

# Immigration and Refugee Board of Canada

[Home](#) > [Research Program](#) > Responses to Information Requests

## 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.

13 September 2010

### MEX103554.E

Mexico: Procedures for initiating a criminal complaint/investigation (including for domestic violence) and whether the authorities are responsible for keeping the complainant informed of the status of the proceedings  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

The Federal Code of Criminal Procedure (*Código Federal de Procedimientos Penales*) outlines procedures for receiving complaints and initiating investigations in Mexico, stating that [translation by the Multilingual Translation Division of the Translation Bureau]

**Article 2.** - The federal Public Ministry is responsible for conducting preliminary investigations and, where applicable, taking criminal action before the courts.

In preliminary investigations, the Public Ministry will be responsible for:

**I.** - Receiving complaints or claims made orally or in writing, regarding acts that could constitute an offence (Mexico 1934, Art. 2, I).

The Federal Code of Criminal Procedure also defines the role of the police as follows [translation by the Multilingual Translation Division of the Translation Bureau]

**Article 3.** - Police forces will act under the guidance and command of the Public Ministry in the investigation of offences, in accordance with the provisions of article 21 of the Political Constitution of the United Mexican States, and will be obliged to:

**I.** Receive complaints made regarding acts that could constitute an offence only when, due to the circumstances of the case, such complaints cannot be made directly to the Public Ministry. In such cases, the police must notify the Public Ministry immediately regarding the complaint and any investigations that have been conducted and must cease their actions when the latter so orders (Mexico 1934, Art. 3, I).

In 11 August 2010 correspondence with the Research Directorate, a representative of the Miguel Agustín Pro Juárez Centre for Human Rights (Centro de Derechos Humanos Miguel Agustín Pro Juárez, Centro Prodh), a non-governmental organization (NGO) that is a consultant for the United Nations (UN) Economic and Social Council (ECOSOC) and the Organization of American States (OAS), states that according to Article 21 of the Constitution of Mexico, the Public Ministry is responsible for the [translation] "investigation and prosecution of crimes (*delitos*)" (Centro Prodh 11 Aug. 2010).

In 13 August 2010 correspondence, the Deputy Director of Investigations of the National Institute for the Study of Criminal Sciences (Instituto Nacional de Ciencias Penales, INACIPE) stated that the following process for submission of complaints, found on the website of the Office of the Attorney General of the Federal District (Procuraduría General de Justicia del Distrito Federal, PGJ-DF), which is part of the Public Ministry (Mexico 1 Apr. 2008), applies at both the federal and state level:

[translation]

-Bring an official photo ID.

-Go to the office of the Attorney General (Fiscal) or the agent of the Public Ministry who should help you.

-The Ministry of the Public will inform you of the juridical importance of your complaint, the penalties for false declarations, and the methods of the process that will be initiated.

-When doing your declaration, describe what happened as precisely as possible ...

-Please read over your declaration and then sign it.

-During this time you can make corrections to your testimony.

-Ask for a copy of your declaration. (Mexico n.d.a)

According to the PGJ-DF, in the Federal District (FD) complaints can be submitted electronically only if they are "formal" (*querrela*) and are not considered "serious" (*graves*) (Mexico n.d.b).

According to Centro Prodh, employees within the Public Ministry responsible for receiving complaints are sometimes reluctant to register them without receiving bribes or they make the victim wait a long time, necessitating the retention of legal representation to move the process along (Centro Prodh 11 Aug. 2010). This process becomes particularly difficult to initiate when the complaint involves state officials and powerful actors (*ibid.*). Corroboration concerning such allegations could not be found among the sources consulted by the Research Directorate.

The Federal Code of Criminal Procedure states in Article 141, that [translation by the Multilingual Translation Division of the Translation Bureau] "The victim or party aggrieved by an offence will have the following rights: B. During criminal proceedings: III. [He/she will] receive a simple or certified copy of his/her statements at no cost, when he/she requests this" (Mexico 1934, Art. 141, BIII).

In his correspondence, the Centro Prodh's Representative, citing Article 141 of the Federal Code of Criminal Procedure, indicated that the person who makes the complaint can obtain a simple or certified copy (*copia simple o certificada*) of the complaint and of the decisions taken related to it, during the preliminary investigation (*averiguación previa*), which is the period from [translation] "the declaration of the initial complaint to when penal action is taken and the complaint is taken to penal trial" (Centro Prodh 11 Aug. 2010). The cost is determined by the legislation of the state, but is free at the federal level, and there is no legally established timeframe for obtaining this document; there is also no legal procedure for obtaining a copy from another state (*ibid.*). The Centro Prodh Representative added that it is common practice for employees of the agencies of the Ministry of the Public not to provide the information that copies of the reports can be obtained (*ibid.*). Corroboration could not be found among the sources consulted by the Research Directorate.

### Obtaining a copy of the police report

The Federal Code of Criminal Procedure states that [translation by the Multilingual Translation Division of the Translation Bureau]

#### Article 16. - ...

The preliminary investigation file will be available only to the accused party, the defence, the victim or aggrieved party and the legal representative of the latter. The preliminary investigation file and all other documents, regardless of their content or nature, as well as any objects, voice or image recordings, or anything else related to the preliminary investigation, are strictly reserved.

...

If the decision not to take criminal action is the result of a lack of information that would establish that an offence has been committed, the Public Ministry may provide such information in accordance with applicable provisions, as long as this does not put any investigation at risk (Mexico 1934, Art. 16).

In her correspondence, the Deputy Director of INACIPE reported that the cost and time it takes to obtain the police report of a crime depends on the extent of documentation and the number of pages that need to be photocopied (INACIPE 13 Aug. 2010). The Deputy Director added that documentation can be requested from another state through a judge or a tribunal (*exhorto*), or through collective agreement between attorney offices (*procuradurias*) of directly affected parties (*ibid.*). The person who initiates the complaint can request it from the respective authorities (*ibid.*).

### Notifications

The Federal Code of Criminal Procedure states that [translation by the Multilingual Translation Division of the Translation Bureau]

**Article 141.** - The victim or party aggrieved by an offence will have the following rights:

...

**B.** During criminal proceedings:

**I.** [He/she will] have access to the file in order to be informed about the state and progress of the proceedings at

any time, in relation to actions related to his/her legal interest, except for information that could endanger the investigation or the identity of protected persons;

II. [He/she will] be informed of the progress of the criminal proceedings and the legal consequences of his/her actions (Mexico 1934, Art. 141, B.I&II ).

According to the Deputy Director of INACIPE, the person who makes the complaint is notified of all decisions made during the process and the way in which actions taken by the authority are prompted by the law (INACIPE 13 Aug. 2010). The Centro Prodh Representative noted that there are legal and constitutional regulations that require the Public Ministry to inform the accuser of any irregularities (*reserva*) that occur within the preliminary investigation (*averiguación previa*), and why no penal action is taken (Centro Prodh 11 Aug. 2010). Providing explanation in great detail is not required (*ibid.*). In 12 August 2010 correspondence with the Research Directorate, a representative of the Human Rights Commission of the State of Mexico (Comisión de Derechos Humanos del Estado de México, CODHEM) states that, in the state of Mexico, if the Ministry of the Public fails to inform the accuser of their decision not to pursue legal remedies or does not disclose their reasons, a complaint can be launched against the organization through CODHEM.

Authorities must present the accused with a subpoena, which includes a case number, the name of the accuser, the crime, and the date on which they must appear at the agency of the Ministry of the Public to learn of all charges against them (INACIPE 13 Aug. 2010).

## Domestic violence

According to the Representative of CODHEM, domestic violence falls under [translation] "family mistreatment" (*maltrato familiar*) in the state of Mexico, and federally under family violence (*violencia familiar*); the ministerial police (*policía ministerial*), and sometimes the municipal police, inform the accused of the report at the state level (CODHEM 12 Aug. 2010). In the state of Mexico, a complaint can be made to CODHEM against the authority that receives the complaint if the victim is asked to have any contact with the accused (*ibid.*). However, in instances where it is not a judicial matter and the penal process has not been initiated, the victim does not go to the Public Ministry, but rather to a reconciliation centre, such as the Office of the Municipal Mediator (Oficial Conciliador Municipal), the National Network of Family Development Agencies (Sistema para el Desarrollo Integral de la Familia, DIF), or the Mediation and Reconciliation Centre (Centro de Mediación y Conciliación) (*ibid.*). Here, mediation leads to a meeting between the two parties, and the victim is sometimes asked to deliver the invitation to the accused, in an attempt to avoid the penal process (*ibid.*).

Centro Prodh notes that the process for reporting family violence and the resulting investigation are the same as for other crimes, with the Public Ministry being responsible for informing the probable assailant; however, women that report violence often experience difficulties with government employees, who are reluctant to receive the complaints (Centro Prodh 11 Aug. 2010). Centro Prodh expressed the opinion that there is a general lack of [translation] "sensitivity" (*sensibilidad*) and professionalism when dealing with these cases (*ibid.*). Corroboration for this opinion could not be found among the sources consulted by the Research Directorate.

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

Centro de Derechos Humanos Miguel Agustín Pro Juárez (Centro Prodh). 11 August 2010. Correspondence with a representative.

Comisión de Derechos Humanos del Estado de México (CODHEM). 12 August 2010. Correspondence from a representative.

Instituto Nacional de Ciencias Penales (INACIPE). 13 August 2010. Correspondence from the Deputy Director of Investigation.

Mexico. 1 April 2008. Procuraduría General de Justicia del Distrito Federal (PGJ-DF). "Quiénes Somos." <[http://www.pgjdf.gob.mx/temas/1-2-1?sp=&idw3\\_contenidos=3](http://www.pgjdf.gob.mx/temas/1-2-1?sp=&idw3_contenidos=3)> [Accessed 8 Sept. 2010]

\_\_\_\_\_. 1934 (Amended 2010). "Código Federal de Procedimientos Penales." *Diario Oficial de la Federación*. <<http://www.ordenjuridico.gob.mx/Documentos/Federal/wo38905.doc>> [Accessed 7 Sept. 2010]

\_\_\_\_\_. N.d.a. Procuraduría General de Justicia del Distrito Federal (PGJ-DF). "¿Cómo Denunciar?" <<http://www.pgjdf.gob.mx>> [Accessed 3 Aug. 2010]

\_\_\_\_\_. N.d.b. Procuraduría General de Justicia del Distrito Federal (PGJ-DF). "MPVirtu@I."

<<https://mpvirtual.pgjdf.gob.mx/CiberDenuncia/Bienvenida.aspx>> [Accessed 3 Aug. 2010]

## Additional Sources Consulted

**Oral sources:** Centro Nacional de Atención Ciudadana, Comisión Nacional de los Derechos Humanos ([CNDH](#)), Instituto Ciudadano de Estudios sobre la Inseguridad (ICESI), Oficina del Secretario de Seguridad Pública (SSP), and Secretaría de Seguridad Pública del Distrito Federal (SSP-DF) did not reply within the time constraints of this Response.

**Internet sources, including:** Amnesty International ([AI](#)), Factiva, Freedom House, Office of the United Nations ([UN](#)) High Commissioner for Refugees ([UNHCR](#)) Refworld, United States ([US](#)) Department of State, *El Universal* [Mexico].

[Click here for tips on how to use this search engine.](#)

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

The attached reproduction is a copy of an official work that is published by the Government of Canada. The reproduction has not been produced in affiliation with, or with the endorsement of the Government of Canada.