests ([RIR \(Responses to Information Request\)s](#)) are research reports on country conditions. They are requested by IRB decision-makers.

The database contains a seven-year archive of English and French [RIR \(Responses to Information Request\)s](#). Earlier [RIR \(Responses to Information Request\)s](#) may be found on the [European Country of Origin Information Network](#) website.

Please note that some [RIR \(Responses to Information Request\)s](#) have attachments which are not electronically accessible here. To obtain a copy of an attachment, [please e-mail us](#).

Related Links

- [Advanced search help](#)

► Disclaimer

7 October 2021

CHN200762.E

China: Format of notices of detention (juliú tongzhishu 拘留通知书) and notices of arrest (daibu tongzhishu 逮捕通知书), including signatures, letterhead and information contained in the documents (2019-September 2021)

Research Directorate, Immigration and Refugee Board of Canada

1. Format of Notices of Detention and of Arrest

The 2012 edition of [translation] Criminal Law Document Templates for Public Security Authorities, produced by the Chinese Ministry of Public Security (MPS) and available on its website, indicates that notices of detention and of arrest are printed on "80 [gram] offset white paper" and that the "border lines, horizontal lines and text" of both documents are printed in black (China 2012, 6). According to the [translation] "instructions for writing and printing" the legal documents contained in the same source,

[t]o make binding easier, the first copy of a multi-copy instrument is 297 mm in length, 137 mm in width, 37 mm for the head margin (upper white edge), 28 mm for the binding edge (white edge on the left), and 84 mm x 225 mm for the printing area. Other types of instruments and single-copy instruments use A4 paper, i.e., 297 mm in length, 210 mm in width, 37 mm for the head margin (upper white edge), 28 mm for the binding edge (white edge in the left), 156 mm x 225 mm for the printing area (excluding page number). Tolerance shall not exceed 1 mm. (China 2012, 6)

The same source also states the following:

[translation]

If words such as "public security bureau" [and] "detention center" appear in the name, contents, and ending of the instrument, they may be included in the printing after the name of the unit is updated.

... The [c]riminal [l]egal [i]nstruments of the public security organs shall be uniformly printed by printing houses designated by the provincial public security organs. (China 2012, 7)

In a telephone interview with the Research Directorate, a visiting professor at the University of Chicago, whose research focuses on criminal justice and human rights in China, stated that the MPS "[has] not issue[d] new forms" for notices of detention and of arrest "since 2013,"

after China's "Criminal Procedure Law was amended in 2012 and put into effect in 2013" (Visiting Professor 21 Sept. 2021). The same source stated that the forms for notices of detention and of arrest issued at that time "are still officially in use" (Visiting Professor 21 Sept. 2021).

1.1 Notice of Detention

In correspondence with the Research Directorate, a senior research fellow at the Paul Tsai China Center of Yale Law School indicated that notices of detention are "given to family members early in the criminal process, during investigation, when a suspect is first taken into custody" (Senior Research Fellow 19 Aug. 2021). The Visiting Professor stated that notices of detention are issued by the Public Security Bureau (PSB), as "[n]ormally the PSB is in charge of the criminal investigation and the criminal detention" (Visiting Professor 6 Aug. 2021). According to the same source, it is "[o]ne of the roles of the procuratorate [also called the prosecutor's office] ... to approve the criminal detention and to decide whether to arrest the suspect" (Visiting Professor 6 Aug. 2021).

The Senior Research Fellow provided the following information regarding the format of notices of detention:

It is very simple, containing the name of the issuing authority, the index number for the document, the name of the addressee, the legal basis for the detention, the date of detention, the name and address of the detention center, and the name of the detainee. (Senior Research Fellow 19 Aug. 2021)

In correspondence with the Research Directorate, a senior lecturer at the University of London who conducts research on Chinese criminal justice reform reported that notices of detention contain the following information:

- the name of the issuing PSB;
- [the] case number;

- the reference of the law (Criminal Procedure Law, Art[icle] 71);
- the detaining police officer's name;
- the suspect's name, gender, age, address;
- the detention centre where the suspect is to be detained;
- the credential from the authority (official stamp);
- [the] issuing date, the date and time when the detention notice is delivered;
- the date and time when the person is detained in the detention centre;
- the name of the handling police from the detention centre;
- the date when ... received by the detention centre, and the stamp of the detention centre (Senior Lecturer 11 Aug. 2021).

According to the Visiting Professor, "[b]oth the notice of detention and notice of arrest include official stamps, require the suspect to sign, and are printed on letterhead" (Visiting Professor 6 Aug. 2021). The Senior Research Fellow, however, indicated that notices of detention and of arrest "are not signed" (Senior Research Fellow 19 Aug. 2021). The Visiting Professor stated that the police or the prosecutors "will make a written explanation" if the suspect refuses to sign the notices (Visiting Professor 6 Aug. 2021).

1.2 Notice of Arrest

The Senior Lecturer reported that notices of arrest contain the following information:

- the authority;
- [the] case number;
- the reference of the law (Criminal Procedure Law, Art[icle] 81);
- the person who authorizes the arrest;
- the arresting officer's name;
- the suspected offence(s);
- the suspect's name, gender, age, address;
- the detention centre where the suspect is to be detained;
- the credential from the authority (official stamp);
- [the] issuing date;
- the date and time when the arrest warrant is delivered;

- the date and time when the person is detained in the detention centre;
- the name of the handling police officer from the detention centre;
- the date when ... received by the detention centre, and the stamp of the detention centre (Senior Lecturer 11 Aug. 2021).

According to the Visiting Professor, notices of detention and of arrest "include the name of the accused, the names of the authorities, the date, the time of criminal detention or arrest, the legal reasons to detain/arrest, [and] the name of the detention center" (Visiting Professor 6 Aug. 2021). The Visiting Professor reported that the case number listed on notices of detention and of arrest is preceded by an abbreviation unique to the specific PSB office in question and the year (Visiting Professor 6 Aug. 2021).

1.3 Uniformity and Variability in Notices of Detention and of Arrest

According to the Senior Lecturer, notices of detention and of arrest are "[u]niform" in appearance (Senior Lecturer 11 Aug. 2021). The Senior Research Fellow, however, stated that notices of detention and of arrest "are standard, but may have yearly variation, slight variations in formatting, or vary in where the official seal is placed" (Senior Research Fellow 19 Aug. 2021). The Visiting Professor indicated that "[b]oth are uniform across the country," and that "[r]egardless of location, they are almost the same thing" (Visiting Professor 6 Aug. 2021). The same source stated that "[t]he wording in these forms is nearly identical across provinces" (Visiting Professor 6 Aug. 2021). In a telephone interview with the Research Directorate, a China researcher at Human Rights Watch (HRW) reported that "[f]or both documents, the same format and appearance is used across the country, though there may be some small differences for different locations" (HRW 17 Aug. 2021). The Senior Research Fellow stated that notices of detention and of arrest could

"have different use of bar codes and QR codes" (Senior Research Fellow 19 Aug. 2021). According to the Visiting Professor, "[b]arcodes are not required, but it may be different in different places" (Visiting Professor 6 Aug. 2021).

2. Use of Notices of Detention and of Arrest in Practice

According to the Senior Research Fellow, "[i]n cases where police believe it would frustrate the investigation, they can often waive notice" (Senior Research Fellow 19 Aug. 2021). The HRW China Researcher stated that "it used to be (5 years ago or so) guaranteed" that a suspect's family would receive a notice of detention or of arrest when they are detained or arrested, but that "[i]n recent years ... the family does not always receive" the notice (HRW 17 Aug. 2021). The same source stated that in such instances, the "document might still be produced, but it is not shared with the family" (HRW 17 Aug. 2021).

According to the same source, the change in use of the notice of detention or of arrest in the last five years "relates" to the fact that "China has become a more oppressive state" since "Xi Jinping [coming to] power since roughly 2013" (HRW 17 Aug. 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Samples of Notices of Detention and of Arrest

Blank templates of a notice of detention and a notice of arrest, produced by China's MPS for inclusion in its 2012 edition of [translation] Criminal Law Document Templates for Public Security Authorities are available on MPS's official website and are attached to this Response (Attachments 1 and 2).

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

China. 2012. Ministry of Public Security. 公安机关刑事法律文书式样 (2012版). (Criminal Law Document Templates for Public Security Authorities (2012 version)). Excerpts translated by the Translation Bureau, Public Services and Procurement Canada. [Accessed 22 Sept. 2021]

Human Rights Watch (HRW). 17 August 2021. Telephone interview with a China researcher.

Senior Lecturer, University of London. 11 August 2021. Correspondence with the Research Directorate.

Senior Research Fellow, Yale Law School Paul Tsai China Center. 19 August 2021. Correspondence with the Research Directorate.

Visiting Professor, University of Chicago. 21 September 2021. Correspondence with the Research Directorate.

Visiting Professor, University of Chicago. 6 August 2021. Telephone interview with the Research Directorate.

Additional Sources Consulted

Oral sources: Canadian lawyer specializing in Chinese law; China Human Rights Lawyers Concern Group; Chinese criminal law specialist at a university in Italy; Chinese human rights monitoring website (2); Chinese law firm (12); Chinese law specialist at a university in Canada (3); Chinese law specialist at a university in North Carolina; Chinese law specialist at a university in Washington, DC; Chinese legal specialist at a university in New York (4); Chinese legal specialist at an Australian

university (3); foreign law specialist at the US Law Library of Congress; Laogai Research Foundation; law professor at a university in Hong Kong; Lawyers' Rights Watch Canada; professor at a Chinese law school (3).

Internet sites, including: Canada – Travel Advice and Advisories; ChinaAid; China Law Translate; Civil Rights and Livelihood Watch; ecoi.net; Columbia University – Columbia Law School, Hong Yen Chang Center for Chinese Legal Studies; Factiva; Ford Foundation; Harvard University – Harvard Law School Library; hualv.com; Human Rights in China; Laogai Research Foundation; New York University – US-Asia Law Institute; US – Congressional-Executive Commission on China.

Attachments

1. China. [2012].  Sample of a Notice of Detention. Ministry of Public Security (MPS). Translated by the Translation Bureau, Public Services and Procurement Canada. [Accessed 22 Sept. 2021]
2. China. [2012].  Sample of a Notice of Arrest. Ministry of Public Security (MPS). Translated by the Translation Bureau, Public Services and Procurement Canada. [Accessed 22 Sept. 2021]

Date modified:

2023-10-03