

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Costa Rica

by

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GENERAL OVERVIEW

1. Political System.

Costa Rica is a country of approximately 3 million inhabitants. It is located in Central American between Panama and Nicaragua. This is a nation which has steadfastly remained a democracy since its independence from Spain in September 1821.

2. Legal System.

The Costa Rican judiciary, El Poder Judicial, was created in 1821 and has been functioning ever since. The Costa Rican legal system can be classified as a Romano-Germanic style of law. It closely follows the Civil Law system and the Positivist Roman school of thought. The Civil Law model sees crime as an offense against the State rather than against an individual. The state assumes the role of investigator as well as arbiter. As an explanation of crime, the Positivist Roman model looks towards the natural sciences for the source of men's criminal intentions. It suggests that human behavior is a result of biological, social, psychological and economic influences. Today this country's legal system incorporates both of these concepts.

3. History of the Criminal Justice System.

No information available.

CRIME

## 1. Classification of Crimes.

\* Legal classification. In Costa Rica there are two main levels or types of crime. The more serious types of crime, known as "delitos" or felonies, are categorized as such because they involve greater amounts of harm or threat. These include crimes against life or family, sex crimes, property damage, crimes involving public or national security, and human rights crimes. Drug trafficking and usage are also considered serious offenses in Costa Rica. The definition of illegal drugs mirror the definitions used by the U.S. and other countries.

The second level of crime is less serious, and includes the misdemeanor or contravention categories. These carry penalties of less than 1 year in jail and include minor offenses against physical integrity or against property, the state or public safety. In both categories a person may receive a combination of prison and fines. The limits of punishment are pre-set by the penal code but the judge may exercise discretion and jurisprudence in cases with unusual circumstances.

\* Age of criminal responsibility. The age of legal accountability in Costa Rica is 18 years, with exception made only for persons who are close to the legal age and have committed a heinous crime. Costa Rica also subscribes to the United Nations Convention on Children's Rights. That convention asks that nations include the 18th year as part of the definition of childhood. The result is that those instances where 18 year olds are treated as adults within the criminal justice system are rare. In the case of juvenile offenders, there is a division between youth 12 years of age and over and those under 12. For those over 12, there is a juvenile facility whose main emphasis is on rehabilitation and re-socialization. There is no punitive action whatsoever taken with those under 12. They are referred to social agencies which are prepared to deal with wayward children.

\* Drug offenses. Costa Rica mirrors the United States in what drugs it considers illegal. These include marijuana, cocaine, and heroin.

## 2. Crime Statistics.

The most currently available nationwide crime statistics, compiled for the year 1993, cover the following selected areas of serious crime: murder, forcible rape, property crime and drug offenses. These figures represent the number of cases reported to the police and are not necessarily

representative of those cases in which the accused has been found guilty. The statistics are based on the legal definitions of the mentioned crimes.

Type of crime	No. of cases in 1993
Murder	504
Forcible Rape	203
Robbery	4,250
Arson	60
Drug Offenses	
Marijuana	16
Cultivation of Marijuana	90
All other illegal drugs	104

\* Crime regions. The areas of Costa Rica which have the greatest concentration of criminal activity are those within the Great Metropolitan Area. This area is largely defined by the natural mountain boundaries and includes a large portion of the central plateau of the country. The cities of San Jose, parts of Cartago, Heredia, and Alajuela form most of this area. These cities, which are densely populated, have a greater percentage of total crime than the outlying rural areas.

The port cities of Limon and Puntarenas experience a great amount of drug-related incidents. Assault and robbery are more common because their populations are of a more transient nature. Although not specifically mentioned in this report, petty crimes, mugging, shoplifting, and fraud are prevalent in cities such as San Jose and the rest of the greater metropolitan area. In recent years the cities have seen a large increase in juvenile criminal gang activities. These young criminal children, generally called "Chapulines" or grasshoppers, are "a phenomena that reflects the breakdown of the family unit in Costa Rica." (Sandi)

## VICTIMS

1. Groups Most Victimized by Crime. No information available.

2. Victims' Assistance Agencies.

There are various types of victim services such as rape crisis centers, victim's support groups, and other counseling and aftercare services. These agencies have appeared in the past 5-10 years. Available victim support services are run by private foundations which act in close liaison with government agencies.

In recent months, the Interamerican Institute of Human Rights has begun taking steps to better inform the public on women's issues. Conferences like the one discussing the problems of violence against women, held on 21 July of this year, are the beginning "increased steps" in developing a social conscience which is still in its infancy. These efforts have not yet reached the public at the grassroots level, mainly because the culture continues to be largely male dominated.

### 3. Role of Victim in Prosecution and Sentencing.

The victim of a crime has the opportunity to make a statement to the judge during the pre-trial investigation phase. The victim has no right to protest the decision made by the judge and is not involved in any of the processes except during testimony. The victim is asked to leave the court after having given his testimony. The victim has no access to information that is not available to the general public. If the victim seeks remuneration for damages he must present a separate legal action in the form of a civil suit.

### 4. Victims' Right's Legislation.

Victims' rights are protected by the Civil and Criminal codes. The victim is a witness within the process and he is treated as such.

## POLICE

### 1. Administration.

There are six main branches of the police. The Organismo de Investigacion Judicial (OIJ) is the highest branch and is the judicial police. This is primarily a repressive force and falls under the Executive Branch of the government. There are also the Metro police who are responsible for public safety within the downtown San Jose greater metropolitan area. The Guardia de Asistencia Rural (GAR) has jurisdiction in all outer areas of Costa Rica. The Guardia Civil or civil defense, found countrywide, is responsible for maintaining a high profile at public facilities such as museums, and in tourist and market areas. The Metro, GAR and Guardia Civil are preventive forces.

In Costa Rica the justice system is divided in a manner that limits the authority of its officers. An officer who makes an arrest, based on direct observation or as a referral from another source, transports the offender to a

holding facility, but does not file charges. Instead he files a report before the judge of the peace, or alcaidia. He surrenders the offender to an agency of the Ministry of Justice, states the facts as he knows them, and his job is ended until he is summoned by the prosecutor's office or the investigative judge to testify or help in further investigations. He does not have the power to charge the suspect or to hold him for more than 24 hours and any formal investigation is handled by the Department of Justice and not by the police department.

Costa Rica does not maintain a formal military force/army; it is the GAR that most closely resembles a military power. In the event of large public disturbance, or foreign threat, the GAR will be called to respond.

In addition to the police mentioned above, there is a separate division under the Ministry of Public Works and Transportation, (MOPT) assigned to handle traffic laws and motorized public safety.

## 2. Resources.

\* Expenditures. The most recent statistics show an annual expenditure of the GAR to be approximately 5.5 million dollars. Although exact annual budget figures for the traffic, civil defense, and other forces could not be obtained at the time of my visit, I was informed by the director of the GAR that the budget for these agencies has quadrupled from 1.6 million colones in 1986.

\* Number of police. Costa Rica has a total police force of approximately 8,500 officers. Approximately 2,200 of these are active officers in the GAR.

## 3. Technology.

\* Availability of police automobiles. The cars used by the police in Costa Rica are subcompacts and are normally newer models. The ones in use during 1993-1994 were 1993 models. Two officers are assigned per vehicle. These usually are a rookie and a more experienced trainer or partner.

\* Electronic equipment. Radios are models similar to the ones used in the United States. Much of the equipment has been donated by foreign governments. Cars, at this point, are not equipped with computer-aided dispatch, nor do they use video recording equipment. Radar guns are used sporadically by the transit police in rural areas. There are older computers used mainly for

word processing at administrative level offices.

\* Weapons. Bulletproof vests are available but not normally worn unless a high threat operation is in progress. The most commonly used weapons are the typical service weapons such as the .38, the .45, and the M-16. Heavy weapons are also available, but in limited quantities. Ammunition is readily available to all officers in Costa Rica.

#### 4. Training and Qualifications.

Training for most police officers is carried out at service academies or specialized schools, depending upon the job requirements. Attendance at these schools may be as short as 1 month, with the result that not all policemen are well trained, especially those in the rural areas. Those officers assigned to the OIJ, which is an advanced agency, receive the most extensive training. Upper ranking officers require a university degree and are often sent to other Latin American countries or the US to train. Outside of the OIJ, the average time an entry-level officer spends at an academy is 12 weeks. There may be additional training for those who are assigned to certain areas. The assignment of particular jobs is based upon the aptitude and temperament of the recruit, with past school performance taken into account.

Officers in most areas are now required to have completed high school, with preference for those who have completed junior college. Recruits must also undergo psychological and physical evaluations and have recommendations from respected members of their home communities.

#### 5. Discretion.

\* Use of force. The amount of power allowed the police force is limited by the constitution and the desire of the people to protect their rights. Use of force is limited to that amount necessary to take control of a situation; deadly force is employed only when the officer's life or public safety is at stake. Officers normally carry either a .38mm or a .45mm firearm. They may also carry nightsticks or batons and handcuffs.

\* Stop/apprehend a suspect. Officers must have orders from a judge, probable cause, or catch the person in the act in order to carry out an arrest. However, there is some leniency in the use of the term "probable cause".

\* Decision to arrest. Police do not make the decision whether or not to enter a detainee into

the correctional system. They merely transport the offender and it is left to the judge to further process or release the person. They do not normally handle preventative measures but can decide to use cautioning approaches based on the circumstances. Arrests are seldom conducted without properly issued official warrants.

\* Search and seizure. An officer may act on his suspicions if he thinks they can be proven and then property may be freely inspected. A planned search requires a court-issued warrant.

\* Confessions. During the initial questioning of a suspect, the police may advise the use of a lawyer if the crime is considered serious. Normally, the investigative questioning and research is not done by the police, but by the Justice department. Testimony made by the defendant to the police cannot be used as evidence. and since the defendant is not considered a witness, he is not required to testify under oath.

#### 6. Accountability.

Accountability of the police and complaints of alleged police misconduct are handled by the internal affairs office, which comes under the Department of Justice. This office receives complaints both from the public and from governmental agencies. Once a complaint has been filed, an investigation follows, which, if substantiated, results in disciplinary action or dismissal from the force. There are relatively few grievances filed each year.

### PROSECUTORIAL AND JUDICIAL PROCESS

#### 1. Rights of the Accused.

\* Rights of the accused at trial. A person accused of a crime in Costa Rica has certain basic rights. These rights are maintained throughout the steps of the legal process. These rights include: the right to an attorney, the right to know what charges are being filed against him, the right to obtain release on bail if it is authorized, and the right to a speedy trial. During the trial the accused does not have the right to trial by a jury of his peers. The judgment is made by a panel of three judges or only one judge if the crime has a maximum penalty of three years or less.

\* Assistance to the accused. During the process, the accused has the right, at all levels, to a

defense attorney. An attorney will be provided if the person cannot afford to hire one.

## 2. Procedures.

\* Preparatory procedures for bringing a suspect to trial. Upon arrest, the accused is taken before a fact-finding authority. This initial questioning period is aimed at general fact finding and some investigation. If the case is felt to have sufficient merit in the opinion of the investigator it is processed to the next level, where a judge of instruction hears the facts in the case.

\* Official who conducts prosecution. The state is represented by the Ministerio Publico or Prosecutor. The job of the judge of instruction is to gather further evidence if necessary and ensure that the case is ready to be tried. Judges at this level fine tune the legal process to ensure accuracy of information and the availability of necessary evidence and witnesses before the case proceeds to the tribunal.

\* Alternatives to trial. The concept of plea bargaining does not exist and the accused may not receive a lighter sentence in exchange for giving information about another crime or offender. The instructional judge can determine which crimes the defendant may be charged with. The accused is generally prosecuted on the more severe violations. The judge can set aside the lesser charges. A trial before a judge is held even if the individual is willing to plead guilty. It is always up to the judge to decide guilt or innocence.

\* Proportion of prosecuted cases going to trial. No information available.

\* Pre-trial incarceration conditions. The general practice in Costa Rica is to set bail or release all suspects. This release is conditioned on the background, past criminal record, and the probable reliability of the offender. The seriousness of the crime and community impact are also analyzed.

\* Bail procedures. Personal factors are used to determine release and include details of the mother's family background, level of accused's education, status in the community, job performance, number of children, marital status, and leisure time activities. These are used in the decision to grant pre-trial release.

\* Proportion of pre-trial offenders incarcerated. It is estimated that 85% of those awaiting trial



are released on their own recognizance. Only those who have been judged dangerous, likely to flee, or not cooperative in pre-trial proceedings are detained in a holding facility. Time served in holding facilities is deducted from the sentence if the accused is found guilty.

## JUDICIAL SYSTEM

### 1. Administration.

There are five main levels within Costa Rica's judicial system. Alcaldias handle misdemeanors, and are directed by Judges of Peace or Magistrates. Juzgados are courts of First Instance, which deal with crimes whose penalties will be less than 3 years. Tribunal Superior and the Supreme Tribunal each deal with cases where the penalty is more than 3 years. The Tribunal Superior is a court of appeals and Supreme Tribunal serves as a Trial Court for Felonies. The Juzgados de Instruccion is handled by a magistrate who has Grand Jury responsibilities, duties and powers. The Salas Corte Suprema de Justicia is composed of 4 sections: Sala Primera is for Civil and family matters; Sala Segunda is the court of Labor and various other matters; Sala Tercera deals with Criminal matters; and Sala Cuarta handles Constitutional issues.

### 2. Judges.

\* Number of judges. There are approximately 348 justices, judges and alcaldes as of this date. These breakdown as follows:

Type of Court	Number of Offices	Number of People	Title
Supreme Court	1	22	Justices
Tribunal Superior	10	89	Judges
Juzgados	84	120	Judges
Alcaldia	103	117	Alcaldes

The three lower courts are distributed throughout the seven provinces of Costa Rica, with the appeals and magistrates seated only in the capital city, San Jose.

There are two female Justices but the gender breakdown for the other courts was not available.

\* Appointment and qualifications. Appellate and Superior Judges are appointed by the Supreme Court. Judgeships of lower courts are appointed by the Judicial Counsel. These individuals must

be attorneys with a high level of education. Schooling in Spain, England, or the United States is highly desirable if one wishes to be appointed and ongoing education is encouraged.

### 3. Special courts.

The court system includes family, juvenile, land, and work courts.

### 4. Procedure.

The majority of courts cases are resolved by trial process. Even if an individual decides to enter a plea of guilty, a judge must decide the case based on all available information.

## PENALTIES AND SENTENCING

### 1. Sentencing Process.

\* Who determines the sentence? The judge or panel of judges makes the sentence determination.

\* Is there a special sentencing hearing? Sentences are determined by the guidelines set in the penal code. The judge has some flexibility in adjusting the sentence to fit the crime based on all available data.

\* Which persons have input into the sentencing process? If he feels the information is necessary the judge may receive inputs from psychologists, psychiatrists, social workers, clergy and professionals.

### 2. Types of penalties.

\* Range of penalties. The range of penalties includes fines, imprisonment, and house arrest. Penalties for misdemeanors are less than 1 year in prison, while felonies carry from 1 to 25 years in prison. It is possible to receive a longer sentence based on multiple offenses. A recent change to the constitution forbids a combined sentence of more than 50 years in prison.

Homicide carries a penalty of 15-25 years unless it is considered a crime of passion with just cause. In that case, the sentence usually carries from 1-6 years. Sexual violation of minors under the age of 12, or of those of any age and of either sex against their will is a 10-16 year crime.

Robbery in Costa Rica is punished according to a specific formula which is based on the offender's economic situation. Penalties are calculated with a formula that uses the base

income of the offender to calculate sentences and fines. If the value of the articles stolen or damaged does not exceed 3 times the base figure of the offender's annual income, then the sentence is set accordingly at somewhere between 6 months to 3 years. The sentence of 3 to 9 years is commonly given when injuries have occurred or the amount of the theft or loss was larger than 3 times the base income of the offender.

The types of crime punishable by fines are, for example, traffic offenses or drunk driving, fist fights, threats, cruelty to animals, slander, or illegal fishing.

Fines for misdemeanors are calculated using a system which is termed "Dias multa." Dias multa can be defined as fine days, or the number of days for which the accused is sentenced to pay a prescribed percentage of his income. These fines are set by the court with attention given to the income, means of subsistence, and rent of the condemned. He then has 15 days in which to pay or be remanded to jail. This time period may be altered by order of the judge if the economic situation of the offender is dire.

\* Death penalty. There is no death penalty in Costa Rica.

## PRISON

### 1. Description.

\* Number of prisons and type. There are 4 major correctional institutions which are clustered in the central plateau of the country. In San Jose and in each of the country's seven provinces there is at least one jail. There is one maximum security institution for males, one maximum security institution for females, one juvenile institution for males, and one mixed juvenile institution.

\* Number of prison beds. Exact capacity figures for all facilities were not available. The maximum male facility has a capacity of about 2,000 inmates. The female facility has as capacity of 150 inmates. The male juvenile facility has a capacity of 150 inmates.

\* Average daily/number of prisoners. The average combined total inmate population is estimated to be 2,500.

\* Number of annual admissions. No information available.

\* Actual or estimated proportions of inmates incarcerated for various crimes. No information is available.

## 2. Administration.

\* Administration. The prison system falls under authority of the Ministry of Justice and is managed by the Department of Social Adaptation. This department is also responsible for the hiring of guards.

\* Prison guards. The ratio of guards to inmates is about 1 to 20.

\* Training and qualifications. Training for jail guards is mainly done on the job. A technical school and an academy are available and increased numbers of new personnel must attend these facilities. Standard psychological, physical and intelligence tests are prerequisites to becoming employed in the jail system.

\* Expenditure on the prison system. No information available.

\* Number of prisoners awaiting trial. No information available.

## 3. Prison Conditions.

\* Remissions. Remissions are possible and time off for good behavior and participation in work programs is offered. An inmate is also eligible to apply for beneficio or benefit after 50% of the sentence has been served. This entitles the prisoner to move to an open or semi-open facility and to make a smoother transition back into civilian life.

\* Work/education. While in prison, inmates are not required to work, however, shorter time in prison can result from participation in training programs.

\* Amenities/privileges. Group therapy, and educational and vocational training are available based on behavior and willingness to participate. During leisure time, television sets are available, radios and other personal property are allowed. Family visits and conjugal privileges are permitted.

There are no uniforms and there are very few outlets for recreation. In the juvenile facility 60 youths shared one basketball and did not have a single ping pong ball for use with their homemade table.

Medical care and religious services are readily provided and food is plentiful and balanced.

#### EXTRADITION AND TREATIES

\* Extradition. The Costa Rican judicial system has criminal extradition agreements or treaties with the following countries: Argentina, Belgium, China, Colombia, Italy, Nicaragua, Peru, and Spain. For those countries with whom no valid treaty exists, Costa Rica's law on extradition is applied and allows for extradition of prisoners on a case by case basis. This country has a full cooperation policy with all nations.

\* Exchange of prisoners. No information available

\* Specified conditions. No information available.

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