

El Salvador: Police corruption and abuse; government measures to fight police corruption and abuse; police oversight mechanisms and their effectiveness; procedures for filing complaints against police officers

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1. Police Corruption and Abuse

Sources indicate that there is corruption among the National Civil Police (Policía Nacional Civil, PNC) and that the police force has been infiltrated by criminal organizations (UCA 19 May 2014; Silva Ávalos Mar. 2014, 2; IUDOP Sept. 2014, x). The Global Corruption Barometer 2013 [1], by Transparency International (TI), notes that 87 percent of respondents declared that the PNC was "corrupt/extremely corrupt," and 18 percent said they had paid a bribe to PNC officers (TI 2013). The US Department of State's Country Reports on Human Rights Practices for 2014 states that there were instances of police corruption and complaints filed against the PNC for arbitrary arrest and detention in 2014 (US 25 June 2015, 5).

The Office of the Ombudsman for Human Rights (Procuraduría para la Defensa de los Derechos Humanos, PDDH), the national body responsible for advocating for and protecting human rights and basic freedoms (El Salvador n.d.a), indicates that, from June 2009 to April 2014, it received 5,125 complaints against PNC officers for violations of human rights, which accounted for 33 percent of the total number of complaints against state bodies for the same period (ibid. July 2014, 26). The highest number of complaints, according to the same report, relates to violations of [translation] "personal integrity" (2,577 complaints) and "personal freedom" (1,182) (ibid.). The report further indicates that, from 1 June 2013 to 31 May 2014, the PDDH received 1,431 complaints against the PNC, 312 of which were issued a resolución inicial (ibid., 122, 124, 126). A

resolución inicial, or initial resolution, is the first stage of the investigation process, where the PDDH requests the accused party to provide further details on the case (ibid., 123-124).

Sources report that members of the security forces, including the PNC, have been accused of being involved in unlawful killings (ibid., 26; US 25 June 2015, 1). Country Reports 2014 indicates that as of July 2014, the PDDH received 17 complaints of alleged unlawful killings committed by "security, military, and other public officials" (ibid.). According to the PDDH annual report, the majority of victims are young people accused of being gang members (El Salvador July 2014, 26). The Washington Post cites Pedro González, head of the anti-gang unit of the PNC, as stating that "[t]he population supports [the killing of gang members]. They are seeing that the aggressive behaviour of the police keeps the gangs from growing" (25 May 2015).

2. Actions Undertaken by the Government to Fight Police Corruption and Abuse

Country Reports 2014 indicates that, according to the Office of the Inspector General (Inspectoría General, IG) of the PNC [the body responsible for overseeing and monitoring the actions of police officers (El Salvador n.d.b)], from 1 January to 3 September 2014, the Attorney General of the Republic (Fiscalía General de la República, FGR) investigated 280 accusations against police officers, resulting in "five cases resolved through mediation and seven convictions" (US 25 June 2015, 6). El Diario de Hoy, a San Salvador-based daily newspaper, reports that, according to a PNC statistics report that does not include data from the western part of the country, namely the departments of Santa Ana, Sonsonate, and Ahuachapán, 377 PNC officers, including those who killed a gang member in self defense, were detained between 1 January and 7 November 2014 (El Diario de Hoy 17 Jan. 2015). The same source adds, without providing details, that from 2009 to 31 October 2014, officers were sanctioned for aggravated theft, extortion, arbitrary detention, affiliation to gangs, and/or drug trafficking, among other crimes (ibid.). Country Reports 2014 indicates that, according to the IG, as of July 2014, 18 PNC officers had been investigated by authorities for homicide, and the IG had received 909 complaints for police misconduct and sanctioned 594 officers in response to complaints received during the year and previous years (US 25 June 2015, 6). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

An editorial piece by the Central American University "José Simeón Cañas" (UCA) in San Salvador states that, despite the presence and evidence of corruption and infiltration of the PNC by organized criminal groups during the last two decades, the Salvadoran government attitude has been one of [translation] "minimizing, denying and downplaying accusations, and pointing out that nothing can be proved [on these cases]" (UCA 19 May 2014). The source further notes that the government has protected high-ranking PNC officials accused of corruption by obstructing criminal procedures carried out against them and posting them abroad in Salvadoran embassies (ibid.). The UCA provides the example of former PNC director Ricardo Meneses who, despite his alleged ties with a drug trafficking organization, was designated as the police attaché at the Salvadoran embassy in Washington (ibid.).

Sources state that efforts to purge the PNC have been unsuccessful (La Prensa Gráfica 13 May 2014; IUDOP Sept. 2014, 83). A qualitative study on public security in El Salvador undertaken by the Public Opinion University Institute (Instituto Universitario de Opinión Pública, IUDOP) [2] of UCA suggests that, among the reasons why the purge of the PNC has faced obstacles are the negligence and lack of collaboration of PNC high-ranking officers to make progress in the

investigations, which [translation] "often" leads to the expiry of the statute of limitations, and the "code of silence" among PNC officers (ibid.).

3. Procedure to File Complaints Against PNC Officers

Sources indicate that a person can file a complaint against a PNC officer with the internal investigative body of the PNC, the FGR, or the PDDH (Lawyer 7 Aug. 2015; Lawyer and Notary Public 6 Aug. 2015). In correspondence with the Research Directorate, a lawyer and notary public with offices in both San Salvador and Maryland, US, noted that the PDDH [translation] "usually" provides, upon filing, a copy of the complaint (ibid.). Sources indicate that the FGR normally provides a receipt with the case number, instead of a copy of the complaint (ibid. 28 Aug. 2015; Lawyer 7 Aug. 2015). In correspondence with the Research Directorate, a lawyer in criminal and civil law in San Salvador added that the name of the public prosecutor assigned to the case and his or her contact information are also provided (ibid.).

3.1 Office of the Inspector General (IG) of the PNC

The IG website indicates, without providing further detail, that it is comprised of the following units: Internal Affairs, Human Rights, Monitoring, and Disciplinary Investigation (El Salvador n.d.c). Furthermore, the IG is present in five regions of the country: Western, Metropolitan, Central, [translation] "Pericentral," and Eastern (ibid.). Sources explained that sanctions that could result from a complaint filed with the IG are of an administrative nature (Lawyer 7 Aug. 2015; Lawyer and Notary Public 6 Aug. 2015) or disciplinary nature (ibid.). They added that the IG can forward a complaint to the FGR for investigation (ibid.; Lawyer 7 Aug. 2015) if the case constitutes a criminal offence or a human rights violation (ibid.).

The IG website indicates that a person can file a complaint against a PNC officer or support staff through an electronic form located on its website (El Salvador n.d.d). The electronic form has information fields for details on the complainant, the victim, the member of the PNC involved in the incident, and the incident itself (ibid.).

3.2 Attorney General of the Republic (FGR)

According to sources, the FGR is responsible for investigating an action that constitutes a crime (Lawyer and Notary Public 6 Aug. 2015; Lawyer 7 Aug. 2015) or a human rights violation (ibid.). The website of the FGR indicates that a person can file a complaint either in person, in writing, or through a lawyer (El Salvador n.d.e). It adds that it is [translation] "advisable" for a person who wants to file a complaint to include any evidence, including documentary evidence, that he or she has available to substantiate the complaint (ibid.). The FGR website further indicates that if the person filing the complaint has any witnesses, they must be identified with their full names, unless they request to be placed, or are already placed, in the witness protection program (ibid.). The accuser must also provide any identifying information about the person being accused (ibid.). In cases where the accuser is a minor, it is also [translation] "advisable" that he or she be accompanied by a parent (ibid.).

3.3 Office of the Ombudsman for Human Rights (PDDH)

The website of the PDDH indicates that a person can file a complaint for any human rights or basic freedoms violation in person, in writing, by telephone, by fax, [translation] "or through any other method of communication" at the head office or at any departmental or local office of the PDDH (ibid. n.d.f). The person must provide an identification document (ibid.). If the complaint is filed in writing, the person must include their contact information as well as details of the incident and the names of the victim, alleged perpetrators and witnesses (ibid.). The lawyer and notary public stated that the PDDH can, [translation] "in some measure, put pressure on the FGR when the FGR refuses to investigate a case that would otherwise be clearly admitted in court" (Lawyer and Notary Public 6 Aug. 2015). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.4 Procedures to Obtain a Copy of a Complaint Against a PNC Officer

According to the lawyer and notary public, a copy or a partial copy of the complaint can be requested within El Salvador after the criminal procedure has started (ibid.). The copy or the partial copy can be requested by the complainant or through a proxy (ibid.). The lawyer indicated that a person who wishes to obtain a copy of the complaint must make a request at the FGR's access to information office and state the purpose of the request (Lawyer 7 Aug. 2015). He added that the FGR does not provide an actual copy of the complaint but a summary of it (ibid.).

Sources indicate that a copy of a complaint against the PNC can be requested from abroad by means of a power of attorney (Lawyer and Notary Public 6 Aug. 2015; Lawyer 7 Aug. 2015). According to the lawyer, the power-of-attorney document should include as much information as possible, including the case number and the reasons why the copy of the complaint is being requested (ibid.). The lawyer and notary public noted that a copy or a partial copy of the complaint can be requested from abroad only after the criminal procedure has started (Lawyer and Notary Public 6 Aug. 2015). He stated that "it is difficult to obtain a copy or an attestation [of a complaint] from either the FGR or the PNC," as they grant the request on a discretionary basis (ibid.).

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.

Notes

[1] The global survey was conducted between September 2012 and March 2013 and was sampled "to be nationally representative where possible" (TI n.d.). The Salvadoran portion of the survey consisted of a sample of approximately 1,000 people (ibid.).

[2] The IUDOP study was carried out between August 2012 and July 2014 and consisted of documentary research and 22 semi-structured interviews with scholars, government officials in security-related positions, and civil society organizations that work in the prevention of violence and rehabilitation of gang members (IUDOP Sept. 2014, xxiii-xxiv).

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Internet sites, including: 24 Horas; Al Jazeera; ecoi.net; El Faro; El País; El Salvador - Academia Nacional de Seguridad Pública, Corte Suprema de Justicia, Ministerio de la Defensa Nacional, Policía Nacional Civil; Excelsior; Factiva; Freedom House; InformateSV; International Crisis Group; Inter Press Service; Jane's Terrorism and Security Monitor; La Gaceta; La Tribuna; Organization of American States; Tico Times; United Nations - Refworld, ReliefWeb; United States - Central Intelligence Agency, Embassy in San Salvador.

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