

# 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 2012

### MEX104171.E

Mexico: The responsibilities and duties of police officers in Nuevo Leon and Veracruz, including police structure, legislation governing police actions, effectiveness of police, and dismissal of police forces  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Legislation

##### 1.1 Constitutional Mandate for Public Security

Article of 21 of the Political Constitution of Mexico (Constitución Política de los Estados Unidos Mexicanos) states the following concerning public safety:

[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)

On 23 April 2012, two agreements by the Ministries of National Defense (Secretaría de la Defensa Nacional) and Public Security (Secretaría de Seguridad Pública) were issued; the agreements state that the use of force would be regulated within their respective forces (Mexico 2012a; *ibid.* 2012b). Both agreements indicate that force will be used according to the principles of proportionality, legality, rationality and whenever it is appropriate (*ibid.*, Art. 6; Mexico 2012a, Art. 4).

##### 1.2 Nuevo Leon

The Public Safety Law for the State of Nuevo Leon (*Ley de Seguridad Pública para el Estado de Nuevo León*) of 2008 regulates public safety functions in the state of Nuevo Leon (Nuevo Leon 2008, Art. 2). Article 198 Bis 22 indicates that the hierarchical organization of police institutions in the state of Nuevo Leon is the following:

[translation]

I. Commissioner:

- a. General Commissioner,
- b. Chief Commissioner, and
- c. Commissioner;

II. Inspectors:

- a. General Inspector,
- b. Chief Inspector, and ,
- c. Inspector;

III. Officials:

- a. Sub-inspector,
- b. Official, and
- c. Sub-official;

IV. Basic Scale:

- a. First Police Officer,
- b. Second Police Officer,
- c. Third Police Officer, and
- d. Police Officer. (Nuevo Leon 2008)

Article 155 of the Public Safety Law outlines the following as among the obligations for personnel at police institutions:

[translation]

I. To know and comply with the legal provisions related to the exercise of their authority, as specified herein, in the regulations hereunder and in other applicable legislation ...

II. To respect on all occasions the constitutional principles of legality, objectivity, efficiency, professionalism, honesty and respect for human rights;

...

IV. To refrain from detaining anyone without first fulfilling the requirements of the applicable constitutional and legal provisions;

V. To safeguard and protect the life and physical integrity of persons in detention, until they are turned over to the public prosecutor or competent authority;

...

VII. To provide the guidance and information that victims of any offence or infraction need, ensuring that they receive proper and timely attention from the institutions concerned;

...

IX. To carry out their duties with absolute impartiality, while respecting the dignity and integrity of persons and avoiding discrimination on the basis of sex, sexual preference, age, social status, religion, ethnicity, nationality and/or political ideology;

...

XII. To ensure the safety and protection of citizens and the integrity of their property;

...

XVII. To attend training, development and specialization courses given by the Academy;

XVIII. When ordered by their superiors, to undergo the security checks and performance evaluation procedures, under the terms and conditions specified herein;

XIX. To execute without any delay or objection the lawful orders issued by their hierarchical superiors;

...

XXI. To preserve the secrecy of matters of which they become aware in the performance of their duties, except as provided by law;

XXII. To wear the uniforms and insignia in a visible and conspicuous manner, with the characteristics and specifications determined for this purpose;

...

XXV. To avoid any act of corruption that would affect or denigrate the policing function;

...

XXVII. To carry their current licence to bear arms while on duty;

...

XXXI. To enter in the official police report information on the activities and investigations in which they are involved;

...

XXXIX. To refrain from appearing in uniform in bars, taverns, gambling or gaming establishments, or other such places, unless under an express order for the performance of their duties or in cases of a crime in progress.

... (ibid.)

Article 158 of the same law outlines the following as among the prohibitions for public safety personnel:

[translation]

...

II. Active participation in demonstrations, rallies or other public meetings of that kind, as well as participating in any way, on their own behalf or in solidarity with another cause, in any movement or strike, work stoppage or similar activity that would involve a suspension or reduction of service;

III. Submitting false reports to their superiors on the services or tasks entrusted to them;

IV. Acting outside their competence and jurisdiction, unless given express orders from the competent authority;

...

VII. Disobeying the orders of the judicial authorities;

...

XII. Soliciting or receiving gifts or gratuities of any kind, as well as accepting any offer or promise for actions or omissions of service, and, in general, engaging in any corrupt act;

XIII. Reporting for duty or providing service under the influence of any drug or intoxicant, in any state of inebriation, with alcohol on their breath, or consuming alcoholic beverages at work; as well as appearing in uniform in houses of prostitution or centres of vice and/or any other such places, without justification related to provision of police service;

...

XXX. Requiring their subordinates by any means to pay money or to make any other kind of gift;

... (ibid.)

Agencia EFE cites the spokesperson for Public Security in Nuevo Leon as indicating that the state has 6,000 municipal and state agents, and that it has a deficit of 8,000 police officers (22 Nov. 2011).

### 1.3 Veracruz

The Regulations of the Preventive Police for Public Security of the State of Veracruz de Ignacio de la Llave (*Reglamento de la Policía Preventiva de Seguridad Pública del Estado de Veracruz de Ignacio de la Llave*) of 2008 outlines the implementation of public safety by the police (Veracruz 2008, Art. 3). Article 12 indicates that the hierarchical organization of police institutions in the state of Veracruz comprises the following levels:

[translation]

I. Inspectors: First Inspector, Second Inspector, Third Inspector;

II. Commissioner: First Commissioner, Second Commissioner, Third Commissioner;

III. Officials: First Official, Second Official, Third Official;

IV. Police Officers: First Police Officer, Second Police Officer, Third Police Officer, Fourth Police Officer. (Veracruz 2008)

Article 55 of the Regulations outlines the following among the obligations for personnel at police institutions:

[translation]

I. Act in the name of and within the law;

II. Intervene in crimes in progress and infractions of police and government orders;

III. Identify themselves orally when they intervene, by providing their name, rank and affiliation and giving the reason for the arrest and the guarantees which the accused enjoys, at least that the accused may remain silent, appoint a defence attorney of his choosing and not be kept incommunicado;

IV. Place the detainee and the instruments and objects used in committing the crime at the disposal of the competent authority without delay;

V. Not arrest anyone or seize any property without fulfilling the legal requirements ...

VI. Safeguard the life and physical integrity of arrested persons ...

...

VIII. Properly wear the official identifying uniform and insignia, and always be clean, with polished shoes, hair cut and sideburns and mustache trimmed;

...

X. Not carry while on or off duty weapons that are not included in the official collective licence issued to the Ministry of Public Security by the Ministry of National Defence;

...

XIV. Preserve the secrecy of matters of which they become aware in the performance of their duties, except as provided by law;

...

XVI. Obey the verbal or written orders of their superiors, unless said orders are unlawful, and inform them of how these orders were carried out and any incidents that occurred;

...

XXIII. Report by official radio communication any movement or action that they intend to take, interventions, approach of persons or motor vehicles, start of pursuits, etc., especially if their physical safety or the safety of other persons or public or private property is in danger. (ibid.)

Article 16 of the same regulations outlines the following as among the prohibitions for public safety personnel:

[translation]

I. Detain anyone without just legal cause;

II. Mistreat persons, regardless of the offence or crime of which they are accused, much less treat with arrogance, contempt or anger persons to whom they must attend while on duty.

III. Receive gifts or gratuities of any kind, accept offers or promises for any act or omission, with or without coercion, concerning the performance of their duties, or make any kind of payment to their superiors.

IV. Make the provision of required service conditional on obtaining any benefit for themselves or others;

V. Report for service while under the influence of intoxicating beverages, narcotics, stimulants or psychotropic drugs or with their breath smelling of alcohol; they must also refrain from consuming the same while on duty.

VI. Show disrespect or threaten colleagues or superiors;

VII. Take reprisals or revenge, thus abusing their position;

...

XIII. Fail to attend training or professional development courses;

XIV. Submit late, without justified cause, reports ordered by superiors and incident reports;

XV. Go to taverns, night clubs, gambling dens or any place of prostitution while in uniform or carrying working equipment, unless under instructions related to policing duties from superiors.

XVI. Belong to a labor organization and organize or participate in any activity such as a work stoppage on their own behalf or in solidarity with another cause ...

XVII. Enter private buildings without permission of the resident or residents there.

... (ibid.)

The 1999 Law to Prevent and Sanction Torture in the State of Veracruz-Llave (*Ley para Prevenir y Sancionar la Tortura en el Estado de Veracruz-Llave*) indicates that the persons who can be charged with torture in virtue of this law are the following: employees of the Public Ministry; judicial police; state or municipal police forces; public servants who order, incite, compel or induce to commit acts of torture, directly, or by knowingly ignoring such acts; and third parties who are instigated, implicitly or explicitly, by public servants as described above (Veracruz 1999, Art. 4). Article 5 of the same Law punishes such crime with two to five years in prison and a fine of 200 to 500 days of salary at the applicable minimum wage rate (ibid., Art. 5).

According to the Secretary of Public Security, the state of Veracruz comprises approximately 21,000 police officers (*El Universal* 18 Oct. 2011; *La Jornada* 19 Oct. 2011).

## 2. Police Effectiveness

A 2011 report by the National Human Rights Commission (Comisión Nacional de los Derechos Humanos, CNDH) of Mexico, the federal agency responsible for the protection, monitoring, and promotion of human rights (Mexico n.d.), indicates that 556 government agencies were accused of human rights violations between January 1 and December 31, 2011 (ibid. Jan. 2012, 44). The same report indicates that 1,695 complaints for human rights violations were filed against the Ministry of National Defense (Secretaría de la Defensa Nacional, SEDNA), 769 against the General Attorney's Office (Procuraduría General de la República, PGR), and 767 against the Federal Police (Policía Federal) (ibid.). The report also indicates that 42 complaints for torture were filed against different bodies of the federal government (ibid., 46). The three authorities most cited in the complaints are the SEDNA (25), the Federal Police (12) and the PGR (9) (ibid., 46-47). According to the US *Country Reports on Human Rights Practices for 2011* for Mexico, there are reports of involvement of the army, navy and police forces in forced disappearances, and the police have been accused of being involved in kidnappings for ransom (US 24 May 2012, 3-4). The Research Directorate could not find corroborating information among the sources consulted within the time constraints of this Response. The US *Country Reports 2011* also indicates that the government did not implement legislation against official corruption "effectively" (ibid., 19).

### 2.1 Police in Nuevo Leon

According to the US Department of State's Bureau of Consular Affairs, "[l]ocal police and private patrols do not have the capacity to deter criminal elements or respond effectively to security incidents" (US 8 Feb. 2012). On 9 June 2012, *Milenio*, a Mexico City-based newspaper, reported on the difficulties experienced by the police force to recruit candidates in Nuevo Leon. According to *El Universal*, Nuevo Leon is one of the eight states who have been experiencing difficulties in recruiting police officers (28 Aug. 2011). *Milenio* reports that in 2012, Nuevo Leon resorted to recruiting campaigns in the state of Coahuila (9 June 2012). *El Norte*, a Monterrey-based newspaper, reports that the state lacks at least 15,000 police officers, while other sources provide estimates as high as 40,000 (22 June 2012).

According to sources, tens of police officers in Nuevo Leon have been detained in 2011, suspected of having connections with organized crime syndicates (AFP 19 Dec. 2011; NOTIMEX 12 Nov. 2011). Sources report the detention of a Nuevo Leon state police officer in connection with the burning of the Casino Royale in Monterrey, which killed 52 people (AP 2 Sept. 2011; AFP 2 Sept. 2011). According to the same sources, the police officer was identified in participating alongside presumed members of the Zetas in setting fire to the casino, allegedly because the owner did not pay an extortion fee (ibid.; AP 2 Sept. 2011). Sources also report in October 2011 the detention of four police officers in the municipality of Juarez for allowing members of the Zetas to use the local jail to house kidnapped victims (Animal Político 6 Oct. 2011; AP 6 Oct. 2011). Also in October 2011, AFP reports the detention of 46 police officers from the municipality of Santa Catarina, in the area of Monterrey, for collaborating with the Zetas cartel (14 Oct. 2011). The Mexican news agency NOTIMEX reports the detention of 30 police officers, including the chief of police, in the municipalities of Cadereyta and Zuazua, suspected of having connections with organized crime (NOTIMEX 24 Oct. 2011). The same article also reports the detention of another 16 police officers and 8 traffic police officers from the same municipality (ibid.). The same news agency reports in another article the detention of eight state and municipal police officers in the municipality of Sabinas Hidalgo, suspected of having connections with organized crime (NOTIMEX 12 Nov. 2011). Agence France-Presse (AFP) reports the detention of 18 police officers in the municipality of Doctor Arroyo, 355 kilometres from Monterrey, connected with drug trafficking (19 Dec. 2011). The Associated Press (AP) also reports that in October 2011, 73 police officers were detained after undergoing background checks and were accused of participating in kidnapping, homicide, and espionage on behalf of criminal groups (6 Oct. 2011). *El Norte* reports that during 2011, 658 police officers were detained for connections with

organized crime, compared to 53 in 2009 and 9 in 2008 (6 Nov. 2011).

*El Universal* cites the chief of Nuevo Leon's Unified Police Force as saying that 26 municipalities in the state do not have enough resources to combat crime and that it requires 7,000 police officers to meet the needs of municipalities (26 Oct. 2011). On 2 December 2011, sources report that the Ministry of the Interior and the government of Nuevo Leon agreed to extend the presence of the Mexican army, the navy and the federal police in the state throughout 2012 to combat organized crime (*Reforma* 2 Dec. 2011; *El Norte* 2 Dec. 2011).

## 2.2 Police in Veracruz

Media report that three Mexican journalists were roughed up and illegally detained by judicial police officers in Veracruz as they were gathering information from family members of individuals (AFP 23 Sept. 2011; Agencia EFE 24 Sept. 2011) whose bodies were dumped on a street in the city of Veracruz (ibid.). The sources indicate that the journalists were also reporting on the "unsanitary conditions" of the morgue where the bodies were brought and that the police forced them to destroy the photographs they had taken (ibid.; CNN 24 Sept. 2011). According to sources, among the 35 dead individuals, there was a minor who had disappeared after being allegedly detained by the police a week before (AFP 23 Sept. 2011; *Milenio* 23 Sept. 2011).

Sources report the detention of approximately 50 local police officers from several municipalities by the members of the navy, of the army and of the federal police (*El Universal* 30 Sept. 2011; *Reforma* 1 Oct. 2011). Those police officers were allegedly connected to organized crime (ibid.; *El Universal* 4 Oct. 2011), and according to *El Universal*, they were providing protection to members of the Zetas (ibid.).

Sources also report in October 2011 the dismissal of 980 police officers in Veracruz for not passing background checks (*La Jornada* 19 Oct. 2011; *El Universal* 18 Oct. 2011). *El Universal* also cites the Secretary of Public Security as saying that 479 new police officers were incorporated into the force, but that Veracruz still lacks 500 state police officers (ibid.).

On 20 December 2011, the governor of Veracruz issued a decree that disbanded the entire police force in the municipalities of Veracruz and Boca del Río and delegated the authority to the Mexican navy (Veracruz 2011). According to sources, in an effort to eradicate corruption in the police forces (Al Jazeera 21 Dec. 2011; *The Wall Street Journal* 23 Dec. 2011), the administration of the state dismissed 900 municipal police officers and 100 administrative staff (ibid.; *El Universal* 21 Dec. 2011). The spokeswoman for the state indicated that the dismissals are the result of the implementation of a federal law that requires all police officers to undergo background checks by 2013 (ibid.; *The Wall Street Journal* 23 Dec. 2011). On 23 January 2012, AP reports that the state governor also delegated traffic police duties to the Mexican navy to eliminate corruption. *El Universal* reports that the police of the cities of Veracruz and Boca del Río would resume their duties in November 2012 (22 Aug. 2012).

Previously, in May 2011, the governor had disbanded the entire police force of the municipalities of Xalapa, Banderilla and Tlalnehuayocan that comprised approximately 800 agents (*El Universal* 21 Dec. 2011; *Excelsior* 25 May 2011).

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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