

Immigration and Refugee Board of Canada

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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

27 October 2011

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Colombia: Procedures to report a crime; procedures for obtaining a copy of these reports from within Colombia; whether the complainant can obtain a copy from abroad through a proxy, including requirements and procedures; authorities' responsiveness to complaints

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Reporting a Crime

The National Police of Colombia (Policía Nacional de Colombia) states on its website that victims or witnesses of crimes, such as homicide, attempted homicide, personal injury, threats, sexual violence, sexual harassment, trafficking in persons, theft, fraud, counterfeiting, extortion, terrorism, kidnapping or [translation] "any type of crime," can file a report with the

- Administrative Security Department (Departamento Administrativo de Seguridad, DAS);
- the Corps of Technical Investigators (Cuerpo Técnico de Investigaciones, CTI) of the Office of the Attorney General (Fiscalía General de la Nación); or
- the National Police (Colombia n.d.b).

To report a crime, a person can complete a criminal complaint (*denuncia*) form available on the National Police website (ibid.). The complaint form contains personal information about the person making the complaint (name, sex, address, occupation, and identity document such as a passport), the accused, the events and, if there were any, the witnesses (ibid. n.d.c). Information about the victim is also required if the person completing the form is not the victim (ibid.).

The person must then bring the completed form and three copies of it to any one of the above-mentioned agencies (ibid. n.d.b). Alternatively, a person can go to any of these offices and a public servant will record the information (ibid.). While making the complaint, the person must provide photo identification, evidence samples (e.g., document, tape recording, photographs, video, weapons, etc.), contact information, and, if the crime involves property, proof of its [translation] "legal existence" (ibid.).

Once the complaint has been received, it is forwarded to the Assignment Office (Oficina de Asignaciones) of the Office of the Attorney General (ibid. n.d.b). The Assignment Office then assigns a prosecutor to the case (ibid.; see also Professor 28 Sept. 2011). The person making the complaint is given one of the copies of the form, which includes a report number assigned by the agency receiving the complaint (Colombia n.d.e), so that he or she can ask the assigned prosecutor for information during the investigation (ibid. n.d.b).

Children are also allowed to file complaints as long as they are accompanied by a parent or other family member (ibid. n.d.d). If there are no family members available, a [translation] "family advocate" (defensor de familia) will be assigned to assist the child in making the complaint (ibid.).

Other options for submitting a criminal complaint

A person making a complaint about a crime within the Attorney General's jurisdiction can also complete the form that is available on the website of the Office of the Attorney General (ibid. n.d.f). The person can submit the form electronically or go to any Centre for Citizens' Assistance (Puntos de Atención al Usuario, PAU) throughout the country (ibid.). Such offices include

- Immediate Reaction Units (Unidades de Reacción Inmediata, URI);
- Centres for Investigation and Integrated Assistance to Victims of Sexual Abuse (Centros de Investigación y Atención Integral a Víctimas de Abuso Sexual, CAIVAS); and
- Assignment Offices (ibid.).

For cases under the new Oral Accusatory Penal System (Sistema Penal Oral Acusatorio), which was enacted in 2008 to reduce the delays in the administration of justice (US 8 Apr. 2011) a person can check its status on the Attorney General's website by searching an electronic database based on their report number (Colombia n.d.g).

The DAS website provides a national emergency telephone number (1-5-3) that citizens can dial in an emergency, or to make a complaint (ibid. n.d.a).

Procedure for obtaining a copy of a complaint

In correspondence with the Research Directorate, a former criminal judge who is now a law professor at the Latin American Autonomous University (Universidad Autónoma Latinoamericana) stated that obtaining a copy of a complaint is [translation] "very complicated" because criminal investigations are sensitive and prosecutors are reluctant to share information while the investigation is ongoing (Professor 28 Sept. 2011). This was corroborated in a telephone interview with a practicing lawyer who also said that it might be [translation] "difficult" given the sensitive nature of the investigation process (Lawyer 29 Sept. 2011). However, the professor said that lawyers can opt to file a [translation] "Right to Petition" (Derecho de Petición), a right specified in Article 23 of the Constitution, to compel authorities to provide the document within 15 days of receipt of the request (Professor 28 Sept. 2011; see also Lawyer 29 Sept. 2011).

The professor indicated in follow-up correspondence that a person can authorize any third party, including a lawyer, to obtain a copy of a complaint on his or her behalf (Professor 3 Oct. 2011). It requires a letter of authorization (*poder*) that has been authenticated by a public notary in Colombia or by a Colombian consulate in other countries (ibid. 28 Sept. 2011). If a person does not know someone in Colombia who can obtain the report, he or she must contact a lawyer in Colombia to [translation] "act as their representative" (Colombia 22 Sept. 2011). The professor also stated that when the complainant resides somewhere other than where the complaint was made, and prosecutors are reluctant to provide the copy of the report, the complainant can file a Right to Petition by regular or certified mail (28 Sept. 2011). The petition should include the date of the request and an expected delivery date to ensure the 15-day time limit for responding is respected (Professor 28 Sept. 2011).

If the agency does not comply with the Right to Petition, the person can file a *tutela* as [translation] "a means to oblige the public servant to respond immediately" (ibid.). A *tutela* is a mechanism for providing legal recourse when a person's basic constitutional rights have been [translation] "infringed or threatened by the action or omission of any public authority" (Colombia n.d.k).

Procedures for persons living in Canada

To authenticate the letter of authorization, residents of the National Capital Region must bring either a certificate of citizenship (*cédula*) or a Colombian passport as proof of identification and sign the letter in the presence of the consul (ibid. n.d.h). The letter of authorization must indicate the name of the person who is granting the authorization as well as that of the person receiving it (ibid.). The process reportedly costs \$35 in United States (US) dollars (ibid. 27 Sept. 2011). Residents of Montreal must similarly go in person to the Colombian Consulate in that city (ibid. n.d.i).

Residents of Ontario (except for the National Capital Region), Manitoba, British Columbia, Alberta, Saskatchewan and Yukon (ibid.) must sign the letter of authorization and stamp it with a print of their right index finger in the presence of a public notary (Colombia n.d.h). The document must then be sent to the Consulate of Colombia in Toronto with a self-addressed stamped envelope and the fee (ibid.).

Residents of Quebec (except for Montreal), New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador must also sign the letter of authorization and stamp it with a print of their right index finger in the presence of a public notary (ibid. 28 Sept. 2011). The document must then be sent to the Consulate of Colombia in Montreal with a self-addressed stamped envelope and the fee (ibid.).

Residents of the Northwest Territories or Nunavut must communicate with the Consulate in Toronto (ibid. 29 Sept. 2011). However, this measure is temporary since these territories will eventually come under the jurisdiction of the Consulate in Vancouver (ibid.).

In correspondence with the Research Directorate, an embassy official added that neither the Colombian embassy or its consulates make requests for copies of criminal complaints on behalf of Colombian citizens or their legal representatives since these documents are a [translation] "private" matter for which only complainants, legal representatives and authorities investigating the case have access (ibid. 22 Sept. 2011). The Colombian Embassy can only have access to these documents if they are part of a judicial investigation where the investigating authority makes a formal request for judicial cooperation (ibid.).

Responsiveness to complaints

According to the professor at the Latin American Autonomous University, although it is possible that an agency that received the complaint might not forward it to the Office of the Attorney General, it would be an exception, "an extremely strange event" (Professor 3 Oct. 2011). The professor added that although some investigations can take time before they are started, even years, the investigations are eventually carried out (ibid.). The US Department of State notes in its 2010 *Country Reports on Human Rights Practices* that the criminal judicial system has a "large backlog" of cases and that judicial authorities are subject to "threats and acts of violence" (US 8 Apr. 2011, Sec.1e). The professor also noted that [translation] "in some cases" persons feel afraid to file complaints for fear of retaliation (3 Oct. 2011), a phenomena observed in cases of violence against lesbians, gays, bisexuals and transgender persons (US 8 Apr. 2011, Sec. 6) and sexual violence against women (AI 2011, 20).

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.

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Additional Sources Consulted

Oral sources: The following organizations could not provide information within the time constraints of this Response: Departamento Administrativo de Seguridad, Fiscalía General de la Nación, Policía Nacional de Colombia, Procuraduría General de la Nación, Universidad de Antioquia, Universidad de los Andes, Universidad Javeriana, and Universidad Nacional de Colombia. The Comisión Colombiana de Juristas did not respond within the time constraints of this Response.

Internet sites, including: British Broadcasting Corporation; Colombia - Gobierno de Colombia, Ministerio de Relaciones Exteriores de Colombia; *El Colombiano*; *El Espectador*; Freedom House; Human Rights Watch; *El Mundo*; *Semana*; *El Tiempo*; United Nations Refworld.

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Date modified: 2013-07-17 [Top of Page](#)

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