

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.

2 April 2012

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Mexico: The responsibilities and duties of police officers in the municipality of Juarez and the Federal District, including legislation governing police actions and effectiveness of police
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

1.1 Constitutional Mandate for Public Safety

Article 21 of the Political Constitution of Mexico (*Constitución Política de los Estados Unidos Mexicanos*) delegates the responsibilities for public safety as follows:

[translation]

Public safety is a function that is the responsibility of the Federation, the Federal District, the states and the municipalities. It includes the prevention of crimes, the investigation and prosecution needed to make prevention effective, and the punishment of administrative infractions, in accordance with the law, in the respective jurisdictions identified in this Constitution. The activities of the public safety institutions shall be governed by the principles of lawfulness, objectivity, efficiency, professionalism, honour and respect for the human rights recognized in this Constitution.

The public safety institutions shall be civilian, disciplined and professional in nature. The Public Prosecutor's Office (Ministerio Público) and the police institutions at the three levels of government shall coordinate their actions with one another in order to meet the public safety objectives and shall make up the National Public Safety System, which shall be subject to the following minimum bases [of coordination]:

- a. Regulation of the selection, recruitment, training, tenure, evaluation, recognition and certification of the personnel of the public safety institutions. The operation and performance of these activities shall be the responsibility of the Federation, the Federal District, the states and the municipalities in their respective jurisdictions.
- b. The establishment of crime and personnel databases for the public safety institutions. No person may join the public safety institutions unless that person has been duly certified and registered in the system.
- c. The preparation of public policies aimed at preventing crime.
- d. The participation of the community, which shall assist in such things as the processes for evaluating crime prevention policies and the public safety institutions, shall be determined.
- e. Federal funding for public safety at the national level shall be provided to the states and municipalities to be used solely for these purposes. (Mexico 1917)

1.2 Municipality of Juarez

In the Municipality of Juarez (Municipio de Juárez), the federal constitutional mandate for public safety is implemented through the Regulations of the Municipal Public Safety System of the Municipality of Juarez of the State of Chihuahua (*Reglamento del Sistema Municipal de Seguridad Pública del Municipio de Juárez, Estado de Chihuahua*) (Municipio de Juárez 2011, Art. 1). Article 50 of the Regulations outlines the following obligations for personnel in municipal public safety institutions:

[translation]

- I. Supervise the implementation of the Police and Good Government Regulations of the Municipality of Juarez and other provisions in the area of public safety;
- II. Always act in a dedicated, disciplined manner, while obeying the law and respecting the individual guarantees and human rights recognized in the Constitution;
- III. Keep secret matters of which they gain knowledge as they perform their duties, in keeping with the applicable provisions;
- IV. Provide assistance to persons who are threatened by some danger or have been victimized or aggrieved by some crime, and protect their property and rights. Their actions must be balanced, timely and proportionate to the circumstances;
- V. Perform their duties with absolute impartiality and no discrimination whatsoever;
- VI. At no time either inflict or tolerate acts of torture, even when following orders from a superior or when special circumstances, such as a threat to Public Safety, an urgent investigation or any other circumstance, are cited. If they are aware of such acts, they shall immediately report them to the competent authority;
- VII. Be respectful at all times in their relations with all persons, abstaining from any arrogant act or from unjustifiably limiting the actions or demonstrations in which citizens peacefully engage in the exercise of their constitutional rights;
- VIII. Carry out their mission without soliciting or accepting compensation, payments or gratuities other than those lawfully provided for. In particular, they shall oppose any corrupt act and, if they know of such an act, shall report it;
 - IX. Abstain from ordering the detention of or detaining any person unless the requirements set forth in the applicable provisions of the Constitution and laws are met;
 - X. Safeguard the life and physical integrity of detained persons;
 - XI. Keep themselves up to date on the use of investigative methods that ensure that evidence is collected in a scientific and technical manner;
 - XII. Use the investigation protocols and chain of custody adopted by the Public Safety Institutions;
 - XIII. Participate in coordination mechanisms and operations with other Public Safety Institutions and, as appropriate, provide them the support required by law;
 - XIV. In keeping with the applicable provisions, preserve direct and circumstantial evidence of probable criminal acts or administrative offences in a way that keeps the evidentiary value of that evidence intact and facilitates the proper conduct of the corresponding proceedings;
 - XV. Abstain from disposing of property entrusted to them for their own benefit or the benefit of third parties;
 - XVI. Submit to periodic evaluations in order to determine whether they meet the requirements for remaining in their positions, obtain the respective certification and keep it valid;
 - XVII. Immediately report to their hierarchical superior any omission, wrongdoing or criminal act of their subordinates or of fellow officers at the same hierarchical level;
 - XVIII. Diligently execute and ensure the execution of orders that they receive for the purpose of performing their duties, while avoiding any act or omission that might undermine the execution of these orders;
 - XIX. Promote discipline, a sense of responsibility, decisiveness, integrity, esprit de corps and professionalism in themselves and in the personnel under their command;
 - XX. Record detentions in the Administrative Register of Detentions, in keeping with the applicable provisions;
 - XXI. Abstain from removing, concealing, altering or damaging information or property to the detriment of the Institutions;
 - XXII. In keeping with the applicable provisions, abstain from divulging to any unauthorized person, by any means, documents, registers, images, records, statistics, reports or any other restricted or confidential information of which they gain knowledge through or for their job, duties or commission;
 - XXIII. Respond promptly to queries, complaints or requests for assistance from citizens or their own subordinates, except when the request exceeds their area of competence, in which case they shall forward the request to the appropriate area;
 - XXIV. Use flashing lights, sirens or whistles only in confirmed emergencies;
 - XXV. Remain on duty or on the mission assigned to them until their relief arrives and a superior authorizes them to leave their post;
 - XXVI. Use their radio appropriately, limiting themselves to filing the reports requested of them by their superior;
 - XXVII. Perform their duties within the territory assigned to them, according to the municipality's district boundaries;
 - XXVIII. Use the phonetic alphabet and authorized keys when addressing their fellow officers, superiors and subordinates over police communication media;

- XXIX. Give the military or civilian salute, depending on whether they are in uniform, to the national flag and their hierarchical superiors;
- XXX. Inform the Ministry immediately and in writing of any change of address;
- XXXI. File their declaration of financial position on time, when asked for it;
- XXXII. Update their letter of no criminal record every year;
- XXXIII. Abstain from bringing intoxicating beverages, psychotropic or narcotic substances or other addictive substances of an illegal, prohibited or controlled nature into the installations of their Institutions, except when they are the product of detentions, searches, seizures and the like and there is prior authorization to do so;
- XXXIV. Abstain from consuming, whether on or off duty, psychotropic or narcotic substances or other addictive substances of an illegal, prohibited or controlled nature, except when the consumption of controlled medications is authorized by means of a medical prescription endorsed by the municipal medical services;
- XXXV. Abstain from consuming intoxicating beverages in the installations of their Institutions or while performing their duties;
- XXXVI. Abstain from behaviour liable to discredit themselves or the image of the Institutions, whether on or off duty;
- XXXVII. Not permit persons who are not employees of their Institutions to perform acts that fall under the powers assigned to them, and not permit themselves to be accompanied by such persons while performing their duties; and
- XXXVIII. The other obligations established by the applicable provisions of the law. (ibid.)

Article 51 of the Regulations specifies the following additional obligations for public safety personnel:

[translation]

- I. Record data on the activities and investigations that they carry out in the Approved Police Report;
- II. Submit the information that they gather in the course of their duties or activities to the corresponding authority for analysis and registration and deliver the information requested of them by other Public Safety Institutions, in keeping with the corresponding laws;
- III. Support authorities that solicit their support in the investigation and prosecution of crimes, as well as in situations of serious risk, catastrophe or disaster;
- IV. Execute judicial and ministerial warrants;
- V. Obtain their Unique Police Certificate (*Certificado Único Policial*) and keep it up to date;
- VI. Obey the orders of their hierarchical superiors and those who have command functions over them and fulfill all their obligations, in keeping with the law;
- VII. Answer generally to a single hierarchical superior, respecting the chain of command in most cases, for the execution of the direct orders that they receive;
- VIII. Keep the weaponry, materials, equipment and ammunition assigned to them for their duties in good order and make rational use of them, solely for performing their duties;
- IX. Abstain from frequenting bars, cantinas, betting or gaming establishments and other such establishments while in uniform, unless in response to an express order for the purpose of performing their duties or in cases of *flagrante delicto* [in cases in which someone is in the very act of committing an offence];
- X. Detain in flagrante delicto anyone committing an act that may constitute a crime or administrative offence, record the detention of individuals in the detentions register, and identify and arrest suspects under judicial or ministerial warrants;
- XI. Not to inform the social media or any person of the identity of detainees, suspects, victims, aggrieved persons, witnesses or other persons who are or may be linked to the investigation of a punishable act, in order to protect their rights and the investigation;
- XII. Receive reports of acts thought to constitute crimes and collect information on these acts in accordance with Section 21 of the Political Constitution of the United Mexican States. In such cases, the police officer shall inform the Public Prosecutor's Office (Ministerio Público) immediately;
- XIII. Provide the assistance required by victims or aggrieved persons and protect witnesses. In cases of family violence and crimes against sexual freedom and security, they shall follow the protocols or special provisions issued by the State Attorney General's Office (Fiscalía General del Estado), to ensure that the rights of victims are properly protected;
- XIV. Ensure that the traces and tools of a crime are preserved. To this end, they shall block access by any person not involved in the collection of information and shall secure the scene under lock and key, if it is an enclosed location, or isolate it, if it is an open place;
- XV. Ensure that the traces and remains of a deed are not altered or obliterated in any way and that the tools

used to perform the deed are not removed until experts arrive on the scene;

- XVI. Interview witnesses thought to be useful for determining the truth. The interviews shall be noted in a record of the police procedures that are carried out;
- XVII. Collect data that can be used to identify suspects;
- XVIII. Gather all urgent information that may be useful to the representative of the Public Prosecutor's Office;
- XIX. The Public Prosecutor's Office shall direct the municipal public safety bodies when the latter are required to assist in investigation work. The municipal public safety bodies shall at all times, and in accordance with the law, follow the orders of the Public Prosecutor's Office and orders issued to them by judges during legal proceedings, without prejudice to the administrative authority to which they are subordinate;
- XX. Communications that representatives of the Public Prosecutor's Office and the municipal public safety bodies need to send to one another during the investigation of a particular crime shall be sent in the most expeditious manner possible and by the most expeditious means. This shall not affect the requirement that they be recorded in the respective police registers;
- XXI. Police officers shall respect the formalities established for investigations and shall subordinate their actions to the instructions issued by the Public Prosecutor's Office. This shall not affect the powers granted to them by the State Code of Criminal Procedure to gather and process all relevant information capable of throwing light on the circumstances; and
- XXII. Other obligations established by the applicable legal provisions. (Municipio de Juárez 2011)

The Juarez regulations also restrict the use of force by municipal police as follows:

[translation]

Article 126. Members responsible for law enforcement may use public force only when absolutely necessary and to the extent required for the performance of their tasks.

In performing their duties, members shall use nonviolent measures whenever possible before resorting to force and firearms. They may use force and firearms only when other measures prove ineffective or in no way guarantee that the desired result will be achieved.

When the use of firearms is unavoidable, law enforcement officials shall:

- I. Exercise moderation and act in a manner proportionate to the seriousness of the crime and the legitimate goal being pursued;
- II. Minimize damage and injury, and respect and protect human life;
- III. Proceed in such a way that assistance and medical services are provided to injured or affected persons as quickly as possible; and
- IV. Endeavour to report what has happened as quickly as possible to the families of injured or affected persons.

Article 140. If personnel use force and firearms unlawfully and do not take all steps at their disposal to prevent, eliminate or report this use, they shall bear a part, proportionate to their participation, of the administrative, civil or criminal responsibility that arises from it.

Article 141. Personnel may not claim to have been following orders from their superiors if they knew that an order to use force or firearms that occasioned the death or serious injury of an individual was manifestly unlawful and they had a reasonable opportunity to refuse to carry it out. (ibid.)

Superiors who give unlawful orders shall also be held responsible, as stipulated in Article 168:

[translation]

Every public servant shall report in writing, to the Internal Affairs Department (Dirección de Asuntos Internos) or to the heads of the Institutions, deeds that, in their view, are attributable to members of the Institutions. (ibid.)

1.3 Federal District

The Public Safety Law of the Federal District (*Ley de Seguridad Pública del Distrito Federal*) of 1993 stipulates the following obligations for employees of Federal District public safety bodies:

[translation]

- I. Act within the law, at all times respecting the Political Constitution of the United Mexican States and the laws emanating from it;
- II. Serve society loyally and honourably;
- III. Respect and protect Human Rights;
- IV. Act with the necessary decisiveness and without delay in protecting persons and their property;

- V. Not discriminate in the performance of their duties against any person on the basis of that person's race, religion, sex, social condition, sexual preference or political ideology or for any other reason;
- VI. Perform the service entrusted to them honourably, responsibly and truthfully, while abstaining from any corrupt act or from using their powers for gain;
- VII. Be respectful at all times in their relations with the persons whom they are endeavouring to help and protect, while abstaining from any arrogant act or from unjustifiably limiting the actions or demonstrations in which citizens peacefully engage in the exercise of their constitutional rights;
- VIII. Provide whatever help they can to persons in personal danger and, as appropriate, seek urgent medical services if these persons are injured or seriously ill and notify their family or friends of the situation;
- IX. Use and preserve with due care and caution the equipment assigned to them when performing their duties;
- X. Use nonviolent means before using force and weapons;
- XI. Safeguard the life, physical integrity and property of persons who are detained or are in their custody;
- XII. Neither inflict nor tolerate acts of torture against or cruel, inhuman or degrading treatment of persons in their custody, even when following orders from a superior or when special circumstances, such as a threat to Public Safety, an urgent investigation or any other circumstance, are cited. If they are aware of such acts, they shall immediately report them to the competent authority;
- XIII. Obey orders from their hierarchical superiors and fulfil all the obligations placed on them, provided obeying the former and fulfilling the latter do not entail committing a crime;
- XIV. Behave in a respectful, dignified manner toward police personnel under their command, strictly adhering to and respecting human rights and the applicable disciplinary standards;
- XV. Keep the orders that they are given and the information that they receive in performing their duties classified and confidential, as required, except when the law requires them to do otherwise. This does affect the responsibility to inform the head of the agency of the contents of orders that they reasonably consider to be illegal;
- XVI. Attend police training courses to obtain the theoretical and practical knowledge that promotes professionalism;
- XVII. Observe the standards of discipline and order established by the internal regulations and administrative provisions of each of the Public Safety Bodies; and
- XVIII. Coordinate their activities with other agencies and, as appropriate, provide them with the support required by law. (Federal District 1993, Art. 17)

The use of force by the police is regulated by the 2008 Law Regulating the Use of Force by Public Safety Bodies of the Federal District (*Ley que Regula el Uso de la Fuerza de los Cuerpos de Seguridad Pública del Distrito Federal*) as follows:

[translation]

Article 8. When the rights and guarantees of persons and institutions, public peace and the safety of citizens are at risk, the Police may use force, provided they observe the following principles:

- I. Legal: Their actions must be in strict compliance with the Political Constitution of the United Mexican States, the General Law Establishing the Bases of Coordination of the National Public Safety System (*Ley General que establece las bases de Coordinación del Sistema Nacional de Seguridad Pública*), the Public Security Law of the Federal District (*Ley de Seguridad Pública del Distrito Federal*), this Law and other applicable legislation;
- II. Rational: The use of force must be justified by the specific circumstances and must be appropriate to the situation at hand:
 - a. When it follows from a decision that takes into account the goal being pursued, the circumstances of the case and the capabilities of both the subject to be controlled and the Police;
 - b. When it is strictly necessary, to the extent required for the performance of Police duties;
 - c. When the force is used in a discriminating manner;
 - d. When maximum possible use is made of nonviolent measures before force and weapons are used;
 - e. When force and weapons are used only after other measures have proved ineffective or in no way guarantee that the desired result will be achieved.
- III. Balanced: There must be a link and a balance between the level of force used and the loss or injury caused to the person;
- IV. Timely: The force must be used immediately to prevent or neutralize an imminent or present harm or

danger that infringes on or violates the integrity, rights or property of persons, their freedoms, the safety of citizens or public peace;

and

- V. Proportionate: The force used must be appropriate and must correspond to the act that is faced or that is to be resisted. No police officer may be punished for refusing to carry out an order that is blatantly unconstitutional or illegal or might constitute a crime. Any order with these characteristics must be reported to the immediate hierarchical superior of the person who issued it.

The reasons for which Police intervention is taking place, as regards the type of crime or the type of order to be carried out, do not in themselves justify the use of lethal weapons or lethal force, even if the crimes in question were violent ones.

Article 9. Police may use force in the following circumstances:

- I. When detaining a person who is resisting, when the detention was ordered by a competent authority, or after a law or regulation has been broken;
- II. When performing a duty or carrying out lawful orders issued by competent authorities;
- III. When preventing unlawful behaviour;
- IV. When protecting or defending protected legal interests; or
- V. For legitimate defence. (Federal District 2008)

2. Police Effectiveness

Sources indicate that corruption is a problem within the police (US 8 Apr. 2011, Sec. 4; BBC 8 Aug. 2010). The US Department of State's *Country Reports on Human Rights Practices for 2010* indicates that President Calderon has remarked on it in speeches and that the National Human Rights Commission (Comisión Nacional de Derechos Humanos) reported that "the police, especially at the state and local level, were involved in kidnapping, extortion, and in providing protection for, or acting directly on behalf of, organized crime and drug traffickers" (8 Apr. 2011, Sec. 4).

In a paper published in *Revista Mexicana de Sociología*, Arturo Alvarado Mendoza, a professor at the Colegio de México, and Carlos Silva Forné, a researcher at the National Autonomous University of Mexico, contend that investigations on the use and abuse of force by the police in Mexico are [translation] "limited" (Alvarado Mendoza and Silva Forné July-Sept. 2011, 466). The US *Country Reports 2010* notes, for example, that "none of the 2,500 police officers who participated in the Atenco Operation had been convicted of any crime" (US 8 Apr. 2011, Sec. 1c). The Atenco incident refers to a confrontation that occurred in 2006 in the State of Mexico between local flower vendors and state and federal police agents (ibid.). The incident left two people dead and resulted in 47 women being arrested, "many of whom allegedly were raped by police officials" (ibid.).

Furthermore, the Federal District Human Rights Commission (Comisión de derechos humanos del Distrito Federal) indicates in its 2010 annual report that agents of the Office of the Attorney General of the Federal District (Procuraduría General de Justicia del Distrito Federal) often detain persons under allegations that they were caught in flagrante delicto, and that some of the detainees were [translation] "tortured" (Federal District Apr. 2011, 74).

2.1 Police in Ciudad Juarez

In correspondence with the Research Directorate, a representative of the Citizens' Medical Committee (Comité Médico Ciudadano, CMC), a Ciudad Juarez-based volunteer organization that seeks to [translation] "reduce violence in the city and in the country" (CMC 29 Dec. 2008), indicated that, given the lack of interest on the part of authorities in investigating complaints against police, there is impunity in the majority of cases involving aggression and torture by municipal police officers (ibid. 6 Mar. 2012). According to the representative, many victims refuse to file complaints against police officers because of possible retaliation or because they think that justice will not be served (ibid.). The representative gave the example of the Department of Internal Affairs, where it is pointless to complain, given that investigations against police personnel [translation] "do not progress" (ibid.).

Speaking on his own behalf, the Director of the State of Chihuahua Human Rights Commission (Comisión Estatal de Derechos Humanos Chihuahua) in Ciudad Juarez indicated in correspondence with the Research Directorate that, although there is a code of conduct for municipal police officers, it is not often followed nor fully respected (Director 28 Feb. 2012). He further added that there have been, on average, five complaints of human rights violations made per day against municipal police officers, and two or three complaints made per week against the Ministerial Police of the State of Chihuahua (Policía Ministerial del Estado de Chihuahua) (ibid.).

Sources report that municipal police officers and their chief, Julián Leyzaola, have been accused of committing human rights violations (CNN 1 Feb. 2012; Human Rights Watch 4 Apr. 2011). The *Los Angeles Times* reports the involvement of Ciudad Juarez police officers in the "'enforced disappearance'" of four civilians on 26 March 2011 after detaining them outside a local market (4 Apr. 2011). CNN also reports that the police chief in Ciudad Juarez and his officials have been accused of [translation] "beating" prisoners while in detention (1 Feb. 2012). According to Human Rights Watch, Leyzaola had been the chief of police in Tijuana, Baja California, before being stationed in Ciudad Juarez,

and had been accused of torturing detainees with "beatings, electric shocks, death threats, and asphyxiation to obtain false confessions" (4 Apr. 2011).

In the 2011 report entitled *Comprehensive Diagnosis of Ciudad Juárez Municipal Police (Diagnóstico Integral de la Policía Municipal de Ciudad Juárez)*, the authors -- El Colegio de Chihuahua, the National Commission to Prevent and Eradicate Violence Against Women (Comisión Nacional para Prevenir y Erradicar la Violencia contra las Mujeres), Colegio de la Frontera Norte, and the University of San Diego -- surveyed 75 per cent of municipal police employees to help build a more effective institution (Justice in Mexico Project 2011, 8, 17). The survey results showed that collaboration among government agencies is hindered by [translation] a "mistrust" that is fueled by fears of infiltration by organized crime (ibid., 12). The survey also indicates that, between 2008 and 2009, the municipal police was [translation] "purged" after experiencing "the most profound levels of corruption in history," and that, although the process of recruiting new officers was "massive," it was "not careful" (ibid., 13, 42). In spite of the [translation] "purification process," the study found that 36 percent of those surveyed indicated that there are still "significant levels of corruption within the force" while 73 percent of respondents placed corruption "at the highest levels" of the institution, and 29 percent indicated that it was a problem at all levels (ibid., 36, 42).

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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[Top of Page](#)
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