

Hallazgos 2020

Assessment of the Criminal Justice
System in Mexico





Table of contents

4 Foreword

6 Introduction

8 Chapter 1: Access to information

- 8** 1.1. Sources of information
- 9** 1.2. Information compilation
- 10** 1.3. Main indicators of transparency and access to information
- 11** 1.4. Overall assessment of responses at the federal level
- 12** 1.5. Best and worst practices identified in transparency units

14 Chapter 2: Determining factors

- 15** 2.1. National technical coordination system
- 17** 2.2. Institutional technical coordination system
 - 18** 2.2.1. Changes regarding technical coordination bodies
 - 19** 2.2.2. Technical Coordination Index
- 21** 2.3. Continuous and public comprehensive planning process
- 22** 2.4. Information and technological systems
- 24** 2.5. Projection and effective use of financial resources
- 30** 2.6. Publicity transparency, and citizen participation
- 35** 2.7. Institutional symmetry
- 35** 2.8. National ranking of Criminal Justice System consolidation progress
- 37** 2.9. Main conclusions

38 Chapter 3: Enabling factors

- 39** 3.1. Legal framework
 - 40** 3.1.1. Pretrial detention
 - 40** 3.1.2. National Guard
 - 42** 3.1.3. Law of the Attorney General's Office
 - 44** 3.1.4. Judicial Branch Reform
 - 45** 3.1.5. Reform package introduced by a group of Governors
 - 46** 3.1.6. Application of femicide protocol for all violent deaths of women
- 46** 3.2. Professionalization: training and professional career service
 - 47** 3.2.1. Sufficient and trained personnel
 - 47** 3.2.1.1. Local level
 - 51** 3.2.1.2. Federal Level
 - 56** 3.2.2. Civil Service
 - 59** 3.2.2.1. Federal level



59	3.3. Institutional management models
60	3.3.1. Management models in Attorney's Offices
60	3.3.1.1. Three-level model
61	3.3.1.2. Model of differentiated processing of suits
62	3.3.2. Management models in Victims' Commissions
62	3.3.3 Management models implemented by public defenders' offices
62	3.4. Criminal investigation
64	3.4.1. Best International practices for crime investigation
64	3.4.1.1. Investigation of homicide cases: United Kingdom and United States
67	3.5. Forensic services
67	3.5.1. Local level
68	3.6. Main conclusions on the CJS enabling factors
70	Chapter 4: Results
72	Local results
72	4.1. Context and crime rates
73	4.2. Trust in the Criminal Justice System
77	4.3. Criminal procedural pipeline 2020
77	4.3.1. Opening of investigation
78	4.3.2. Investigations by prosecutor
80	4.3.3. Investigation launches with or without a detainee
80	4.3.4. Decisions for investigation launch
83	4.3.5. Ministerial congestion rate
84	4.3.6. Alternative justice at the ministerial office
86	4.3.7. Procedural risk evaluation
88	4.3.8. Initiated criminal proceedings
89	4.3.9. Alternative justice at judicial authority headquarters
89	4.3.10. Judicial control of the legality of detention
90	4.3.11. Charging
92	4.3.12. Precautionary measures
93	4.3.13. Procedural aftermath of charging
94	4.3.14. Remittance to oral trial
95	4.3.15. Rulings
96	4.3.16. Judiciary congestion rate
96	4.3.17. Hearing postponement
97	4.4. Prison population
98	Federal results
98	4.5. Context and crime rate
102	4.6. Procedural pipeline
102	4.6.1. Beginning of investigation
102	4.6.2. Initial hearing
104	4.6.3. Oral trials
105	4.6.4 Prison population
106	4.7 Main conclusions
108	4.8 Approaches for an assessment with a gender-based perspective
108	4.8.1 Decision-making spaces
110	4.8.2 Gender sensitive budget
111	4.8.3 Sexual division of labor
112	4.8.4 Results of gender inequality
112	4.8.4.1. In custody of the Public Prosecutorial Services
113	4.8.4.2. Custody control
113	4.8.4.3. Sentencing
114	4.8.4.4. Victims
114	4.8.4.5. Damages

**116 Chapter 5: Impunity Index****117** Brief methodological description**118** State Impunity Index 2020**120** Cross-referencing the Impunity Index and the National Progress Ranking of the Consolidation of the Criminal Justice System 2020**123 Chapter 6: Perception and understanding of the Criminal Justice System****124** 6.1. Understanding of the Criminal Justice System**125** 6.1.1. Understanding of justice institutions**126** 6.1.2. Understanding of justice processes**128** 6.1.3. Understanding of victims' and accused persons' rights**135** 6.1.4. Access to information**136** 6.2. Perception of the Criminal Justice System**136** 6.2.1. Trust in the criminal justice system**137** 6.2.2. Trust in the respect of the victims' and accused persons' rights**139** 6.2.3. Trust in justice institutions**140** 6.2.4. Budgetary resources**141** 6.3. Experience as users of the Criminal Justice System**143** 6.4. Conclusions**145 Chapter 7: Conclusions and recommendations****146** Conclusions**148** Public policy recommendations



Foreword

EDNA JAIME | DIRECTOR OF MÉXICO EVALÚA

You have in your hands the eighth edition of *Hallazgos*. I want to point out that the methodology that guided our analysis of the criminal justice system represented an outright innovation when it was released in 2013 –and that is still the case, to this day–. Back then, five years had passed since the most ambitious Constitutional reform related to criminal justice in this country’s recent history had been approved. And so the implementation phase of the adversarial system formally began. It was necessary, if not urgent, to find a way to evaluate the performance of local and federal institutions throughout that crucial phase. How were they transforming to adapt to the rhythm and necessities of such a radical ‘evolutionary leap’? How did they start to operate with the new principles?

The methodology that we created rests on various essential requirements. I highlight three: 1. That the selected indicators allowed independent measurement not only based on international models of quality management, but also on good practices found in national institutions linked to the transformation of the justice system; 2. that after making the measurement referred, the experience could be systematized so adjustments could be done (meaning the model would be tested continuously); 3. that the measurement takes into account a social perspective, so the results are user and citizen-oriented.

These three requirements –i.e., an independent and balanced assessment of every institution that forms the criminal justice system, with mechanisms of continuous improvement and that is perceived as positive only when the operation benefits the system’s user– currently drive this exercise on constancy, eight years later, in a full consolidation phase of the adversarial system, that began in 2016 when it came into force throughout the Mexican Republic.

With the passage of time we have added instruments to this methodology. Some aligned, particularly, with the concept of the system’s own consolidation. It was important, for example, to have a statistical tool that gave us perspective on the citizens’ knowledge, perception and experience towards the system. This way we can understand how much this huge effort of so many actors from public institutions, civil society and the academy, during the decades, determined to achieve and maintain a fairer justice system, has actually permeated. Hence the novelty of analyzing the results of the ‘Strengthening of the Criminal Justice System Survey’ in Chapter 6.

Other developments have to do with shaping and formalizing a focus that had been present in other editions of *Hallazgos*, but had no space dedicated to it, making its transversality visible throughout every chapter. I’m referring to the evaluation of the gender equality issue. To what extent does the criminal justice system widen this type of gap? How does the system



face the challenges of structural inequality between men and women? With what indicators can we know the way the system perpetuates stereotypes, roles, prejudices and restricts the access to justice? Here we have the first effort from where we wish to collaborate with the construction of this much needed agenda in every public policy for this country.

At the beginning I talked about the outright 'evolutionary leap' that the adversary system symbolized. I believe it's important to elaborate on it, because it is *Hallazgos* raison d'être (even if a certain political climate and normative changes that we substantively address in the 'Habilitantes' chapter may tell otherwise, leading us to the opposite path: involution). Well, the 'new' system puts emphasis on the due process that can be guaranteed if *equality of arms* is present as a principle that ensures that every party will have the same rights, possibilities and meet procedural requirements or responsibilities in favor of both defense and prosecution. This, as you will acknowledge after reading *Hallazgos*, implied a total transformation of our way of understanding and experiencing justice. It is, above everything else, a parameter that allows us to know if the system's quality has improved or not. In other words, we should ask ourselves if the asymmetry within the institutions that must have procedural equality has been reduced. If the answer is 'no', then there is a lot of work to do. And more *Hallazgos* to come.

I want to deeply thank Chrístel Rosales, Enrique Bouchot, Jorge Carbajal and Arturo Velázquez, researchers in the Justice Program of México Evalúa, for their commitment and professionalism, as everyone else that with their support made this effort possible. I also thank the United States Agency for International Development (USAID) and the Friedrich Naumann Foundation for their immense support.

I also want to thank the local government authorities of Coahuila, Nuevo León, San Luis Potosí, Querétaro and Zacatecas, for the interest and effort in improving the generation and systematization of information, as for their openness, trust and commitment to continuous improvement. The collaboration with these authorities lays a solid foundation for a governance model of justice, citizen participation, strengthening transparency and exercises of dialogue and accountability. In federal matters, I recognize the invaluable help that year by year the New Consolidation Unit of the Criminal Justice System from the Federal Judiciary Power provides, since they have established high standards for the generation and outreach of statistical information that allows the development of independent evaluations as the one presented today.



Introduction

Five years after the national entry into force of the criminal justice system (CJS) reforms in Mexico, its consolidation still seems premature and under a constant construction process. Certainly, special conditions occurred in 2020 that affected the functioning of the system: the Covid-19 health emergency, the extension of the list of crimes warranting mandated pretrial detention, the rise in crime rates relating to homicides and violence against women, the elections held for a large number of federal and local government positions, and the issuance of new organizational legal frameworks for the Attorney General's Office and the Federal Judiciary.

In this context, two paths towards the transformation of the justice system start to stand out: the one followed by federal institutions and that of the federative entities. On the one hand, there was a reluctance on behalf of federal institutions, during the timeframe of this study, to provide information and align their structures with the adversarial system framework. The organic regulations of the Attorney General's Office and the Federal Judicial Branch are clear examples, as they have reaffirmed legal practices based on case files in their new legal frameworks, instead of transitioning towards a hearing-based logic. On the other hand, we have identified, at various levels, efforts made in some federative entities to deepen the logic imposed by the adversarial system, while in others, a trend towards stagnation is observed.

This scenario leads us to suggest the convenience of discovering and disseminating best practices at a state level; to connect and build networks of local justice system operators and involve more stakeholders that are acquainted with and support transparent and efficient justice institutions. **If we strengthen the system reform at the state level, it will have an impact at the federal level at some point.** We must remember that the root of the criminal procedure reform is in the states, where it started an unstoppable movement and propelled its recognition by the authorities. The path towards consolidation seems to lead back to the states, where we can find higher levels of innovation and better results.

Since the first edition of *Hallazgos*, we have also observed a change towards a more comprehensive and systemic perspective in which each institution becomes aware of the impact of its results in the work undertaken by other operators. However, paradoxically, in the last year we have also witnessed how the bodies in charge of coordinating system stakeholders have lost their momentum, to the point where some states have all but disappeared and, when it comes to the federal level, have gone idle.

As with prior editions, we have used the methodology based on the analysis of determining and enabling factors, and results, and the quality test that we launched in 2019, and that has become a report issued separately for this year. Meanwhile, in our constant



pursuit of improvement, we have incorporated two additional tools into our methodology for the purpose of quality assessment, which allow for the analysis of criminal proceedings, from start to finish, through the observation of hearings and judicial sentences.

Furthermore, this document includes a chapter on citizen perception and understanding of criminal justice system bodies, as a carrier of a tool for measuring the impact that the CJS has had, 13 years after its creation. Thus, we developed a general open survey (Encuesta a población abierta 2020) based on the comparison between the National Survey on the Criminal Justice System, conducted by, what was then known as, the Technical Secretariat of the Coordination Council for the Implementation of the New Criminal Justice System (Setec, in Spanish) in 2012. As that contrast became evident, we were able to determine if citizens' understanding had evolved in terms of their rights, the reform and justice bodies, and the level of trust in the transformation and the functioning of the system.

We have also **added a gender-based approach regarding judicial bodies' operations, which goes through most of the analysis** and is complemented with a specific section in the Results chapter. This section highlights that within those bodies, as well as when it comes to users, whether as defendants or as victims, there exists a bias that allows for the violation of women's rights. A justice system with a gender-based approach is a system that is able to make this issue visible and address it.

Finally, and as it was done in *Hallazgos* 2019, the penitentiary subsystem was included throughout the study, as the scenario would be left incomplete without

the current situation regarding prisons in Mexico. Noting, all the while, that the agencies belonging to this particular subsystem are the ones that provided less information by means of transparency requests.

Considering we do not only seek to portray and analyze the current situation of the different bodies that are a part of the Mexican criminal justice system, we wrap up this year's edition of *Hallazgos* with a series of specific recommendations that could be considered by authorities, as well as the stakeholders that are not traditionally considered as part of the system, but that are key for the sustainability of the changes made, such as the media, civil society organizations, and universities, to mention but a few.

Hallazgos is therefore structured as follows:

- Access to information
- Determining factors
 - Ranking of the progress made towards the consolidation of the reform
- Enabling factors
- Results
 - Procedural pipeline
 - Trust index
 - Rate of impunity
 - Gender
- Citizen perception and understanding
- Conclusions and recommendations

Our vision: **a systemic approach based on data and information, and the identification of best practices will lead to the creation of results oriented public policies.** Only with these, the citizens will be provided with better justice services, the root of trust in institutions.



CHAPTER

1

Access to information

Transparency has an impact on citizen surveillance mechanisms and on effective accountability.

1.1

Sources of information

The compilation of information for the drafting of *Hallazgos* is conducted in two ways: a) by taking advantage of publicly available official statistical information, and b) through existing transparency mechanisms at national level. For the first, *México Evalúa* uses databases that guarantee a minimum level of certainty in terms of being compiled by means of standardized criteria and through processes of validation and verification. These considerations are key for presenting evidence-based analyses that comply with quality standards.

Part of the information processed, analyzed, and visualized within the current edition of *Hallazgos* corresponds to that of the government censuses and the Inegi (National Institute of Statistics and Geography) surveys, such as the ones pertaining to government and security, justice procurement and administration at two levels (federal and state), the Victimization and Perception of Security Survey (Envipe in Spanish), and the Imprisoned Population Survey (Enpol in Spanish). **It is necessary to acknowledge the work of Inegi as a coordinating agency of the National System of Statistical and Geographical Information, as it has shown that**

privileges and protects information of national interest, something that has fostered the creation of timelines and greater disaggregation of information.

Another publicly available source of information, and a main topic of the assessment, is contained in the Justice System Evaluation Model (MES in Spanish), which was launched by the Executive Secretariat of the National Public Security System (SESNSP in Spanish) in a proactive exercise to follow up on the criminal (justice) system, and that has since been adopted, integrated, and published by the Department of Interior. The MES's information is fed through different Prosecutors' Offices around the country and published on a quarterly basis. On this matter, we have made a special analysis in the Determinants chapter, from which one can deduce the consideration that said source requires broader quality and verification controls, as it represents a challenge in terms of consistency, completeness, and standardization.

Finally, regarding the indicators that reflect the current status of the imprisoned population, it is important to mention the monthly statistical information published by the Decentralized Administrative Body for Social Prevention and Rehabilitation (OADPRS in Spanish), which provides useful information. This source also merits recognition as it publishes comparable information from different time periods, and in a format that is easy to analyze.

As mentioned before, additionally to the information publicly available, we take advantage of the mechanisms of a transparency that is often referred to as *reactive*. In other words, we systematize the information that different authorities provide to any interested party, an essential raw material for strengthening citizen surveillance and governmental accountability.

1.2. Compilation of information

Public information pertaining to the criminal justice system is compiled with the main purpose of having timely information readily available and that is comparable to the one systematized by Inegi. Traceability is also sought when it comes to the information among operating institutions of the system: prosecutors' offices, defenders' offices, victims' commissions, judiciaries, and penitentiary bodies. This compilation of information provides more than a simple picture in time: it represents a full-blown public mechanism that must identify flows of information, trends and challenges.

Likewise, and though it might not be its main goal, the exercise also seeks to have an impact towards improving the statistical information currently generated by the system. Given that the gathering of this information is eight years in the making, most institutions know all too well the kind of information required and have taken steps to improve it throughout the years. Furthermore, coordination and communication mechanisms have been set in place capable of producing greater quality information that is comparable in time and between institutions.

As for the information requests pertaining to criminal justice system operators, at the federal and local levels, a mapping is done, updated on a yearly basis, to detect possible changes and/or modifications, and identify the relevant institutions for said requests.

It is important to highlight that if an operator is part of a larger institution, it does not necessarily translate into that operator being particularly bound to transparency. This can be seen more frequently in defenders' offices, victims' commissions, and expert services, for which the requests are sent to the transparency units of the prosecutors' offices, the judiciaries, or different Departments of the corresponding executive branch.

Thus, **for the purposes of this exercise, we sent a total of 384 information requests**, considering as well that some agencies required our sending more than one request, and that, in other cases, the information was shared from different institutions bound to transparency (For example, the Judiciary of the State of Jalisco, for the purposes of transparency and distribution of responsibilities, is divided into its Superior Court, Judiciary Council, and Institute of Access to Justice). **We obtained a 79.22% response rate** to all of the requests sent. Among the requests that went unanswered, entities such as the State of Morelos, the Attorney's office of which, after receiving several requests, classified almost all of the information; or the State of Chihuahua, which requested an extension to respond to the request, yet after several attempts to make contact, did not release the information.

The Federation's response rate was 78%, and higher among local operators: 79.26%. Overall, at the local level a significant difference can be appreciated in the quality of the responses generated by some institutions, which can be explained by the different degrees of consolidation of the information and statistics departments that must be able to prepare the necessary

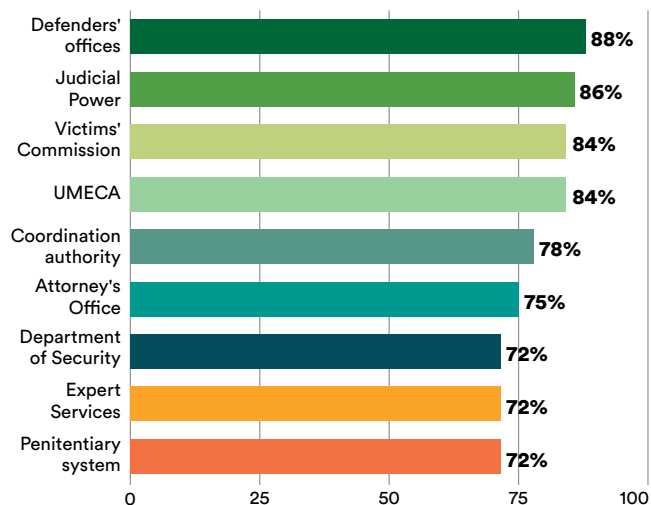


information, as well as draft documents based on that information and responses on behalf of the different pertaining departments. Frequently, full dossiers filled with official communiqués and documents will be sent from one department office to another that will not respond; these are but a mere documentation of the bureaucratic flow. The responses generated by Durango, Guanajuato, Querétaro, and the State of Mexico can be seen under positive light as they provide, in a single document, all of the information requested in an accessible and orderly fashion, with links and supplementary information, and containing extensive explanations regarding their operations. In these states, by the way, all bodies and agencies provided a response to the requests made, with the exception of the State of Mexico Attorney's Office.

1.3. Main transparency indicators and access to information

We have seen a response rate of 79.22% of the requests sent, without differentiating between bodies or entities. Furthermore, if we take a look at the behavior of the different criminal system operators at the local level,

Graph 1. Response rate for local level criminal justice system bodies



Source: Prepared by the authors based on information requests made and answered.

we see the highest response rate is that of defenders' offices, followed by the Judiciary, each with a response rate above 85%.

It is difficult to conduct an analysis for each institution as the type and quality of information that they provide varies from one institution to another. Many of the inquiries have to do with the existence and/or application of certain mechanisms, protocols, and manuals, as well as computer systems. It is therefore surprising that many operators, the budget and institutional capacities of which are limited, would simply argue that these are non-existent. However, this might not be an issue of accountability and/or unwillingness to be transparent, but rather could speak to the institutional limitations that they face when generating, systematizing and analyzing information.

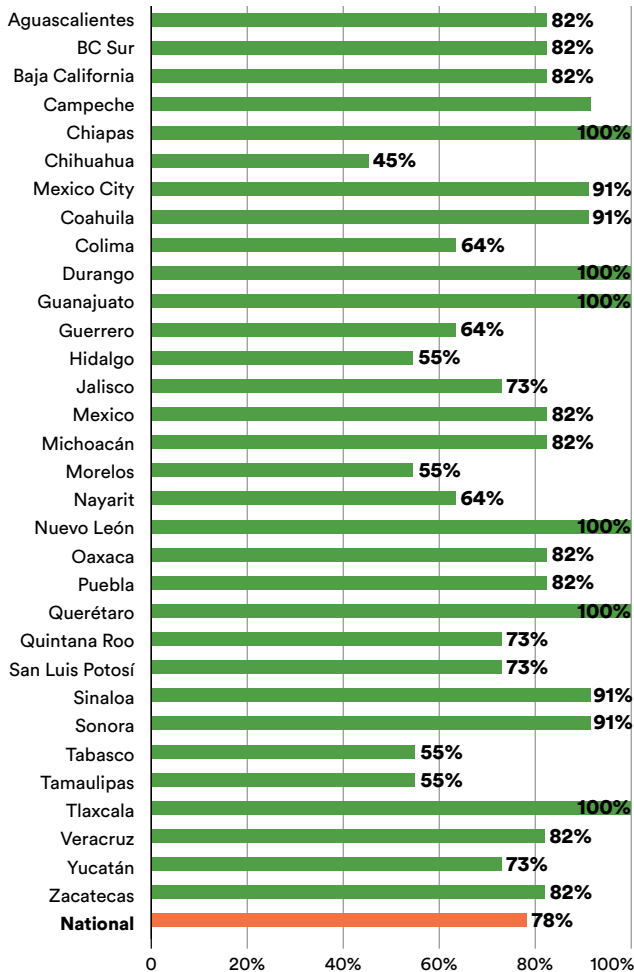
When it comes to generation of information and its timely delivery, judiciaries rank high as they are, along with prosecutors' offices, the institutions most required to provide detailed and disaggregated information. Not only do judiciaries have a high response rate, but they also provide the most complete responses. Upon comparing the levels of transparency and access to information from each federative entity and of the Federation, a much lower degree of uniformity was noted, as there is a larger gap between minimum and maximum rates, on top of the "spikes" in information quality and the technical barriers found. Regarding the last point made, it must be highlighted that, even though the National Transparency Platform (PNT in Spanish) is a useful tool with a national scope in terms of access to public information, it presents with some technical issues¹ that could be resolved with good and permanent communication among guaranteeing bodies² and the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI, in Spanish) when it comes to the federal arena.

It should be noted that Graph 2 does not show a rating of the responses provided in terms of completeness, clarity, and reliability, nor of the format in which they are delivered. It does reflect, however, those requests that received "some" kind of response from operating bodies. It is also worth noting that currently the National Transparency Platform and local platforms do not offer certainty regarding deadlines for receiving a response,

¹ The technical issues that are referred to are exclusively attributable to the technological platform and hinder the exercising of information access for any person that might request it. For example, a widespread practice that is provided by law, is the request for an extension by the institutions themselves, an act that "puts a hold" on the process. To this regard, even though on several occasions a timely response was issued to said extension requests, they were not apparent on the platform. The institutional response was limited to informing us about the many responsibilities of the guaranteeing institutions in terms of correcting the issue at hand, and suggesting that we make a new information request, forfeiting the one prior.

² Local authorities that guarantee access to information in their scopes of competence and that manage local INFOMEX systems.

Graph 2. Response rate by federative entity and the Federation



Source: Prepared by the authors based on information requests made and answered.

nor do they allow constant and specific communication with the requesting party, so that they can request possible extensions or other similar requirements in a timely manner.

1.4. Overall assessment of responses at the federal level

As we will seek to explain in this edition of *Hallazgos*, the role of federal operators in the pursuit of the criminal justice system's consolidation at a national level is crucial. Not only because they are the only competent bodies with their order of government, but also because

they genuinely play a significant role in terms of coordination and structuring, and the best and worst practices of which can be replicated in homonymous bodies or institutions. For this reason, **we especially take the time to assess the quality of federal responses, among which those of the Federal Public Defender's Office and expert services (from the Attorney General's Office, or FGR in Spanish) stand out.**

They stand out for their effective use of information technologies, their response delivery based on simple navigation and easy consultation, with links to public documents and official digital signatures. The requests from to almost all areas are answered: figures and useful data are provided to portray the status of an institution. It must also be highlighted that the scale of transparency is a positive one as use and comprehension are made easier for information users, and the contents, the corresponding area, and the annex they can be found in are stated. This is worthy of recognition.

However, the same intent and willingness cannot be observed when it comes to the Attorney General's Office information, as for a second consecutive year the response was postponed, and no conditions were met to make it more accessible. It is essentially the only institution, at both levels of government (federal and local) that resorts to all "possible" and "legal" excuses to postpone delivery, and even disincentivize requesting parties to continue the access to information process.

The information quality and the way in which it is delivered associated with the FGR expert services is not replicated among the rest of operators either. Even though we must point out that the Executive Victims' Commission (federal), as well as the Institute of Public Defense (Federal) deliver all of the information (with documents and annexes in an open data format, which are very useful for the drafting of *Hallazgos*. Bad practices are still being identified, mainly related to a disorganization as to the responses, and the proliferation of internal communiqués among which the requested information is lost, without a mechanism that would facilitate reading and identification. Furthermore, a generalized practice is the scanning of documents in substandard quality formats, often making those documents illegible.

Even though these are areas for improvement in terms of the way in which the information is delivered, it is inevitable to blame low accountability within the other institutions. For example, throughout the successive editions of *Hallazgos*, the Federal Judiciary Council has always provided documents that comply with useful



information technology applications. Nevertheless, its response is a compilation of separated official communiqués, a fragmentation that leaves a substantial portion of the questions “unanswered,” including those pertaining to statistical data of the federal judiciary. This is implausible in an organization with such institutional and budgetary capacity, and barring this, with a history of openness in terms of information: what is indeed being observed is a clear regression.

In terms of opacity, the Precautionary Measures and Probation Follow-Up and Supervision Unit (*Unidad de Seguimiento y Supervisión de Medidas Cautelares y Suspensión Condicional del Proceso*, SSPC in Spanish) and the Justice System Support Unit (from the Department of Interior) are worth mentioning, as they do operate coordinating sensitive areas of the criminal justice system. In both cases there is a clear intent of simulating addressing the information requests: scarce documents are shared, which can easily be consulted publicly, such as budget and organizational structure, while they argue that the rest are “nonexistent”, though they refrain from declaring their nonexistence through the requirements set by law, or even their impossibility to generate information based on the terms requested.

1.5. Best and worst practices identified in transparency units

To be able to assess the process of gathering of information that made the drafting of *Hallazgos* possible, we must refer to the principles established by the General Law on Transparency and Access to Public Governmental Information (*Ley General de Transparencia y Acceso a la Información Pública Gubernamental* in Spanish). We must remember that its main goal is to foster a culture of transparency in which all information is timely, verifiable, understandable,

updated, and complete, and that it will be disseminated in the most appropriate and accessible formats for the general public.

Thus, any response issued by the legally bound subjects must address said principles, seeking at all times that the updated information is clear in terms of format and presentation. This last point is of the utmost importance since it relates to most bad practices and challenges. There is usually a considerable disparity between the ideal format and the one delivered.

The following are two good examples. We sent several authorities a questionnaire on statistical data using an Excel based model while clearly and specifically asking that the response be sent in an open data format³.

However, many offices, in spite of creating the chart, printed the document, scanned it as a photocopy, and sent it that way instead of using an open format, making its processing exceedingly difficult.

An analogous situation was identified regarding the use of links and QR codes. Initially, this was considered as something positive since the law establishes the possibility of using and providing previously generated information. Though it might seem obvious, it must be kept in mind that these two ways of sharing documents work digitally:

they are only useful within a response in PDF or similar formats that allow for that link or code to redirect the user to a new site. Nevertheless, in most cases, the links and QR codes were sent as photocopy scans, which forces the user to transcribe the links or resort to external devices to scan the codes.

What we are pointing out is not a superficial or circumstantial issue. At *México Evalúa*, we consider that the exercise of access to information is vital for the purpose of democracy and the betterment of public policies. We do not make a judgment on value; we offer an evidence-based analysis under the principle

EVEN SO, CLASSIC LEGAL FORMALITY IS STILL PRIORITIZED OVER INFORMATION QUALITY AND THE USE OF EASILY UNDERSTANDABLE FORMATS

³ In a digital format that allows for its use, manipulation, and study, as done with a database.



of maximum disclosure of information. For this reason, we have exhausted all possible means for the use of information. It is important, not only for the purpose of the analysis that any reader will discover in our report, but as an exercise in and of itself in terms of citizen participation and accountability aimed at correcting and improving whatever is necessary. However, these practices can quite probably turn into clear barriers for citizens, when it comes to exercising their rights, as well as their taking on an active role of public and democratic participation.

Information technologies have created a scope of possibilities for reducing flows and making processes

more agile. The use of digital signatures makes it almost unnecessary for the transparency units to print out each of their communiqués and sign them by hand, just to scan them afterwards. **Even so, classic legal formality is still prioritized over information quality and the use of easily understandable formats.** Lastly, one critical area of opportunity pertains to the omission of the notifications. Infomex and the National Transparency Platform give the requesting party the option of specifying how they wish to receive the information in question. Even though *México Evalúa* always requests the information be sent by email, a considerable amount of the responses was not received that way, but rather only through the Platform itself.



CHAPTER
2

Determining factors

The factors that foster or hinder the operation of the criminal justice system

MAIN FINDINGS

- **Weakening of the national technical coordination system.** The lack of leadership of the national coordinating body has had a negative impact on the state level technical coordination authorities, regarding which a trend towards weakening and even disappearance can be observed. The coordination and interinstitutional dialogue capabilities are reduced and limited to the good will of the institution, as well as the specific weight it bears.
- **A significant area of opportunity in terms of systemic planning.** Since the end of the criminal procedure reform implementation process, few states have made efforts to create systemic planning-based budgets that focus on consolidating the CJS, as well as optimizing its daily operation. These budgets are crucial to provide better quality criminal justice services.
- **Budgetary allocation does not follow systemic logic, nor is it based on the efforts made in terms of planning,** which is why allocations are made based on short term objectives, without the pursuit of medium- and long-term goals. Budget allocation therefore does not respond to real needs or the pursuit of joint objectives.
- **The development of computer systems is still a pending issue.** Since the beginning of the reform implementation process, it was determined that there was a need for the institutions to possess robust computer systems that would facilitate internal management and allow information to flow among operators. In 2020, we see that little progress has been made in this regard.
- **The monitoring and the impact assessment of the criminal justice system is not made with indicators designed for the adversarial criminal justice system,** and so the decision-making process is fed with information of little relevance. Though discussions might be held to calibrate monitoring efforts, these have not been properly disseminated.
- **The institutional asymmetry is not being reduced.** The atrophy of the national coordination system and the technical coordination bodies, the lack of effective planning efforts, tied to the allocation of resources and reflected in the institutions' daily operation, and the absence of relevant monitoring and assessment models have exacerbated the asymmetry between operator institutions. The result: a weakening of the entire criminal justice system.

Criminal justice is one of the most critical areas of public policy building. It covers highly sensitive aspects pertaining to citizens (the protection of their rights), as well as the State (such as the respect of criminal law, an adequate addressing of conflict and the high complexity of interinstitutional relations at various levels, going from the definition of macro-objectives, common to all related institutions, to the daily system operation).

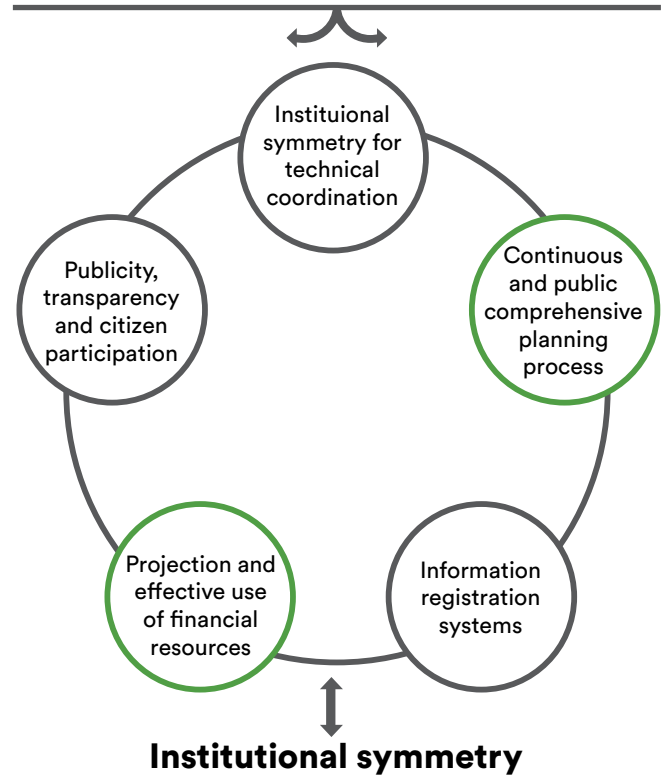
Based on this public policy logic, the adequate functioning of the criminal procedure justice system goes through three main phases: 1. *Diagnosis*, based on the definition of public issues to create desirable goals and objectives, and later on design strategies to reach them; 2. The *putting into operation* of the strategies by means of the allocation and distribution of resources and the appropriate coordination of participating institutions in a highly complex system, and 3. The monitoring and performance assessment of the system which can only be conducted under conditions of transparency and citizen participation. **These phases of the public policy cycle generate the elements that foster or hinder the operation of the system, that which we call operation determining factors.**

Each criminal procedural justice system in the country, thirty-two local and one federal, entails diverse challenges, determines goals and objectives that respond to the specific elements each faces and is coordinated differently. These individual characteristics, along with non-homogenous technological infrastructure, the differences between operation processes, within and between institutions, and the (a)symmetry in terms of distribution of resources also determine their operation.

The analysis of system operation determinants is conducted in six fields. The first is horizontal throughout all systems. It is the national technical coordination system which seeks to generate and follow up on national policies pertaining to criminal justice by means of the national authorities of the sector. The following five are transversal to the determinants of each of the criminal justice systems at the local level: 1. the institutional technical coordination system; 2. the comprehensive, continuous, and public integration process; 3. the information registry systems; 4. the projection and efficient use of financial resources; And 5. information dissemination, transparency, and citizen participation. These fields determine *institutional symmetry*: in other words, the achievement of homogenous institutional capabilities for an appropriate development of roles and functions with the system.

Diagram 1. Determining factors of criminal procedural justice system operation

National technical coordination system



2.1. National technical coordination system

In *Hallazgos 2019* we covered the creation of the Justice System Support Unit (UASJ, in Spanish) within the Department of Interior (*Secretaría de Gobernación*) that would undertake the tasks that used to be covered by the Executive Secretariat of the National Public Security System (SESNSP, in Spanish) to coordinate the national technical coordination system⁴.

One of the great challenges the criminal justice system faces as SESNSP, the national technical coordinating authority, is that, given its current focus on public

⁴ Agreements of the National Public Security Council, approved on December 18, 2019, during their 45th Regular Session. Available at: https://dof.gob.mx/nota_detalle_popup.php?codigo=5583703, accessed on June 24, 2021.



security, it focuses its attention towards that sector's institutions, leaving aside public defenders' offices, executive victims' commissions, and judiciaries. This had a strong impact on institutional symmetry.

Unlike judiciaries, organized within the National Commission of Superior Courts of Justice, the prosecutors' offices, which have the support of the National Conference of Justice Administration, and the departments of public security, with their National Conference of Public Security Secretaries, **the technical coordination mechanisms of defenders' offices and executive victims' commissions reflect institutional asymmetry and their weakening.**

Their coordination is reduced to non-formal mechanisms that therefore lack the power and resources to face shared challenges. Despite the existence of the National Association of State Public Defenders' Offices (*Asociación Nacional de Defensorías Públicas Estatales ANADEPE*, in Spanish), its resolutions and coordination mechanisms are voluntary and do not bear the same weight as the coordinating bodies of the prosecutors' offices and judiciaries. Furthermore, the Federal Public Defender's Office, which could promote a joint agenda, is not among its members.

On the other hand, the SESNSP's considerable limitations in terms of jurisdiction do not restrict the Justice System Support Unit in the same way, as it could resume supporting defenders' offices and executive victims' commissions.

The minimum actions that should be taken to achieve effective national technical coordination are:



Generation and strengthening of systemic planning processes, with short-, medium-, and long-term outlooks, which will set common goals and objectives allowing for the structuring of public policies with a state perspective, as well as institutional policies for achieving tactical and strategic goals.



Take on leadership to formulate national policies regarding criminal procedural justice.



Create guidelines and set operation standards so as to have equivalent criteria and act towards the strengthening of the capabilities of all procedural justice system

institutions that would lead to a reduction of asymmetries.



Foster data logging, generation, systemization, and flow of information for public policy building, planning and definition of specific improvement projects, follow-up on the impact of developed strategies, and consolidation of the adversarial justice system.



Periodically and permanently follow up and assess the criminal justice system in a comprehensive manner.

The adequate development of these actions results in a strengthening of the justice system, as they stem from the definition of problems and challenges shared throughout the entire system, as well as from the systemic development of solutions, their implementation, and follow-up. In other words, without systemic comprehension, without institutional asymmetry reduction, without developing common goals, the criminal procedural justice system will not be consolidated, nor will we, as citizens, receive the criminal justice we seek and deserve.

Given the available information generated by the Justice System Support Unit regarding 2020 activities, no effective activities were conducted in terms of national technical coordination. In February 2020, the first session with the Federative Entity Justice System Consolidating Bodies took place. During this meeting, the Justice System Support Unit, which had recently assumed the responsibilities of the SESNSP, informed the state coordinating and consolidating bodies that it was going through a process of review of SESNSP work, and that based on the findings, it would define projects to be executed. Up to the wrap-up of the edition of the current report, we did not detect any follow-up to that event. No second session was held, nor have there been reports as to projects to be executed to achieve the coordination and consolidation of the CJS.

Once again, according to the Justice System Support Unit's⁵ own information, **we have observed that the unit has invested its greatest efforts in developing and implementation of the Panels for Justice** which seek to review concrete cases presented by any of the members of the procedural system (defendant, defender, prosecuting authorities, victim or legal

⁵ During a press conference held on February 4, 2021, the Justice System Support Unit presented a work and progress report. Available at <https://www.youtube.com/watch?v=8nUPxZEMbs0>, accessed on July 27, 2021.

advisor, among which any contention might arise, with the purpose of issuing a technical opinion showing possible support paths in the prevention, investigation, conviction, and reparation of damages. Basically, they represent an informal mechanism for reviewing cases, which is parallel to formal mechanisms of protection and contestation considered in procedural norms.

Despite the report that standardization and management criteria are generated, these Panels do not go into the matter of identifying patterns of illicit behavior, they do not look for trends or patterns in terms of the commission of acts infringing on the rights of the parties, they do not look for ulterior motives for these acts, nor do they define mechanisms to reduce arbitrary spaces that allow for these behaviors. These are exercises that exhaust all possibilities from within and do not have a transcendental impact in terms of specific cases or lead to a strengthening of the system. Addressing the arbitrariness of a specific case without reducing the spaces that enable it, perpetuates it.

As mentioned before, institutional strengthening efforts have been mainly directed towards judiciaries and prosecutors' offices. Bracing those institutions was a priority during the first moments of implementation of the constitutional reform: to strengthen their case investigation and prosecution capacity, perfect their management models to optimize resource investment and allow for compliance with the timeline for case resolution, and improve technical capabilities in terms of case orality, argumentation and theory building.

However, this did not come with efforts of the same magnitude and depth to brace public defenders' offices and executive victims' commissions. The latter were created after the criminal procedure reform of 2008 and resulted in a significant asymmetry in terms of capacity that infringes upon the procedural equality of the parties established in the Constitution, known as Equality of Arms (to sustain and contest an indictment).

On behalf of the Criminal Justice Support Unit, no efforts have been noted to reduce asymmetries. No discussion seems to exist or be promoted regarding the needs of defenders' offices and executive victims' commissions, in terms of resources, training, capacity, and access to expert services, as well as regulatory limitations that give an operational advantage to prosecutors' offices. This shortcoming constitutes a regressive force, as it prevents an effective technical criminal defense, all the while hindering due process and preventing just trials.

From a systemic perspective, the strengthening of defenders' offices would contribute to raising thoroughness in terms of the prosecutors' offices actions and would therefore increase litigation quality. It is paramount to overcome the notion that defenders' offices are on the "criminals'" side and to start thinking about creating balances that would result in greater quality from the beginning of the challenge and in terms of citizen rights protection.

Within the organic structure of the Justice System Support Unit is the General Directorate for the Strengthening of Superior Courts of Justice and State Attorneys' Offices, however there is no analogous administrative unit seeking the strengthening of defenders' offices and executive victims' commissions. Hence, the Justice System Support Unit itself is promoting institutional asymmetry and between the procedure parties. Additionally, it remains unclear how this general directorate is articulated with the National Commission of Superior Courts of Justice (*Comisión Nacional de Tribunales Superiores de Justicia*, Conatrib in Spanish), the National Public Security Conference or the SESNSP, and so we cannot consider this as a technical coordination effort.

The withdrawal of the articulating authority of the national technical coordination system has left a void of leadership in the consolidation of the criminal procedural justice system, which still shows great inequalities when it comes to operations among federative entities and significant asymmetries between operating actors of the system, as we will see in following sections.

2.2. Institutional technical coordination system

As described, the adequate functioning of the criminal procedural justice system requires adequate coordination among the stakeholders to provide the expected results: a reduction of impunity and greater quality in justice administration. This requires that each state justice system define the goals and objectives pursued jointly to identify the challenges faced and areas of opportunity for improvement, as well as define strategies and specific activities for said behavior.

Thus, each system must have a state technical coordination authority with the ability to coordinate effectively and efficiently. The following are requirements for this purpose, which can be considered axes:



Horizontal coordination between justice system operating institutions and a vertical structuring with different levels of government.



Systemic planning reflected in budget design, adequately covering each operator's needs looking to achieve the systemic goals and objectives, and the monitoring of results, and evaluation, if applicable.



Structuring to provide daily operations facilitators, in terms of training, generating databases, and computer systems, among others, present throughout the system, and facilitate information flow for the purposes of institutional coordination.



Identification of regulatory adjustments proposal, whether through the issuance of agreements or guidelines for criteria standardization, or proposals of regulatory modifications.

2.2.1. Changes regarding technical coordination bodies

The design of the national technical coordination system has significant impact on state technical coordination bodies (*instancias de coordinación técnica estatales*, ICTE in Spanish) which became a necessity in the implementation of the 2008 criminal procedure

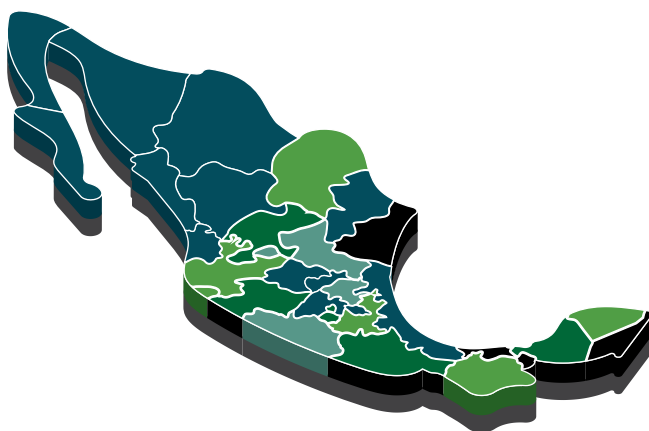
reform, formally becoming Commissions for Reform Implementation in Matters of Security and Justice. Once the reform implementation and the dissolution of SETEC were concluded, several states decided to follow the federal model and consolidated the Executive Secretariats of the Public Security State Systems, with a sharp vision aimed at public security, and not criminal justice procurement or administration, hence losing sight of considerable system components such as the strengthening of defenders' offices, CEAV or the judiciary .

Furthermore, the loss of leadership of the national technical coordination system sees a parallel trend in the weakening of ICTEs, to the point of disappearance of some local bodies, as is the case of Zacatecas.

These processes limit the capacity of the system to provide fluid, constant, and harmonious responses, and inhibit the possibility of adequately facing the challenges common to all institutions. The weakening of the technical coordination body will increase institutional tensions and reduce the systems' capacities to administrate quality justice, in the medium and long term.

The withdrawal of the national technical coordination system is also seen in the fact that the nature, mandate, objectives, or actions that would be undertaken by ICTEs to achieve an appropriate systemic interaction and a better performance of the criminal procedural justice system have yet to be defined.

Table 1. Types of technical coordination authorities



Implementing Body	SEESP	Consolidating bodies
<ul style="list-style-type: none"> • Chiapas • Coahuila • Colima • Jalisco • Puebla • Yucatán 	<ul style="list-style-type: none"> • Aguascalientes • Guerrero • Hidalgo • San Luis Potosí 	<ul style="list-style-type: none"> • Baja California • Baja California Sur • Chihuahua • Durango • State of Mexico • Guanajuato • Nayarit • Nuevo León • Querétaro • Sinaloa • Sonora • Tlaxcala • Veracruz • Federación
Non-existent <ul style="list-style-type: none"> • Campeche • Mexico City • Michoacán* • Morelos* • Oaxaca* • Zacatecas 		

*No information was found to indicate its existence.



2.2.2. Technical Coordination Index

To assess whether ICTEs have the authority to inter-institutionally coordinate in an efficient manner, the last edition of *Hallazgos* contains an ICTE Index that measures the technical coordination's four main axes⁶, as defined in section 2.2:

1. Coordination and articulation
2. Planning and budget
3. Facilitators
4. Regulation

Not one of these is more important than the other for the effective functioning of the coordination authorities. This means that, for example, these cannot function effectively if they do not have the authority to coordinate and articulate, nor if they do not have the authority to plan and regulate, even if they had everything else. We chose to use this approach to develop the ICTE Index given its simplicity, as it allows us to easily observe needs pertaining to vital aspects for the performance of the technical coordination, and thus identifying the fields that might require further strengthening.

Six entities (18%) were reported to not possess technical coordination authorities: Campeche, Mexico City, Michoacan, Morelos, Oaxaca, and Zacatecas. Within

Table 2. Coordination Capacity Index

State	Axis 1 Coordination and articulation	Axis 2 Planning and budget	Axis 3 Facilitators	Axis 4 Regulation	ICTE
Querétaro	1	1	1	1	100
Coahuila	0.5	1	0.25	1	68.75
Federation	1	0.25	0.5	1	68.75
Guanajuato	0.5	0.5	0.5	1	62.5
Guerrero	0.5	0.5	0.5	1	62.5
Hidalgo	0.5	0.5	0.5	1	62.5
Jalisco	0.5	0.5	0.5	1	62.5
State of Mexico	0.5	0.5	0.5	1	62.5
Aguascalientes	0.5	1	0.25	0.5	56.25
Baja California	0.5	1	0.25	0.5	56.25
Baja California Sur	0.5	1	0.25	0.5	56.25
Tlaxcala	0.5	0.75	0.25	0.5	50
Sinaloa	0.5	0.75	0.5	0	43.75
Veracruz	1	0.5	0.25	0	43.75
Sonora	0.5	0.75	0.25	0	37.5
Yucatán	0.5	0.5	0.5	0	37.5
National Average	0.42	0.39	0.23	0.30	33.9
Nuevo León	0.5	0.25	0	0.5	31.25
Puebla	0.5	0.25	0	0.5	31.25
Durango	0.5	0.25	0.25	0	25
Colima	0.5	0	0	0	12.5
Quintana Roo	0.5	0	0	0	12.5
San Luis Potosí	0.5	0	0	0	12.5

⁶ Each axis is measured with binary variables that show if ICTE possesses (or not) the necessary characteristics for its adequate functioning. If ICTE does possess that characteristic, they are given a value of 1, if on the contrary, they do not, the value is zero. The rating given to each axis corresponds to the average of the ratings obtained for each of the variables of which it is composed.

$$C_N = \frac{\sum_{i=1}^n v_i}{n} * 100 \quad \text{Total index} = \frac{C_1 + C_2 + C_3 + C_4}{4} * 100$$

In this case:

$i = 1, 2, \dots, N$ number of the variable of component N

$n =$ total number of variables of component N



them, there is no clarity regarding technical coordination mechanisms. This is conducted by means of the relations between different institutions and operators, but there is no formal mechanism that encompasses all operators, provides a systemic vision, and serves as a space for presenting and addressing shared challenges, as well as finetuning CJS operation. **In other words, coordination is subject to the good will of each authority.**

The national coordination authority also assumes the responsibility of technical coordinating authority at the federal level because the Criminal Justice Support Unit plays a double role: it articulates efforts to consolidate the system at a national level (vertical articulation), and coordinate efforts to consolidate the criminal procedural justice system at the Federal level (horizontal coordination). **Technical coordination efforts made by the Justice System Support Unit at the federal level are non-existent;** no efforts whatsoever can be detected in terms of identifying common objectives and challenges, criteria standardization, or development of operational standards. The same goes for the technical part, as it does not generate the necessary training frameworks, nor does it facilitate the exchange and flow of information among the different stakeholders that the system is composed of. This results in each institution doing its own work without systemic understanding, and without being able to measure how their individual challenges fit into shared challenges.

Upon analyzing the results in coordination capacity for each function, each coordination authority has (as they can be seen in Table 3), the articulation capacity, part of axis 1 – Coordination and Articulation of ICTE is the best positioned with a rating of 72.7 points out of 100. This stems from the fact, since their creation as implementing bodies, the coordination authorities required articulating with the national technical coordination system to define the allocation of federal resources in specific projects. This also explains that planning is the second-best evaluated function with 48.5 points out of 100.

The functions with the lowest grades, meaning more weakening, are:

- The creation of agreements and guidelines that determine and standardize operational and management criteria, with **30 points out of 100.**
- The capacity to have an effect on budgetary design to create a budget with a systemic perspective that will address objectives, goals, challenges, and areas of opportunity in a comprehensive manner, also with **30 points out of 100.**
- The building and management of computer systems to facilitate flow of information between operators, management of case files, and accountability, with **24 points out of 100 possible points.**
- The creation and administration of databases that facilitate management and planning, with **18.2 points out of 100.**
- The functions to coordinate within the system that allows for the alignment of the work done by the institutions with systemic and State objectives, **with a rating of 12.1 points out of 100.puntos de 100.**

As it can be noted, the functions best positioned are those that were necessary for reform implementation and its structuring with the national technical coordination system to define the needs of the entity, the projects to be implemented, and management of resource transfers of said authorities, SETEC and later SESNSP. (It is important to remember that in 2016, with the entry into force of the adversarial system at a national level, the implementation phase was concluded and the mandate of SETEC as a structuring body of the national technical coordination system was transferred to SESNSP with the aim of consolidating the system's operation).

Table 3. Strength of the functions necessary for an adequate technical coordination

Articulation	Planning	Follow-up and Evaluation	Diagnosis	Training	Budget design
72.7	48.5	42.4	36.4	36.4	30.3
Legal reforms	Agreements and guidelines	Computer systems	Databases	Infrastructure	Coordination
30.3	30.3	24.2	18.2	15.2	12.1

As such, the necessary functions for the consolidation of the system and the reduction of asymmetries between operators are precisely those with the greatest weaknesses. In the five years that have elapsed since the beginning of the consolidation phase, the necessary coordination functions were not strengthened, nor were good state practices promoted. What can be observed is a constant loss of leadership in this phase that is crucial for the success of the 2008 reform, a time during which asymmetries must be reduced to achieve effective equality of the parties in the criminal proceedings. Thus, the definitions of goals and objectives of the criminal justice system with medium- and long-term outlooks is put in doubt, along with the planning of the strategies to reach them.

2.3. Continuous public comprehensive planning process

A fundamental element to achieve adequate coordination of the CJS and a core of its consolidation is the planning through which systemic goals and challenges are established, shared challenges identified, and an approach is defined in terms of the strategies to address those challenges and needs.

Planning is an essential activity of public and private institutions, as it sets the conditions for establishing realistic objectives and goals, facilitates the identification of strategies necessary to reach them, and gives way to the design of activities that will help achieve them. In the criminal justice arena, planning is more complex because it requires synergy between many institutions with different logics and incentives.

Systemic planning exercises make identifying shared challenges possible through the specific needs of each institution. By this means, it makes existing asymmetries between operating institutions visible, and allows for the adoption of the necessary measures to reduce them and the equalization of the procedural tools of the parties.

The first planning effort that can be seen is strategic planning by way of the building of sector programs, the purpose of which is to define state objectives in terms of criminal justice procurement and to create strategies to reach them. Performance indicators are a significant component of sector programs. They measure progress in the

achievement of objectives and are useful for the calibration of actions taken. The institutions' budget is designed based on sector programs; and only the strategies defined within those programs will have allocated budgets.

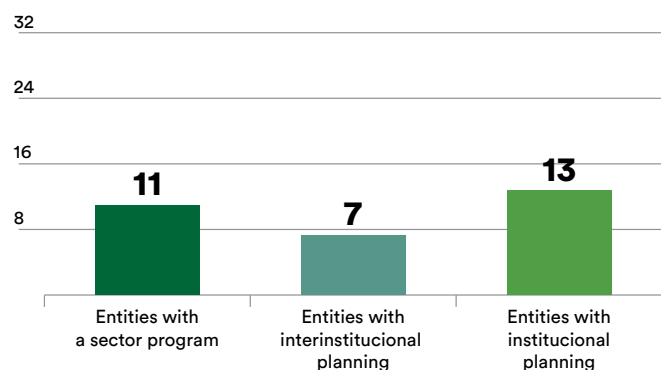
Inter-institutional plans can be seen at a different level. Their purpose is the alignment of goals and activities of various interrelated and interdependent institutions for the achievement of the common objective.

As shown in Graph 3, only eleven entities, including the Federation (amounting to 33%), make systemic planning efforts when creating sector programs. In seven states (21%) inter-institutional planning is conducted. It is striking that planning is done with only thirteen entities within some of the CJS institutions to define specific goals and objectives with a medium- and short-term outlook.

This translates to 66% of criminal procedural justice systems not defining their common goals, objectives, and strategies. 78% do not systemically plan to reconcile operations, and 63% do not carry out tactical or operational planning within their institutions.

13 years after the criminal reform, and five after its entry into force, planning is still a pending issue. It is not considered crucial for calibrating the system's operations that addresses the demands to reduce impunity by identifying needs to achieve that objective. This helps towards the consolidation of the system.

Graph 3. Planning in justice procurement



Source: Prepared by the authors based on data from public information requests.



In this consolidation phase, it is necessary to provide the state technical coordination authorities with the capacities to carry out systemic planning that will align all operators' needs with the common objectives and reconcile the budgetary design with each institution. It is not enough for the technical coordination authorities to have these functions, these budgets must be guaranteed, for which the leadership of the National Technical Coordination System is important in terms of promoting their execution and follow-up to ensure an impact.

In 2021, 15 local governments will be renewed, thus making it possible for substantial changes to occur in 2022 with the inter-institutional planning from which institutional planning will derive, achieving a reconciliation of the actions of institutions around common goals and objectives.

As mentioned before, at the federal level, there are no inter-institutional coordination efforts made by the consolidating body: the Justice System Support Unit. This results in no efforts being made in terms of planning at a systemic level, with established common goals and objectives, nor in terms of inter-institutional planning to achieve adequate consolidation of the CJS. At best, institutions will make planning efforts as a condition to request their budget allocation, but it is unknown if said planning is at the core of operations to achieve inter-institutional goals and objectives.

2.4. Information and Technological systems

Solid computer systems represent a powerful tool in terms of management, planning, internal control, transparency, and accountability: in sum, in terms of the strengthening of operations of each institution of the criminal procedural justice system.

We were able to understand the scope and role that computer systems have through the description of each of their daily and potential "areas" of use. Namely:



as a **management tool**: they must facilitate follow-up and control of each case file and cause logged into the system;



as a **planning tool**: they must be able to generate the necessary statistical resources to identify workloads, management challenges, and system problems;



as an **investigation support tool**: they can provide support in the creation and identification of criminal patterns, as well as risk areas, procedural risks, and system trends, among others, while providing and processing data content from all files;



as an **internal control tool**: they allow for the follow-up on public officials' actions, individually speaking, which can be used to identify best practices, to grant promotions within the professional career service, and identify spaces of despotism and corruption;



as a **transparency and accountability tool**: they can provide information made public to society to follow up on institutional actions.

Thus, **properly planned computer systems can strengthen the operation of the entire criminal procedural system, since they facilitate information flow, one of its main characteristics.** This flow also reduces asymmetry between the parties.

A computer system with a collective perspective becomes a coordination tool for system operation, as well as for the articulation of each operator's work. It facilitates criteria standardization and increases response capacity and effectiveness of defenders' offices and advisors to victims.

For that matter, the characteristics of the computer system condition, facilitate or hinder the CJS's operation, because they determine its ability to interconnect different institutions and to generate statistics for the analysis of the system itself. Along the way, these have an impact on its ability to hold digitized records of inter-institutional research and actions.

On this note, it is necessary to specify that the computer system's capacity to digitize research records not only enriches the databases, but also facilitates flow management, in each case through each institution. It

is also a tool for transparency and control to avoid undue modifications being made to research records.

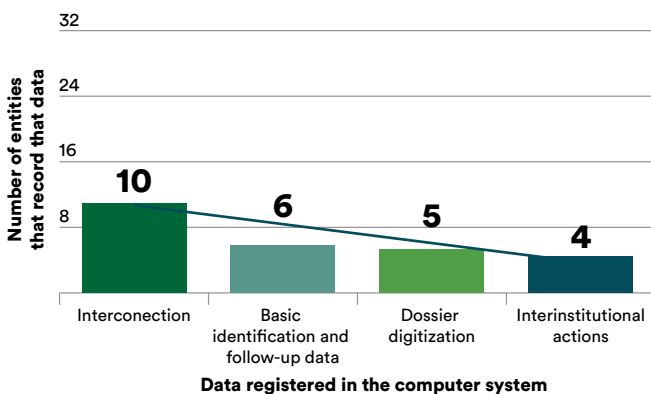
Like so, a computer system with adequate installed capacity should:

- **Achieve interconnection between different institutions**, as this conditions information flow and the capacity to achieve a dialogue based inter-institutional management;
- **Register variables with homogeneous definitions** that facilitate case follow-up and statistical analysis;
- **Have the capacity to host investigation records** with the purpose of facilitating case management and their correct flow by means of the process that intersects the different institutions;
- **Log into the files the updates made by each institution during the investigation**, which allows for a horizontal control of cases, and at the same time serves as a lock against corruption as it prevents undue changes be made in case files.

These capacities are distributed throughout the ensemble of federative entities, as shown in Graph 4.

As shown, **only 31% of entities report having computer systems that allow for some level of interconnection among operating institutions of**

Graph 4. Sophistication of computer systems



Source: Prepared by the authors based on data from public information requests.

the CJS or the registering of basic information in the case files. It is important to highlight that in most of these cases institutions understand interconnection as the possibility of their openly consulting updates from the Attorney's Office without that meaning that each institution should have a connected system to the Attorney's Office system or that only one system with modules is used for each institution. In half of these cases, interconnection limits the flow of information between Attorney's Office and Judiciaries. Only in 16% of entities does the computer system allow for digitization of a case file, and 13% allows for logging and consultation of inter-institutional actions. It is important to highlight that the federal authorities did not provide us with any information to analyze the capacity and sophistication of their computer systems; it is impossible to know if they at least have one basic interconnection that facilitates information flow between operators.

Interconnection or the existence of a single computer system that connects all institutions facilitates a systemic understanding of criminal procedural justice, allows for an alignment of each operator's actions with the general objectives of the system, makes traceability of its internal processes possible, and reduces asymmetry between the parties. However, it must be noted that in the states in which the computer system allows for an interconnection, it is unknown how much of that in statistical information is used and how, and who has access to basic data to achieve adequate case management.

One of the faculties analyzed in the Technical Coordination Index is the capacity of the technical coordination authorities to build and promote the use of computer systems with greater levels of sophistication, interconnection, and articulation. These systems are key for technical coordination and are therefore a basic tool that facilitates planning and standardization. What's more, in the system consolidation phase they reduce asymmetries affecting defender's offices and executive victims' commissions by facilitating information flow and generating uniform management models.

The creation of computer systems that will serve as management tools for Judiciaries and Attorney's Offices, and defenders offices and executive victims commissions equally, are still a pending issue that should be undertaken by the leadership of the national technical coordination system since its work is not conditioned by public security and justice procurement institutions.



2.5 Projection and effective use of financial resources

An adequate distribution of resources facilitates the operation of the criminal procedural justice system and enhances its impact. However, this distribution can only be a result of coordination and planning efforts. Budgetary increases are not a guarantee of system success; disbursements must be optimal and comply with the rationale of their allocation.

Again, efficient and effective disbursements are possible under the imperative condition of strategic and operational planning budgets. The starting point is the definition of the desired results, as well as the strategies to reach them. From there, the system's needs can be defined as a whole and for each operator specifically, like the processes and actions that result from strategies, meaning that operational planning becomes concrete in daily work. In other words, there is a cascading effect in terms of the system's strategic planning resulting in institutional operational planning which in turn defines each institution's tasks.

As seen in prior sections, strategic planning is scarce in the justice sector. For this reason, operational planning budgets necessary for requesting budget allocations from local congresses are disarticulated and have no systemic perspective, clear objectives, or defined goals.

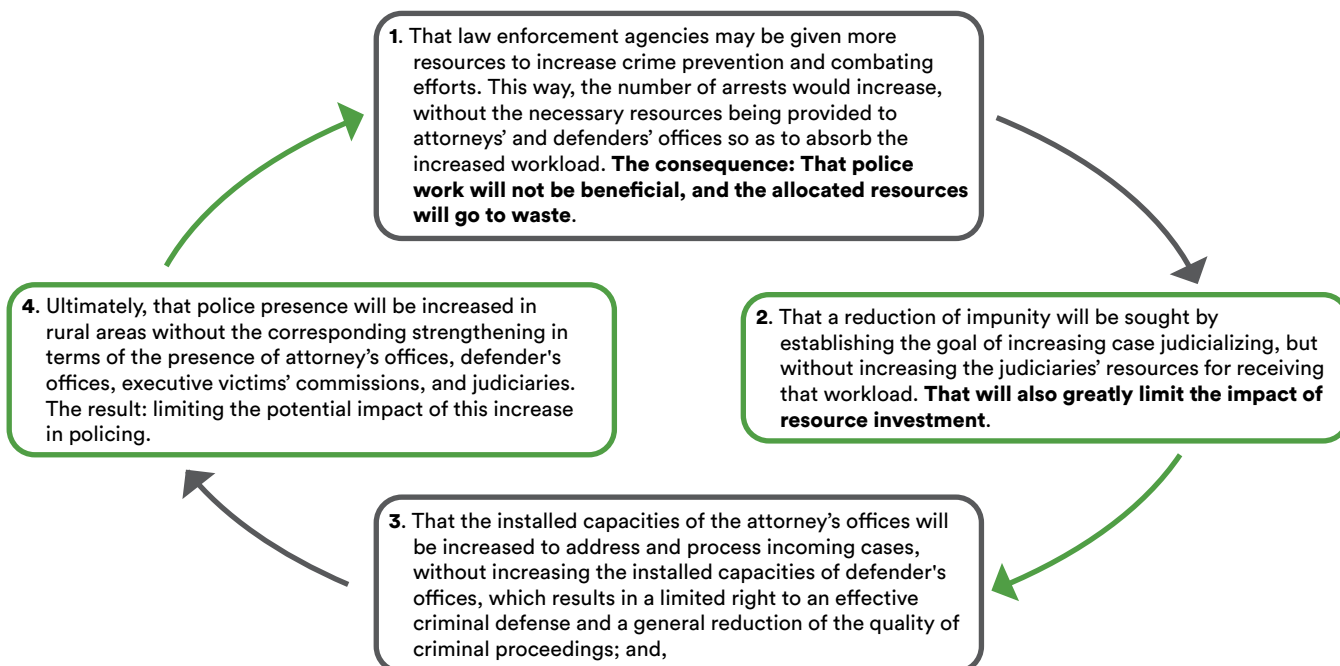
This disjointed vision of budgetary design results and disbursements that are inefficient and ineffective, and that do not lead to an improved operation of the system. On the contrary, they can be hindered by the definition of goals and objectives that clash with the institutions. For example, the following can happen:

That law enforcement agencies may be given more resources to increase crime prevention and combating efforts. This way, the number of arrests would increase, without the necessary resources being provided to attorneys' and defenders' offices so as to absorb the increased workload. **The consequence: That police work will not be beneficial, and the allocated resources will go to waste.**

That a reduction of impunity will be sought by establishing the goal of increasing case judicializing, but without increasing the judiciaries' resources for receiving that workload. That **will also greatly limit the impact of resource investment;**

That the installed capacities of the attorney's offices will be increased to address and process incoming cases, without increasing the installed capacities of defender's offices, which results in a limited right to an effective criminal defense and a general reduction of the quality of criminal proceedings; and,

Diagram 2. Projection and effective use of financial resources

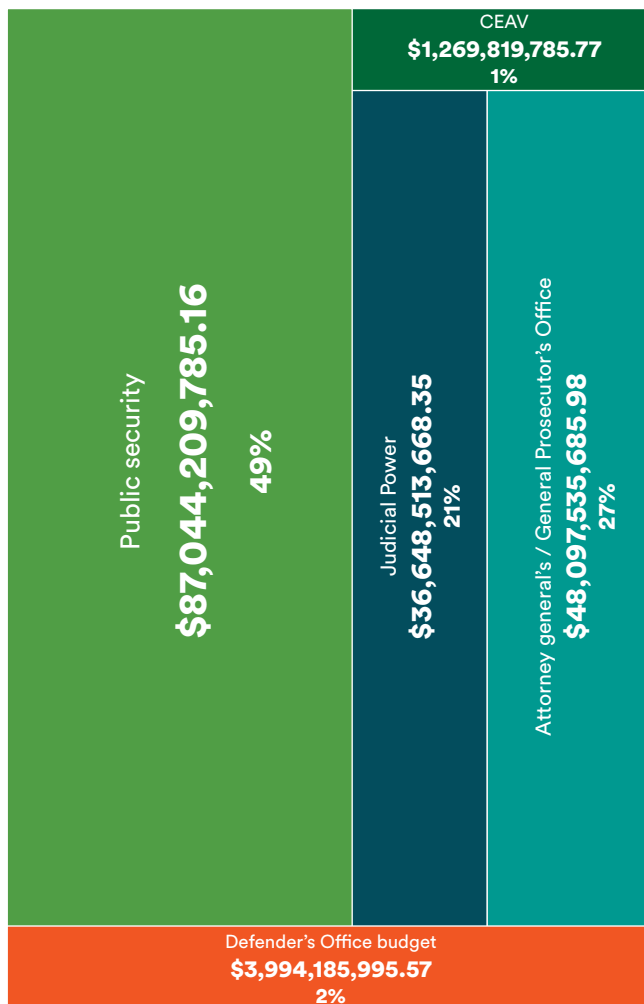


Ultimately, that police presence will be increased in rural areas without the corresponding strengthening in terms of the presence of attorney's offices, defender's offices, executive victims' commissions, and judiciaries. The result: limiting the potential impact of this increase in policing.

In four steps, this scenario allows us to understand the underlying logic of resource distribution, the way in which distribution reduces or fosters institutional asymmetries, limits the procedural equality of the parties, and distorts the relation between resource allocation and workload.

Budget allocation must be the product of budget planning guided by rational criteria, based on the analysis of workload, needs, and achievement of systemic goals and objectives.

Graph 5. Total budget distribution of the local justice procurement system in 2020



Source: Prepared by the authors based on data from public information requests.

The budget does not guarantee the success of the criminal procedural justice system, but it does condition its operation. In other words, a larger budget does not necessarily improve results, yet it does allow institutions to have resources for their daily operations, increase their installed capacity, and achieve the objectives established through systemic and institutional strategic planning. However, shortness of resources can compromise daily institutional operations and therefore the capacity of the CJS to respond in terms of incoming cases.

In 2020, the allocated budget for the local criminal justice sector (which saw 98% of crimes reported) was of \$177,054,264,920.00 Mexican pesos, Amount that was distributed to the different institutions as shown in Graph 5, equivalent to \$140,503.619.00 pesos per 100,000 inhabitants. This entails a reduction of 0.32 per cent with regards to the 2019 budget, which was added to a reduction of 15% that was approved in 2019 with regards to 2018.

As seen in table four, this reduction of 0.32 per cent, the average budgetary variation of the criminal procedural justice system in all entities, was not homogeneous, but rather significant variations were observed among federative entities, ranging from a 60.27% reduction in Jalisco to a 59.81% increase in Baja California.

This same Table 4 allows us to confirm that a systemic vision is non-existent in terms of budget allocation. Each Institution is allocating resources without considering the needs and challenges of other institutions. This also relates to what we have already mentioned regarding state technical coordination authorities' capacities to design budgets with a systemic perspective.

On top of the lack of this perspective, it is also revealed that there is a lack of strategic planning in the CJS, given that, as seen in Graph 6, budgetary variations from one year to another are considerable, with significant and abrupt increases and cutbacks.

The following cases stand out:

- Baja California, with a cutback of 13% and a posterior increase of 59%.
- Baja California Sur, with an increase of 14% and a posterior cutback of 39%.
- Guerrero, with a cutback of 53% and a posterior increase of 39%.

Table 4. Budgetary variations (Δ) in real terms 2019-2020

	Variation (Δ) 2019 - 2020					Δ 2019-2020
	Δ SSP	Δ FGE	Δ Defender's Office	Δ CEAV	Δ Judicial Power	
Aguascalientes	-38%	-3.28%	-12.86%	100.19%	6.79%	-17.92%
Baja California	67%	104.15%	0.92%	-14.65%	-0.13%	59.81%
Baja California Sur	-3%	1.88%	-10.06%		-95.43%	-38.96%
Campeche	-13%	10.05%	8.74%	-0.51%	0.33%	-3.42%
Coahuila	-8%	-3.73%	-1.06%	10.53%	1.13%	-4.35%
Colima	-6%	-2.50%	-28.86%		-7.38%	-5.76%
Chiapas	2%	-0.63%			7.06%	2.50%
Chihuahua	72%	-42.95%	9.76%	-42.43%	2.12%	-14.88%
Mexico City	4%	4.83%	773.91%	-100.59%	-5.73%	4.86%
Durango	-11%	-6.22%	0.78%	-4.45%	-85.33%	-25.40%
Guanajuato	31%	39.44%	-7.25%		10.00%	26.45%
Guerrero		22.83%		11.06%	-5.71%	-52.96%
Hidalgo	-2%	119.72%	747.05%		15.63%	57.96%
Jalisco	-101%	14.69%	8.07%	398.39%	8.28%	-60.27%
State of Mexico	-8%	30.90%	4.74%	67.81%	3.70%	4.03%
Michoacán	-7%	17.92%	1.53%	-5.11%	-3.37%	-2.47%
Morelos	0%	-8.97%	12.67%	90.85%	-5.70%	-4.00%
Nayarit	7%	1.26%		-4.08%	-2.76%	2.78%
Nuevo León	10%	2.47%	-2.69%	-5.61%	8.53%	6.80%
Oaxaca	0%	-1.05%	-98.66%	5.55%	-92.00%	-26.64%
Puebla	20%	12.04%	9.93%	950.48%	26.13%	19.43%
Querétaro	7%	3.70%	12.96%	46.47%	14.95%	9.00%
Quintana Roo	11%	6.74%		33.11%	0.49%	7.77%
San Luis Potosí	7%	-7.97%	1.90%	-2.82%	11.75%	4.91%
Sinaloa	-67%	2.12%	8.72%		7.58%	-33.57%
Sonora	11%	16.52%	0.25%	-34.35%	-0.54%	8.70%
Tabasco	-8%	3.90%	65.12%	5.64%	21.48%	0.45%
Tamaulipas	-8%	-85.40%			45.46%	-17.45%
Tlaxcala	20%	30.19%		27.77%	-4.24%	13.90%
Veracruz	-10%	53.88%	-12.84%	-2.90%	0.76%	1.05%
Yucatán	60%	-13.65%	-10.60%	-14.72%	-28.95%	33.43%
Zacatecas	3%	1.69%	-7.08%	-70.26%	1.76%	1.67%
National Average	-5%	7.62%	62.47%	9.08%	-2.14%	-0.32%

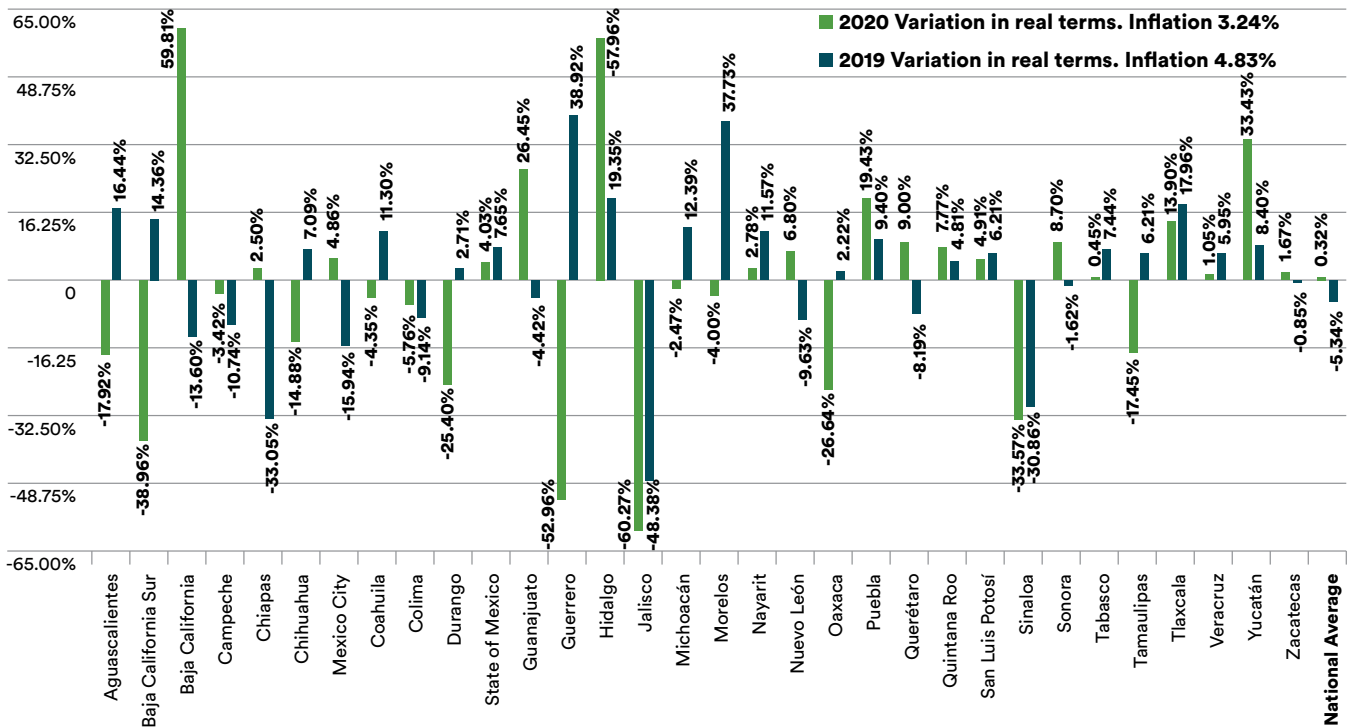
Source: Prepared by the authors based on data from public information requests.

As stated before, these “radical” variations show that budget allocation is not conducted based on the planning of medium-term objectives, with clear goals and defined strategies, from which Operational and Tactical planning for the entire system could possibly stem. **Budget allocation criteria is rather to calibrate prior adjustments with yearly outlooks and without medium or long-term vision.** co-responsibilities of local congresses in the design and approval of asymmetrical and short-term budgets, without an understanding of results, effects, and impacts sought in the sector, must also be emphasized.

Furthermore, the allocation of resources without appropriate planning tends to generate considerable asymmetries in terms of installed capacity of procedural parties, as it is not sought to strengthen the criminal procedural justice system in a harmonious way, would rather a budgetary distribution be conducted for each Institution by inertia, without considering systemic impact.

Upon analysis of these budgetary ratios among procedural stakeholders, a deep asymmetry is observed between allocated resources for Attorney General's Offices, defender's offices, and executive victims' commissions, in the general scenario of the state's

Graph 6. Yearly variations 2018-2019 and 2019-2020 of the CJS budget



Source: Prepared by the authors based on data from public information requests.

justice procurement (Table 5). As mentioned before, though the budget does not guarantee adequate institutional performance, a lack of resources negatively impacts institutional operational capacity. These three institutions must possess resources not only to maintain daily operations, but also to increase their installed capacity. Furthermore, distribution must be determined in such a way that it favors a trend towards the reduction of institutional asymmetries.

Table 5 shows this asymmetry in terms of resource allocation by state. As shown, as a national average, defender's offices receive eight cents for each Mexican peso that prosecutors' offices, and executive victims' commissions receive 32 cents for each Mexican peso that defenders' offices receive, and three cents for each Mexican peso received by prosecutors' offices.

In comparison with the prior year, this asymmetry in the allocation of resources was increased: in 2019 a Defender's Office received 9 cents for each Mexican peso that the Attorney's Office received, while Executive Victims' Commissions received 61 cents for each Mexican peso received by a Defender's Office. This year the difference became even more significant

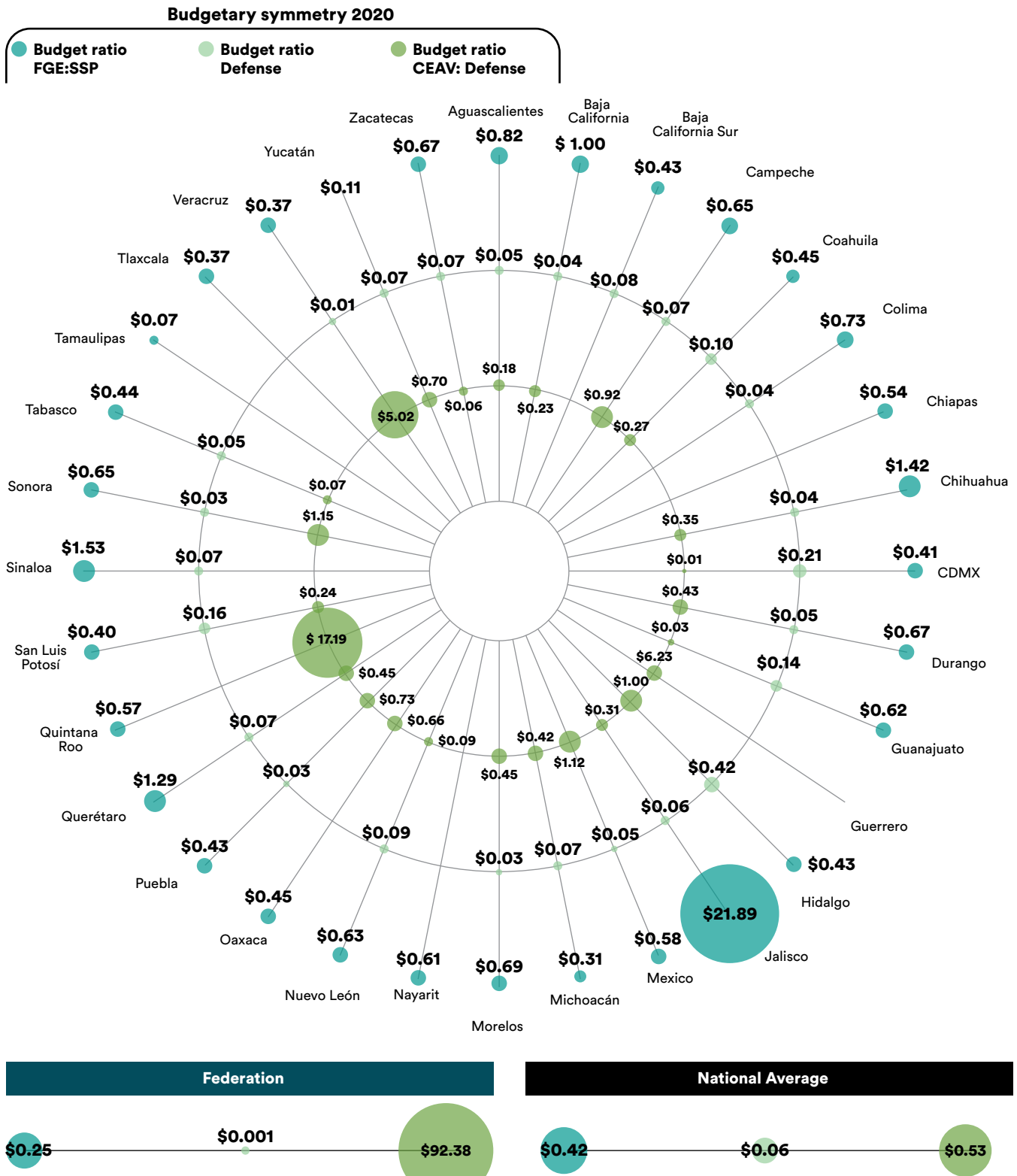
at 8 and 32 cents, respectively. We must underscore the State of Veracruz in which the Defender's Office receives one cent for each Mexican peso given to the Attorney's Office, and the State of Jalisco where the ratio is two cents for every Mexican peso given to the Attorneys's Office. It must be said that the information provided by public defender's offices does not disable gate resources allocated to criminal departments. It is therefore probable that budgetary allocation for these departments is smaller than stated.

Table 5 shows resource distribution and allocation for each state for every 100,000 inhabitants and shows the deep inequality that exists among institutions.

To illustrate the implications of this budgetary asymmetry, one must only highlight that the Defender's Office and the victim's Commission both represent procedural parties: defendant and victim, respectively. They are there for main actors and not accessories. They possess the faculty and should have the capacity to build their own case theories and generate their own investigations to support them, and also provide the represented parties with adequate services to achieve a just trial based on respect for due process.



Diagram 3. Comparison of allocated institutional budgets in 2020



Source: Prepared by the authors based on data from public information requests.

Table 5. Institutional budgets at a ratio for every 100,000 inhabitants

	Public Security	Attorneys' Offices	Defenders' Offices budget	Executive Victims' Commissions	Judiciary
Aguascalientes	\$ 43,156,073.17	\$ 35,569,832.59	\$ 1,647,079.67	\$ 299,660.14	\$ 33,187,430.90
Baja California	\$ 71,771,289.94	\$ 71,771,289.94	\$ 2,928,350.21	\$ 676,636.05	\$ 27,854,013.29
Baja California Sur	\$ 90,384,726.10	\$ 38,972,837.40	\$ 3,150,739.75		\$ 6,713,279.15
Campeche	\$ 71,593,048.66	\$ 46,260,081.00	\$ 3,022,999.89	\$ 2,773,066.35	\$ 36,978,726.08
Coahuila	\$ 49,994,617.38	\$ 22,505,996.40	\$ 2,301,712.51	\$ 612,555.21	\$ 31,672,944.26
Colima	\$ 83,480,841.70	\$ 60,927,406.50	\$ 2,567,783.37		\$ 32,262,779.34
Chiapas	\$ 49,609,478.07	\$ 26,717,283.60			\$ 19,755,720.78
Chihuahua	\$ 53,071,656.81	\$ 75,354,562.57	\$ 3,086,605.80	\$ 1,068,984.51	\$ 52,979,298.82
Mexico City	\$ 189,362,383.81	\$ 77,267,925.80	\$ 15,981,485.97	\$ 112,517.15	\$ 67,742,232.30
Durango	\$ 48,590,068.59	\$ 32,746,249.22	\$ 1,511,256.26	\$ 654,117.27	\$ 4,412,794.34
Guanajuato	\$ 73,289,886.57	\$ 45,367,431.66	\$ 6,417,896.24	\$ 188,566.20	\$ 32,050,957.60
Guerrero		\$ 38,088,315.25	\$ 65,428.41	\$ 407,722.27	\$ 22,740,173.40
Hidalgo	\$ 63,183,704.53	\$ 27,216,867.23	\$ 11,510,129.80	\$ 11,510,129.80	\$ 19,734,824.30
Jalisco	\$ 1,229,032.85	\$ 26,906,263.09	\$ 1,677,082.53	\$ 518,788.76	\$ 6,608,672.59
State of Mexico	\$ 59,554,298.28	\$ 34,795,901.33	\$ 1,580,925.58	\$ 1,763,941.38	\$ 23,032,426.58
Michoacán	\$ 95,791,446.99	\$ 29,300,523.30	\$ 1,924,261.42	\$ 801,597.99	\$ 28,183,591.71
Morelos	\$ 54,298,269.23	\$ 37,662,897.36	\$ 1,101,738.76	\$ 501,225.41	\$ 27,766,001.31
Nayarit	\$ 69,338,218.75	\$ 42,094,690.22		\$ 722,345.71	\$ 39,758,872.04
Nuevo León	\$ 83,959,109.63	\$ 53,025,824.58	\$ 4,973,069.23	\$ 445,415.44	\$ 43,235,326.24
Oaxaca	\$ 42,893,373.76	\$ 19,138,291.06	\$ 93,372.00	\$ 61,736.93	\$ 2,471,308.23
Puebla	\$ 43,664,736.64	\$ 18,983,246.21	\$ 571,778.97	\$ 419,631.71	\$ 13,253,331.52
Querétaro	\$ 30,127,505.34	\$ 38,775,920.92	\$ 2,522,305.10	\$ 1,145,396.58	\$ 42,594,343.94
Quintana Roo	\$ 93,247,308.24	\$ 53,463,994.60	\$ 92,260.83	\$ 1,586,144.08	\$ 38,007,841.84
San Luis Potosí	\$ 89,245,904.43	\$ 35,441,996.98	\$ 5,681,565.52	\$ 1,336,655.50	\$ 50,293,044.92
Sinaloa	\$ 21,033,359.80	\$ 32,221,772.43	\$ 2,207,982.94		\$ 20,998,248.20
Sonora	\$ 89,497,048.23	\$ 57,917,072.88	\$ 1,921,731.13	\$ 2,212,229.05	\$ 42,183,649.24
Tabasco	\$ 98,539,546.07	\$ 43,834,525.00	\$ 2,307,452.15	\$ 163,759.61	\$ 38,104,930.20
Tamaulipas	\$ 91,474,722.93	\$ 6,041,560.00		\$ 234,402.26	\$ 34,147,088.23
Tlaxcala	\$ 49,093,624.58	\$ 17,975,057.34		\$ 297,750.09	\$ 26,362,568.61
Veracruz	\$ 63,788,056.79	\$ 23,389,111.81	\$ 238,666.56	\$ 1,197,815.93	\$ 23,569,379.64
Yucatán	\$ 162,255,477.14	\$ 17,382,618.69	\$ 1,269,221.98	\$ 890,397.21	\$ 18,914,469.83
Zacatecas	\$ 62,744,873.44	\$ 41,780,183.75	\$ 2,934,752.02	\$ 184,941.11	\$ 34,808,796.87
National Average	\$ 69,075,018.02	\$ 38,168,399.17	\$ 3,169,636.10	\$ 1,007,681.32	\$ 29,082,884.99

Source: Prepared by the authors based on data from public information requests.

No budgetary information was provided at the federal level with all necessary levels of disaggregation to be included in this budgetary design analysis.

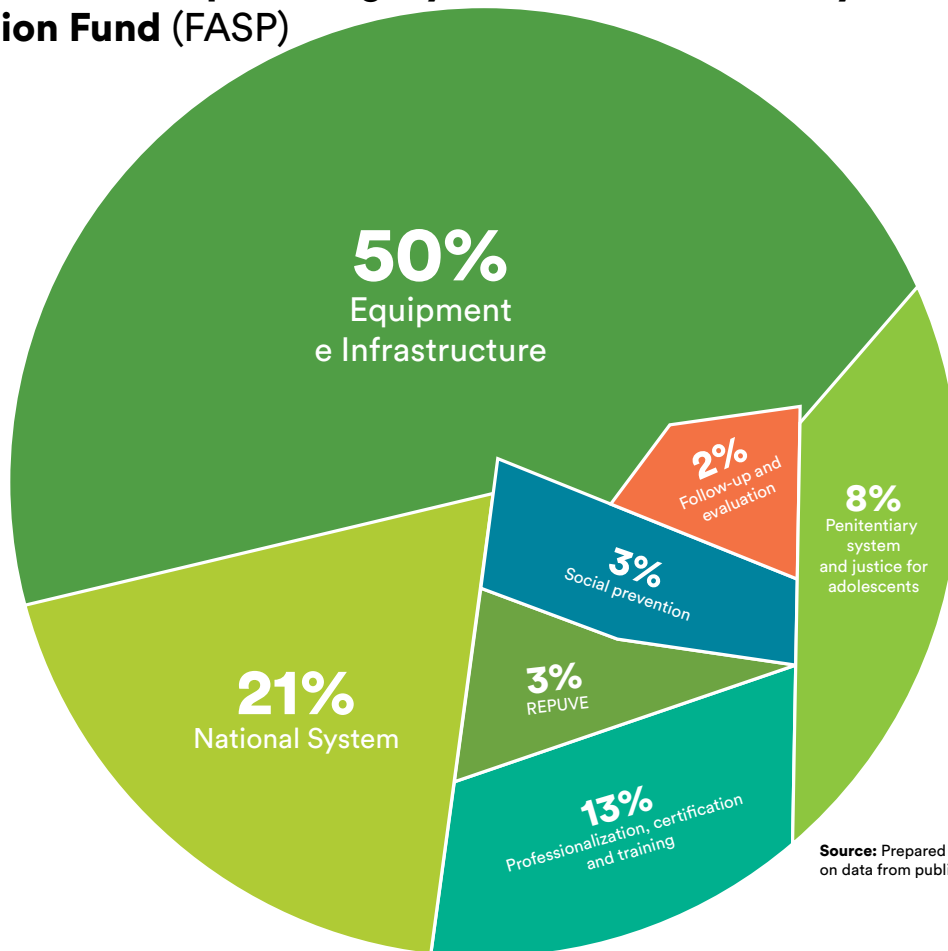
Furthermore, the allocated budget for federative entities in terms of Justice procurement is complemented with federal participation funds, among which we can find, due to their size and impact, the Public Security Participation Fund (*Fondo de Aportaciones en Seguridad Pública*, FASP in Spanish) and the Fund for the Strengthening of Security (*Fondo de Fortalecimiento para la Seguridad*, Fortaseg in Spanish). Both trust funds are a part of the National Public Security System and therefore can only be allocated to policies in matters of public security established by that same system. The financed categories in each can be seen in Graphs 7 and 8.

Since these funds are managed and tagged for budget by the SESNSP, they are managed according to a public security-based approach, and not following the logic of criminal process. In other words, they favor public security institutions. The Defender's Office is not part of the National Public Security System and therefore is not susceptible to receiving resources from either fund.

Since these funds were not created based on a criminal procedural justice system perspective, they do not address its needs, nor do they facilitate the pursuit of systemic objectives. On the contrary, they tend to exacerbate institutional asymmetries and inequality of procedural tools.

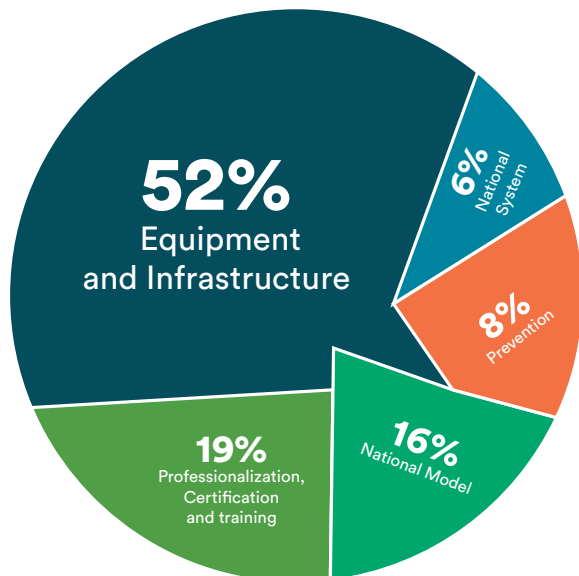


Graph 7. Distribution per category of the Public Security Participation Fund (FASP)



Source: Prepared by the authors based on data from public information requests.

Graph 8. Distribution per category of the Fund for the Strengthening of Security (Fortaseg)



Source: Prepared by the authors based on data from public information requests.

2.6. Publicity, transparency, and citizen participation

Adequate budget planning and allocation of resources toward the different components of the criminal procedural justice system require specific, updated, and reliable information. For this reason, the SESNSP created the Criminal Justice System Consolidation Evaluation and Follow-Up Model (*Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal*, MES in Spanish), With 10 strategic indicators approved by the national public Security Council currently compiled by the Justice System Support Unit of the Department of Interior⁷.

These indicators are a resource for having a general perspective about the flow of criminal proceedings

⁷ Criminal Justice System Consolidation Evaluation and Follow-Up Model. Justice System Support Unit of the Department of Interior: <https://mes.segob.gob.mx>

mainly during the initial investigation phase, **but since they were designed for the national security coordination authority, its approach is based on public security, and it fails to delve deeper into the behavior of the system or its inter-relations with other stakeholders, as well as justice quality.** Additionally, the scope of indicators mainly focuses on the “composition” of investigation files and not on the effectiveness of the investigations themselves, or the different options the adversarial system has to offer. In a way, this type of indicator leads us to preserve old practices, such as the preparation of dossiers, and to measure the new system through “preliminary probes” that were just renamed as “investigation reports.”

The transfer of the MES from the SESNSP to the Justice System Support Unit has not represented a substantial change in terms of the compiled data, the variables, or the level of disaggregation. The way in which information was viewed was modified: it now emphasizes phases and facilitates comparison between federative entities, while the SESNSP would emphasize flow and information by state.

For these reasons and within the context of the updating process that is conducted as part of the transfer of faculties from SESNSP to the Justice System Support Unit, we recommended the unit and the National Public Security Council carry out an assessment and a redesign of strategic follow-up indicators. It would be desirable to avoid being limited to a criminal procedure flow perspective, so as to also allow for:

- **Statistical disaggregation by type of crime** to know the system’s behavior in a differentiated manner.

- **Measurement and statistical record creation to facilitate criminal phenomena visualization** that do not necessarily coincide with a record of information regarding types of offense (since a criminal phenomenon can cut across several types of offense).

The 10 strategic indicators of the MES

1. Opened investigation dossiers
2. Investigation dossiers ruled on by the Public Prosecutors
3. Resolution of investigation dossiers through reparation agreements (ministerial office)
4. Investigation dossiers without initial phase determination
5. Investigation dossiers with charging
6. Resolution of Investigation dossiers by jurisdictional body
7. Investigation dossiers with charging in process
8. Guilty verdicts
9. Precautionary measures imposed
10. Percentage of imprisonment of accused by mandated detention

- **Urgent review and verification of statistical information** that feeds the MES.

- **Guarantee of homogeneity of criteria for information sending** by all entities.

- **Establishment of auditing processes** of information provided by federative entities.

- **Observation of different interrelations between CJS operators** to detect areas of opportunity, best practices, and consolidation strategies.

Having just aggravated information by type of offense or criminal phenomena facilitates the defining of priorities for the criminal procedural Justice systems, as well as the establishment of goals, and the articulation of local strategies between regional and national entities pursuant to specific criminal phenomena. This would facilitate a systemic understanding of the CJS, the identification of needs, and the distribution of resources. This would result in a greater impact

on the system’s outcomes.

The justice system support unit has made significant efforts to register, systematize, and publish statistical information describing the strength and capacity of CJS operating institutions by state⁸. In Table 6 we unfold what the statistical section of the justice system support unit makes known:

⁸ Justice system statistics. Justice System Support Unit of the Department of Interior: <https://esj.segob.gob.mx>



Table 6. Statistical data on institutional strength by institution, compiled by the Justice System Support Unit

Law enforcement	Attorneys' Offices	Courts	Forensic services	Public defenders' offices	Precautionary measures units
Number of officers		Number of judges and magistrates	Number of officials operating forensic services	Number of defenders	Number of officials
Law enforcement officers specializing in violence against women and minors		Judges specializing in violence against women and minors			
Law Enforcement Officers trained with regards to femicide and violence against women and minors		Judges and magistrates trained with regards to femicide and violence against women and minors		Defenders trained with regards to femicide and violence against women and minors	Personnel trained with regards to femicide and violence against women and minors
Law Enforcement Officers trained with regards to the CJS		Judges and magistrates train with regards to the CJS	Experts trained with regards to the CJS	Defenders trained with regards to the CJS	Personnel trained with regards to the CJS
		Judges and magistrates specializing in justice administration for adolescents	Experts trained with regards to justice for adolescents	Defenders specializing in justice administration for adolescents	
		Judges and magistrates with a justice for adolescents' certification			
Law enforcement officers who speak indigenous languages			Experts who speak one or more indigenous languages	Defenders who speak indigenous languages	
Indicators for follow-up, monitoring, and evaluation of the CJS	Attorney's Offices with indicators for follow-up, monitoring, and evaluation of the CJS	Indicators for follow-up, monitoring, and evaluation of the CJS	Indicators for follow-up, monitoring, and evaluation of the CJS	Defender's offices with evaluation indicators	Indicators for follow-up, monitoring, and evaluation of the CJS
Existence of computer system or technological platform	Existence of computer system or technological platform	Existence of computer system or technological platform	Existence of computer system or technological platform	Have a case follow-up system	Existence of computer system or technological platform
Interconnection of the computer system	Interconnection of the computer system	Interconnection of the computer system	Interconnection of the computer system	Interconnection of the computer system	Interconnection of the computer system
Indigenous language interpreters		Indigenous language interpreters	Have an indigenous language interpreter roster	Have an indigenous language interpreter roster	Have an indigenous language interpreter roster
Protocol or guideline pertaining to indigenous people's rights			Protocol or guideline pertaining to indigenous people's rights	Protocol or guideline pertaining to indigenous people's rights	Protocol or guideline pertaining to indigenous people's rights
Protocol or guideline pertaining to the rights of women and minors, victims of violence		Protocol or guideline pertaining to the rights of women and minors, victims of violence	Protocol or guideline pertaining to the rights of women and minors, victims of violence	Protocol or guideline pertaining to the rights of women and minors, victims of violence	Protocol or guideline pertaining to the rights of women and minors, victims of violence
	Existence of an Attorney's Office or agency specializing in violence against women and femicide	Existence of a cluster scheduling model Staff part of the Human			
		Rights and Gender Equality Unit			

In order to understand why indicators and variables are not standardized throughout different institutions we would have to know the methodological documents and criteria used for the creation of the institutional strength indicators shown on Table 6. It is also important to open a discussion about the definition of institutional strength to create pertinent indicators.

In any case, this is an important first exercise that can serve as a starting point for the creation of an ensemble of systemic indicators that will allow for the identification of needs and challenges that the CJS and its institutions are facing. It is surprising but no indicators pertaining to the fight against corruption and internal control of institutions do not exist. Equally there are no indicators related to professional career service. These three aspects are crucial for understanding and bracing institutional strengthening.

One of the most important aspects of the efforts made by the Justice System Support Unit is the systemization of reported needs for each institution in each federative entity. These are the needs categories:

- Training
- Tools and material resources
- Budget in general
- Staff
- Infrastructure
- Technological resources
- Vehicles

This information can be viewed in fact sheets by operator and by entity which facilitates decision-makers comparing information from technical data sheets. It must be noted that the federal level is not considered in

the information provided by the Justice System Support Unit.

It is also surprising (as a best practice) that expert services and precautionary measures units are considered in a differentiated manner, since they have specific needs and requirements that cannot be standardized with those of an institution, even though they might be a part of one. This set of indicators is still to be incorporated into Executive Victims' Commissions.

As said before, this is a positive effort and an important first step towards technical coordination, identification of needs, and system consolidation. It is now important to define the frequency of information updating. It is also necessary to take steps towards addressing identified needs and, to that end, the building of a balanced consolidation plan. It is equally necessary that the life cycle of the project be made public to know the calibration phases of indicators and variables, as well as expert participation mechanisms for its creation and design.

Additionally, to these efforts of statistical information perfecting, it can be said that the 41st plenary Assembly of the National Conference of Justice Procurement⁹ agreed to implement the National Justice Procurement Statistical System, under the Attorney General's Office, as a strategy for strengthening the National Justice Procurement Statistical System (*Sistema Estadístico Nacional en Procuración de Justicia*, SENAP in Spanish). As agreed by the National Conference¹⁰, the SENAP implementation process began on January 1st, 2020.

The information available about SENAP is scarce and relates to approval and follow-up conducted by the National Conference of Justice Procurement regarding its progress and implementation. In December 2020,

THE INFORMATION AVAILABLE ABOUT SENAP IS SCARCE AND RELATES TO APPROVAL AND FOLLOW-UP CONDUCTED BY THE NATIONAL CONFERENCE OF JUSTICE PROCUREMENT REGARDING ITS PROGRESS AND IMPLEMENTATION

⁹ Agreement CNPJ/XLI/03/2019. National Conference of Justice Procurement. Available here: <http://www.cnpj.gob.mx/Paginas/Acuerdos.aspx>

¹⁰ Agreement CNPJ/XLII/02/2019. National Conference of Justice Procurement. Available here: <http://www.cnpj.gob.mx/Paginas/Acuerdos.aspx>



the conference agreed¹¹ the following: 1. Formalize the SENAP individualized adoption plan in prosecutors' offices going through the adoption process; 2. Review, in the framework of the National Conference, the SENAP regulatory instrument proposed by INEGI; And 3. Coordinate the activities necessary to begin the transfer of data as soon as the transfer interface is available, under the Attorney General's Office Investigation Methods Coordination Office. However, to this moment, the following is unknown:

- The information that the Justice Procurement Statistical System will contain.
- The institutions, besides INEGI and Attorney's Offices, which will be part of its composition.
- If it is to have a systemic nature, which would include the Justice System Support Unit, defender's offices, executive victims' committees, and judiciaries; or if it will contain information only from prosecutors' offices.
- It also remains unclear how statistical information pertaining to crime rates compiled by SESNSP will be differentiated, and whether its work will have continuity.
- How it would differ with the national survey on state and federal Justice procurement created by INEGI.
- The components of SENAP's objectives, information quality standards, and quality audits.
- The level of publicity and the frequency of updating.

It is crucial to have the participation of national and international experts, not only in areas relating to Justice procurement and administration, but also with knowledge pertaining to statistics, data building, data science and its consumption, computer systems,

artificial intelligence, among others in this exercise since, if adequately designed, it can have high impact and become a point of reference in terms of statistical information compilation, system isolation, transparency, and consumption for the purposes of monitoring, evaluation, planning, and calibration of the CJS.

It is essential to avoid wasting this opportunity to conduct a comprehensive shift in terms of CJS statistical information generation and consumption, with a systemic perspective, which allows for the visualization interrelations between operators, and serves as material for the strategic planning of the system and the tactical operational planning of each institution it is composed of.

The following are best practices in terms of publicity, transparency, and citizen participation:

**IT IS ESSENTIAL TO AVOID
WASTING THIS OPPORTUNITY TO
CONDUCT A COMPREHENSIVE
SHIFT IN TERMS OF CJS
STATISTICAL INFORMATION
GENERATION AND CONSUMPTION**

Querétaro: the publicity made by the oral criminal justice model of Querétaro, called Cosmos, with its own internet site¹², which gathers information about the system's operation, planning documentation, frequently asked questions, and glossary, as well as links to sites of different operating agencies. It also Gathers important dissemination efforts in terms of the system's operation by means of press bulletins, reviews, opinions, with which they seek to socialize operations and bring criminal justice closer to citizens.

Nuevo León: The State Attorney's Office developed its prosecution policy¹³ in a transparent and open way, making significant efforts of dissemination among civil society organizations at a local and national level so that the document could be known, and a dialogue process could begin with the purpose of strengthening it. These efforts are important so that citizens can know about the work being conducted by institutions, provide their opinions, and generate real expectations about that institutional work.

¹¹ Agreement CNPJ/XLVI/07/2020. National Conference of Justice Procurement. Available here: <http://www.cnpj.gob.mx/Paginas/Acuerdos.aspx>

¹² Cosmos site: <https://cosmos.segobqueretaro.gob.mx/indice/mensajedelgobernador.php>

¹³ Attorney General's Office of the State of Nuevo León. *Criminal Prosecution Plan*. Available at <https://fiscalianl.gob.mx/plan-de-persecucion-penal/> accessed on September 8, 2021



Mexico City: Efforts in terms of openness and citizen participation for the purpose of institutional strengthening are considered best practices. First, the constitutional autonomy of the Mexico City Attorney's Office has detonated a process of openness and citizen participation. Specifically, for the appointment of a state attorney, several locks have been put in place to achieve effective citizen participation, mainly with the Citizen Judicial Council, which is in charge of putting together the list of possible candidates. Secondly, the Mexico City Attorney's Office has made great planning efforts to succeed in the transition from Prosecutor's to Attorney's Office, with an elevated level of citizen participation.

These efforts make citizens co-responsible for the issue at hand, support best practices, and become part of a new governance model that seeks to increase the social impact of state actions.

2.7. Institutional symmetry

Institutional symmetry is a state that is transversal through all areas of operation determinants, in a way that it reflects the degree of integration and coordination among the different institutions of the justice sector. Symmetry mainly entails that there is an exchange of information between institutions and that there is a high level of coordination among them.

From what we have learned in this chapter, this has yet to be achieved, since to this day there are persisting asymmetries regarding planning, identification of needs and challenges, effective resource distribution, information flow, and information systems, horizontally (between entity institutions), as well as vertically (between different levels of government). As long as this lack of integration of institutions is not addressed, considerable asymmetry will remain, mainly to the detriment of institutions that represent the parties of a criminal conflict: public defenders' offices and executive victims' commissions.

These asymmetries are in part a reflection of the sub representation of the different stakeholders of the Criminal Justice System in national and local coordination mechanisms. If the different institutions were effectively represented in decision-making processes, strategies that would address their needs and serve as tools to close gaps remaining from the CJS implementation phase would be designed.

The observed trend in terms of weakening of coordination bodies increases existing asymmetries and reduces the dialogue capacity of institutions that are smaller budget wise. In other words, the reduction of asymmetries requires the strengthening of coordination bodies as spaces for the articulation of needs.

2.8 National ranking of Criminal Justice System consolidation progress

As seen throughout this chapter, the CJS consolidation requires that each system have the necessary conditions for adequate operation, meaning that the system operates transversally through multiple institutions, creating a continuous process of adjustment and calibration. For this reason, a constant effort of strengthening of operation determinants is crucial to succeed in the adequate consolidation of the system.

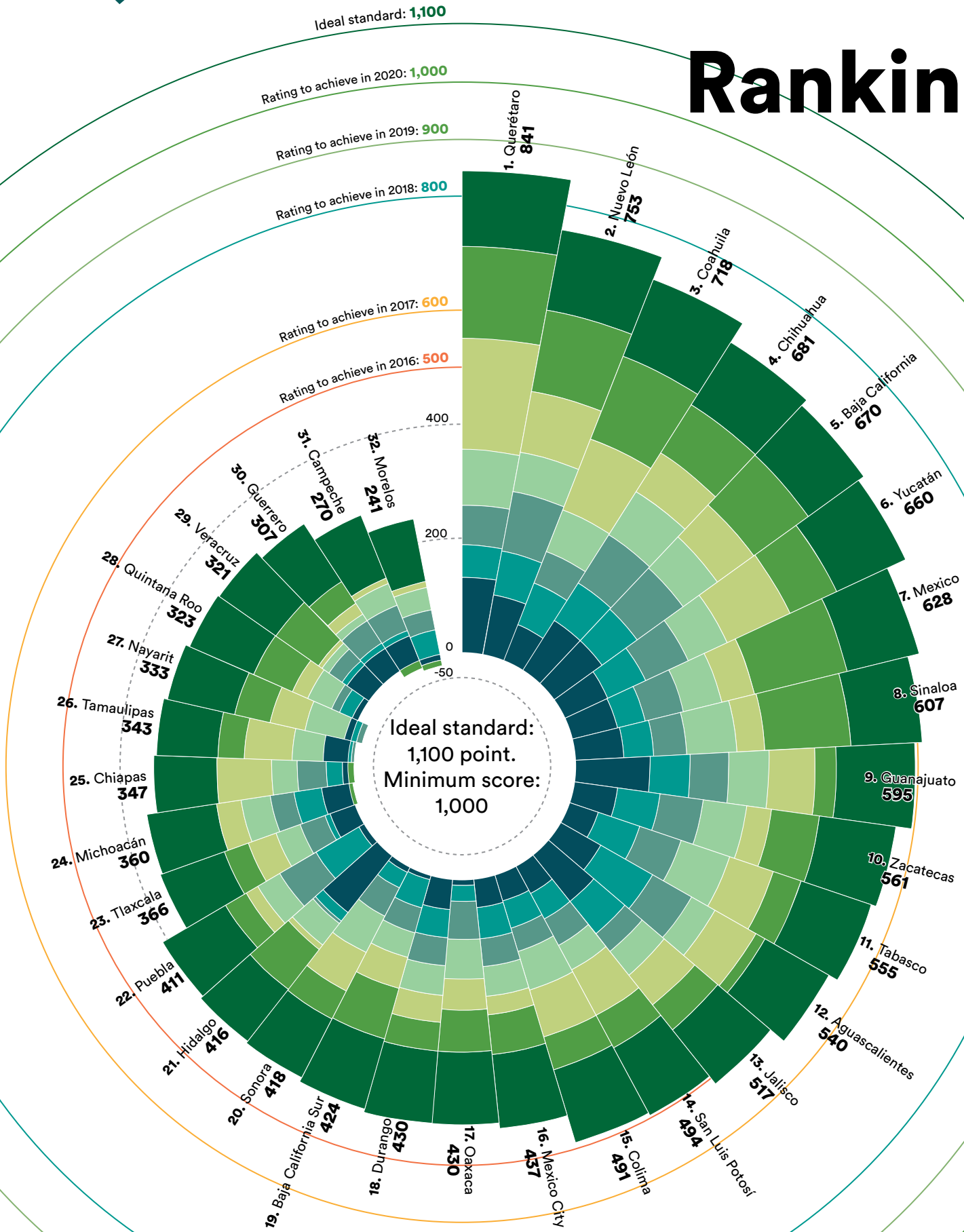
The national ranking of Criminal Justice System consolidation progress assesses the operation determinants analyzed in this chapter, which are composed of elements that organize and systematize the institutional actions that federative entities have conducted for the consolidation of the Criminal Justice System, based on their level of development and degree of formalization. **For this year's measurement, a minimum standard was set at reaching 1,000 points, the ideal standard being 1,100 points.**

In 2020 the gap increased between the states providing the best operation determinants, which reflects greater understanding of the systemic nature and public policies of criminal procedural justice, and the states that have yet to finish building the factors that facilitate the system's operation. In 2018, the difference between the state with the most points and the one with the fewest in the ranking was 296%, by 2020, the difference rose to 350%.

Due to a consolidation of its Cosmos model, Querétaro once again positions itself as a point of reference for building factors that facilitate the system's operation, even though the progress made by Nuevo Leon (23%) and Coahuila (25%) must be highlighted, in good proportion because of inter-institutional planning, and computer system building coordination efforts made that facilitate information flow.



Ranking



- **Item 1.** National technical coordination system
- **Item 2.** Institutional technical coordination system
- **Item 3.** Comprehensive, continuous and public planning process
- **Item 4.** Information recording, processing and reporting systems
- **Item 5.** Adequate projection and efficient use of financial resource
- **Item 6.** Publicity, transparency, accountability, citizen participation
- **Item 7.** Institutional symmetry

At the other side of the spectrum, we find Veracruz, Guerrero, Campeche, and Morelos. The latter two with considerable regressions in terms of the progress of the Justice systems consolidation, 17% and 19% respectively, mainly due to the lack of inter-institutional coordination, the weakening of the technical bodies of coordination, and the lack of planning schemes for defining objectives, goals, and strategies for the daily operation of the justice system.

2.9. Main conclusions

1 To identify the challenges that the criminal justice system is facing, it is crucial to define beforehand the results and goals that are pursued, along with medium-term objectives. Along the way, priorities are established and needs, and action strategies are identified.

It is necessary to insist that if this strategic planning exercise is not carried out and it becomes tied to the tactical and operational planning of each institution, and at the same time these plans serve as a roadmap for institutional and daily operation improvement, the system will not reach its consolidation, nor will the investment of resources have a real impact in the lives of citizens. That is to say that neither the CJS or the institutions it is composed of will fulfill their mandate, which is nothing more than to satisfy the demands of citizens for better Justice and impunity reduction.

2 Technical institutional coordination at the national and local levels is not a function that was lost with the implementation of the system, but rather one that must be maintained to support adequate operation, with the articulation of planning, strategic, tactical, and operational budgets, as well as the identification of institutional needs, their impact on the system, and the measures that can be implemented to address them. **For this reason, technical coordination bodies should be strengthened; yet what we observe is a concerning trend towards their weakening, and even their disappearance.**

3 We have been able to prove that these limitations to technical coordination have had a considerable impact on the allocation of budgetary resources. This fosters the asymmetry between the parties in terms of capacities. In this sense, **the budget made by the justice system support unit for the detection of needs is a first step towards technical coordination that seeks to improve the system's operation based on results.** It is necessary to strengthen this budget with planning efforts that might address specific needs, but the challenges and needs of the system must also be specifically identified in order to create optimization routes.

4 This is the path to achieving a resource a location able to reduce institutional asymmetries, strengthen all institutions as a whole, and therefore the system, and increase installed capacity all around. This is the only way to achieve a reduction of inequality between the parties.



CHAPTER

3

Enabling factors

Institutional capacities to guarantee access to justice

MAIN FINDINGS

- Significant regulatory changes have been made that are considered a regression** that affects the principles of the adversarial criminal system, as well as the pillars of its operation, such as the broadening of the scope of use of mandatory pretrial detention, increased public security militarization, and the entry into force of a new law for the Attorney General's Office with a clear inquisitive undertone.
- The creation of a professional career service within institutions is still an unimportant pending issue.** Even within the entities that have had greatest progress, there is limited scope since the service is limited to the personnel selection phase and onboarding. The institutions that are facing the greatest challenges are defenders' offices and victims' commissions in which professionalization efforts seem to be nonexistent.
- Institutional management models for process clarification and decision-making purposes, and to make operations more efficient, seem to be isolated within the organizational structure and from the personnel's field of specialization.** These models, especially in Attorney's Offices, must also be analyzed based on their results and their corresponding impunity measurements.
- The operation of priority policies in terms of criminal prosecution faces challenges regarding its conceptualization,** also caused by the limitations of statistical information which focuses more on offenses than on criminal phenomena. These priority policies seem to be segregated from criminal investigation models and their absence still impacts the institution's work overload.
- The installed capacity of public defender's offices and victims' commissions is without a doubt lower than that identified in Attorney's and Prosecutor's offices.** Therefore, we cannot talk about *Equality of Arms* in the procedural field. Equally, the lack of sufficiency and specialization of expert personnel can have a negative impact.



A solid and flexible institutional scaffolding is crucial for the criminal justice system (CJS) to operate optimally and with satisfactory results. This section seeks to provide an outlook of the installed capacity of the system and recognize persistent challenges and local formulas that are generating results.

According to the Criminal Justice System Operation Follow-Up and Evaluation Methodology, **enabling elements assess institutional capacities based on decision making at each level, which also interact in CJS operation to generate results.** The evaluation of the enabling aspect dimension is composed of indicators that ponder in all institutions the level of development of their staff, the existing infrastructure, use and appropriation of information Technologies, as well as flexibility and logic present in organizational structures and management models.

On this note, some indicators are used to locate entities and institutions with a comparison perspective, recognizing their strengths and limitations, and providing elements for analysis, innovation, and learning that can be replicated in other entities. Furthermore, based on the findings regarding installed capacity, in the results chapter we will seek to identify hypotheses on causal mechanisms with the purpose of better understanding the achieved results.

In this chapter, we will first analyze the main changes and adjustments made to the regulatory framework that governs the operation of the adversarial criminal system. Afterwards, we will analyze some of the elements that can be having an impact, positive or negative, on results, such as personnel sufficiency and professionalization conditions, two elements that can certainly condition Equality of Arms in the system. Finally, we will formulate some considerations to be had regarding criminal investigation.

3.1. Legal framework

As presented in past editions of *Hallazgos*, with the Constitutional Reform that gave way to the adversarial criminal system came a detonation of a process of regulatory harmonization that entailed the expedition and amendment of several laws throughout the country, in different fields and levels of government. **However, even when in 2016 the regulatory harmonization necessary for satisfactory operation was considered over, the truth is that the regulatory framework of the CJS is still being modified.** Many of the changes have been due to the limited results of its

operation, as well as the increased demands of citizens to reduce impunity and face criminal phenomena.

In this context, a narrative was promoted that associates these deficiencies with the “rules” of the system itself, as well as with the idea that procedural guarantees have imposed limitations on institutional operations, and that they have produced what is known as a “revolving door” effect (that, according to this, sets criminals free). This narrative, accepted by several decision-makers, political groups, legislators, and even social representatives suggest the need to modify the regulatory framework to grant “powers and faculties” to the institutions, which implies a reduction of procedural standards, the detriment of protection to rights and a narrowing of liberties.

Even though it is true that spaces of indetermination, improvement, and focalization in the regulatory field persist, **it is surprising that declarations, reform projects, and initiatives reveal intentions contrary to the purpose of the adversarial system: The reduction of institutional performance standards, the cancellation of counterweight mechanisms, and the detriment of guarantees and rights of people.** Hence, several initiatives and reform projects that have been made public require analysis, not only considering current results, but also based on how each of the proposed changes could alter the balance institutionally, and regarding the respect for procedural principles and rights.

It is equally necessary to advise that there is a need to rethink the nature and mission of the CJS as a managing body of conflict resolution, given that **not all conflicts require identical parameters (without differentiation) from the state, and not all of them warrant the cancellation of rights and liberties, or the imposition of prison sanctions.** This is one of the greatest challenges faced: specifically, how to depressurize the justice system’s income, but also establish priority and differentiation mechanisms so that agile and effective responses can be provided to criminal conflicts.

Thus, imprisonment would have to be reduced to its minimum expression, and stop being imposed on people being accused of minor nonviolent offenses without appropriate risk analysis. To this regard, **much can be achieved if imprisonment is no longer considered the only sanction possible** (and desirable), and once the justice system efficiently guarantees procedural rights and access to justice, for victims and defendants alike.



In 2020, the following legislative initiatives and reforms related to the CJS were identified:

Main legislative initiatives and reforms related to the criminal justice system

- Extension of the list of criminal offenses considered as serious offenses for which mandatory pretrial detention is applied.
- Announcement to keep the National Guard as a corps with public security functions, and to affiliate it to the Department of National Defense.
- Enactment of a new law for the Attorney General's Office.
- Reformation of the Judiciary.
- Introduction by a group of Governors of a reform package initiative with inquisitive undertone.
- Recognition regarding the application of femicide investigation protocol for all cases involving the violent death of a woman.

3.1.1. Pretrial detention

Regarding the broadening of the use of mandatory pretrial detention, it is necessary to remember that **presumption of innocence is and must remain a basic aspect that differentiates the adversarial system**, with the understanding that all persons are innocent until proven guilty. This principle is also a condition that favors criminal investigation, as it requires a standard of proof and the building of a sustainable case theory. However, even though it is a principle that would lead to understanding the use of pretrial detention as exceptional, the truth is that its use has been generalized and amplified in recent years.

As part of initiatives and discourses in favor of the extension, the need for pretrial detention has been asserted as the safest way to guarantee the presence of the persons accused in the process, preventing the obstruction of investigations, and protecting victims and witnesses¹⁴. Thus, on February 18th, 2021, the Senate approved the decision regarding secondary laws on mandatory pretrial detention, which became a reality in the reform to Article 19 of the Constitution that extended the list of criminal offenses for which mandatory pretrial detention was applicable. the extension includes offenses such as femicide, breaking and entering, the use of social programs for electoral purposes, sexual violence against minors, corruption, forced disappearance, cargo transport theft, and hydrocarbon theft. Basically, the

original reform project was approved, with the exception that at the end the application of mandated pretrial detention was dismissed for offenses committed with firearm replicas.

The approval of the reform represents a significant regression in terms of the oral adversarial system's consolidation, which, as we have said, privileges the principle of presumption of innocence and its application. It is considered more so as a measure that disincentivizes institutional performance. Furthermore, it is necessary to reflect on its implications in terms of the impact it might have on imprisoned people, because (as we will see in the results chapter), since the approval of this reform, there has been a significant increase in the number of people imprisoned during their trial process, meaning that they are awaiting sentencing.

In the face of these kinds of impacts, it becomes necessary to reflect on whether a proved regulatory measure approved and applied are contributing to the consolidation of the CJS, based on the principles and guarantees that are at its roots, or if on the contrary, **its approval could be driving the normalization of a mixed inquisitive system falsely named adversarial.**

3.1.2. National Guard

One of the issues that cannot be ignored in the regulatory and institutional analysis is the one regarding the creation, strengthening, and broadening of the role of the National Guard, mainly composed of Armed Forces officers, and the duties of which are incorporated into the field of public security, and therefore, of criminal Justice. **This tacitly supposed the granting of military functions with the greatest level of legal recognition known in recent history.**

We must remember that it was on the 26th of March 2019 that the Daily Gazette of the Federation published the "Decree for the reformation, addition, and repeal of several provisions of the Political Constitution of the United Mexican States in matters relating to the National Guard". It was established, according to the fifth transitory article, that the President of the Republic could make use of the Armed Forces in public security tasks during the five following years after its entry into force. This, while the National Guard builds its structure, capacities, and territorial deployment, meaning at least until 2024.

¹⁴ The analysis regarding the application of precautionary measures and the growth of prison population awaiting ruling will be analyzed afterwards in the Results chapter.



Afterwards, on the 11th of May 2020, the “Agreement on the permanent use of the Armed Forces to carry out public security tasks in an extraordinary, regulated, fiscalized, subordinate, and complementary manner” was published. This agreement regulated the participation of the Armed Forces in public security tasks, and established, in articles 2 and 9 of the Law of the National Guard some of its main duties:

- To prevent the commission of crimes and administrative offenses;
- To safeguard the integrity of people and their estate; to guarantee, maintain, and re-establish social order and peace;
- Upon arrest, inform the person of their rights;
- To make people and goods available to the competent authorities without delay in the cases in which, given their duties, an arrest or a seizure of goods is made, observing at all times compliance with the time frames set in applicable constitutional and legal provisions;
- To execute the arrest of a person or the seizure of a good related to criminal activity;
- To preserve the crime scene, the integrity of all evidence, fingerprints, and traces, as well as the instruments, objects, or products of the crime;
- To collaborate with other federal authorities in surveillance, verification, and inspection duties;
- To collaborate with local and municipal authorities in terms of the protection of the physical integrity of persons, and of the preservation of their goods, in situations of danger in which they are threatened by violence or imminent risk;
- To participate in joint operations with other federal, local, and municipal authorities.

Since its entry into force, the contents of the agreement have been strongly criticized. Firstly, because it is considered contrary to the constitutional reform that is its legal basis, as it does not define a plan for marine and military corps to go back to their headquarters. On this point, it is necessary to highlight that, based on

the agreement, the participation of the Armed Forces in public security tasks will have a duration of five years. However, neither the agreement nor any subsequent regulatory documents mention any kind of progressive plan for the retreat of the Armed Forces.

What generates the most doubt regarding the National Guard is not necessarily of a regulatory nature, but rather refers to the challenges in terms of its operation. Even though the law defines its civil nature, a military component within its operation is noted, reflected in its leadership and the origin of most of its members. The National Guard has broad powers that range from crime prevention and investigation, undercover and simulated user operations, surveillance, identification, website monitoring and tracing, and even georeferencing. Within this broad framework, **its interactions with other security and justice institutions must be evaluated, and its results must be analyzed as if coming from a new institution that is part of the system.**

Another issue of concern is **the absence of supervision mechanisms that will guarantee publicity, transparency, and accountability from an institution with broad powers and significant discretionary margins.** Disciplining bodies¹⁵ are considered: an internal affairs unit and the obligation of the Secretary of Public Security to submit a yearly report to the Senate¹⁶. However, these do not seem to be enough to guarantee an effective accountability scheme. Furthermore, the law does not set development and promotion procedures for National Guard officers, nor does it define criteria for the evaluation of its members. It only points out that the National Guard’s career Council will have the power to assume these responsibilities and establish norms to regulate the permanence, stimuli, promotions, and recognition of its personnel. It is also surprising to see an inconsistency: the professionalization of National Guard officers will be conducted, according to the plans, in police training, military and naval education institutions. It was suggested to have two years to conduct the new corporation’s members’ integrity tests.

Its broad deployment and operation of diverse duties are equally worthy of consideration. As soon as October 2020, the National Guard’s operational units became affiliated to the Army’s territorial heads. by that same date, according to information from the presidency, there

¹⁵ Superintendent Board, Superior Honor Council, Standard Honor Councils.

¹⁶ This report must include the number of events in which the Guard participated, listing those in which firearms were used, as well as the persons detained, seizures, and complaints regarding violations of human rights.



were 181,286 officers of the Armed Forces deployed in Mexico: 83,157 from the National Guard, 70,881 from the Department of National Defense, and 27,247 from the Department of the Navy, besides 33,449 officers deployed for "operation support", amounting to a total of 214,735 officers of the Armed Forces carrying out public security tasks in the country¹⁷.

With this progress of militarism, it is even more surprising that not only did we forgo altogether the creation of a civil path for public security tasks, but also, that the Federal Executive would ponder the intention of formally affiliating the National Guard to the Department of National Defense, as stated by the president on June 15th, 2021.

The overview that emerges is that of a military entity formally in charge of public security tasks, and of the role originally given to police corps in terms of crime investigation and prosecution. **This formalizes the National Guard's stance as an important stakeholder in the CJS, without its nature, training, accountability controls and mechanisms being planned to this effect**, which must also lead us to rethink the present evaluation in order to more precisely identify the impact of its participation, its interrelation with other stakeholders of the system, the possibility that it will follow article 21 of the Constitution recognizing the authority and leadership of the prosecutors, as well as the challenges that its duties entail in terms of the protection and guarantee of people's rights.

3.1.3. Law of the Attorney General's Office

Only a year and five months after the approval of the organic law that would give way to the creation of the current Attorney General's Office, and that it was the subject of broad consensus and parliamentary work with specialists, civil society, and victims groups, the regulatory instrument was repealed. In its place, on April 29th, 2021, a bill that represents a serious regression was passed. A law that takes the institution back to its point of origin: an Attorney's Office that operates as an Prosecutor's Office with its performance linked to that of the mixed inquisitive justice system and that implies forgoing any attempt at transformation.

Even when several human rights mechanisms from the United Nations, specialists, civil society organizations, and victims' groups publicly manifested their rejection of the new regulatory instrument and warned about its

Chart 1. Reading of the new law of the Attorney General's Office

Mandates of the working group on forced disappearances; from the special rapporteur on human rights Defenders; the special rapporteur on the independence of magistrates and lawyers; and the special rapporteur on migrants' human rights (January 21st, 2021)

Victims' rights - Effective Recourse

Rescindment of the following obligations of Prosecutors to:

- Create investigation plans in a coordinated fashion with the victims, their legal Representatives, and Civil Society organizations that advise them.
- Maintain the victims informed of the different investigation phases being carried out and guarantee their participation in the corresponding proceedings.
- Guarantee the victims' access to all records.

Revocation of the victims' rights to:

- Introduce independent expert opinions.
- Be protected and know who can protect them if their life is in danger.
- Have information provided by family members of disappeared persons safeguarded, which should be kept in the National Genetic Information Database.
- Have access to a translator or interpreter.
- Request the Attorney General's Office to exercise its power to assert jurisdiction over cases of local jurisdiction when serious violations of human rights have been committed.

National System for the Search of Disappeared Persons

Rescindment of the following powers of the Prosecutor's Office to:

- Investigate the disappearance of all persons, even when "a person whose membership to or collaboration with organized crime has been proven" in the event in question.

The Attorney General's Office is no longer part of the National Search System, which could:

- Affect compliance in terms of the State's obligation to guarantee an effective search of disappeared persons, including collaboration between authorities charged with the search and the criminal investigation.

The possibility of having collaboration mechanisms is canceled, such as:

- The creation of work panels and hosting of encounters with the participation of victims', civil society, and international organizations.

Rights of Migrant Persons

Rescindment of the obligation of the Attorney General's Office to:

- Advise the victim's regarding their rights, especially with regards to migration regularization and humanitarian visas, as well as with regards to the institutions that could grant them measures and care.

Striking of all mentions of the Exterior Support Mechanism, thus eliminating the responsibility to:

- Guarantee the right to truth, justice, and full compensation to victims abroad.

¹⁷ Pérez Correa, Catalina, "Fuerzas Armadas, Constitución y Democracia," *Revista Antimilitarista* 1, Colectivo Seguridad sin Guerra.



potential risks and regressions, the law was approved almost completely as it was initially introduced, with minimum adjustments that resulted from parliamentary negotiations. One must only observe Chart 1 which covers some of these aspects.

This way, the Attorney General's Office Law proposed the cancellation of current responsibilities related to the protection of Human Rights, omitted recognizing rights previously considered by law, especially pertaining to victims, and altered the contemplated control and counterweight scheme. As part of the main elements observed that were found to be red flags, the following was noted in conjunction with *Colectivo contra la Impunidad*¹⁸:

1. **Limited powers were granted to the Attorney General's Office to fully comply with its mandate.** The law omitted essential faculties of the Attorney General's Office that are considered the bases for exercising its function, such as to seek reparation for the victims and adopt protective measures. In the text it is possible to identify the undeniable reduction of the office's obligations with regards to victims, which portrays a regressive spirit in matters of Human Rights.
2. **An autocratic interpretation was inserted with respect to autonomy.** The concept of "autonomy" was repeatedly incorporated with the intent to reduce the scope of its obligations, its condition of equity, and the possibility of collaboration and coordination with other institutions at a national and international level. Autonomy was included in the law as an element of limited and restrictive nature with regards to coordination, which suggests a greater margin of isolation of the Attorney General's Office and possible discretionality in its operation.
3. **Restrictions in terms of institutional transparency and accountability were Incorporated.** Additional specific causes for classification and reservation of information were added to those originally considered by law. Furthermore, provisions were included to restrict access to information and accountability. For example, the Criminal Prosecution Plan was minimized under the Justice Procurement Plan, a situation that limits its review by the Senate, and it is no longer envisioned as a medium- or long-term policy. Equally, the Citizen Council had its faculties limited and became more of a consulting body than a decision-making authority.
4. **Going back to the institutional and organizational model of the PGR was proposed.** An organizational structure associated with the traditional operation of the PGR was proposed. A bureaucratic operation was promoted in which the allocation of resources is confirmed for each administrative unit, not according to the needs and priorities that would be established in the criminal prosecution plan. The creation of Specialized Offices for Jurisdictional Control, Regional Control, And Organized Crime Affairs is considered a significant regression, as they can only exacerbate any jurisdictional problems within the Attorney General's Office itself, causing further fragmentation of investigations and fostering rigid traditional operations.
5. **The conditions to achieve the technical independence of operators were affected.** The law establishes provisions that reinforce the Attorney General's Office's hierarchical authority, reaffirming its power and control over all of its officials, to the detriment of technical independence and the building of a civil career corps that would steer away from political situations and external influence.
6. **Discretionary appointments of special prosecutors were favored.** As a general rule, it is established that special prosecutors will be appointed under discretion of the head of the Attorney General's Office. Requirements for the appointment of special prosecutors based on merit, transparency, publicity, and citizen participation were eliminated. A special rule was also set to provide the Senate with an option to intervene only with regards to the appointments of anti-corruption and electoral crimes prosecutors, a rule that would not ensure the minimum necessary elements that should be observed in all appointments of special prosecutors. Furthermore, the obligation to justify and substantiate appointments was eliminated.

¹⁸ Analysis included in the report *De procuradurías a fiscalías: Observatorio de la Transición 2020*, México Evalúa, April 2021. Available at: <https://www.mexicoevalua.org/mexicoevalua/wp-content/uploads/2021/04/observatorio2020-finalok.pdf>



The lack of autonomy and professionalization of the institutions charged of crime investigation and prosecution can become a structural cause of impunity that obstructs integral, exhaustive, and timely investigation processes. As highlighted by the United Nations Special Rapporteur on the independence of judges and lawyers, **the lack of autonomy and independence of Attorney's Offices can erode the credibility of prosecutors' authority and undermine the public's trust in the justice system.** Furthermore, the FGR Law represents a significant regression in terms of the institutional strengthening of career services through the elimination of the Training and Professional Career service Center. This action withdraws the possibility for citizens to have professional and independent prosecutors trained in specialized institutes and brings back the old scheme in which prosecutors' careers and promotions depend on their merits in the eyes of their hierarchical superior, and not on their performance in terms of investigation and prosecution.

7. **Once again, an investigation scheme based on isolated cases was set up instead of transitioning toward a criminal phenomenon approach.** As a result of this refocus, the elimination of the Investigation Methods Coordination Office was proposed, which would allow for flexible operation associated to the needs and priorities established, and that supports staff management for the creation of investigation cells
8. **Rescindment of provisions and efforts established for the transition from a Prosecutor's to an Attorney's Office.** Another aspect that is considered a regression is the rescinding of the provisions that established a transition regime towards an Attorney's Office. Not all of the provisions from the previous organic law have been included, such as publishing the case list, the criteria for their handling, and the elements corresponding to the integration of the Database of Genetic Information for Identification Purposes.

Thus, the approval of the current law reveals and legitimizes the considerable inquisitive intent under which the Attorney's Office operates. At the same time, it shows why these are of absolute relevance for the public agenda in terms of issues related to criminal federalism and distribution of competencies, the strategy to address

criminal phenomena that are highly damaging to the population, the differentiated addressing of criminal action by types of crime, and the necessary controls to protect the human and procedural rights of the victim, witnesses, and defendant.

The need to redefine the justice procurement and administration institutions' competency framework must not be downplayed. The current design has resulted in obstruction and fragmentation of criminal investigation, a situation that can generate impunity. In the cases in which this is not an exclusive jurisdiction of the Federation, it is necessary to set the criteria for the FGR to exercise its power to assert jurisdiction, when these are not detailed in special laws. Even though the type of crime the prosecution of which falls under the jurisdiction of the Federation is limited in the Constitution and in federal regulations, for those cases in which jurisdiction is not exclusive, no clear criteria exist for asserting that jurisdiction. As such, there are spaces for discretionality and arbitrariness that cause a negative impact on institutions as it gives them inappropriate workloads and demands expeditious action¹⁹.

3.1.4. Judicial Branch Reform

On the 12th of February 2020, the president introduced a bill to the Senate with a set of reforms that impact the nature, structure, and faculties of the bodies that constitute the Federal Judiciary. This project is identical to the one proposed some time ago by the current Chief Justice of the Supreme Court of the Nation.

Although the reform to the Federal Judiciary implies a series of administrative and jurisdictional changes, it also supposes an impact on the adversarial criminal system that can be described following two lines:

1. It is possible to see that the legislative reform package was thought for and by officials, and not from a citizen-based perspective, considering that citizenship must be at the core of the system along with the respect of their rights.
2. Based on the logic of comprehension of the adversarial criminal system, even though amendments are proposed regarding the *amparo* recourse, an additional deep analysis must be conducted, since further necessary reforms could be to come to align with the systems' logic. Especially, given the implications that the *amparo*

¹⁹ De PGR a FGR: Lineamientos de la Transición, México Evalúa 2019, pp 32.



recourse has in terms of the adversarial systems principles regarding expeditiousness and orality, mainly. We must remember that when the Amparo Law (habeas corpus law) was drafted, there was no clarity regarding the criminal process itself, since the national code of criminal proceedings had not entered into force. **We therefore suggest that what follows is not only to consider the adjustment of the criminal process within an amparo trial, but also the other way around: to adjust the amparo recourse to the new criminal procedural system.**

3.1.5. Reform package introduced by a group of Governors²⁰

On July 27th, 2020, a public event was held with the participation of several governors among which those of Veracruz, Hidalgo, and Tlaxcala, led by Alejandro Murat from Oaxaca. The event had the purpose of presenting to the Political Coordination Group of the Senate a set of legislative proposals in favor, it was said, of criminal justice.

These initiatives sought to modify provisions of the National Code of Criminal Proceedings, among others, which would suppose a serious regression in the Development of the criminal justice system, which, it must be highlighted, must protect the rights of victims, and accused persons, respect the principle of procedural equality, and operate with controls, counterweights, and ambitious standards. In the diagnosis that motivates this initiative, the governors who presented it stated reasons derived from the acute insecurity and justice procurement issues that the country is facing, that mix truths with platitudes and falsehoods, such as the “revolving door” as an absolute symptom of the lack of efficacy of the system.

However, it is concerning that the proposed solution to these problems, based on amendments and disarticulated or fragmented additions to articles of the National Code of Criminal Proceedings, **opens the door to further indiscriminate imprisonment, the expansion of criminal populism²¹, and the violation of rights.** The following is a description of some of the most alarming elements:

1. Changes in the concept of presumption of innocence and precautionary measures:

- **Imposition of precautionary measures before indictment (article 140).** The reform establishes the judge's obligation to determine and impose precautionary measures during the ministerial detention period, in violation of presumption of innocence. We must remember that if precautionary measures are imposed before indictment it is because the defendant has exercised a right exclusive to the defense, it must not be an attribution of the general prosecutor and the judge.
- **Extension of flight risk considerations for the application of mandatory pretrial detention (article 167).** It is proposed to add to flight risk considerations the fact that the defendant would have a record of criminal or administrative proceedings due to willful misconduct. That implies a violation of the principle of innocence and a presumption of guilt, as well as stigmatization for those persons with a criminal record, and an encouragement of punitivism.

2. Granting of extraordinary powers to the court:

- **Reclassification conducted by the judge upon sentencing (article 402).** The reform establishes that if the prosecutor has pressed charges for a crime different to the one proven, it will be up to the judge to correct that mistake, turning that judge into a party to the proceedings, when he or she must only direct the hearing. It is a violation of the principle of congruence in the indictment made by the prosecutor.

3. Extension of the terms for the prosecutor to act:

- **Modification in the statement of the defendant (art. 377).** The Constitution as well as the national code of criminal proceedings established the right of the defendant to be silent. The reform proposal establishes that during the trial phase or any other phase of the process, if the defendant decides to make a statement, he or she will then have the obligation to respond to all questions made by the parties or the judge. This erodes the procedural rights of the defendant, is unconstitutional, and contrary to general forms.

4. Changes in the handling of the defendant in the criminal process that formalize quasi-flagrancy and are an affront to personal liberties:

- **Elimination of court summons (article 141).** To be accused of a crime and for some reason not complying with a subpoena from the Attorney's Office would be sufficient grounds to presume risk, caution, issue a warrant of arrest, and therefore, restrict personal freedom. The fabrication of elements to obtain warrants of arrest is therefore fostered all around, and security guarantees are overturned, such as through immediate presentation before a judge.
- **Modification of the concept of flagrancy (article 146).** The accusation of a single person would be enough to warrant an arrest for in flagrante delicto, which would imply the formalization of unconstitutional criteria that the Supreme Court of Justice has already addressed.

²⁰ At the time this report was drafted (July 2021), no record had been found of this reform package being introduced into the legislative system.

²¹ *Criminal populism* is understood as the response provided by executive and legislative authorities to the criminal phenomenon, inserting into social perception that the solution to that phenomenon is the use of a heavy hand on behalf of the State, with military agents charged with public security, the application of pretrial detention to imprison all persons without discrimination, and the encouragement of longer sentencing as a “precautionary” measure. However, evidence suggests that none of these measures address the phenomenon, nor do they reduce the number of victims. On the contrary, this fosters the fabrication of guilty parties, reduces the standards required of the authorities, increases impunity, and fails to contain the increase in crime rates. Thus, criminal or punitive populism links justice with prison, not with a rights-based approach, not with a preventive approach, and not with a restorative justice approach.



This package did not prosper, apparently because upon defending the arguments and facts stated by some of the drafters of the documents against the interpretation from other states of the rules of the National Code of Criminal Proceedings that was sought to be reformed, it became evident that the realities of the State of Oaxaca were not applicable to the rest of the country. For this reason, we emphasize on the fact that modifying national legislation entails a deep analysis of federalism in Mexico.

3.1.6. Application of femicide protocol for all violent deaths of women

On March 8th, 2021, the lower chamber approved a decree draft reforming and expanding articles 325 of the Federal Criminal Code and 131 of the National Code of Criminal Proceedings in matters related to femicide. Regarding the criminal code, gender-based considerations were added that had not been contemplated before in this field, such as priors or any kind of information regarding violence, the existence of any kind of blood relationship, affinity or a relationship that might highlight inequality or abuse of power, or the existence of direct or indirect threats, among others.

As for article 131 of the National Code of Criminal Proceedings, it establishes that during the investigation all acts entailing the kidnapping with violence of a woman, the prosecutor will have the obligation of determining whether any of the established gender-based considerations regarding femicide are met, as stated in article 325 of the Federal Criminal Code, and, if it is the case, whether it shall be applied. **Both are considered positive given that they reduce discrepancies regarding the circumstances of a criminal act that constitute a gender-based consideration, and at the same time, broaden the standards of criminal investigations.**

We must remember that since discussions started in Mexico, it was considered crucial to define in a clear and precise way the circumstances constituting violence against women, as established by the Committee on the Elimination of Discrimination Against Women (CEDAW) and the Belem do Pará Convention²², to prevent bias in prosecutor and judge investigations. Nevertheless, it must be mentioned that regarding this issue, there already existed two regulatory elements that had not been applied up until the drafting of this report. The

first, from 2015, refers to the Supreme Court resolution in terms of investigating all violent deaths of women as femicides; the second, from 2017, refers to an agreement of the National Public Security Council by means of which it is established that the new Attorney General's Office and all 32 State Prosecutors' and Attorneys' Offices would investigate all violent deaths of women within the framework of femicide protocols.

However, in 2020, only twenty-six entities had developed a femicide protocol. The states of Coahuila, Tamaulipas, and Durango started the process to develop a protocol, and Baja California, Sonora, and Nayarit did not have one.

3.2. Professionalization: training and professional career service

The adversarial criminal system has an advantage over the traditional one in terms of the victims and defendants being at the core of proceedings, by means of the recognition of their rights throughout the process. The aspects that still require improvement are related to deficiencies or bad practices observed in operators on a daily basis: practices that possibly already existed in the mixed inquisitive system, but that were replaced by the prosecutor public faith, the judicialization of cases of low social impact, and the impunity in high social impact cases in which spaces of arbitrariness and non-transparent decisions were observed.

Thus, the adversarial criminal system was designed and implemented over an already existing institutional network, with already existing institutional and dynamic relations and practices. Therefore, **a change that is only regulatory and procedural cannot alter institutional and personal inertia. The satisfactory operation of the criminal system depends, in large part, on the persons that intervene in the daily duties of Justice institutions.** The regulatory scaffolding of the justice system is not enough in and of itself to achieve objectives, because it is crucial for operators to be competent and skillful as needed to perform their duties.

Hence, professionalization of CJS operators, just like with any other public policy articulation, is crucial to institutional strengthening. Only with constant

²² For further information visit <https://www.ohchr.org/sp/hrbodies/cedaw/pages/cedawindex.aspx> and <https://www.oas.org/es/mesecvi/docs/folleto-belemdopara-es-web.pdf>

professional training and development of public officials will satisfactory results be generated for the justice system and continuous improvement will be made.

3.2.1. Sufficient and trained personnel

3.2.1.1. Local level

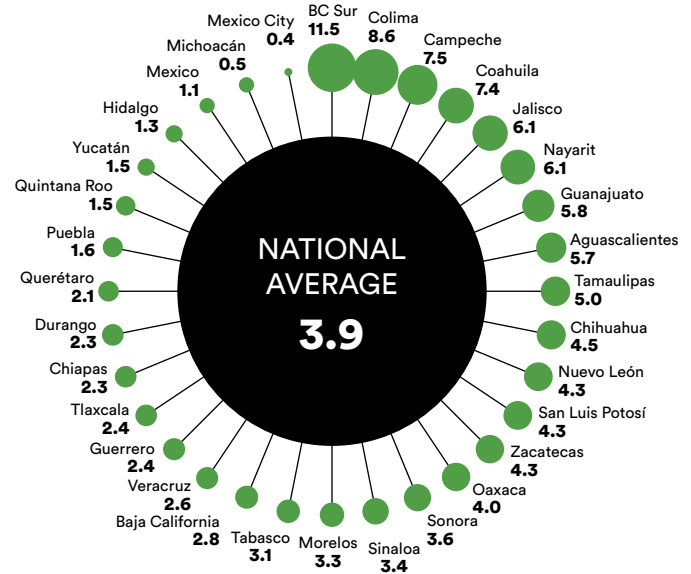
To guarantee access to Justice, personnel must not only be trained, but must also be sufficient in numbers to address the needs of the population. The number of prosecutors, judges, or advisors to victims on duty, has a significant impact on the quality of the system, especially in terms of the swiftness of justice procurement and administration. Even though a defined standard for the number of personnel members necessary for the system's operation does not exist, there are significant differences regarding the proportion of operators among federative entities.

For the 2020 edition of *Hallazgos*, we were sorted to the censuses of Inegi that provide a fuller picture of the national scenario²³. As seen in Graph 9, the rate²⁴ of prosecutor's agencies (PM) are heterogeneous at a national level. While there are some states like Baja California Sur, Campeche, and Coahuila with 11.5, 7.5, and 7.4 prosecutor's agencies for each 100,000 inhabitants, others like Mexico City, Michoacan, and the State of Mexico were identified as only having 0.4, 0.5, and 1.1 agencies for every 100,000 inhabitants.

As a result, the national average is 3.1 PM agencies for every 100,000 inhabitants. This indicator is representative of the need to create new models and mechanisms that will prioritize the services provided to victims of crime, in all corners of the country and for all types of populations, and that will guarantee equal access and seek to bridge existing gaps.

To this regard, it is surprising that while the entities with a lower level of access to justice through Prosecutorial Services' Offices remained constant in 2019 and 2020, in the case of entities with higher numbers of agencies, significant changes were observed. The case of Aguascalientes is particularly worth noticing, as in 2019 it reported an average of 10.32, and in 2020 it was reduced to 5.7.

Graph 9. Average of Prosecutor's Agencies for every 100,000 inhabitants, by federative entity



Source: National Census on State Justice Procurement 2020, Population projections from the National Population Council (Consejo Nacional de Población, CONAPO in Spanish).

If we consider that there needs to be a prosecutor in every office and that the regional average for Latin America is 7 prosecutors for every 100,000 inhabitants²⁵, **it is evident that the rate is well below what could be considered "sufficient"**.

The type of personnel with a higher average at a national level is the **investigation officer** at 14.8, followed by **prosecutors** and at 11 for each 100,000 inhabitants. **Public defenders** have a national average of 6.5 for every 100,000 inhabitants, an average that is quite different from the one reported in 2019 of only 2.2. Furthermore, forensic **experts** reached a national average of 9.7 and **judges** one of 4.5 for each 100,000 inhabitants, which represents an average slightly higher than the one reported for 2019 of 3.77 for every 100,000 inhabitants. The members of personnel with greatest limitations are **legal advisors**, the national average of which only reaches 1.3 for every 100,000 inhabitants.

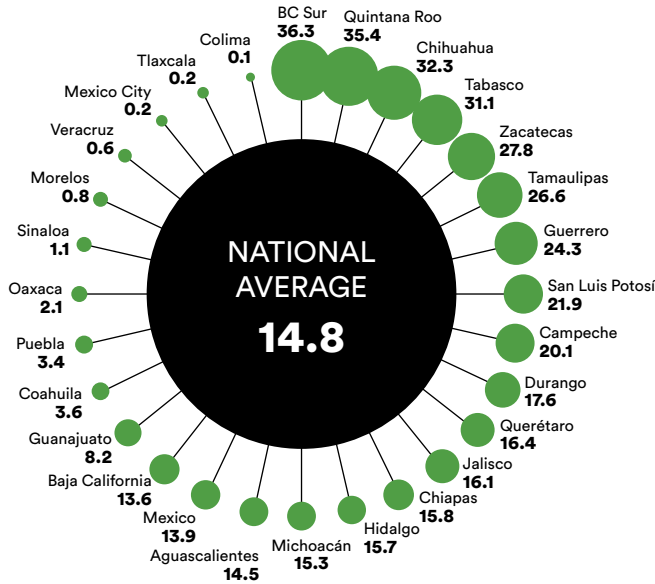
²³ As done in previous years, this year the information was requested directly from the institutions (refer to the first chapter of this report). However, this information had inconsistencies that did not make it useful for the drafting of full analyses and for the national arena. It was considered necessary to use Inegi as a source for comparability purposes.

²⁴ Number of operators for every 100,000 inhabitants.

²⁵ Extracted from: <http://publicaciones.caf.com/media/40777/reporte-economia-desarrollo-seguridad-control-delito.pdf>

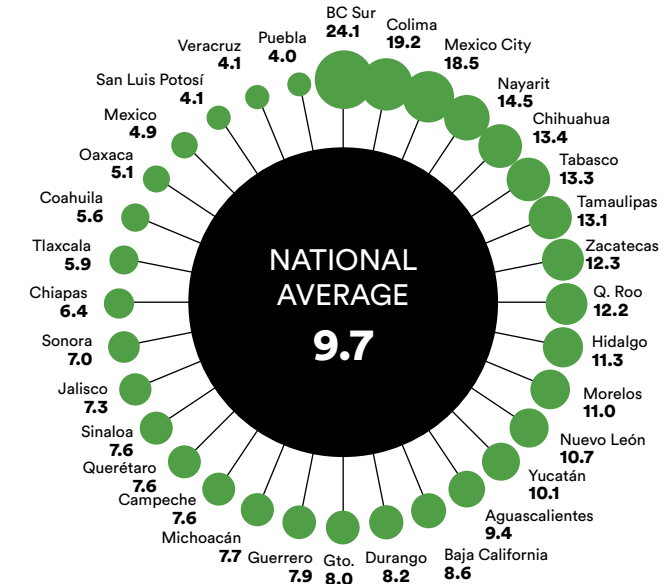


Graph 10. Average of prosecutors or investigators for every 100,000 inhabitants, by federative entity



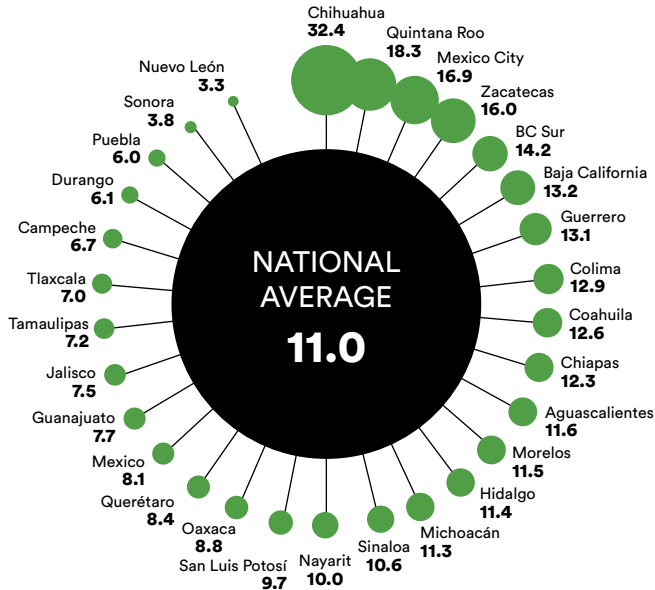
Source: National Census on State Justice Procurement 2020, Population projections from the National Population Council.

Graph 12. Average of forensic experts for every 100,000 inhabitants, by federative entity



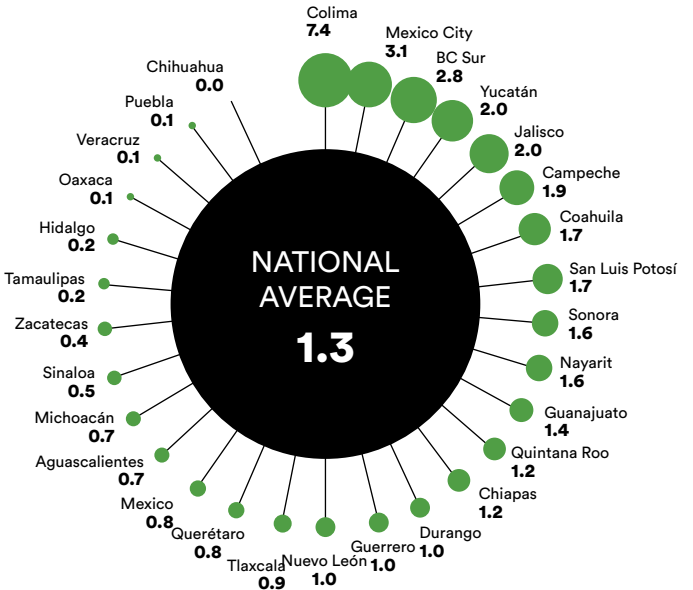
Source: National Census on State Justice Procurement 2020, Population projections from the National Population Council.

Graph 11. Average of prosecutors or agents for every 100,000 inhabitants, by federative entity



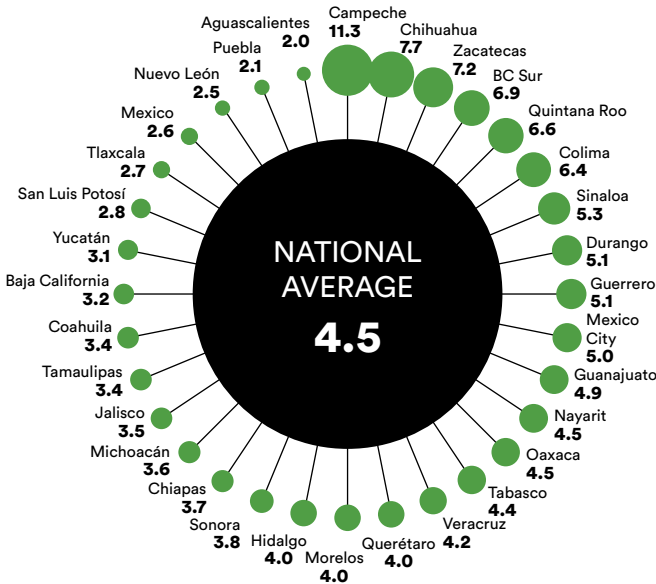
Source: National Census on State Justice Procurement 2020, Population projections from the National Population Council.

Graph 13. Average of legal advisors for every 100,000 inhabitants, by federative entity



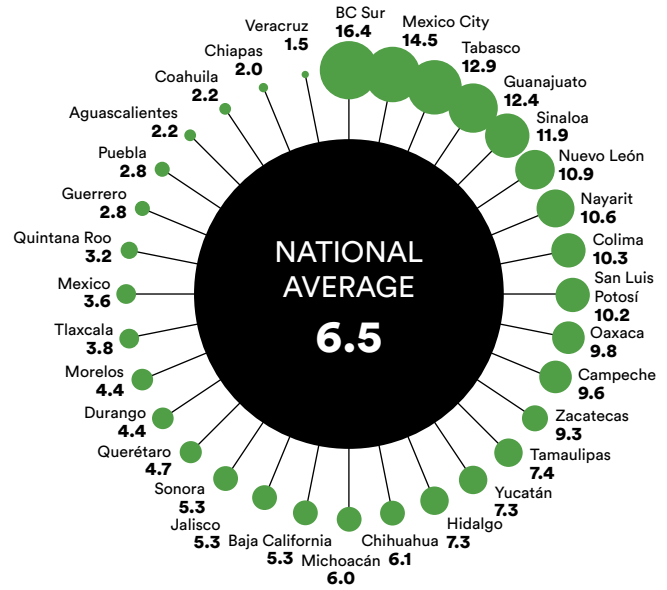
Source: National Census on State Justice Procurement, National Census on Government, Public Security, and the State Penitentiary System 2020. Population projections from the National Population Council.

Graph 14. Average number of judges for every 100,000 inhabitants, by federative entity



Source: National Census on State Justice Procurement 2020, Population projections from the National Population Council.

Graph 15. Average number of public defenders for every 100,000 inhabitants, by federative entity



Source: National Census on State Justice Procurement, National Census on Government, Public Security, and the State Penitentiary System 2020. Population projections from the National Population Council.

Table 7: Personnel from the criminal justice system compared to that of other countries in Latin America

Country	Rate of judges for every 100,000 inhabitants	Rate of prosecutors for every 100,000 inhabitants	Rate of public defenders for every 100,000 inhabitants
Mexico	4.5 (2020)	11 (2020)	6.5 (2020)
Colombia*	11.7 (2020)	9.7 (2020)	7.6 (2020)
Guatemala**	4.43 (2020)	4.5 (2020)	2.67 (2020)
Ecuador***	8.9 (2019)	5.06 (2019)	4.3 (2019)
Costa Rica****	26.4 (2016)	11.5 (2016)	10 (2016)

* Official public information accessed on July 21st 2021 at: <https://cej.org.co/indicadores-de-justicia/oferta-institucional/jueces-fiscales-y-defensores-publicos-por-cada-100-000-habitantes/>

** Official public information accessed on July 21st, 2021, at: <https://iccp.org.gt/indicadores/indicador-02/>

*** La justicia en Ecuador. ¿Cuenta la Función Judicial con suficientes recursos para cumplir con su labor?, 2020: https://observatoriojudicial.ec/storage/Informes/1589513020_10%20La%20Justicia%20en%20Ecuador%20-%20

**** Official public information accessed on July 21st 2021 at: <https://estadonacion.or.cr/wp-content/uploads/2019/06/Indicadores-Judiciales-1990-2016.xls>

Even though there is no standard in terms of installed capacity necessary for optimal work and function development of the CJS, and knowing that, to a great extent, this is determined by the management models created, it is necessary to broaden the scope and compare Mexico to other countries with similar characteristics.

Given this information it is possible to appreciate where the challenges that we must overcome are to have

sufficient personnel capacity to address the needs and demands of the Criminal Justice System. Especially the personnel focusing on investigation tasks pertaining to criminal acts and phenomena, and the personnel charged with representing and protecting the rights of victims and defendants to guarantee Equality of Arms, whether for their defense or accusation.

Regardless of what the national average shows, when observing the different rates of personnel by type and



by federative entity there is heterogeneous capacity throughout the country. Let us analyze this by type of personnel.

In the case of prosecutor police or investigation personnel, according to the information provided entities to Inegi, entities such as Baja California Sur, Quintana Roo and Chihuahua, have rates of 36.3, 35.4 and 32.3 for every 100,000 inhabitants respectively, and, contrarily, Colima, Tlaxcala, Mexico City, Morelos, and Veracruz, do not reach a rate of one.

Significant contrasts have also been identified between prosecutors, which leads us to reflect about the criminal investigation and prosecution model that is being implemented. Chihuahua (32.4), Quintana Roo (18.3), Mexico City (16.9) and Zacatecas (16) are well above the national average, while Nuevo Leon (3.3) and Sonora (3.8) have the lowest personnel rates. This will be further analyzed in the results chapter in which we will be able to see the impact of personnel sufficiency in terms of workload and even the possible lack of incentives to initiate investigations about the facts that they know.

With regards to expert personnel, it has been repeatedly said that this is one of the most weakened types, not only in terms of capacities, but also sufficiency to address investigation needs required by the adversarial criminal system. As the data shows, this type of personnel is insufficient given that the national average only reaches 9.7 for each 100,000 inhabitants. The states that have the highest rates are Baja California Sur, Colima, and Mexico City with 24.1, 19.2, and 18.5, respectively. Even though we must insist that there is no set standard in terms of an adequate number to efficiently and qualitatively address needs, it is alarming that in several federative entities there is an urgency for the strengthening of this kind of personnel, which is key to the development of rigorous investigations. We must remember that expert personnel are the one that can provide investigations with technical and scientific elements to support the prosecution, as well as to strengthen the defense strategy.

The actions of the legal advisor in the criminal process are based on the phase the case is at, as well as how it is progressing. Even though it is possible to state that the victim's advisor and the prosecutor will always have diverse stances, the fact of the matter is that the interests of the victim and the safeguard of their rights must be prioritized at all times. The function of the victim's advisor is key in cases in which the victim decides to contribute to the investigation,

and differences in the classification of offenses can be observed, as well as difficulties in reporting, inconsistencies and arbitrariness in elements of evidence, absence of investigation lines or acts, and/or differences regarding requested precautionary measures, and even differences regarding ministerial determinations, just to give a few examples. For this reason, it is crucial to have sufficient victims' advisors able to respond to the growing rate of victimization in the country. The rate of legal advisors varied from 0.5 in 2019 to 1.3 in 2020, which still represents a level that is all but insufficient. Basically, in most of the entities, the rate does not even reach one. It is surprising to see Colima, with a rate of 7.4, followed by Mexico City, Baja California Sur, Jalisco, and Yucatan with rates of 3.1, 2.8, and 2 for the last two entities. It is also surprising to see Baja California, Morelos, and Tabasco did not report any legal advisor whatsoever.

As for judges, a national average of 4.5 for every 100,000 inhabitants in 2020 was observed, while prior records set the average at 3.77 for every 100,000 inhabitants. In other words, a slight increase compared to the year before. Campeche, Zacatecas, Baja California Sur, and Quintana Roo stand out with rates above the national average of 11.3, 7.2, 6.9, and 6.6 for every 100,000 inhabitants. The entities with the lowest numbers of judges for every 100,000 inhabitants are Aguascalientes, Puebla, the State of Mexico, and Tlaxcala with 2, 2.1, 2.6, and 2.7, respectively.

If the number of judges is compared to the regional average, we can see a significant lag, since the rate in Latin America is at 10 for every 100,000 inhabitants, while the national average is at 4.5. This indicates that no considerable progress has been made to reverse personnel insufficiency, which has negative repercussions in terms of access to justice. These figures must be analyzed while considering the number of indicted cases; such relations can be observed in the Results Chapter in which the entities that require further strengthening of personnel are pointed out. Also, as part of *Hallazgos 2020*, in the results section, the proportions of judges can be consulted based on sex. For the rest of operators, there is either no disaggregated information by sex, or inconsistencies were found in reported information.

Finally, it is necessary to mention that equality of arms essentially refers to the parties having the same rights and identical expectations, possibilities, and procedural loads. Three procedural parties can exist: the victim and the defendant, the main relation in a criminal proceeding, and the State, as a representative of society.



In this sense, the procedural parties that intervene in the proceedings shall receive the same treatment and be provided with the same opportunities to sustain the prosecution and the defense. As noted, the balance between the parties is of the utmost importance: equality of conditions and arms must be present, so that neither party remains defenseless. For these reasons, it is important to strengthen the personality of the victim's advisors, as well as that of defenders and forensic experts, to guarantee that said conditions of equality can be provided.

3.2.1.2. Federal Level

In the last few years, efforts towards the strengthening of the Criminal Justice System have focused on Prosecutors/Attorney Generals' Offices: to strengthen their management models, brace their investigation capacity, develop different organizational models, and build a new regulatory framework that would be pertinent in its role within the adversarial system. Basically, to provide them with the necessary tools to achieve effective prosecution with an absolute respect of the rights of the parties.

Nevertheless, it is also relevant to have the necessary capacity to guarantee effective equality of arms. The constitutional text establishes the definition of the criminal proceeding as an adversarial process, which entails that there is one party accusing and another defending. This implies that the defense, as well as the person providing legal counsel, must have knowledge of all records in the case files and be present in all acts of the process. The burden of proof to demonstrate guilt is on the accusing party, according to criminal categorization.

These principles established in the Constitution are set in motion in the National Code of Criminal Proceedings, which establishes in its different articles the principle of equality before the law, which ratifies that all persons intervening in a criminal proceeding shall be treated equally and have the same opportunities to sustain an indictment or a defense. Equality of arms refers to a condition necessary for elevation of the probability of due process, meaning a just trial that will guarantee respect to the dignity of the victims and prosecuted persons.

Public Defender's Office

In 2020, the federal Public Defender's Office had 857 defenders, a level that was maintained since 2019 when it had 827.

Year	Defenders
2017	558
2018	671
2019	827
2020	857

Defenders operated in the 41 Centers of Federal Justice around the country. Their work entails the creation of teams composed of one administrative officer and one legal officer per defender, and who compiled pertinent data or evidence, and supported in hearings, interviews, the obtention of videos from surveillance cameras, information, among others.

In order to perform their duties, they also have the support of the experts of the forensics departments. The federal Defender's Office Institute has twenty-nine liaison technicians that provide expert services in the following fields:

- Two specialists in forensic science
- One specialist in forensic science
- One specialist in forensic science with a forensic psychology approach specializing in children
- Three specialists in forensic psychology
- One specialist in forensic psychology with gender-based perspective
- One specialist in psychology and criminology
- Three specialists in legal medicine
- One specialist in forensic chemistry and toxicology, and environmental crimes
- One specialist in forensic chemistry and appraisals, and fires and explosives
- One specialist in criminalistics and forensic ballistics
- One specialist in criminalistics, forensic appraisals, and dactyloscopy
- One specialist in criminalistics and forensic photography
- One specialist in criminalistics, graphoscopy, appraisals, and land transit
- One specialist in graphoscopy, documentoscopy, dactyloscopy, and forensic photography
- One specialist in forensic photography
- One specialist in ethnology
- One specialist in computer sciences and programming
- One specialist in forensic acoustics and phonetics
- One specialist in accounting
- One specialist in civil engineering and architecture specializing in hydraulics, geotechnics, and topography
- One specialist in physical anthropology
- One specialist in social anthropology with experience in crimes against women for gender-based reasons
- One specialist in biology and genetics



We have identified the following gender representation within personnel:

Type of personnel	Men	%	Women	%	Total
Superior ranks	5	50%	5	50%	10
Medium ranks	829	63%	495	37%	1,324
Operational staff	602	39%	929	61%	1,531
Total	1,436	50%	1,429	50%	2,865

In summary: the Public Defender's office is mainly charged with guaranteeing equality of arms through effective criminal defense. Under this light, **it plays a democratic counterweight role with regards to the power of the State to exercise criminal prosecution by means of Prosecutors or Attorney General's Offices.** The fact that efforts have been focused on the accusing side implies that the strengthening of the defense side has been cast aside, though it is facing significant limitations of resources and capacities that put effective criminal defense at risk.

Within the framework of the federal Defender's Office, it is considered a best practice for people with investigation and expert support duties to assist, as they are called to aid in the development of an effective criminal defense. The personnel of the Defender's Office, however, does not only address criminal matters, which is why the real capacity to provide services to criminally prosecuted people at a national level must be further reviewed. With the information at hand, it is possible to know that, on average, each defender represents 50 persons at a time, whether accused or prosecuted.

Executive Victims' Commission

The transformation towards a criminal justice system based on due process meant that conflicts would stop being matters that only involved the State, as a representative of society, and the person accused, towards the recognition of the victims also as procedural subjects and subjects of rights. This notion results in the victims no longer being subjected to the interests and decisions of the prosecutor. On the other hand, equality of arms emerges as a principle that ensures that the parties will have the same rights, possibilities, and procedural loads to sustain an indictment or a defense.

Based on the same notion of the adversarial system, the prosecutor's monopoly on representation was modified so that the victims could have autonomous access to justice. For this, maintaining a balance is of the utmost importance so that neither party is left defenseless. Legal advisors are to ensure

that the parties will be represented and that the process will be surveilled in order to maintain legality, from the investigation through to the conclusion. The advisor's actions are based on the phase of the process, as well as its progress; And, though it is not possible to state that advisors will always have a different stance from that of the prosecutor, the truth is that they must at all times safeguard the interests of the victims, as well as their rights, while the prosecutor will be charged with deciding on the kind of criminal prosecution action to be taken.

We were informed that the Executive Victims' Commission, of a federal nature, had a total of 102 people working as legal advisors during 2020, 35 of whom were working in central headquarters and 67 in Centers of Integral Care.

Personnel at Central headquarters is divided into the following areas of specialization, according to their field of expertise:

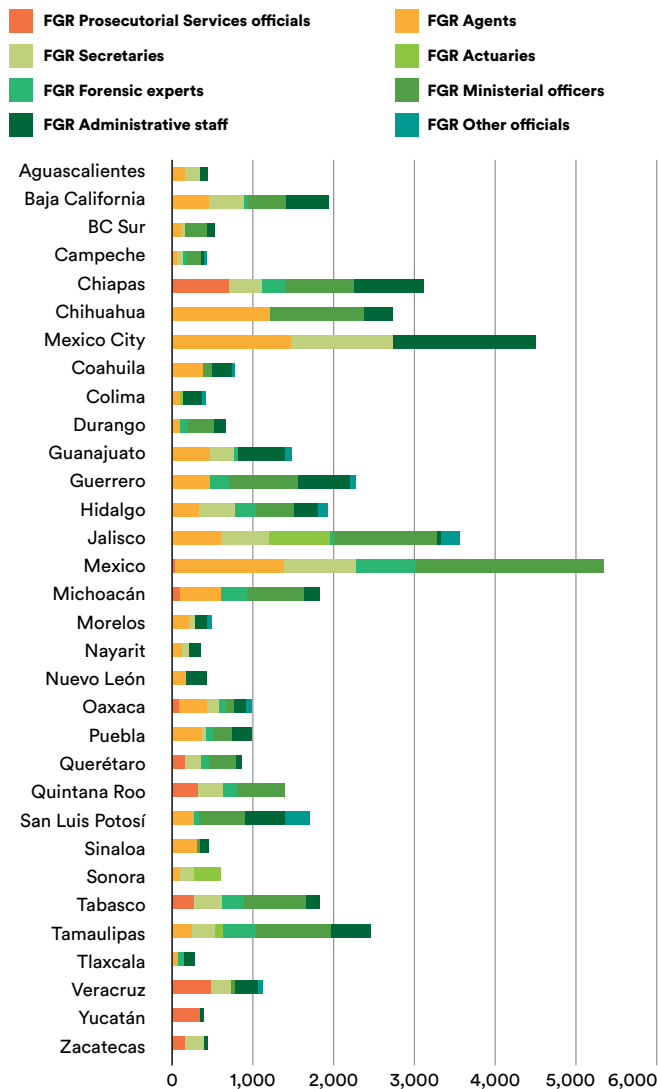
- Kidnapping
- Disappearance and forced disappearance
- Gender-based violence and human trafficking
- Journalists and Defenders of Human Rights
- Torture, extrajudicial executions, and imprisonment conditions
- Miscellaneous crimes

Even though, once again, there is no set standard in terms of the adequate proportion of personnel, the truth is that one of the elements to be considered to define a minimum necessary would be the existing capacity to cover victims' cases and ensure adequate legal representation. In any case, it is difficult to imagine personnel sufficiency at the federal level, with an average of 166 cases per advisor.

Attorney General's Office

We have insisted on the need to have a model that would allow for flexibility in the structure of the Attorney General's Office and to take advantage of personnel in order to deploy it where needed. Considering it is a federal institution, **its deployment must be based on a policy of priority and territorial operation, rather than a standard population rate in the country.** If we observe Graph 16, we can identify the entities with the most officials from the Attorney's Office. We must note the cases of the State of Mexico, Mexico City, Jalisco, and Chiapas that show greater density. In other entities there is no representation in comparative terms, such as in Tlaxcala, Nayarit, and Yucatán.

Graph 16. Attorney General's Office officials, according to type of personnel and federative entity



Source: National Census on Federal Justice Procurement 2020, Inegi.

The operation of the Attorney's Office must follow the principle of flexibility; this means that it should be able to respond effectively and promptly to the crime phenomenon. Therefore, among other things, it must have special units that focus on prosecuting crimes based on their specificities. For this to happen, strategic planning and direction, the defining of institutional policies, criteria for operation and prioritization, as well as follow-up and evaluation must be inserted

in a centralized way so that substantial operation for prosecution and criminal investigation can take place locally or regionally, addressing the context and particular elements of said criminal phenomenon.

Based on this information, it is not possible to note a specific strategy in investigative terms and/or regarding the volume processed by the Attorney General's Office. In other words, one cannot observe a deployment associated in a rational way to a triad of investigation, initially composed by public prosecutors and/or investigators, and forensic experts. For example, in Chihuahua, while there is a high-level number of prosecutors (1169) and of Investigation officers (1166 close parentheses, only two forensic experts are reported. On the other hand, in entities with the presence of high-impact criminal phenomena and of federal jurisdiction, no logic is observed either in terms of personnel sufficiency. Guanajuato is a good example as it has 454 public prosecutors, but only 14 forensic experts and no investigation officers.

Specialization of personnel is another requirement that must be complied with if the Attorney General's Office is to operate adequately. This specialization is based on the development of specific knowledge and skills, not dependent upon a rigid and determined bureaucratic position, without flexible structures capable of responding to the criminal prosecution plan. This allows for specialized staff Mobility to be integrated into different teams of Investigation, according to needs or priorities. This way, teams are capable of adapting, diversifying, and specializing in different fields based on the complexity, context, social impact, and crime rate.

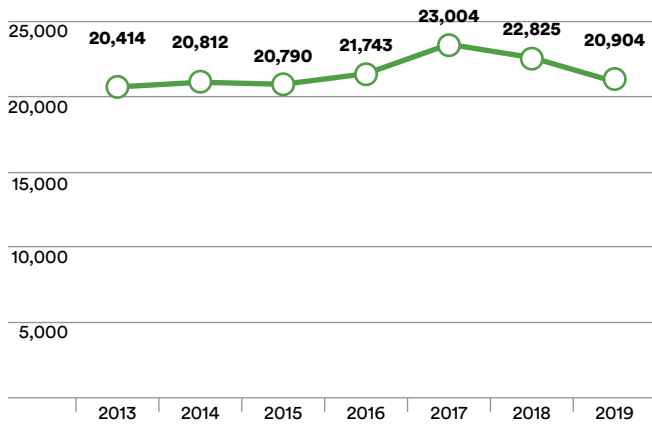
Just like with flexibility of operation, we observe that the Attorney General's Office still operates under specialization schemes from the old Attorney General's Office, this is to say, based on rigid bureaucratic structures. A result from this form of organization is that the jurisdictions of the different structures overlap and there tends to be conflicts of jurisdiction to the detriment of victims. Along the same line, the atomization of investigations is fostered, and partial attention is given to specific criminal phenomena.

Regarding Personnel sufficiency, in the report on Progress in the transition from PGR to FGR²⁶, it is reported that, for the 2020 fiscal year, an occupational structure with 26, 161 permanent positions and 92 temporary positions

²⁶ Attorney General's Office. *Avances en la transición de la PGR a la FGR*. October 2020. Available at https://www.gob.mx/cms/uploads/attachment/file/590711/Informe_FGR-UT-02-2020.pdf accessed on November 8th, 2020.



Graph 17. Attorney General’s Office personnel, from 2013 to 2019

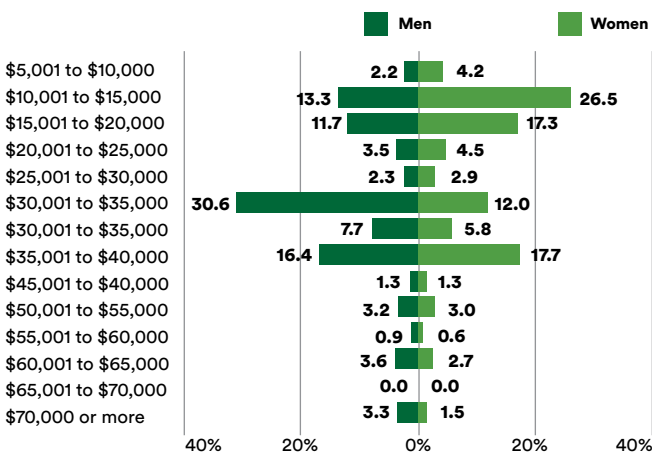


Source: National Census on Federal Justice Procurement 2020, Inegi.

had been approved. Furthermore, between 2018 and 2019, a drop of 8% in the prosecutor’s office personnel occurred, going from 22,825 to 20,904, as shown in Graph 17. In this light, the approval of the occupational structure with 26,161 officials reported by the Attorney General’s Office for 2020 would represent an increase of 25% compared to 2019.

It is worth mentioning that updated institutional information for the year 2020 was not provided due to the barriers in terms of access to information imposed by the Attorney General’s Office through transparency mechanisms. Nevertheless, the data from the National

Graph 18. Percentage of distribution of Attorney General’s Office personnel by sex and income



Census on Federal Justice Procurement of Inegi for 2019 was useful. Out of the 20,904 people working at the Attorney General’s Office , 57.2% were men and 42.8% were women. In terms of the type of hiring, 90.4% was appointed personnel. On the other hand, 30.6% of male staff received wages between 30,000 up to 35,000 Mexican pesos, 26.5% of staff was female with an income of between 10,000 and 15,000 Mexican pesos. Furthermore, 48.3% of men and 53.0% of women had a bachelor’s degree. Graph 18 shows this information in detail.

Federal Forensic Services

Legal expert services are a necessity of the Criminal Justice System: they provide the technical elements for investigations based on which prosecutions and defenses are built, going from ranging from forensic medicine to dactyloscopy, genetics, or accounting. addressing Justice demand and reducing impunity inevitably go through the decision to make strong investments in these areas with the purpose of strengthening their capacity and providing them with the instruments necessary for the processing of evidence, the generation of evidence information, and their presentation to a judge.

These services cannot be provided to only one of the parties (the Attorney’s Offices). Based on due process, they must respond to the requests of all three parties: prosecutors, defenders, and victims’ advisors. As solid legal expert services become more frequent, providing trust and certainty to users regarding the autonomy of their work, the fabrication of proof will be prevented, and the creation of intelligence data will be sought to generate science-based investigations.

At the federal level, for 2020, 1,583 people were working as legal expert service providers, based on the following distribution according to field of expertise:

By field of expertise	
Voice analysis	18
Anthropology	26
Audio and video	32
Fiscal matters	7
Ballistics	102
Accounting	93
Criminalistics	149
Dactyloscopy	115
Environmental crimes	40
Questioned documentation	90
Photography	128
Genetics	43
Fire and explosives	10
Computer science	55

By field of expertise	
Mechanical engineering	12
Engineering and architecture	51
Medicine	109
Odontology	11
Polygraphy	1
Intellectual property	56
Psychology	105
Chemistry	161
Police sketches	14
Translation	24
Land transit	65
Appraisals	58
Ministerial Federal Police	8

They are composed of 730 women and 853 men. the following averages in terms of legal expert services according to area of expertise have been identified:

Area of expertise	Experts	Requests	Average
Forensic anthropology	25	1,522	61
Fiscal affairs	43	3,076	72
Audio and video	32	1,584	50
Forensic ballistics	102	19,434	191
Accounting	71	7,061	99
Field criminalistics	143	17,577	123
Environmental crimes	38	1,924	51
Questioned documents	87	7,068	81
Diverse areas of expertise	36	36	1
Forensic photography	131	42,468	324
Forensic genetics	42	2,493	59
Voice identification	18	476	26
Physionomic identification	14	880	63
Fire and explosives	10	261	26
Computer science	56	6,226	111
Mechanical and electric engineering	12	4,021	335
Engineering and architecture	53	6,819	129
Forensic lophoscopy	107	23,517	220
Forensic medicine	125	40,207	322
Forensic odontology	10	706	71
Forensic polygraphy	1	18	18
Intellectual property	53	2,468	47
Forensic psychology	104	8,112	78
Forensic Chemistry	155	20,506	132
Translation	22	2,227	101
Land transit	64	17,540	274
Appraisals	58	19,730	340
Total	1,612	257,957	-

This leads us to conclude that certain fields of expertise are in high demand in terms of the services, and it is therefore necessary to strengthen the institution with specialized personnel. Legal experts are specialists by excellence. They are responsible for conducting the legal tests that will take place during trials or in prior phases.

In the inquisitive system, legal experts work as auxiliaries to the prosecutor, addressing the requested diligence and reflecting the results in written reports that are afterwards added to the case files. **In the adversarial model however, legal experts are autonomous stakeholders that conduct detailed analyses of each element of proof.** Their work begins with a request on behalf of the victim or the defendant, not necessarily a prosecutor, and their findings are provided orally during hearings rather than archived on paper.

This change has two main implications. The first, is that legal experts no longer respond, in a vertical logic, to the PM or the prosecutor, who could set an agenda or

leak evidence as they saw fit. Now, as they exercise their autonomy, they can even play a role of counterweight in the so-called triad of investigation: prosecutors, investigators, and legal experts. This must translate into objective and technical investigations, shielded from external influence. The second implication consists in the work being open to scrutiny during hearings. Indeed, they can be evaluated by the judge or by the other parties of a trial, thus guaranteeing procedural equality for victims and defendants, as well as accountability for their work.

National Guard

As stated in the last section, on May 11th, 2020, the "Agreement by means of which the Armed Forces are permanently made available to carry out public security tasks in an extraordinary, regulated, fiscalized, subordinated, and complementary manner" was published. This agreement regulated the participation of the Armed Forces in public security tasks and defined some of its duties.

Nowadays, this militarized corps has substituted the (now disintegrated) Federal Police in tasks pertaining to public security and its participation in the CJS. By October 2020, operation units of the National Guard were affiliated to territorial chapters of the Army and, according to information from the President's Office, there were 181,286 officers of the Armed Forces deployed in Mexico: 83,157 officers of the National Guard, 70,881 officers from the Department of National Defense, and 27,247 from the Department of the Navy, along with 33,449 officers more deployed for "operation support". This adds to a total of 214,735 officers of the Armed Forces conducting public security tasks throughout the country.

This is a clear reflection of the militarized strategy for public security proposed by the current federal Administration in which we will go from having 266 quarters to 500, with a budget increased by fifty billion Mexican pesos. The Armed Forces will become the body with the greatest budgetary support, installed capacity, and empowerment in terms of their duties in the framework of the Criminal Justice System.

This corps and its operation have caused concerns, in terms of the exercise of their duties, as well the protection of Human Rights. It must be stated that the Armed Forces and all groups of a military nature are the ones with the greatest highest rates of serious violations of human rights, and with a higher fatality index in their operations. Even though it is sought to associate the National Guard with an open civil entity, the truth is that its nature, training, leads, and coordination are military.



At México Evalúa, we have equally highlighted the concerns generated by their territorial deployment, since only 11% of municipalities in the country have a permanent presence of the National Guard. The deployment of this security corps, the main executor of the federal government's strategy to address the crisis of violence, generates doubt because it does not meet location criteria, areas with greater presence of criminal groups or concentration of fatal violence, or criteria that seek to reinforce the weakness of local institutions²⁷.

Nowadays, the National Guard represents the wager to guarantee public security in the country and this has not been accompanied by the establishment of controls, supervision mechanisms, effective training, and above all, of a roadmap for the strengthening of civil police in the country, and the exit and temporality of the National Guard.

3.2.2. Civil Service

Besides having enough personnel to address users, operators of the CJS must provide their public officials with **conditions of job security and professional development possibilities**. Furthermore, they must have the liberty to perform their duties in observance of the law and without external influence, for which they require the certainty that there is a clear process of selection, with defined criteria to guarantee that they will not be sanctioned or removed from office in an arbitrary manner, or without there being a specific process followed.

This is only possible if each and every one of the CJS institutions has a Civil Service (CS), named so for Prosecutors' and Attorney's General Offices, public defender's offices, and victims commissions. In the case of the Judiciary, it is called Judicial Career (JC). Its importance goes beyond being only contemplated in the law: it aims at specifically regulating the recruitment, selection, onboarding, certification, promotion, sanction, and leave of its members. Furthermore, it must Define mechanisms for professionalization (based on continuous training) and for performance evaluation and follow-up.

The professionalization of operators is a crucial requirement for the consolidation of the CJS at a local level. We have insisted on the need to develop a Professional Career Service in all institutions part of the justice system, defining rules and procedures

contemplated in the organic laws, guidelines, or internal regulations of these institutions. Even to guarantee their implementation, there will have to be institutions and bodies charged with conducting those processes within the institutions themselves, with specific responsibilities and duties.

To believe that the establishment of a functional and effective criminal institution can dispense from a CS is equal to believing that an institutional transformation is conducted spontaneously, by decree, and without the intervention of the people integrating the executing arms of that change. All public policies are articulated through the agents of the State that implement it, so that the success of its setup depends on the capacity and competencies of those individuals, their professionalization, their capacity to focus on results and goals, as well as their permanence in those institutions, regardless of political comings and goings. **This way, their experience is systematized, and conditions are generated to favor innovation.**

It is important to reiterate that the professional career service is composed of different phases; However, given its level of importance and information accessibility, we decided to analyze the aspects relating particularly to onboarding, training, performance evaluation, and termination, as follows:

- **Onboarding:** it regulates candidate selection and recruitment processes, as well as the requirements for aspiring members to be incorporated into the institution.
- **Training:** it establishes the professionalization models that will allow them to acquire basic knowledge regarding the institution they are working in, the field of expertise, updating, and formal education in the position held.
- **Performance evaluation:** its purpose is to establish the performance and productivity measurement and valuation mechanism that will become the considered parameters for the purposes of promotions, raises, prizes and stimuli, as well as to guarantee job stability.
- **Termination:** It is charged with the cases or situations because of which a public servant will stop being a part of the system or their rights are temporarily suspended.

²⁷ Ramírez, Magda and Holst Maximilian, "La Guardia Nacional ¿está donde debería?," México Evalúa. Available at: <https://www.mexicoevalua.org/la-guardia-nacional-esta-donde-deberia/>

Generally, human resources administration systems have elements in common in terms of onboarding, development, and termination, and even though they all have the same purpose, the way their components interact generates a different impact. The existence of a work organization phase, which is not limited to the development of formal position profiles, but also addresses the pursuit of goals for each position, is crucial to maintain coherence between the duties conducted by each person and expected performance. Furthermore, if it is added to other phases such as performance management and compensation, transparency in the system could be guaranteed in delicate areas, such as performance measurement, and linking professional growth to merit.

Once the four phases were defined, we analyzed the information available by looking to identify its scope in each institution's regulatory framework and, at the same time, the documentation that might provide an account of its implementation. For the information to be

useful, we set up a designation of values in which each analyzed institution could have a minimum value of 0 and a maximum value of 4 for each phase of the CS. Finally, we added the values of all four studied phases to get a total, therefore getting a minimum value of 0 and a maximum value of 16, based on the degree of regulatory and implementation progress of the CS. We went through this process for each entity of the country. The designation of values was made as follows:

Value	Criterion
1	Criteria are considered in the law and are implemented (reports on their application or evidentiary documentation was found).
0.5	Criteria present in the law, but the phase is not implemented (no evidence was found).
0	Not in the law and, therefore, not implemented either.
SD	No data found. This means that the institution did not respond to the information request, and that no evidentiary documentation was found.

Table 8: Implementation of the professional career service, by entity

	Attorney's Offices	Public Defenders' Offices	Victims' Commissions	Judiciary	Total
Querétaro	4	3.5	3.5	3.5	14.5
Coahuila	4	2.5	2.5	3.5	12.5
Nuevo León	3.5	3	2	3.5	12
San Luis Potosí	3.5	3	2	3.5	12
State of Mexico	2.5	3.5	2	3.5	11.5
Quintana Roo	4	2	2	3.5	11.5
Sonora	3.5	2	2.5	3	11
Chiapas	3	2	2	3.5	10.5
Guanajuato	3	1.5	2.5	3.5	10.5
Mexico City	3	2	2	3	10
Tlaxcala	3	2	2	3	10
Durango	3.5	2	2	2	9.5
Hidalgo	3	2	2	2.5	9.5
Morelos	2.5	2.5	2	2.5	9.5
Oaxaca	3.5	1.5	2.5	2	9.5
Puebla	2.5	2	2	3	9.5
Chihuahua	3.5	1.5	2	2	9
Sinaloa	3	2	1	3	9
Tamaulipas	3	2	1	3	9
Veracruz	3	2	1.5	2.5	9
Aguascalientes	3	2	2	1.5	8.5
Baja California	3	2	1	2.5	8.5
Colima	3.5	2	1	2	8.5
Michoacán	2	1.5	2	3	8.5
Baja California Sur	2.5	1.5	2	2	8
Guerrero	2.5	1.5	2	2	8
Jalisco	3	1	2	2	8
Tabasco	3	2	SD	3	8
Zacatecas	2.5	2	2	1.5	8
Yucatán	2.5	2.5	SD	2.5	7.5
Campeche	2.5	2	SD	2.5	7
Nayarit	2.5	1.5	SD	3	7

Source: Prepared by the authors based on data from public information requests and publicly available information.



It must be clarified that the analysis was conducted for CJS member institutions: **Attorney General's Offices, the judiciary, Public Defenders' Offices, and Victims' Commissions.**

We obtained the following ranking of the implementation and functioning of the professional career service for each entity, organized from highest to lowest²⁸.

This analysis allowed us to identify that four entities have a greater degree of progress in terms of the development and consolidation of their civil service for the institutions of the Criminal Justice System: Queretaro (14.5), Coahuila (12.5), San Luis Potosi, and Nuevo Leon (12 for both). The entities with the lowest level of development, and that at the same time are the only ones below the average, are Yucatan (7.5), Campeche (7) and Nayarit (7). In terms of the four CS phases analyzed (onboarding, training, evaluation, and termination), it has been identified that **operator's efforts have focused mainly on the onboarding phase** (through open tenders and tests), as well as on **training** (mainly regarding the oral justice system). It is important to highlight that a true implementation of the CS entails a continuous, permanent, and cyclic process of the four phases mentioned as a whole.

When it comes to prosecutors' offices, we saw that in most States there is a regulatory basis that can be found in the Organic Law for the State Attorney General Office, defined in a special section or chapter. However, we have identified as a best practice that in some cases, such as in Zacatecas, San Luis Potosi, Queretaro, Nuevo Leon, Oaxaca, Guerrero, Guanajuato, and Chihuahua, there are regulations for said system providing legal certainty and clarity throughout the different phases. We must also recognize the case of Colima, where since October 2014, the conditions and the operation of civil service for justice procurement in the state were made into law. Finally, it is considered positive that some states have sought to institutionalize their CS into the justice system by creating institutes, commissions, or professional education and training committees (Nayarit, Oaxaca and Veracruz), CS commissions or institutes (Guanajuato, Queretaro, Yucatan and Zacatecas), Performance Evaluation and Integrity Control Centers (Campeche and

Nuevo León), as well as professionalization committees (Mexico City, Coahuila, Colima, Sinaloa and Quintana Roo).

Equally, for the judiciary, the CS, or rather Judicial Career (JC), has a legal basis in most cases within the Organic Law for The Judiciary. Additionally, in Colima, Chiapas, and Puebla we have identified regulations for its different phases, conditions, and criteria. Regarding institutionalization of the JC, Aguascalientes, Chihuahua, Sinaloa, and Jalisco have training bodies or institutes; Chiapas and Hidalgo have education or professionalization institutes; the State of Mexico, Morelos, Oaxaca, Tamaulipas, and Veracruz have a Judicial Academy; and finally, the case of Queretaro must be highlighted as it has an Institutional System for The Evaluation of The Judicial Career service. All these bodies are named in different ways but linked to the judiciary CS implementation. In some cases, these bodies are dependent upon the Judiciary Council, and their importance lies in that they are charged with implementing some of the JC phases.

When it comes to public defender's offices, we observed that the CS implementation is regulated in full by the Organic Law of Public Defense, or by its internal regulations, with the exception of Mexico City that finds its legal basis in the Law for Public Service Career service, and Guanajuato in its Organic Law for The Executive Power. Meaning that we did not identify regulations specifically for the CS in said institution, as it happens in the Judiciary and in Attorney's Offices. Entities reported that personnel training topics relate to the adversarial criminal justice system, and best practices worth replicating were highlighted in four entities in which defender's offices, based on their regulations, have bodies in charge of some CS phase within their structure: they are Queretaro, with a Professional Education Center; Aguascalientes, with a department in the Education and Training Unit; Durango, with its Technical Council for Civil Service; And Veracruz with a Department of Training and Evaluation²⁹.

Institutions related to victim counseling or victims' commissions were the ones with the lowest grades in terms of the implementation of the four CS phases. This

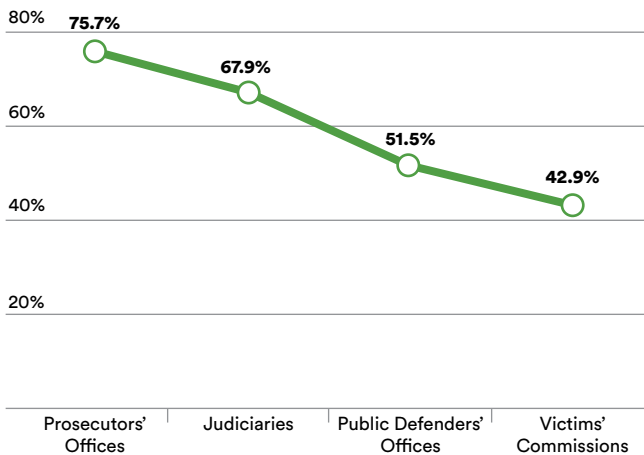
²⁸ Information requests responded by different institutions were the main source of information from which the data was obtained. Furthermore, in some cases in which information was scarce or non-existent, local regulatory research was conducted linked to the topic and official websites of the institutions in question.

²⁹ We must point out that the existence of these bodies belonging to public defenders' offices have legal basis in their regulatory framework. However, it is necessary to assess if these bodies are operating and meet their objectives and goals tied to the implementation of a CS phase:

can be due, among other factors, to the lack of laws or regulations specifically addressing their implementation in these institutions. In most cases, their legal basis can be found in the Law on Victims, as it happens in Baja California, Coahuila, Colima, Chihuahua, Mexico City, Durango, Guerrero, Michoacan, Morelos, Nuevo Leon, Puebla, Quintana Roo, Sinaloa, San Luis Potosi, Tamaulipas, Tlaxcala, Veracruz, and Zacatecas. Furthermore, no evidence was identified or reported regarding the existence of units or centers within any institution that work specifically on CS implementation issues, in comparison with the operators analyzed before.

Finally, if we focus on national level implementation of the civil service by CJS operators, we find that prosecutors' offices (75.7%) are the institutions that show the most progress; in second place, we find the judiciaries (67.9%); in third place, public defenders' offices (51.5%); and lastly, victims' commissions (42.9%)³⁰. It is important to highlight that these results refer to the progress made in terms of CS implementation tied to the existence of conditions for its functioning, and not to the results themselves. With this in mind, it is obvious that the implementation of said service has not progressed in the same way within all operators of the system. It can also be said that there is a clear difference regarding job security and professionalization of personnel between institutions charged with judging and conducting a process involving a victim and a defendant, and those charged with the defense or care of a victim, which can also influence the quality of the service provided by said institutions.

Graph 19. Level of progress in the implementation of Civil Service in the country



Source: Prepared by the authors based on data from public information requests and publicly available information.

3.2.2.1. Federal level

When it comes to onboarding, professionalization, development, performance evaluation, and termination mechanisms, we identified that the General Prosecutors' Office, as well as the Federal Judiciary, have shown clear progress, even though, once again due to the lack of information provided by the institutions themselves, it was not possible to go into detail regarding the scope and effectiveness with which these schemes operate.

For each phase of onboarding and possible promotions, the Federal Public Defender's Office has a professional career service, currently in its early stages as it has yet to be applied for the phases of development, performance evaluation, and termination. The Executive Victims' Commission recognizes that this is a pending issue since no progress has been made in terms of institutionalization.

Regarding forensic experts at the federal level currently part of the Attorney General's Office, 89% of specialists are part of a Professional Career Service (1,402 out of 1,583: 730 women and 853 men).

3.3. Institutional management models

The criminal policy represents a decision made by both public security and criminal justice institutions, in terms of how crime will be faced, starting with the definition of the behaviors that will be considered as offenses and the articulation of federal, state, and municipal jurisdictions. For this purpose, it is necessary to define an organizational structure that will respond to the institutions' management needs. Thus, substantial and operational processes must be prioritized, and administrative and support processes will be determined based on them. **Following this logic, it is sought to develop a functional Institution that will prioritize all tasks that will guarantee justice procurement, adequate care for victims, effective criminal defense, and expeditious justice administration.**

Management models provide a reference framework for CJS operators that could develop their own organizational and working system in a more effective manner. In this sense, considering the challenges currently faced by the system regarding the high volume of cases related to petty crime, and

³⁰ In a case in which all entities comply with all four phases of the CS, the maximum value given would be 100%.



the presence of criminal phenomena that are highly damaging to the population, institutions have the need to articulate a decision-making and operational model that will allow them to focus resources, manage workloads, provide satisfactory and differentiated responses during the exercise of their duties.

Considering the importance of there being management models, we conducted an assessment in order to determine the existence and typology of management models articulated in the country and by Institution, which can have a direct impact in their organizational design. In the case of prosecutors' offices, the adopted model, in an integral way but also through different modes of implementation, is called a "three-level" model. The model of the state of Queretaro is the only one that we were able to identify being substantially different and called "differentiated processing of complaints."

In the case of public defenders' offices and victims' commissions, we identified proposals to formalize their operation, focalization, distribution of workload, and even for the specialization and differentiated coverage of cases and/or users to whom the services are provided. However, it is in these institutions where a more circumstantial and reactive kind of operation is observed, rather than a proactive and strategic one.

3.3.1. Management models in Attorney's Offices

Although some Attorney's Offices have developed management models focused on an efficient channeling of affairs, these are not articulated with a policy of institutional priority, and even less so with a criminal




policy that integrates the different security and justice institutions. Therefore, their Scopes are limited, and this lacking puts the Attorney's Offices' capacity to respond assertively to conflicts, and even to provide justice, in doubt.

The fact that only five out of every 100 investigations will result in charges pressed means that there is de facto prioritization that guides the decisions made by the prosecutors. This means that the prosecutors are those who decide which affairs deserve more attention and resources. The path that a case follows, from the report up until the prosecutor's decision to consider it concluded, can become one that responds to subjective and opaque factors. **In practice, progress or delay in investigations is due, among other things, to the will of the authorities, the media attention that the case is receiving, and even, in many cases, to incentives in the form of corruption.** The adversarial model would contemplate (contemplates) a margin for decision-making that promised to make the justice system's operation more flexible and efficient; however, it has been incapable of breaking with the inertias of the traditional model and has become distorted.

3.3.1.1. Three-level model

As mentioned before, the predominant model at the sub-national level is the Strategic Case Distribution Model, also known as the "three-level system". Each of the three levels is composed of a specific operator with activities, responsibilities, and goals of its own. Nevertheless, given that it is a flexible model, all operators must collaborate with the other levels and the different operational areas

Chart 2. Function description within the three-level model

Phase	Description
Third level  Investigation and Litigation Unit (ILU)	Once the complaint has been filed and the victim has expressed interest in criminal prosecution, the accused is sought out. If the accused is not identified, the case is classified in temporary archives. If identified, the police initiate their pursuit. Also, within this unit, if applicable, the designated prosecutor will take the case to court.
Second level  Massive Case Processing Unit (MPU)	If the case was subject to being sent to the MPU, the unit receives the investigation files and, should there be no crime found, exercises its power to abstain from investigating by notifying the citizen about this resolution. Should there be an offence committed, when prosecution by mandate is applicable, the victim is located, and legal action is initiated. If this is not possible, the opportunity criterion applies. If it proceeds, it is forwarded to the Investigation and Litigation Unit.
First level  Early Support Unit (ESU)	The ESU is charged with immediately receiving social claims and complaints which are then sent to investigation units, the center for the solution of controversies, or if applicable, to other government bodies. The ESU must provide immediate support to victims or plaintiffs, by means of their departments of legal medicine or psychology. It is charged with logging the information into the computer system, from indictments or lawsuits, as well as validated police reports, to then forward the case to the Case Assignment module, where it will be assigned to a prosecutor from the corresponding area.

to foster results in investigations. Chart 2 shows the functions and objectives for each level.

Some of the entities applying the three-level model are Coahuila, San Luis Potosi, Sonora, Tamaulipas, and Zacatecas. However, we must advise that this determination was made based on the information provided by the institutions themselves, and therefore it is quite possible that there is a larger number of entities that apply the model.

Best practice: The case of the State Attorney General's Office of Coahuila has been identified as a positive experience, because its functioning, and regulation are based on the three-level model using an implementation protocol and several manuals for case assessment and their processing.





In the information provided, manuals from the early support unit and the massive case processing unit, among others, were detected, which guides its operationalization. Indeed, a first step is to identify a model and its institutionalization through documentation; however, it is also important to ensure its adequate implementation in all representations of the Attorney General's and buy all types of personnel.

3.3.1.2. Model of differentiated processing of suits

This model distinguishes or addresses in a differentiated, personal, specialized, and immediate way the diverse needs of the persons resorting to a justice procurement body. It is based on the categorization of needs relating to four groups of offenses (lawsuits). This model is implemented in the state of Querétaro.

Best practice: The Cosmos Law in Queretaro entered into force in 2018 when published in the Official Gazette of the Government of the State of Queretaro. This law seeks to guarantee that all stakeholders involved in criminal justice operations work in a coordinated and systematic fashion. Aside from the fact that "Cosmos" was created as an organizational model to achieve orality in the entity, the entry into force of this law materializes inter-institutional coordination and each institution's certainty, seeking to guarantee efficacious and quality justice in each of its branches of operation.

Chart 3. Description of the model of differentiated processing of suits

Type of lawsuit	Description
Lawsuit 1 	It is implemented based on the commission of an estate crime where the identity of the accused is unknown. The user reports the case, goes to a police station, and with a tablet fills out a questionnaire that constitutes report and that is sent to the Central Deciding Prosecutor (CDP), who will create the investigation dossier and forward it to the Attorney's Office's unit closest to the address of the plaintiff (Investigation Prosecutor, IP). Both representatives of the Attorney's Office, the CDP and the IP, can request support for the victims, medical or otherwise. If applicable, the IP will pursue legal criminal action or abstain from investigating.
Lawsuit 2 	Applicable to offenses susceptible to an arrangement between the parties by means of Alternative Dispute Resolution Mechanism (ADRM). The user reports the case and immediately receives support to a) compile information, b) assess the urgency of the case, and c) identify the suit. Once this has been done, the user is sent to an Alternative Solution Prosecutor (ASP), who will create an investigation dossier and propose submitting the case through the Alternative Dispute Resolution Mechanism until a reparatory agreement.
Lawsuit 3 	High impact crimes for which mandatory pretrial detention is applicable. The process with a detained person is as follows: upon arrest, the prosecution attorney (PA) is made aware of the case and creates an investigation dossier. They are in charge of reading the accused his or her rights, appointing a defender, certifying the physical integrity of the detainee, issuing the report, and appointing legal counsel. Once investigation begins, precautionary measures or a conditional suspension of the process might be applicable. The pertinence of judicialization will be assessed and follow-up will apply until conclusion of the process.
Lawsuit 4 	Offenses that can be resolved by means of an Alternative Dispute Resolution Mechanism. If this is not possible, by means of judicialization (combination of lawsuits 2 and 3).

Both models seek to provide a decision-making scheme, Personnel specialization, and workload management oh, and can be considered aligned with the purpose of organizing, certifying, and focusing their work on results. It is precisely based on these results that models must be assessed, whether in terms of workload that personnel are absorbing, or the capacity level that they reach to resolve, address, and decongest the cases that they are assigned to, and also, as they manage to provide quality service. In the Results chapter we will provide several elements that will allow for the pondering of the impact of Prosecutors' Offices' management models.



Chart 4. Management models in Victims' Commissions

	Management model	Description
Coahuila	Dossier assignment model	<ul style="list-style-type: none"> • Assignments are made based on the following criteria: 1) by statistical turn, 2) when the case in question is emblematic, 3) when the person is in a situation of high vulnerability. • The Legal Advisory, Immediate Support, and State Victim Registry departments are charged with creating the multidisciplinary team that will accompany the victim. It is these teams that have an internal registration format for greater control of data, depending on what is applicable.
Chihuahua, Michoacán and Sonora	Comprehensive Victim Support model	<ul style="list-style-type: none"> • Lawyers, psychologists, social workers, and administrative staff participate in the different phases based on case requirements, and with a differential and specialized approach. • Assignment of people to support or represent is made equitably, based on the number of people requiring these services. • The assignment of psychological care is made according to staff workload to ensure a timely and comprehensive service.
Querétaro	Support model with an ecological approach	<ul style="list-style-type: none"> • It is applied through the analysis of the surrounding environment of the victims and their needs to set up the mechanism and undertake the necessary actions to timely safeguard their physical and emotional integrity.
Guanajuato	Carousel Model	<ul style="list-style-type: none"> • Assignments are made through a mechanism called "Carousel," assessing the situation pertaining to workloads specifically.

Source: Prepared by the authors based on data from public information requests and publicly available information.

Chart 5. Management models in public defenders' offices

	Reported efforts	Description
Baja California Sur	Continuous improvement groups (USAID)	Improvement groups represent a practice in which a working group, which is part of a larger organization, meets voluntarily to address issues identified in their fields of work or institution in general, recommend solutions, and present them to their board, and if they are approved, execute them.
Colima and the State of Mexico	Inter-institutional management model	It allows for inter-institutional collaboration between different system operators.

Source: Prepared based on information requests and publicly available information.

3.3.2. Management models in Victims' Commissions

We were able to identify that the majority of Victims' Commissions do not make any effort to standardize or optimize services. When questioned about a comparable tool, few cases reported knowing about its existence and operation. We present the elements considered the most associated with a model in Chart 4.

3.3.3 Management models implemented by public defenders' offices

These institutions show a clear lack of management models. Although most entities reported having organization and procedure manuals, which are considered a management model, it was impossible to determine if those documents contained a systemic vision, protocols, or criteria similar to those of a model. Regardless, Chart 5 describes efforts made in some entities worth highlighting.

Some best practices have been detected in public defender's offices, such as staff specialization and the implementation of technological innovations that will bring defenders closer to the persons they represent. However, based on the provided information, it is concluded that most of the institutions' daily work and operation is conducted in a reactive manner, without clear assignments or established performance measures. Public defenders' offices and victims' commissions definitely do not have management models, which implies asymmetry regarding state prosecutors' offices. Something that could have a negative impact on the safeguard of victims' and defendants' rights.

3.4. Criminal investigation

There are two diverging positions regarding the relationship established by article 21 of the Constitution between the prosecutor and the police, according to the interpretations that can be made of the concepts of steering and command:

Chart 6. Base elements for the design of a criminal investigation model

1. Criminal policy (Articulation of security and justice)

It is necessary to define a criminal policy which must be understood as a decision made for the different National institutions involved in the sector of public security and criminal justice, regarding how criminality will be faced, which entails, among other things, the definition of the behaviors that will be considered offenses and how they will be penalized.

2. Criminal prosecution policy (jurisdiction of Attorney's Offices)

It is equally necessary that the Attorney's Office establish a criminal prosecution policy as a tool for crime policy with the goal of defining its tasks through planning and strategy based on an integral understanding of the criminal phenomenon. In other words, through analysis of the criminality under its jurisdiction, an Attorney's Office will formulate an intervention strategy. The definition of this policy will translate into a Criminal Prosecution Plan containing the ensemble of strategies and action lines to face the criminal phenomenon, which includes information processes, a priority plan, possible grounds for dismissal, alternative resolutions, coordination, and collaboration mechanisms between federal and local levels, among other actions.

3. Criminal prosecution plan and priority strategy

We have also suggested the inclusion of a priority strategy entailing the establishment of a logical order for addressing cases, based on criteria that will serve as parameters to focus the investigative action of the Attorney's Office on determining certain phenomena, situations, and cases, with the purpose of ensuring greater effectiveness in criminal investigation and a better use of human, administrative, economic, and logistical resources.

a. The strategic criminal prosecution policy means abandoning the traditional operation scheme based on the assignment on a case-by-case basis and transitioning towards an approach based on knowledge and prosecution of criminality that is more comprehensive. With this approach, the investigation model must make flexibility of criminal investigation units possible so as to adapt and diversify based on the criminal phenomenon.

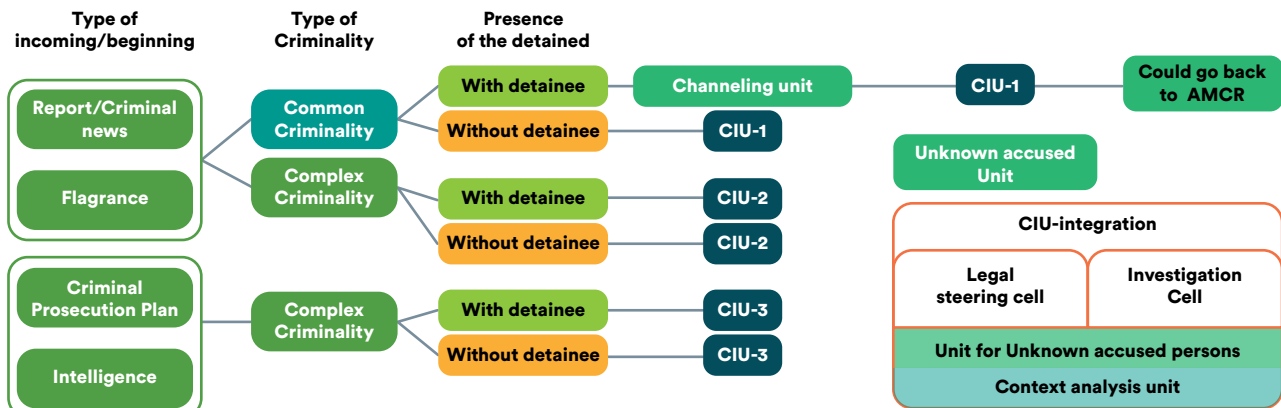
b. For the purposes of strategic prosecution, it is necessary to define the different types of criminality the prosecution of which is under their jurisdiction, in order to provide a more adequate response for each type. This definition can be made based on criteria such as level of violence, social impact, organization, and structure (organized criminality), occurrences through time, social demand, and common criminology.*

c. Furthermore, following the logic of strategic criminal prosecution, the Attorney's Office must focus on a more comprehensive prosecution, and not only on the active investigation. It must not wait for the criminal act to be made known to begin prosecution, rather the contrary, through use of intelligence and criminal analysis, it must identify the different types of logic of commission of offenses, the functioning of organized criminal structures, and the money trail from the commission of those offenses, among others.

4. Investigation units

Based on these elements, the criminal investigation unit is responsible for the material development of the investigation. It is composed of an "investigation cell" under an "investigation lead" who will direct legal field experts and criminal analysis operators. This cell must be in strict communication and coordination with the prosecutor, which is responsible for conducting the legal investigation and determining the evidentiary and procedural needs of a case, as well as its formalization within the jurisdictional authority. The investigation unit structure is circumscribed within a broad interpretation of article 21 of the Constitution which states that the investigator has technical autonomy for investigation purposes, under the lead and legal advisory of the prosecutor. These investigation units must have the possibility to adapt and modify if the criminal phenomenon, occurrences, or case so require.

Based on unit classification, the following subtypes can be considered:



- | | |
|--------------|---|
| CIU-1 | <ul style="list-style-type: none"> • Simple collaboration between investigation cell and legal steering cell. • Quasi standardized integration (Multidisciplinary team, professional profiles that are not as specialized). • Apply centrally predefined precedures and rules regarding investigation and determination. • Require context analysis development and working in close proximity with the unit for unkown accused persons to identify criminal patterns, structures, and phenomena. |
| CIU-2 | <ul style="list-style-type: none"> • More sophisticated collaboration between investigation and legal steering cells. • Ad hoc integration (more specific and specialized profiles, and the size will depend on the criminal phenomenon in question). • Differentiated territorial deployment based on criminal structures or phenomena in question. • Operation mainly based on planned and strategic investigation (UK, discretionary) in which intelligence generation and context analysis are key resources. |
| CIU-3 | <ul style="list-style-type: none"> • As in CIU-2, but its creation is strictly correlated with the criminal prosecution plan priorities, and so the planning and follow-up of operation are key. The guarantee of conditions for optimal operation is a priority: resources, information, territorial access... |

Types of criminal investigation units with national deployment

* Among many scenarios in terms of organized criminality, the following could be considered: 1) too much information or background is needed to decide on a form of resolution; 2) based on the available information, a decision in terms of resolution cannot be made easily; 3) they require large numbers of legal decisions; 4) they require a more elaborate case study; 5) extraordinary investigation means are utilized; 6) the presence of a criminal organization in the case; 7) the investigations are interlinked; 8) specialized departments for crime investigation are necessary, or 9) the high probability that the case entails the commission of more than one offense.



Chart 6. Base elements for the design of a criminal investigation model

5. Flexibility and specialization

Therefore, the territorial coverage as well as specialization, creation, or modification of Investigation units is determined based on the needs and priorities that are defined for substantial operations, which can vary in time. There is specialization indeed, but not based on rigid bureaucratic bodies, rather flexible structures that respond to the needs of the Criminal Prosecution Plan.

Personnel specializing in a criminal field or with specific competencies or abilities, are posted at another Investigation Unit once the current investigation concludes, or when their services are required by another unit with more priority.

The investigation units will be composed of two multidisciplinary teams: the investigation cell and the legal cell of the case, which maintain permanent communication and coordination. Both closely collaborate with intelligence and legal experts.

6. Planning the investigation

The investigation must be planned, led, and conducted by investigators who take full responsibility for the material execution of the investigations they are charged with. Regarding the investigations themselves, the prosecutor supervises and supports, at all times, based on respect for operational decisions made. Thus, and with the purpose of avoiding the case-by-case investigation logic, context and criminal intelligence analysis are considered key to allow for a transition from the study of crimes to the study of criminal phenomena, structures, and markets.

- 1) Law enforcement has relative autonomy, accompanied by control by the prosecutor in situations that can be configured as a criminal conflict.
- 2) The prosecutor retains control overall acts of investigation, which entails that law enforcement participation remains, at all times, under the command of the prosecutor.

The proposal made by México Evalúa in different reports and analyses is based on the first, which focuses on the consolidation of a criminal investigation model (ideal) in which planning, directing, and execution of the criminal investigation is a task for law enforcement, which conducts these tasks autonomously. In this model, prosecutors do not directly intervene in investigations and their work consists in being the legal guide when acts or offenses are committed against people, in terms of counsel provided with regards to the evidentiary and procedural needs, and in all acts relating to the jurisdictional authority.

For this purpose, the consideration of the elements specified in Chart 6 has been proposed:

In terms of the development of criminal prosecution policies and the existence of prioritization and planning tools for investigations, we noted that **most prosecutors' offices still operate with an inquisitive paradigm:** they do not set a strategy or a clear definition about criminal prosecution proactively or adequately manage their workloads.

Having said this, **Sonora** is another pioneer entity in terms of establishing a criminal prosecution policy that operates in alignment with its management model and focuses on strategic goals. Equally, the state of **Nuevo León** can be highlighted, where the Attorney's Office conducted the first integration exercise of the criminal prosecution plan with an approach based on crime and

phenomena that affect the most at the local level. In both cases, it will be necessary to accompany those processes and identify whether the exercise of defining priorities is really materialized as institutional action, allows for permanent follow-up and evaluation, as well as for the development of a periodic planning exercise. This would allow for the necessary adjustments and updates, as well as providing infrastructure, personnel, and conditions to the units that will focus their attention on addressing and resolving cases relating to those phenomena that are considered a priority.

3.4.1. Best International practices for crime investigation

In order to provide reference elements pertaining to best practices for criminal investigation, we will present some best practices that focus on homicide, since it is considered that this is one of the offenses with greater impact. We must remember that Mexico has maintained and increased its homicide rate through time. Many of these fall under State jurisdiction and, therefore, it is useful to know experiences and formulae that have proven effective in other contexts.

3.4.1.1. Investigation of homicide cases: United Kingdom and United States

The importance of analysis and case classification

Lesson 1. A fundamental premise for decision making in case investigation relates to certainty and control over its classification.

Not all cases require the same investigative action or the same expert team for investigation purposes. The possibility of creating specialized teams based on the needs of a case depends on the decisions made during the initial phase.



In the **United Kingdom**, cases, protocols to follow, and resources to allocate are determined based on the type of homicide in question. For this purpose, it is key to identify characteristic variables to make decision making possible in terms of investigation planning, resource allocation, and team integration. Though team integration varies according to investigation needs, depending on the category of homicide, there is certainty in terms of protocols to be followed and resources to allocate.

The progress of this activity, its criteria (variables), and the strategy definition to be followed for each case or type of case are part of a **Case Management Model**. For homicide investigation, for example, variables such as victims' and possible perpetrators' characteristics, mode of murder, location, attack method, and degree of planning by perpetrator are considered.

In the **United States**, investigation and allocation of resources are also conducted in a differentiated manner, although this definition is based on factors such as case complexity, gender or occupation of the victim, type of homicide, and use of violence, among others.

For these purposes, the **Murder Investigation Manual** developed by the **United Kingdom**, provides a list of variables to be considered, actions to be conducted, and number of resources to allocate for each case scenario. There are four homicide categories ranging from greatest to lowest impact, considering public interest, risk to the population, and media participation. Among its criteria and tools, it proposes the following classification, which can be applied in other contexts:

- Category A +

A murder or other important investigation in which public concern and the response associated to the intervention of the media are such that the normal levels of personnel are not adequate to keep up with the pace of the investigation.

- Category A

A murder or other important investigation that is of grave public concern or in which vulnerable members of the public are at risk, in which the perpetrators' identities are not evident, or the investigation and obtaining of evidence require significant allocation of resources.

- Category B

A murder or other important investigation in which the identities of the perpetrators is not evident, the continuous risk to the public is low, and the investigation or obtaining of evidence can be achieved with the usual arrangement in terms of resources.

- Category C

A murder or other important investigation in which the identities of the perpetrators is evident from the beginning and the investigation or obtaining of evidence can be achieved easily.

Integration of investigation teams

Lesson 2. It is necessary for the officer in charge of the investigation to have experience in homicide clarification and team management.

A profile with technical investigation skills is not enough: operational and team management skills are also necessary, for a simple reason: the person responsible for murder investigations requires to make constant decisions, in terms of planning, follow-up, and supervision of investigation actions, such as requesting support from different legal experts at different times throughout the investigation.

In the **United Kingdom** and the **United States**, investigators have a profile with a law enforcement background (detectives), while all other members of the teams are specialists in different fields. It is not until the third phase of the process, the one related to the facts in the framework of a trial, that investigators work hand in hand with specialized prosecutors and lawyers. In the **United Kingdom**, the team has one basic pillar: a senior investigation officer (SIO).

The SIO is responsible for the course and success of the investigation, as well as for accountability, should it be needed. Therefore, the British case suggests a profile with a capable and experienced level of responsibility and leadership. This officer is crucial to the integration of investigation teams.

Lesson 3. The integration of the investigation teams must follow a flexible logic, not a single standardized formula.

A common aspect to identified practices is that integration of teams is flexible, according to the needs and specificities of each case. Thus, whether the SIO, in



the **UK**, or the detective binome, in the **US**, will select specialists from different fields, agencies, and groups to be a permanent part of their teams while they are working on a case or for specific tasks.

This flexibility enables the optimization of use and distribution of resources and makes possible an institutional focus that will satisfy the legal and investigation needs of each case. Another positive element stemming from flexibility is the development of specialized knowledge in diverse fields. Though some specialists have specific baggage, whether due to their training and experience in similar cases, their participation in different cases also allows them to maintain a critical, analytical, and proactive perspective for the purpose of their tasks.

In the **United States**, the staff and the shift structure of homicide units vary from one agency to another. The way in which a unit is structured will depend, to great extent, on the resources, the needs, and the investigation philosophy of the agency. Usually, homicide detectives will be assigned a regular partner and work in pairs.

In some homicide units, a team member is designated as main detective, alternating that role from one case to another. In other homicide units, both members are equally responsible for each of the cases assigned to the team, and neither plays a primary role. All homicide units have access to intelligence and criminal analysts to support the investigation, define ongoing threats, and/or pattern analysis of homicide trends.

In the **United Kingdom** there is no standard model for the composition of investigation teams. On the contrary, the rule is to assign a senior investigator who will assume the role of legal manager and operator of the case. For this purpose and based on certain variables, the SIO selects the type of profiles required for the investigation, as well as the kind of support needed in terms of laboratories, forensic services, or others. The key element of the British model lies in the experience and skills of the SIO, as well as the roles and skills they develop in terms of planning, development, assessment, and accountability for the investigation.

Investigation model characteristics

Lesson 4. An investigation model's scope must range from the initial phase up until the

conclusion. Most decisions made regarding the case, in any of its phases, significantly impacts case clearance.

Regardless of the type of investigation model applied, it must contemplate all things from initial actions at the moment the criminal act is made known, or detected by the authorities, to the case's possible conclusion or resolution. The investigation model specifies the different paths that can be taken and sets attributes and defines minimum tools for planning, operation, assessment, and accountability.

In all cases, the importance of initial phase tasks is key: crime scene protection, collection of evidence, decision making pertaining to the investigation and the obtaining of information that is substantial to the case regarding the victims, witnesses, and diverse community groups in general.

Homicide investigations usually have three different strategic phases: la instigation y la initial response, the investigation, and the case management phase, which entails investigations conducted after indictment. In the **United Kingdom**, tasks are listed in protocols for each investigation phase. Details, formats, tools, and evidence are suggested for each.

Lesson 5. Context analysis allows for building intelligence, analyzing patterns, and designing a more precise institutional strategy.

A detected good practice is the existence of the Focus Mission Team, a proactive initiative in terms of crime approach promoted by analysts. Analysts work in close collaboration with sworn officials and provide high quality substantial analyses, using different analytical and mapping tools to better understand crime trends, context information, the circumstances of the criminal acts, and the prognoses of future probable violence.

Lesson 6. Analysis and scientific assessment are two key factors in all phases of the investigation, although they are much more important in the initial phase.

The definition and operation of a forensic strategy focusing on the scientific analysis of collected evidence is an equally valued exercise in all practices, for defining an investigation hypothesis, as well as for the analysis

of the possible responsibility of individuals involved. Forensic science quite often only provides corroborative evidence that is moderately strong, and seldom does it present absolute proof of culpability in an isolated manner. Nevertheless, forensic testing can be used to exclude persons from the investigations with a higher degree of certainty.

Lesson 7. Especially pertaining to murder investigation, information, and participation of different stakeholders, such as victims or witnesses, must not be underestimated, given that their knowledge of the case can lead to strategic decisions made for investigation purposes.

In all practices identified, there is an acknowledgement of the importance of establishing and protecting a close relationship with victims' and witnesses' families, and with members of the community, to maintain the flow of information towards investigators and facilitate the defining of much more rigorous hypotheses. The closeness to these stakeholders depends on the establishment of a relationship based on trust and respect, in which the personal security and emotional calm of the persons involved will be a priority.

3.5. Forensic services

The use of technology, as well as forensic capacities of prosecutors' offices are crucial for solid criminal investigations and positive results. Though the work conducted by the prosecutor is useful to set and confirm lines of investigation, evidence is obtained via forensic services. This section provides a general picture of the status of these services in the country.

3.5.1. Local level

In order to know the institutional capacities in terms of forensic services, we compiled the following information from prosecutors' and attorneys' offices in 29 federative entities³¹:

- 22 reported having genetic information databases or records

- 17 reported having a registry and information processing system
- 15 reported having an information and registry system that generates statistical data
- 17 reported having indicators for following up, monitoring, and assessing their tasks
- 16 reported having inter-institutional collaboration mechanisms
- 18 reported having protocols for the treatment of human remains and cadavers
- 15 reported having a case management and assignment model
- 18 reported having organization and operation manuals

This first approach reveals medium development in terms of installed capacity. As observed in the list, the most progress is seen in genetic information database and record creation, followed by organization and operation manuals, as well as protocols for the treatment of human remains and cadavers. Furthermore, half of prosecutors' offices report having inter-institutional collaboration mechanisms for their forensic services, and less than half stated that they have a registry system that generates statistical data, and case management and assignment models

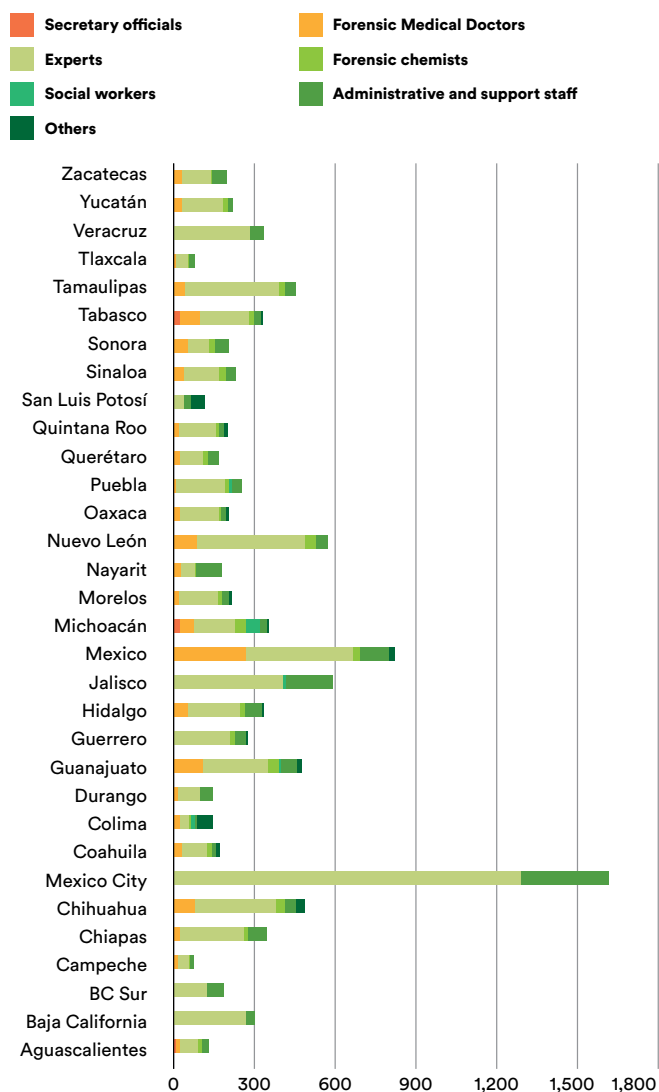
According to obtained information, the Attorney's Office with the most installed capacities is that of Querétaro, followed by those of Baja California and Chihuahua. Baja California Sur, Chiapas, Guanajuato, the State of Mexico, Quintana Roo and Tamaulipas are in the next level of development, and lagging far behind are San Luis Potosi and Durango, which report less installed capacities.

In terms of specialization, considering the information reported by state prosecutors' offices to Inegi, distribution and installed capacity can be observed in Graph 20.

³¹ The states of Coahuila, Morelos and Nayarit did not provide information to this regard.



Graph 20. Expert specialization in entities



Source: Prepared by the authors based on the National Census on State Justice Procurement 2020 and the National Census on Government, Public Security, and the Penitentiary System 2020.

3.6. Main conclusions on CJS enabling factors

1 Clear regressions have been detected hidden within the main changes of the regulatory framework that defines the operation of the criminal justice system. These represent **risks in terms of protection of rights**, as well as elements that could entail a distortion of the principles of the oral adversarial system.

- Firstly, the expansion of the scope for pretrial detention. As long as the application of this imprisonment measure is broadened, there will be a negative impact on CJS operation: the violation of the presumption of innocence principle, which must be the rule, not the exception, the detriment of penitentiary center conditions (with its consequences in terms of overcrowding and deficient living conditions), and finally, the consolidation of perverse institutional incentives that go against criminal investigation and standards.
- We must also highlight and reiterate our concern regarding the strengthening and development of the militarization of public security, especially regarding the CJS, as concerns stem from the National Guard's role, given that it is sought for it to become a military body. Considering the nature, integration, lack of controls and transparency mechanisms with which the Guard operates, there are risks to its operation as it can clash with Article 21 of the Constitution and the guarantees of due process.
- Finally, we must not forget the regression that the entry into force of the new Law for the Attorney General Office entailed, and the essence of which mostly reflects the operation of an authority that seeks to become more isolated, avoid addressing its duties in matters of human rights, and act based on a vertical logic without controls or counterweights. This scenario must lead to a discussion about competency distribution in the system, as well as the creation of prosecutors' offices with greater capacities and a will to transform at a local level.

2 As for installed capacity in the CJS, a little progress can be seen for some operators, however, others are still lagging. Regarding personnel sufficiency for investigation purposes, an increase was observed between 2019 and 2020 in terms of ministerial police or prosecutors, and forensic experts, going from 9.93 to 14.8, from 9.6 to 11, and from 2.37 to 9.7 for every 100,000 inhabitants respectively; likewise for the proportion between judges and defendants' representations, public defenders, and victims, victims' advisors, which went from 3.77 to 4.5, from 2.2 to 6.5, and from 0.5 to 1.3 for every 100,000 inhabitants respectively. However, it must be highlighted that to ensure adequate



equality of arms, victims' advisors in particular require strengthening, as well as defenders' offices and expert services. The latter have seen notable improvement compared to previous data.

3 We have pointed out the importance of having a **Professional Career Service** that would provide personnel with certainty, specialization, and professionalization, as well as favoring conditions for independence of operators. However, efforts made seem to be very asymmetrical between judiciaries and prosecutors' offices, on the one hand, and defenders' offices and victims' commissions on the other. These last ones do not even show CJS elements in a regulatory dimension. This is a thought process that must lead us to a reconsideration of the way to strengthen personnel, which must safeguard the interests of those they represent, and guarantee their procedural rights.

4 The lack of conditions for personnel professionalization is also closely tied to **the lack of mechanisms that favor an orderly, focalized, and goal oriented internal operation**. Thus, defenders' offices and victims' commissions also lack management models that contribute to the standardizing of services, providing quality services, managing workloads and resource distribution, and above all, supporting the defining of monitoring tools to allow for follow-up of their goal-oriented work. To lack these internal tools leads to saturation, work overload, and an impossibility to provide differentiated and timely services, as established by the CJS.

5 In terms of the development of **investigation models** and an approach based on **strategic criminal prosecution** that would further the system's depressurization, differentiated services,

and the focalization of resources, broad limitations are observed. Though some prosecutors' offices have begun implementing institutional management models, it cannot be inferred that they are connected and articulated with criminal policies, criminal prosecution policies, and investigation models. We do not seek to grade these models or initiatives in this chapter, but to describe them in order to associate their possible results with the indicators that are observed in the following chapter, as it is the only way to measure and illustrate their positive aspects, as well as their areas for improvement, or even, externalities that might be occurring. We also seek to offer some considerations in terms of an "ideal" investigation model, aligned with the CJS, and share best practices identified in the research made pertaining to one of the crimes with the highest impact: murders.

6 We must also point out that, while improvements have been seen in several institutions at a local level, **greater stagnation can be seen at a federal level**, especially regarding installed capacity in the Executive Victims' Commission. In terms of the existence and operation of a Civil Career Service, the Executive Victims' Commission, the Federal Defense Institute, and the Attorney General Office stand out for not making any real efforts towards the professionalization, performance evaluation, and certainty conditions for their personnel. Regarding institutional operation guided by management models that support resource focalization and are goal oriented, neither the Executive Victims' Commission, nor the Defender's office have a model, scheme and/or guidelines in place to optimize functioning. While the Attorney General Office, even when it was reported that it functions under a management model, evidence and deficient results point towards them not fully implementing these.



CHAPTER

4

Results

Performance of the criminal justice system

MAIN FINDINGS

- The year 2020 was unusual due to the health emergency caused by covid-19. In general terms, one of the impacts was a 10% decrease in local crime rates. However, upon analysis by types of offense, a noticeable increase in crimes related to drug dealing, family violence, and gender-based violence from one year to the next was identified.
- We note with great concern that the **dark figure** has varied by less than 1% in nine years. On average, it is estimated at 92.8%. Crime will be underreported by the general population due to multiple factors, which are mainly attributable to the authorities in Mexico.
- An investigation is not launched for all cases which can be a window of risk for corruption and impunity. Only 4 out of every 10 investigations launched are resolved at the prosecutorial level, and out of those few, 65% are archived, and for 19%, criminal prosecution is dismissed. Although the system has a residual nature, both represent unsatisfactory forms of conclusion, especially for the victims. Meanwhile, the use of other options, such as Alternative Dispute Resolution Mechanism, was reduced between 2019 and 2020.
- The use of **precautionary measures** does not follow any parameters in terms of exclusion nor are institutional resources used to prioritize proceedings in freedom. In Mexico, 36.1% of defendants are subject to pretrial detention by mandate without any kind of analysis. At the same time, there are entities in which no requests are made for procedural risk evaluations to be conducted, or others in which evaluations are not considered. Likewise, it is surprising to see an increase in the use of plea agreements, given that without supervision and control mechanisms, these can become an incentive for the fabrication of guilty parties.
- Although **workload** is not the only factor that can have an impact on the performance of operators, considerable loads can be observed, especially in victims' commissions and public defenders' offices, which can compromise support, representation, and development of litigation strategies.
- Despite the downward trend in terms of prison population, deriving from legislative reforms, **an increase of close to 25% of the prison population waiting to be judged** has been observed. This represents a red flag considering

that, on the one hand, there is violation of presumption of innocence, and on the other, detention centers do not guarantee minimum conditions for security, health, personal development, which has negative repercussions in the present and future of the persons in question.

- **At the federal level, an inertial operation can be observed,** which increases the need

to discuss distribution of jurisdictions for investigation and criminal prosecution purposes, given that **institutions have stopped addressing phenomena associated with macro-criminality.** This has equal repercussions in terms of the number of victims, the lack of prevention (and non-repetition) policies, and the obstacles to access truth and reparation at a national level, given that only 0.30% of victims are awarded reparation.

Measuring the adversarial criminal justice system is a difficult matter. We must consider that the results of a public policy for criminal justice access depend on the ensemble of solutions implemented by different stakeholders. If these results are observed in an isolated manner, from each authority's perspective, we run the risk of losing sight of the context in which they are generated and the influence of the whole on

individual results. Therefore, in this chapter, we will conduct an analysis of results based on procedural effects to consider each stakeholders intervention within.

Accordingly, in the evaluation methodology³² of the CJS that *Hallazgos* proposes, the results dimension is composed of a group of indicators specifically

Chart 7. Scheme of results



³² The follow-up and evaluation methodology of the operation of the criminal justice system in Mexico can be accessed at: http://cidac.org/wp-content/uploads/2016/11/metodologia_seguinto_web.pdf



designed for each function and institution, but that maintain a systemic approach. The indicators are based on the premise that results of management of cases addressed by justice institutions are a product of the interaction of a series of factors relating to public office. In other words, indicators can be measured, observed, and compared independently, but are the result of a series of variables that interact amongst themselves and that must not be lost in the analysis.

The diagram in Chart 7 represents several inter relations existing between institutions, as well as between the different procedural phases that criminal proceedings entail. First, justice procurement institutions receive reports or complaints directly or through the police, and prosecutors' or attorneys' offices analyze whether these cases must be made known to supervising judges or whether an alternative dispute resolution mechanism or plea bargain must be provided. In the following phase, called "supplementary investigation", jurisdictional authorities will also intervene, as well as criminal defense and victims' councils, at least. Here, some cases will come to some form of resolution, such as a reparatory agreement or a sentence from a plea agreement, whether for imprisonment or not, that will have to be complied with. In the specific case of a sentence for imprisonment, the compliance process is initiated by the penitentiary system.

As can be observed, **the system's logic is residual and, therefore, there should be fewer cases that go through the following phases, and the time it takes to process them depends on the decisions executed by other operators in the previous phase.** This illustrates the always imminent interaction that is present among institutions of the sector, and so the design of indicators must be addressed with a systemic approach. It is important to highlight that the efficiency indicators aforementioned are composed of variables that might not cover all intervening phenomena, and so it is recommended that they be observed as a whole and not in an isolated manner.

Thus, this chapter starts by exposing the context in which the adversarial criminal system exists, so that each of the relevant procedural moments can be analyzed from the beginning of the investigation, the execution of criminal prosecution, case resolution at courts, and their impact on the prison population.

Local results

4.1. Context and crime rate

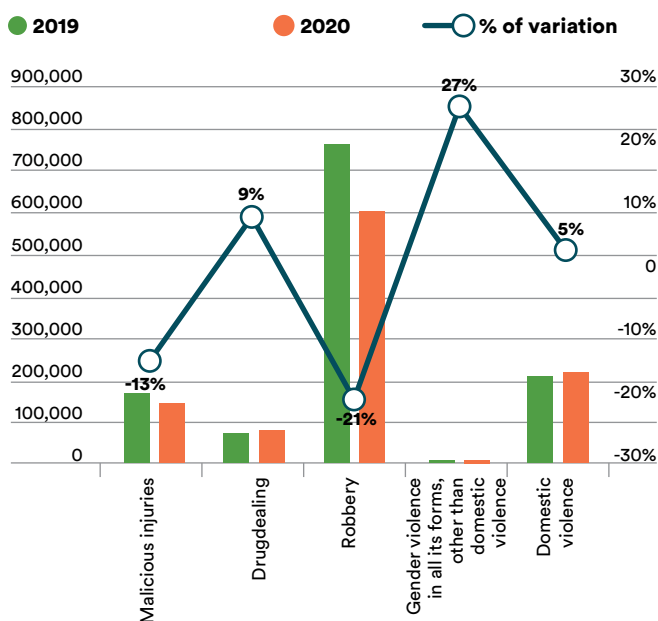
Among the contextual elements that must be considered, it is important to revisit the factors that foster or hinder the operation of the Criminal Justice System, the determinants that we analyzed in the second chapter, as well as the Coordination Capacity Index (Índice de Capacidad de Coordinación, ICTE in Spanish). In *Hallazgos 2019*, we inferred that the national average was at 51.88, and by 2020 at 33.9, which means that there was a variation of -17.98. The ICTE is relevant in three ways: 1. it can explain the heterogeneity and quality of CJS statistical records; 2. it enables the contextualization of results tied to the lack of communication between operating authorities; and 3. It explains the disparity between allocated resources and needs derived from workload.

Thus, it is important to consider that the lack of technical coordination has influence over results that are analyzed in this chapter, and so it is recommended they be studied from this perspective in which the individual functioning of each authority predominates, and not the systemic vision required for the implementation of a public policy.

On the other hand, crime rates allow us to establish the scenario in which the CJS must operate to generate results. Crime rate is addressed by taking into account two elements: 1. the records from the Executive Secretariat of the National Public Security System, that refer to the "supposed occurrence of offenses registered in pre-trial investigations or investigation dossiers, reported by prosecutors and attorneys' offices in federative entities", and 2. the data provided by the National Survey On Victimization And Public Security Perception (Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública, Envipe in Spanish) that seeks to estimate the number of crimes occurred in the year prior to the population being surveyed. It must be clarified that the Envipe survey 2020 provides data related to rates and victimization that refer to the year prior to the 2019 survey being conducted, while the data corresponding to perception and performance of authorities does correspond to the year 2020. Due to this situation, the information can correspond to two different analyses, but it does allow for an estimation of relevant aspects in terms of context.

Information from the Executive Secretariat of the National Public Security System points out that from January to December 2020, 1,841,188 crimes were committed corresponding to state jurisdiction³³; the year before, 2,017,164³⁴ were registered, meaning that there was a 10% reduction, which can be especially seen in more recurring crimes, such as theft or intentional injuries. However, in terms of crimes such as drug dealing, family violence, gender-based violence, in all modalities different from family violence, what can be seen is an increase from one year to the next, as shown in Graph 21 as follows:

Graph 21. Variation in crime rates



Source: Prepared by the authors based on data from the Executive Secretariat of the National Public Security System.

The 10% decrease in the number of investigations launched or investigation dossiers created in 2020, in general terms, can be attributed to the covid-19 health emergency. On the other hand, the significant increase in at least three of the five more recurring crimes in 2019 and 2020, indicates that the reduction also meant that there was a rearrangement of the crime phenomenon, with regards to which it is important to know the criminal justice system's response and adjustment capacities.

In March 2020, the UN Women warned about an increase in risk for women and girls due to the confinement situation, as this would increase tensions within the home and in terms of the coexistence of victims with their aggressors. Equally, a communication campaign to this regard was launched:

"Since covid-19 started spreading, new data and reports made by those who are in the front lines reveal that all kinds of violence against women and girls have intensified, especially, violence within the floor home. It is a pandemic that grows in the shadows of the covid-19 crisis, and we need general collective efforts to be made to stop it."

As predicted by these authorities specializing in gender-based issues, crimes related to gender-based violence in all of its modalities different from family violence increased by 27%, and family violence did so by 5%. However, the CJS did not generate coordinated actions that would enable the establishment of a joint strategy in the face of the prognoses and the imminent increase in the occurrence of these crimes, such as priority criteria for resolution of cases related to gender based violence and family violence, implementation of protection measures in coordination with law enforcement authorities for the protection of victims, greater support in terms of receiving reports to guarantee that victims receive pertinent counsel or the activation of investigation protocols with a gender-based approach that will guarantee strengthened due diligence in these cases. Although these actions would not have prevented the increase in aggressions perpetrated as such, they would have guaranteed access to justice and protection for the victims.

4.2. Trust in the criminal justice system

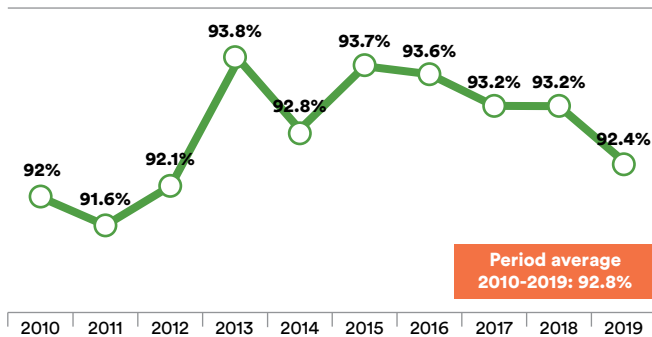
For 2019, Envipe registered 30,273,237 crimes committed, of which 26,870,380 were not reported. In other words, the surveyed population stated that they did not file a report in 89% of cases. The dark figure estimated by the survey for 2019 is 92.4% and is composed of crimes for which no report was filed, as well as reported without an investigation dossier, and crimes for which it was not specified whether a report was filed, or an investigation dossier was created.

³³ SESNSP, Incidencia Delictiva del Fuero Común 2020, Enero - Diciembre 2020. Available at: https://drive.google.com/file/d/1io137NHAVHvSnbXelmyKtdL_P20k00t/view, accessed in July 2021

³⁴ SESNSP, Incidencia Delictiva del Fuero Común 2019, Enero - Diciembre 2019. Available at: https://drive.google.com/file/d/1dtJg4zTqSYNR6M2OZ_wUts6M3alpQ9jr/view, accessed in July 2021



Graph 22. Evolution of the dark figure

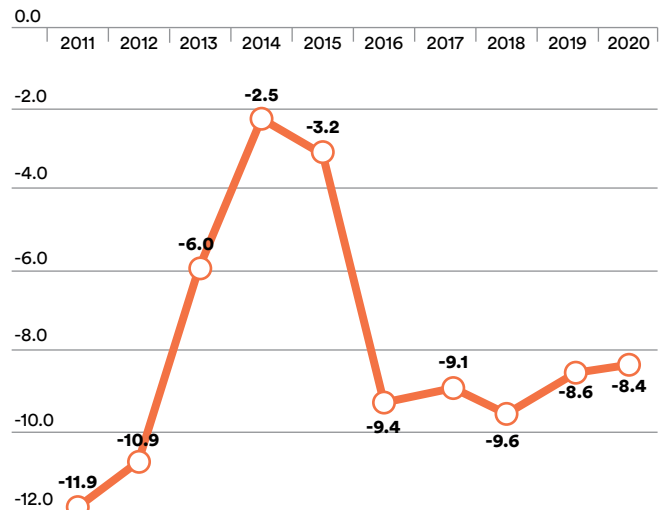


Source: Prepared by the authors based on data from Hallazgos 2019 and Envipe 2020.

The dark figure has varied less than 1% from 2010 to 2019: on average, it has been estimated at 92.8% for this period. If we were to assume that the dark figure for 2020 would be kept within the range of this average, it's possible to estimate that the report rate would not have grown significantly compared to the year before (92.4%), which is relevant given that it allows us to assume that the increase of 27% in crimes related to gender-based violence, 5% in crimes related to family violence, and 9% for drug dealing is not necessarily tied to a change in the population's behavior, in terms of more reporting, but rather to the direct increase in occurrence of these crimes.

The federative entities that have a rate above the national average in terms of the dark figure estimated

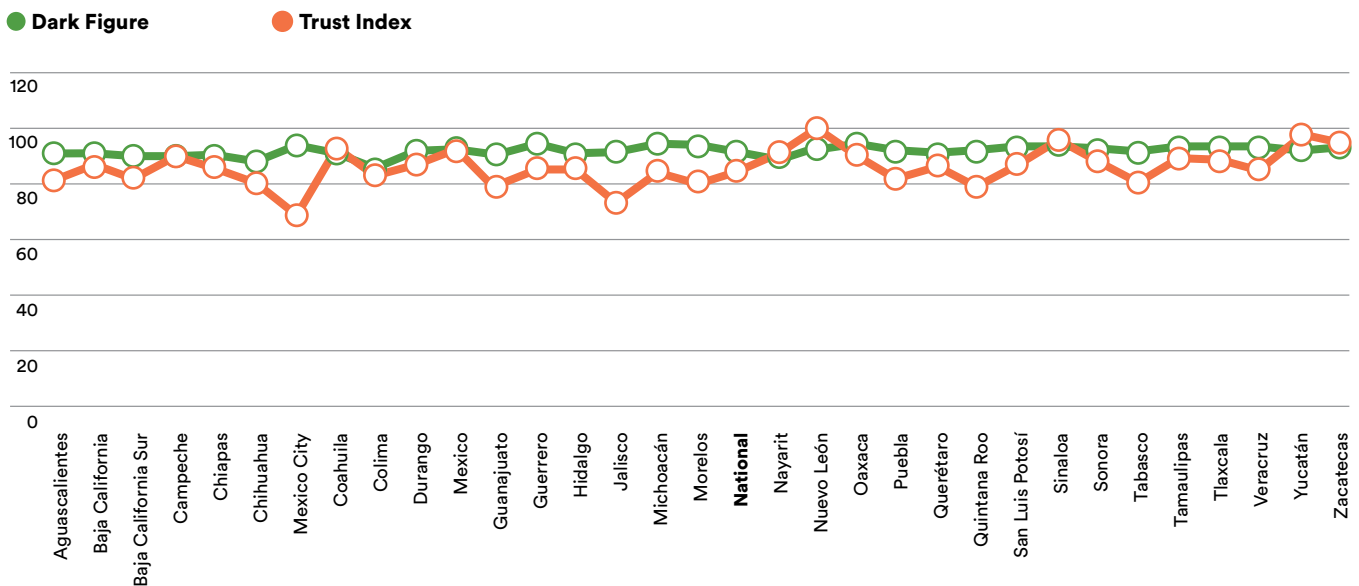
Graph 23. Trust Index for the Criminal Justice System



Source: Prepared by the authors based on the different editions of Envipe.

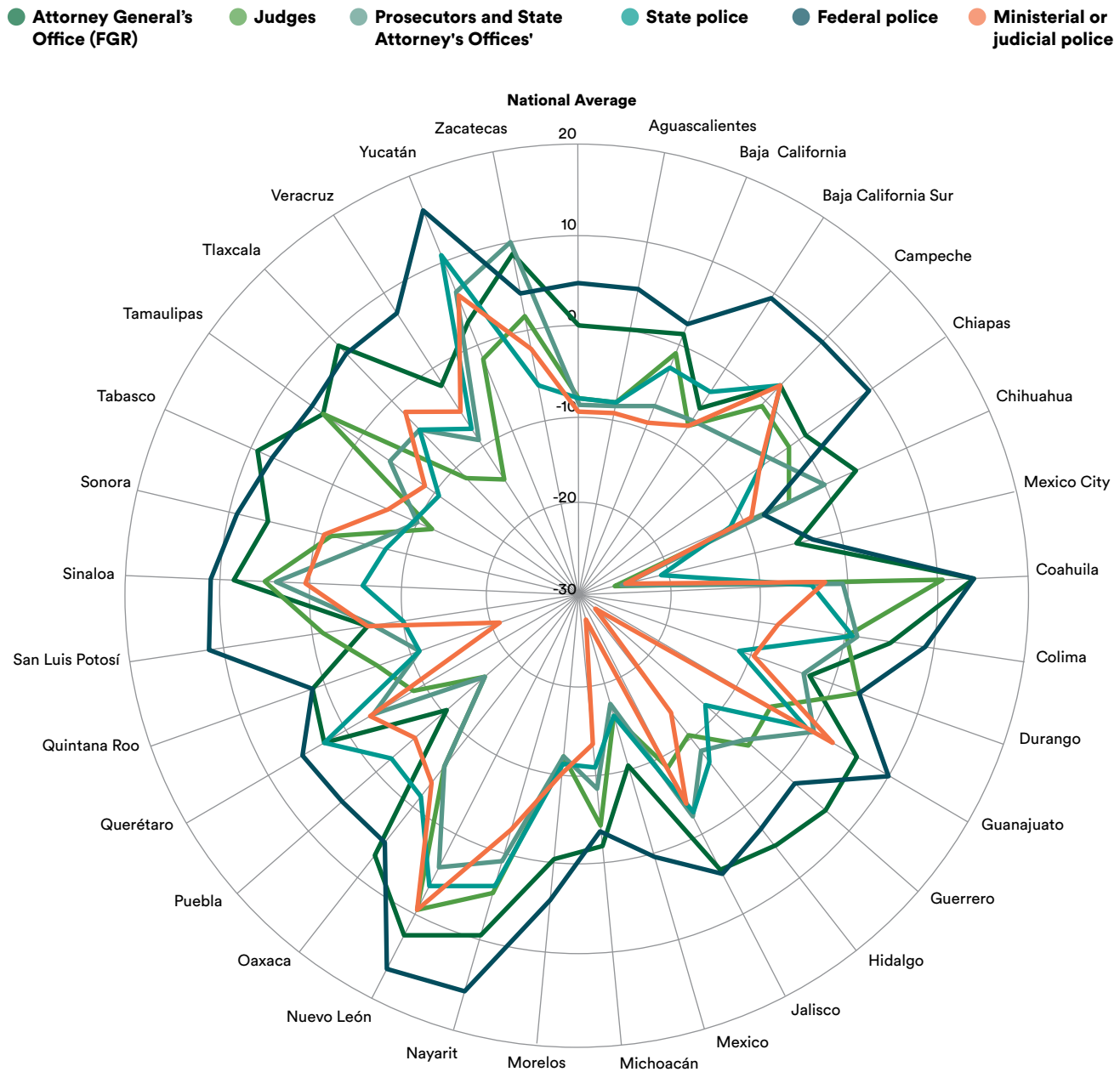
by Envipe are Guerrero (96.1), Oaxaca (95.2), Michoacán (95.0), Sinaloa (94.5) Tamaulipas (94.0), Mexico City (94.0), San Luis Potosí (93.6), Tlaxcala (93.6) Veracruz (93.4) and Morelos (93.2). Puebla (91.3), Baja California (91.3), Jalisco (91.2), Quintana Roo (91.1), Campeche (91.0), Aguascalientes (90.8), Hidalgo (90.4), Chiapas (90.2), Guanajuato (90.2), Tabasco (90.2) and Nayarit (90.0) have rates below the national average. The lowest dark figure estimations are made for Querétaro (89.8), Baja California Sur (89.3), Chihuahua (87.7) and Colima (84.5).

Graph 24. Comparison between dark figure and trust index



Source: Prepared by the authors with data from Envipe 2020.

Graph 25. Trust Index by entity and by operating authority



Source: Prepared by the authors with data from Envipe 2020.

The dark figure can be considered representative of cases that do not end up in the criminal justice system for different multifactorial reasons. Within these factors is the information that we have systematized into an Index of the Population's Trust in the Authorities of the Criminal Justice System³⁵, based on data from Envipe,

the national average of which is -8.4, with a reduction of only 0.2 compared to the year before³⁶. We will go deeper into detail with regards to the current level of trust that citizens have in criminal justice institutions in the chapter on Perception and Understanding of this report.

³⁵ The trust index pertaining to the criminal justice system, made by México Evalúa is calculated based on the average of the difference between "a lot" and "no trust (or between "a lot of trust" and "a lot of mistrust") in the Envipe data since 2011 up until 2020, including state police, ministerial or judicial police, prosecutors, as well as judges.

³⁶ The referred trust index has been published since our "Customized justice" (Justicia a la Medida) 2016 report and integrated afterwards in our *Hallazgos* editions.



There is a correlation between the dark figure rates estimated by Envepe and the trust index, which follows suit as observed in graph 24. Only in some cases, such as Mexico City, Guanajuato, and Jalisco, is there a more noticeable difference between trust and dark figure, given that in these entities, the index is lower than the dark figure. Nevertheless, we have also found cases such as Nuevo Leon, where the trust index is higher (6.9%), even though their dark figure is not the lowest at a national level: it is estimated to be a little above the national average (92.9%). Further exploration of factors that would explain the impact of trust in terms of the willingness of citizens who have been victims of a crime to file reports would be necessary. Ideally, we would hope that the greater the trust on behalf of the population, the more likely they would be to file a report, however we observe that this scenario is not verified given that, despite improvements in citizen trust, the dark figure remains unchanged.

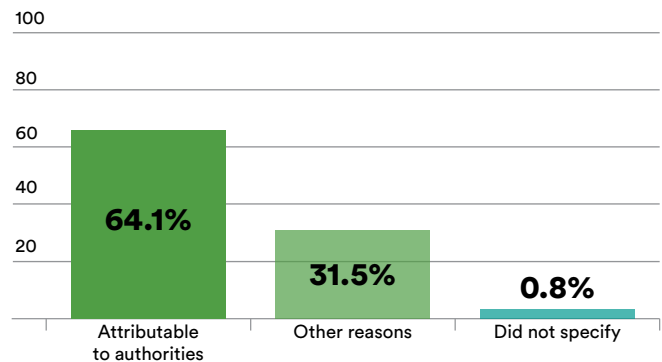
A more detailed look at the trust index can help explain this apparent anomaly. For example, in Mexico City, the operating authority of the criminal justice system with greatest deterioration in terms of the trust index is the prosecutor suffering a decrease of 30.5%, followed by the deterioration of trust in judges of 26% and prosecutorial police by 24%. Meanwhile, in the case of Nuevo Leon, even though there is a minor level of trust in prosecutor's agencies (3.7%) compared to other stakeholders, an improvement through time is seen in that institution, as well as for the level of trust towards judges (8.9%) and prosecutorial police (9.0%).

Graph 25 provides further details regarding the Trust Index by entity and by operating authority.

As explained, the population stops filing reports or suits for multiple reasons. A look at Envepe 2020 shows us that some of these can be attributed to the authorities, such as direct mistrust, which has an influence in about 15% of cases; the fact that the population considers that filing a report is a loss of time (36.3%); a hostile attitude on behalf of the authorities (3.5%); fear of becoming a victim of extortion (0.8%); or the perception that these are long and difficult filings (8.4%). Other factors that might influence the population's unwillingness to file reports that cannot be attributed to the authorities are the fact that the population considers that the crime committed is of little importance (10.1%), there is a lack of evidence (11.1%), and fear of the aggressor (5.1%). Finally, other motives (8.9%) and unspecified aspects (0.8%) have been recorded.

These numbers show a sustained trend throughout the last nine years, without a correction in sight, and based on the proposed analysis of the chapters on determining and enabling factors of the current edition. It is concerning, especially because at least 64.1% of factors behind the lack of report filings can be attributed to the authorities.

Graph 26. Reasons for not filing reports



Source: Prepared by the authors with data from Envepe 2020.

Although the implementation of strategic case distribution models can have a positive impact in terms of their efficient resolution, they are not enough if not accompanied by a management model for the quality of the public service provided that focuses on users and on dismantling the causes of this estrangement on behalf of the population with regards to justice procurement and administration bodies. It must be noted: any intervention that does not put users' needs at the center of the matter, and that will not propose a benefit, loses its sense and purpose. Furthermore, the dissemination of work conducted by justice institutions, and the stemming knowledge of citizens, can be factors that would promote the filing of reports. As mentioned before, the survey conducted regarding these aspects can be consulted in the perception and understanding chapter.

This is the context based on which we have analyzed the CJS's report. The reference framework for our analysis is built on the Model of Evaluation and Follow-up of the Consolidation of the Criminal Justice System³⁷ and the information provided directly by institutions through information requests.

³⁷ Evaluation and Consolidation Follow-up Model of the Criminal Justice System, SEGOB, available at: <https://mes.segob.gob.mx/>

4.3. Criminal procedural pipeline 2020

The difference between the data from the Model of Evaluation and Follow-up of the Consolidation of the Criminal Justice System and the Executive Secretariat of the National Public Security System in terms of opened investigation dossiers in 2020 must be highlighted. The Secretariat reports that 1,841,188 dossiers were opened that year, while the Model refers to a number of 1,843,410. This is a discrepancy of 2,222 investigation dossiers: 0.12%.

Although, for context analysis purposes, we base our work on the Secretariat, for the purpose of analyzing throughout the criminal process, we will use the data from the model, as it is a tool based on which our reference framework is defined. We will follow the flow of the criminal process expecting this might shed some light on the kind of evidence each stakeholder can obtain, depending on their functions and interactions at each procedural moment, while providing a systemic perspective.

4.3.1. Opening of investigation

Considering the dark figure calculated by Envepe is 92.4%, it is inferred that **prosecutors' and attorneys' offices address only 7.6% of crimes committed.** In 2020, according to the Model, 1,843,410 investigation dossiers were opened, compared to 1,980,016 reports or suits, implying that **an investigation is opened in 93.1% of events made known to prosecutors' and attorneys' offices.**

Based on what has been defined in article 265 of the National Code of Criminal Proceedings, the investigation background consists of all records incorporated into the investigation dossier so that, if a report or suit is filed, attorneys' and prosecutors' offices have the responsibility to log that information into the investigation dossier in order to determine whether the investigation will continue or not. Thus, the responsibilities of prosecutors' and attorneys' offices to investigate is established in article 212 of the NCCP: "Once the prosecutor is made

aware of an event considered an offense by law, it will lead a criminal investigation without suspension, interruption, or cease of course, unless authorized by the same Institution".

In terms of this gap between cases reported and those that detonate an investigation by the prosecutor, we can see alarming cases such as the one of Chiapas, where investigation dossiers are opened for only 57.4% of reports and suits received, or that of the state of Nuevo Leon, where investigation dossiers are opened for 54.7% of reports and suits filed. A less alarming but equally concerning situation is the one we see in states like Tlaxcala (64.2%); Sonora (73.8%) and San Luis Potosi (77.8%).

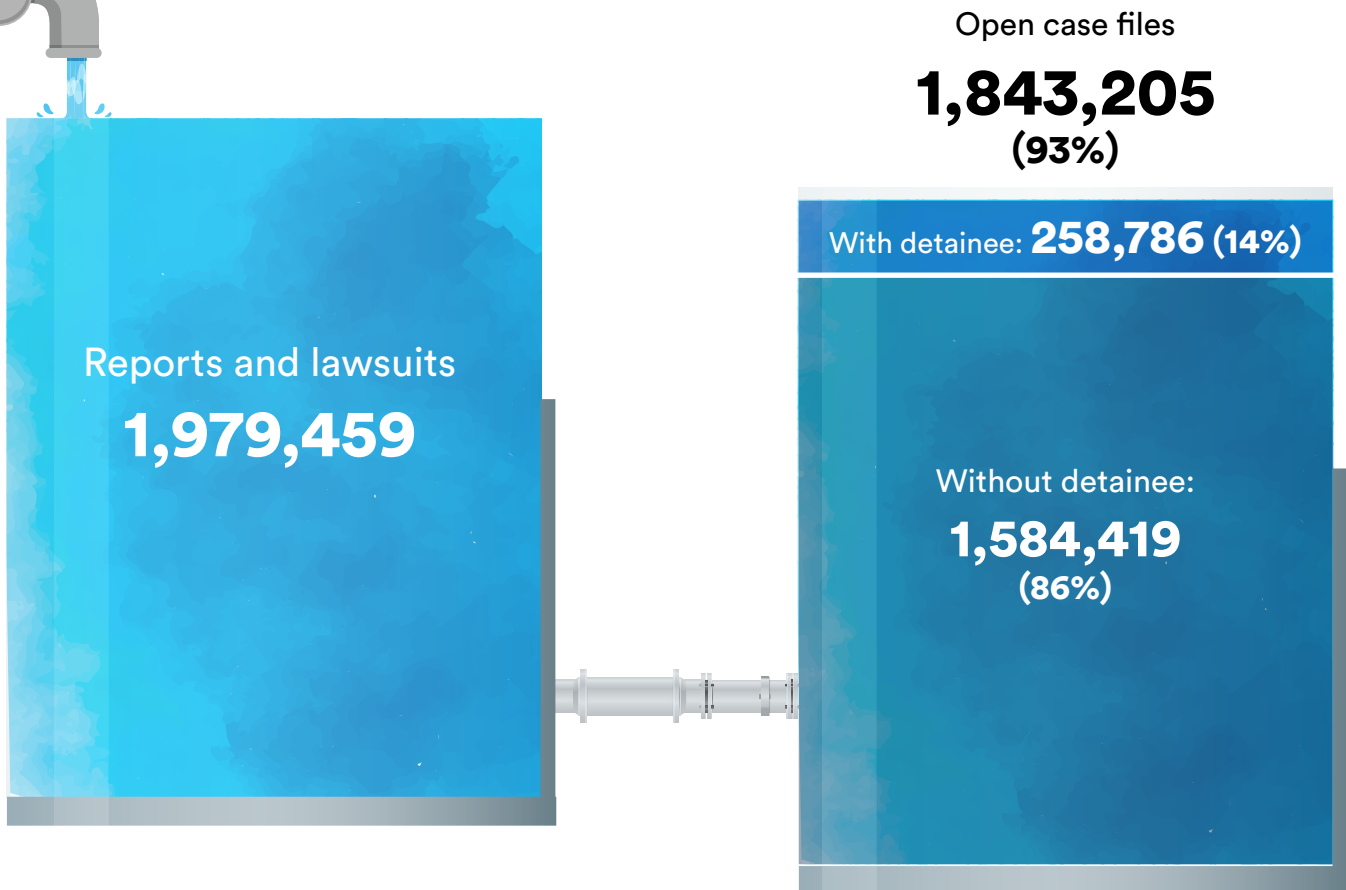
**PROSECUTORS' AND ATTORNEYS'
OFFICES ADDRESS ONLY 7.6%
OF CRIMES COMMITTED.**

**AN INVESTIGATION IS OPENED
IN 93.1% OF EVENTS MADE
KNOWN TO PROSECUTORS'
AND ATTORNEYS' OFFICES.**

Although the opening of investigation dossiers is not a goal in and of itself, in a dark figure context like the one pointed out, the fact that prosecutors' and attorneys' offices around the country will not act by at least launching the investigations pertaining to the events made known by their citizens does not help improve the trust and outreach conditions of the CJS towards citizens. Additionally, according to Envepe 2020, investigations are not launched for 45.4% of reports for partial vehicle theft at a national level; In 31.4% of cases, the

population will report that "nothing happened"; And there is damage reparation in 0.5% of cases. Although this kind of theft could be considered of low priority, this scenario is similar to that of extortion reports, for which an investigation dossier was opened in 42.5% of cases, the population reported that "nothing happened" in 33.4% of cases, and there was damage reparation in 0.3% of cases.

This low efficacy scenario adds to a possible incentive for prosecutors' and attorneys' offices to not log investigation dossiers for 100% of reports or suits so that statistics for pending processes will not become enlarged. This is in direct detriment to citizens' right of access to justice as no record is kept pertaining to the authorities' actions in terms of reports or suits. Needless to say, prosecutors' and attorneys' offices are in non-compliance with their duty to investigate by doing things this way.



Source: Evaluation and Monitoring Model for the Consolidation of the Criminal Justice System, SEGOB.

4.3.2. Investigations by prosecutor

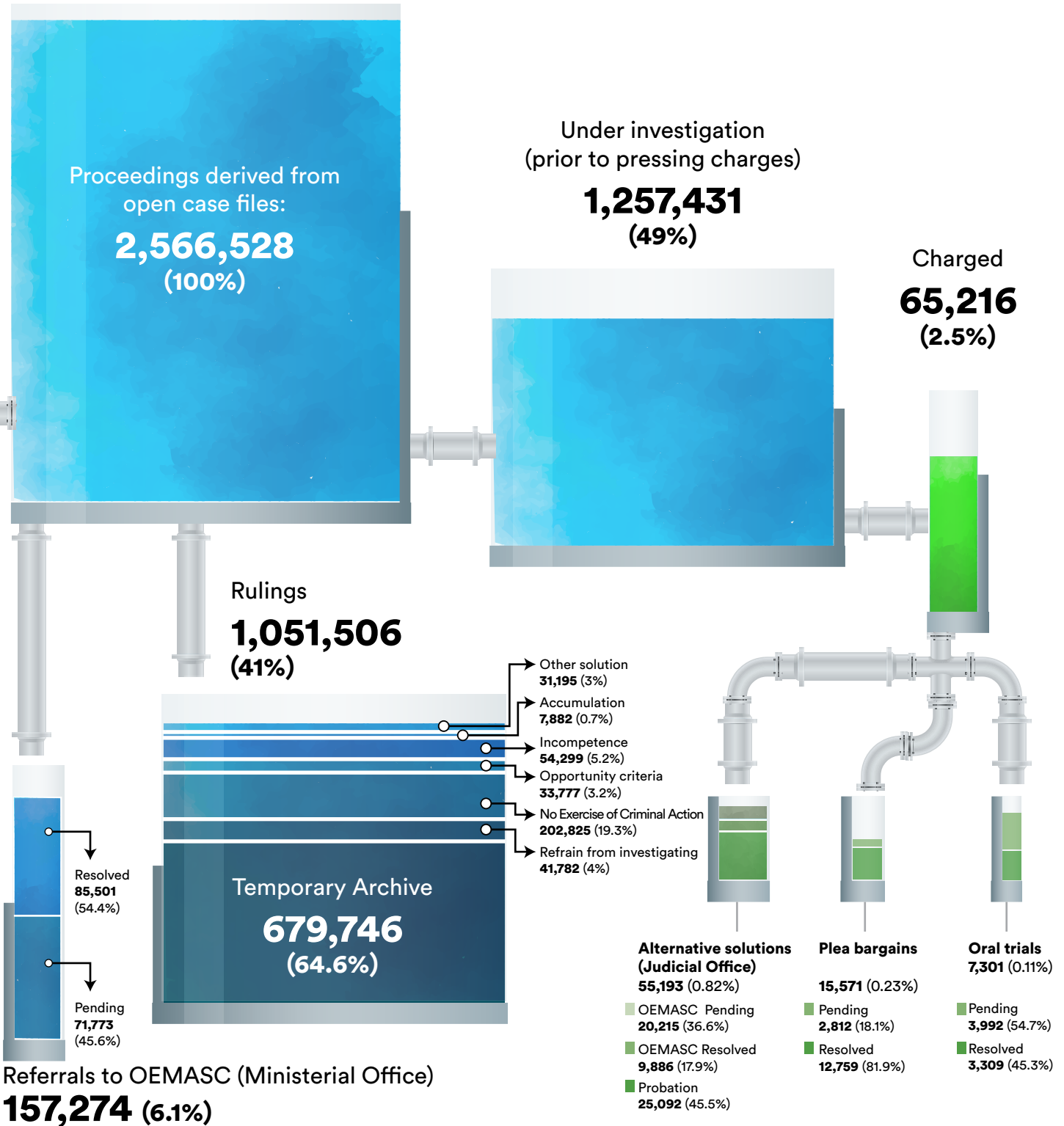
Without a doubt, work overload can be another incentive for prosecutors' and attorneys' offices to avoid creating investigation dossiers for 100% of reports or suits. At a national level, each prosecutor starts off with an average of 145 investigation dossiers. **The states with the highest numbers of launched investigations don't necessarily have more workload per prosecutor.** We will look at two groups of entities:

- Group 1:** composed of the states with the highest numbers of open investigation dossiers: State of Mexico (300,948), Mexico City (204,025), Jalisco (132,123), and Baja California (125,406). At the same time, they make up the group of states with the most prosecutors: State of Mexico (1,381), Mexico City (1,471), Jalisco (604), and Baja California (461). Each prosecutor starts off with 218 investigation dossiers in the State of Mexico, 139 in Mexico City, 219 in Jalisco, and 272 in Baja California.
- Group 2** is composed of the states with the lowest number of investigation dossiers opened. Nuevo Leon (81,180), Sonora (36,136), Queretaro (51,187), and Colima (27,396). They also have fewer prosecutors: Nuevo Leon (178), Sonora (111), Queretaro (173), and Colima (103). However, prosecutors in these states launch more investigations per prosecutor: in Nuevo Leon, each prosecutor opens 456 investigation dossiers, in Sonora 326, in Querétaro 296, and in Colima 266.

The first group has more investigation dossiers and more prosecutors but opens fewer investigation dossiers per prosecutor than the states in the second group. For both, each prosecutor creates more investigation dossiers than the national average, which is 145 dossiers per prosecutor. However, **it is surprising that more investigation dossiers do not translate into a heavier workload per prosecutor**, given that states with fewer dossiers report larger workloads.



Criminal Procedural Pipeline 2020





In general, the states with the most investigations launched per prosecutor are Nuevo Leon (451), Sonora (326), Queretaro (296), Baja California (272) and Colima (266).

4.3.3. Investigation launches with or without a detainee

According to the model, 86% of investigations at a national level are launched without anyone in custody, and 14% are therefore initiated when a person is detained and is presented at prosecutors' or attorneys' offices. In both cases, investigations entail high demands and technical capacity from Prosecutorial Services agents. When there is a detainee involved, they will have a maximum of 48 hours to assess the circumstances of that arrest, as well as its legality, to collect the necessary evidentiary information to press charges, guarantee the integrity and safety of the person detained, and prepare arguments regarding the charges that will define the facts on which an indictment will be based.

Regarding investigations launched with no arrest, although there is no 48-hour window, the fact is that the more time passes, the greater the possibility of losing evidentiary information and clues pertaining to the investigation, and with that, losing the possibility of indictment.

In any case, to launch an investigation when an arrest has been made, implies that the investigation and the prosecution of the crime in question would depend, to a great extent, on the capabilities of the law enforcement agencies involved in terms of arresting and presenting person at a Attorney's Office for an act they presume to be an offense. And so, it is positive that more investigations of this kind are launched, as long as there are inter-institutional coordination mechanisms in place to align criminal prosecution priorities with the response provided by law enforcement bodies in the face of specific criminal phenomena. If these mechanisms do not exist, it is for all intents and purposes, the law enforcement bodies that determine criminal phenomena priorities, and the criminal prosecution is limited to the processing of the investigation of the events presented by police officers. The fact that more investigations are launched without arrests increases the level of complexity for prosecutors' offices because they would have to

plan their work, collect evidentiary information, and the necessary elements to clarify the events in question, and if applicable, press charges.

Cases such as that of Coahuila and Campeche must be highlighted. The first launches investigations with arrests in 40.6% of cases, and the second does so in 37.2% of cases. Based on the determining and enabling factors that were analyzed in prior chapters, in these states, no coordination mechanisms or criminal policies have been detected that would support and alignment of police actions with criminal prosecution priorities. Thus, it can be inferred that in these states, law enforcement bodies are those that determine the majority of cases for which prosecution is to be applied, at the time in which a detainee is brought or not to the prosecutor.

Additionally, to these two states, at least nine others are below the national average in terms of investigations launched without an arrest: Sonora (83.1%), Chiapas (83.1%), State of Mexico (82.7%), Baja California (82.3%), Mexico City (78.6%), Yucatan (76.3%), Chihuahua (71.8%), Tlaxcala (67.9%), Campeche (62.8%).

We must highlight that **the recent transition from attorneys' offices to prosecutors' offices, and the implementation of civic justice incorporate the possibility of articulating a criminal prosecution policy based on investigation priority criteria** with the purpose of preventing the proliferation of cases in which it is feasible to generate results that do not focus on addressing the criminal phenomena that are more important and most harmful towards the population, and that end up hindering the efforts made for the cases that so require it. **This policy will be difficult to achieve as long as police arrests determine the actions and priorities of criminal prosecution,** and the prosecutors' offices remain passive.

4.3.4. Decisions for investigation launch

The NCCP (article 258) states that the decisions that can be subject to judicial control are those regarding abstention from investigation, temporary archive, the application of an opportunity criterion, and the decision to not prosecute. For the purposes of this exercise, incompetence and accumulation must be added to this list of decisions.

Abstention from investigating:

prerogative of the prosecutor to not launch an investigation of the events that do not constitute an offense, criminal prosecution or the responsibility of the person accused has expired.



Temporary archive:

the initial phase is authorized as no background, sufficient data or elements are found to merit launching lines of investigation or proceedings to clarify the facts. As soon as more information becomes available, the case can be reopened.

Opportunity criterion:

closing of the investigation through which the prosecutor abstains from prosecuting in cases authorized by the NCCP and based on criteria established by the Attorney's Office. Not applied in cases of crimes against the free development of personality, family violence, or in cases of fiscal crimes or those that severely impact public interest.

Non prosecution:

before the initial hearing, if grounds for dismissal are brought forth, the prosecutor may decide to not prosecute, with the authorization of the lead prosecutor or attorney, or the person designated for these purposes.

Around the country, **41% of investigations are closed due to decisions made by the prosecutor in terms of temporary archive (64.6%), non-prosecution (19.3%), abstention to investigate (4.0%), opportunity criterion (3.2%), incompetence (5.2%) and accumulation (0.7%).**

Although we cannot omit the residual nature of the system, the fact is that temporary archive and non-prosecution are forms of process conclusion that are not satisfactory, especially for the victims. Surely, at a global level, no system is able to process all cases, but the fact that over half merely end up archived implies that a crime has been committed but the necessary actions are not being undertaken to investigate it (which is different from non-prosecution, where the case is dismissed due to the reported acts not constituting an offense).

As such, it is necessary to delve deeper into the analysis of cases ending up closed this way. An approach by type of crime of the cases that are being temporarily archived could lead stakeholders of the system that intervene in the investigation phase to design and take action to take advantage of the information contained in those dossiers, even though there was no person identified as the alleged perpetrator at the time. These kinds of action

Incompetence:

the investigation is closed due to a lack of jurisdiction of the prosecutor over said investigation or for taking action in terms of territory, exemptions, subject matter, degree, or extent.

Accumulation:

it is a way to end an investigation with the purpose of adding it to another with which there are connecting elements, such as the parties involved, the aim, the intent, or the evidence.

would lead to the creation of intelligence strategies that would allow us not only to support society in a preventive manner, but also to conduct analyses of a more structured (organized) criminality.

There are 18 states³⁸ that are above the national average pertaining to the use of temporary archives, but the case of Jalisco stands out: 94.4% of decisions are of that nature. Although temporary archive refers to a regulated decision established by the NCCP, this high proportion leads us to reflect on whether the cases for which it is used are indeed those for which there is "no background, sufficient data or elements found to merit launching lines of investigation or proceedings to clarify the facts that led to the investigation", as stated in the NCCP (article 254).

³⁸ Baja California, Durango, Mexico, Nayarit, Quintana Roo, Hidalgo, Guanajuato, Chihuahua, Michoacan, Baja, California Sur, Puebla, Tamaulipas, Aguascalientes, Jalisco, Chiapas, Yucatan, Coahuila, and Colima.



Up until now, the MES and the National Census on Justice Procurement do not disaggregate resolutions made by prosecutors by crime, and so it is not possible to identify aspects that would allow us to infer if we are dealing with cases that adjust or not to the NCCP. On the other hand, the studied determining and enabling factors do not reflect control mechanisms regarding the adequate use of temporary archive, whether through agile but rigorous proceedings that ensure the cases have sufficient information to set lines of investigation, or with effective follow-up processes that make posterior reactivation possible, obtaining other or more data to set lines of investigation.

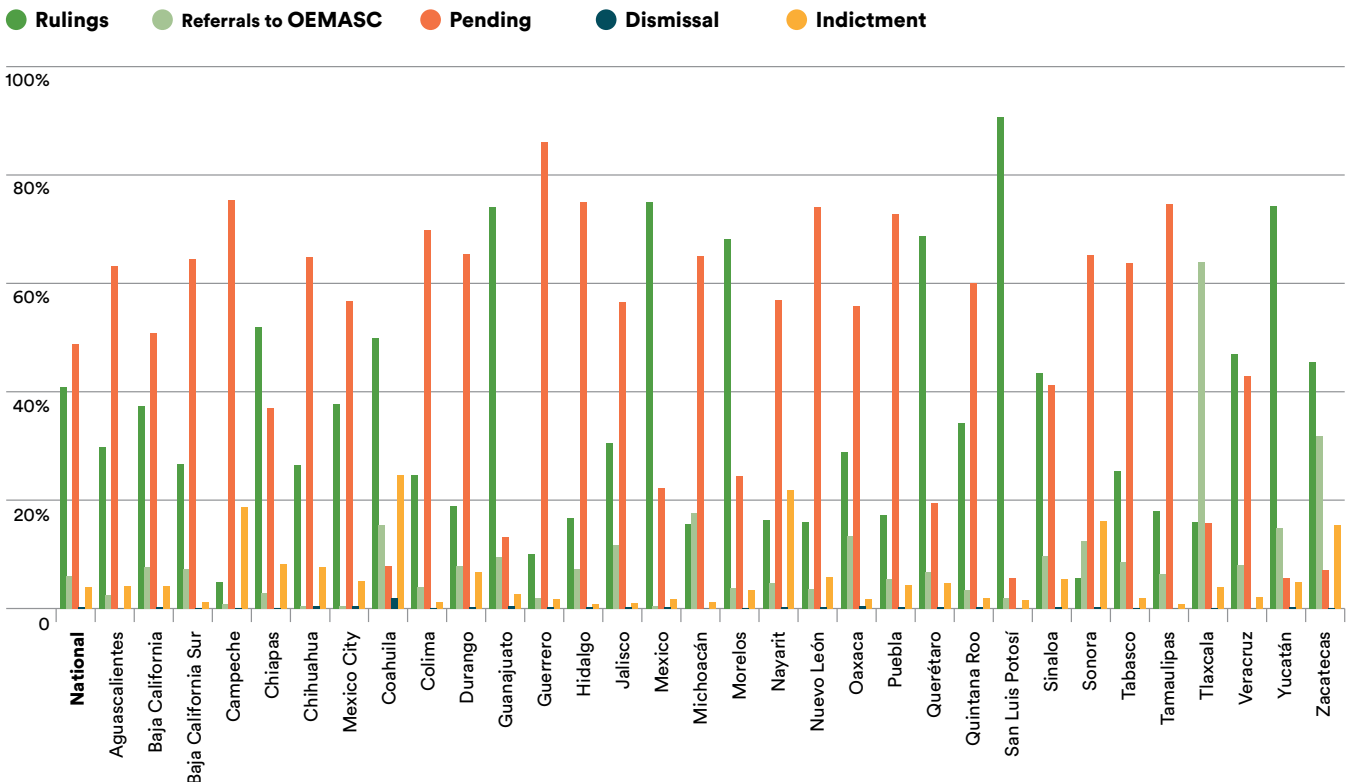
Without control mechanisms, the temporary archive can turn into an incentive to reduce the number of pending investigations. Furthermore, it can foster the prescription of crimes without the corresponding institutional support, and that the cases for which the victims promoted the investigation by providing evidence be forgotten, which once again, results in noncompliance in terms of investigation, as determined by the NCCP. Also, it would be worthwhile to analyze whether the high

level of use of temporary archive is truly discriminating against higher impact cases and/or crime phenomena, and whether it could mean a risk for the most valuable of legal assets, such as life and liberty.

In this context, out of the 59.0% of investigations left, 49.0% are pending, 6.1% have been forwarded to Alternative Dispute Resolution Mechanisms, 3.8% have proceeded with charges and 0.1% were dismissed.

This scenario shows that in 2020, 1,980,016 reports or complaints were filed in prosecutors' or attorneys' offices around the country, of which 1,843,410 resulted in an investigation dossier being created (93.1%). Out of these, prosecutor decisions, such as the ones mentioned, were made 1,051,506 (41.0%), which means that 1,257,431 (49.0%) are pending. Considering that the national average of initiated investigations per prosecutor is 145, each prosecutor would have 71 pending investigations of the ones initiated originally, which represents a real workload (of pending cases) of 49.0%.

Graph 27. Status of investigation dossiers



Source: Prepared by the authors with data from the MES model, updated to August 9, 2021.

It is clear that this generalization is based on national averages and does not necessarily reflect workloads in terms of pending investigations in all cases. For example, Nuevo Leon, the state that launches the most investigations per prosecutor, has 74.4% of investigations pending, meaning that out of the 456 launched investigations by each prosecutor, 339 were pending: their real workload.

Graph 27 portrays the current situation in terms of investigation dossiers by federative entities.

4.3.5. Prosecutorial congestion rate

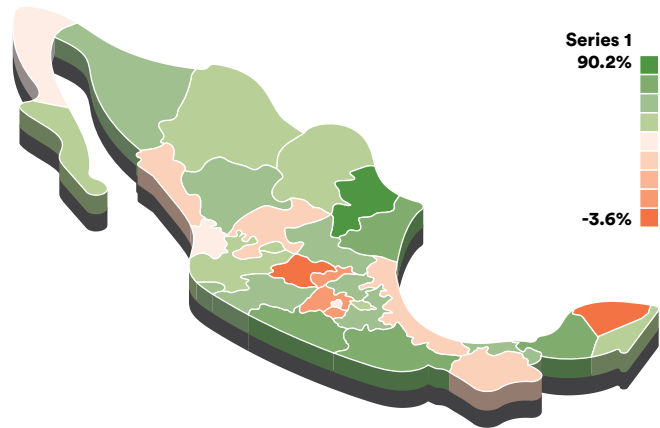
These figures highlight that the more investigation decisions made, the lower the congestion rate³⁹ at the prosecutorial level. In other words, the more decisions made, the fewer pending investigations. This reveals the importance of deeply and specifically analyzing the use of temporary archives, the most used to determine investigations. It is necessary to ensure that this is not done merely to reduce the number of pending investigations, but rather that, indeed, prosecutors' and attorneys' offices take on cases for which no data is available that would merit the launch of lines of investigation.

The national prosecutorial congestion rate is 55.4%. The states with the highest rates are Nuevo Leon (90.2%), Guerrero (86.6%), Tamaulipas (79.0%), Hidalgo (78.1%) and Puebla (76.0%). However, it must be said that only 10 states are below the national average: Baja California (54.8%), Veracruz (43.0%), Sinaloa (41.9%), Zacatecas (40.3%), Chiapas (36.9%), Morelos (26.1%), State of Mexico (22.7%), Queretaro (17.3%), Guanajuato (11.4%) and Yucatan (3.6%).

Usually, decisions reduce the number of cases pending, except in Tlaxcala where the rate of decisions is 15.9% and pending investigations 15.8%. A possible explanation: it is the state that forwards the most cases to alternative mechanisms for their resolution (64.2%). We must also note the cases of Puebla, which substantially increased its congestion rate from 47.3% in 2019 to 76.0% in 2020; and Guerrero, which increased its rate from 69.4% to 86.6% in the same period. Campeche did the same, in a lesser proportion, as its congestion rate went from 73.0% to 75.7%, and Tamaulipas' went from 76.7% in 2019 to 79.0% in 2020.

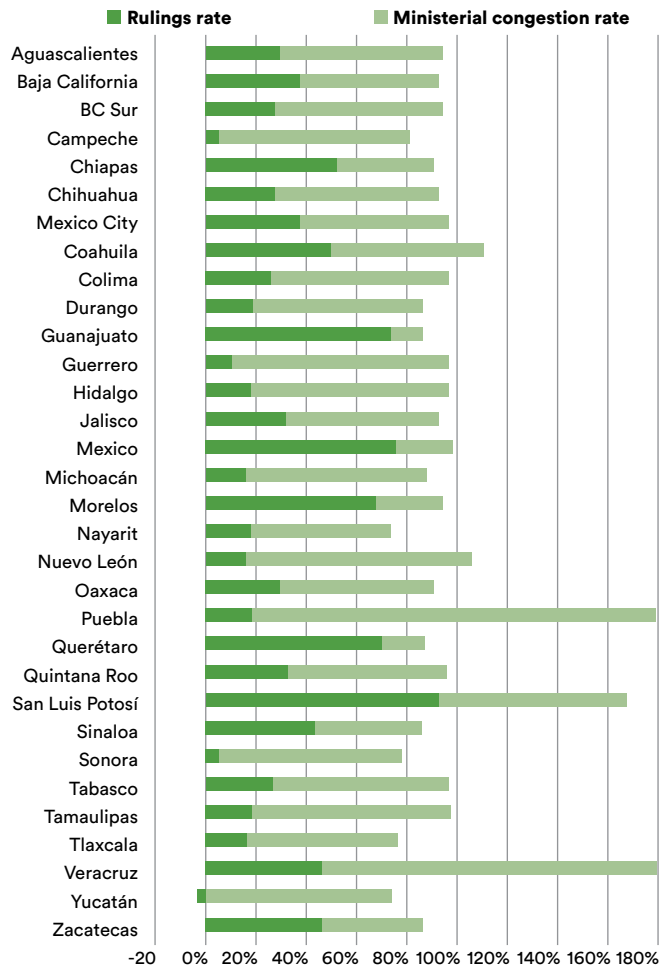
Likewise, states like Hidalgo represent a surprise, given that in 2019 it had a congestion rate of 83.0%, which was reduced to 78.1% in 2020.

Graph 28. Prosecutorial congestion rate



Source: Prepared by the authors with data from MES.

Graph 29. Rate of prosecutorial congestion and decisions



Source: Prepared by the authors with data from MES.

³⁹ Proceedings for which investigations are pending or unresolved.



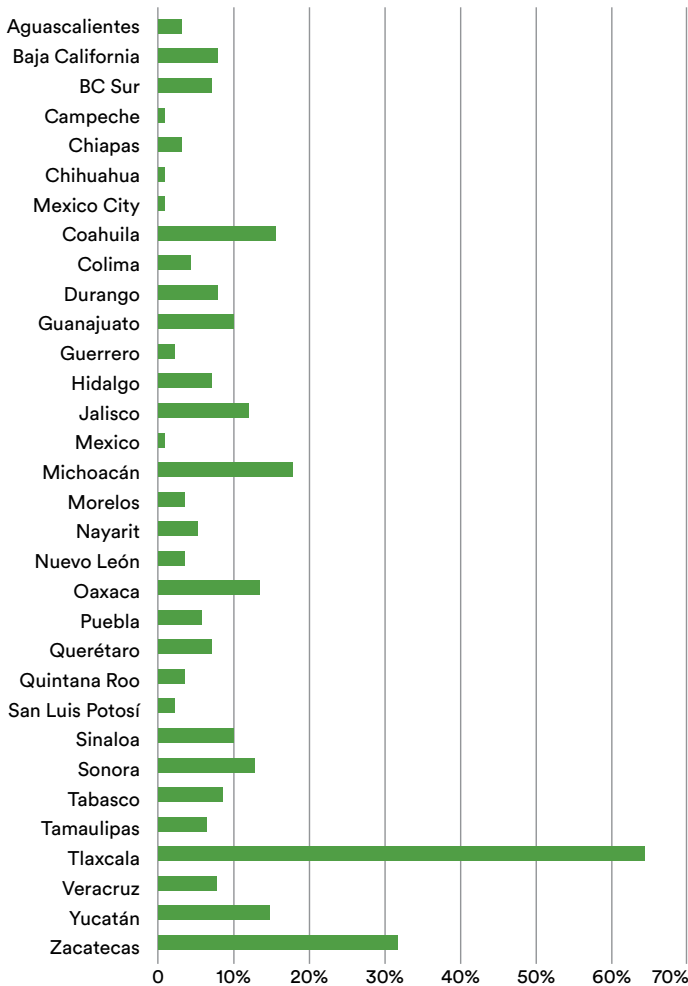
Upon studying these congestion cases, especially pertaining to prosecutors' and attorneys' offices, the existence of three key elements must be considered: 1. a **performance evaluation mechanism** that incentivizes personnel and provides certainty in terms of decision making; 2. a policy or **criminal prosecution plan** that defines priorities and the allocation of institutional resources; and 3. a **management model that favors decision making among operators** to reduce spaces that entail a risk for discretionality, standardization of criteria and fostering the adequate use of prosecutorial decisions that do not resolve conflicts to the fullest extent, such as temporary archive, abstaining from investigating, non-prosecution, and incompetence.

4.3.6. Alternative justice at the prosecutorial office

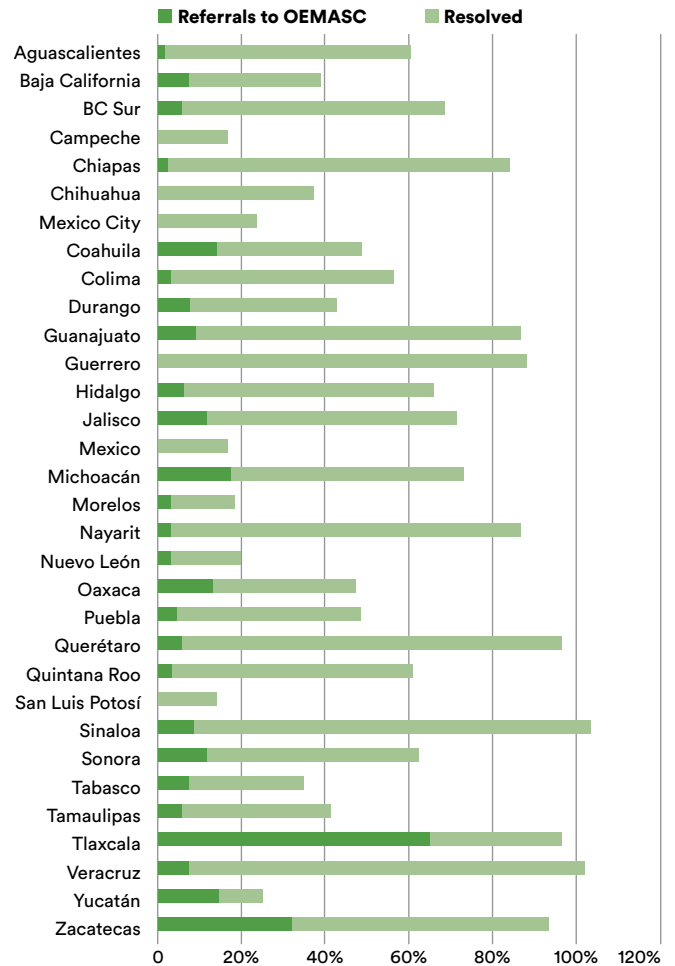
The Alternative Dispute Resolution Mechanisms (*Mecanismos Alternativos de Solución de Controversias*, MASC in Spanish) seek to foster, through dialogue, the resolution of conflicts resulting from a criminal act, based on the principles of orality, confidentiality, and procedural economy. Although one of the effects of its use can be a reduction of ministerial congestion, its purpose is based on the resolution of criminally transcendental conflicts.

Although these mechanisms have the potential to resolve conflicts based on the needs of the persons involved, in 2019, their national average

Graph 30. Forwarded cases to the Specialized Body for Alternative Dispute Resolution Mechanisms



Graph 31. Cases stemming from OEMASC versus cases resolved at OEMASC



Source: Prepared by the authors with data from MES.

of use barely reached 7.3%, and by 2020, it had gone down to 6.1% of cases. Among these, in 2020, 50% of cases were resolved, and 50% are pending. The states that forward the most cases to the Specialized Body for Alternative Dispute Resolution Mechanisms (Órgano Especializado en Mecanismos Alternativos de Solución de Controversias, OEMASC⁴⁰ in Spanish) are Tlaxcala (64.2%), Michoacan (17.7%) and Coahuila (15.5%), while the states that make less use of these mechanisms are Mexico City (0.2%), Chihuahua (0.4%), the State of Mexico(0.4%) and Campeche (0.9%).

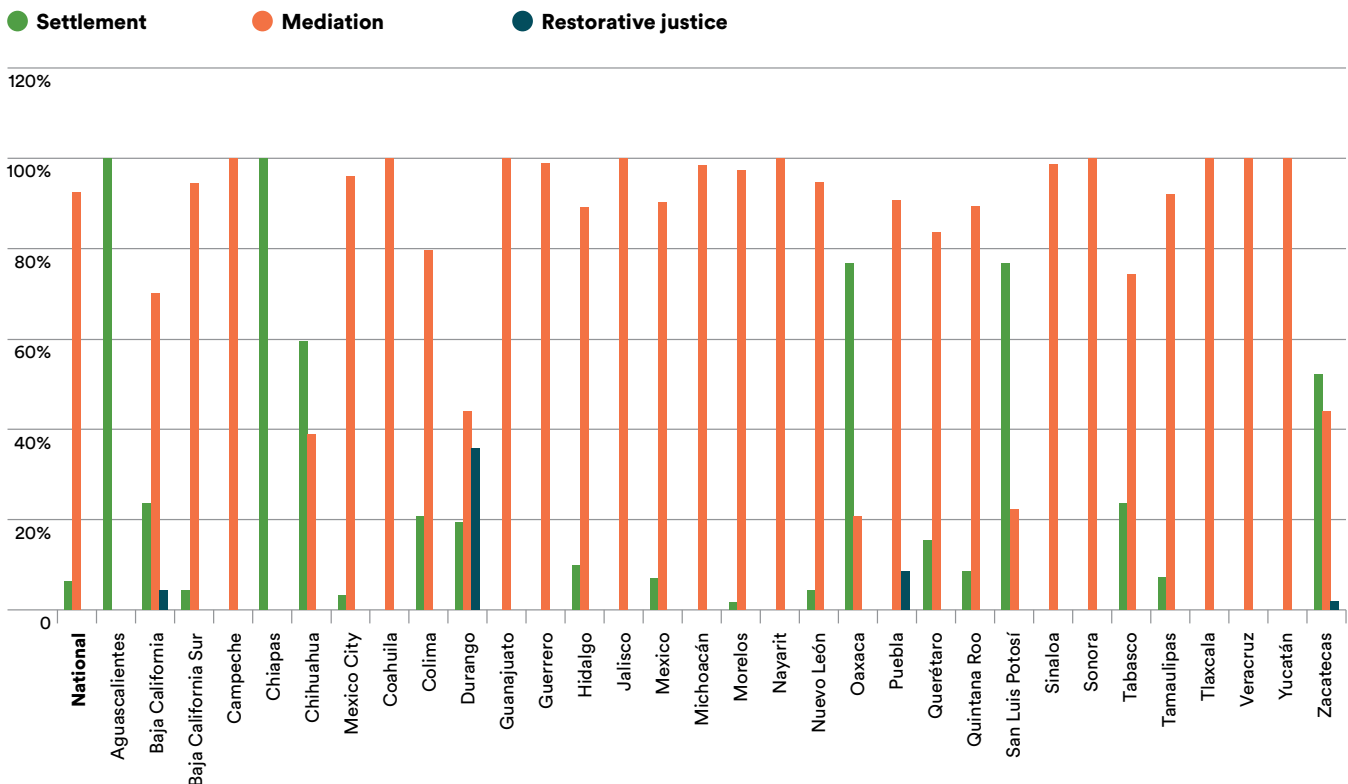
Given that procedural economy is one of the basic principles of Alternative Dispute Resolution Mechanisms, it is surprising that the states that use them the most are not those that resolve the most cases by using them throughout the year. A reason for this could be that case resolution via these mechanisms is achieved only when reparation agreements are complied with, which could entail lengthy periods of time that do not correspond to their formal conclusion. The states with the most

resolved cases via different alternative mechanisms are Sinaloa (93.5%), Veracruz (92.7%), Queretaro (89.3%), Guerrero (86.0%) and Baja California (84.1%); while the states that use these mechanisms the most have resolutions rates that are below 60%: Tlaxcala (31.2%) Coahuila (33.5%) and Michoacan (58.5%)

At a national level, the mechanism most used for the purpose of conflict resolution is mediation, as it is implemented in 91.9% of cases, followed by conciliation in 7.2% of cases, and finally, by restorative council applied in 0.9% of cases. The states that used mediation the most for the purposes of conflict resolution were Jalisco (99.9%), Sinaloa (98.5%) and Queretaro (83.5%).

When it comes to conciliation, Oaxaca (76.8%) and Zacatecas (52.8%) were the states that reported the highest percentage of use; And in terms of implementation of restorative councils for conflict resolution, Durango (36.1%), Puebla (9.2%) and Baja California (4.9%) stand out.

Graph 32. Alternative Dispute Resolution Mechanisms by type of solution



⁴⁰ The Specialized Body for Alternative Dispute Resolution Mechanisms (Órgano Especializado en Mecanismos Alternativos de Solución de Controversias, OEMASC in Spanish) is the authority in charge of analyzing whether cases or criminal conflicts can be subject to resolution by means of mediation, conciliation, restorative council, or others; facilitating progress so as to achieve favorable results with a restorative approach; and finally, guaranteeing reparation.



Mediation:

it is a conflict resolution mechanism in which people intervene by making proposals for a solution, and the facilitators foster communication and mutual understanding to resolve the conflict. (Article 21 of the National Law on Alternative Dispute Resolution Mechanisms in Criminal Matters).

Conciliation:

unlike mediation, in this mechanism, facilitating personnel will propose different alternatives for conflict resolution (Article 25 of the National Law on Alternative Dispute Resolution Mechanisms in Criminal Matters).

Restorative council:

it is the mechanism through which the victim or aggrieved, the defendant, and if applicable, the affected community, in full exercise of their autonomy, seek, build, and propose solution options with the goal of coming to an agreement that will address the individual and collective needs and responsibilities, reintegrating the victim or aggrieved, and the defendant into the community, and the reconstitution of the social fabric (Article 27 of the National Law on Alternative Dispute Resolution Mechanisms in Criminal Matters).

It is important to highlight that one of the purposes of the adversarial CJS is expedite conflict resolution with a restorative approach. In multiple types of situations, the use of Alternative Dispute Resolution Mechanisms could favor the expeditious coverage of cases and an adequate approach. Therefore, it would be convenient for the goals of the system. On this note, it is necessary to analyze what has gone wrong to incentivize further use of these options throughout the system: if its limited use fosters a low strengthening of the OEMASC authorities, if it is a matter associated to the lack of prosecution policies and clear criteria for operators, and/or if citizens in general do not have sufficient information about their existence and scope.

Also, we must also point out that not all cases are subject to being forwarded to these mechanisms. This is the case, for example, of those in which the accused person has previously entered into agreements due to intentional acts that correspond to the same criminal offenses, cases involving family violence, and those for which mandated pretrial detention is applicable, as well as those cases in which the accused is in non-compliance in terms of a prior reparation agreement. The information analyzed allowed us to identify entities in which the use of these mechanisms at the prosecutorial office is applied in situations is inadmissible, such as family violence, attempted femicide and even some forms of murder. If this results in an inadequate processing of cases, the situation could favor impunity or inhibit the prevention of more serious criminal acts.

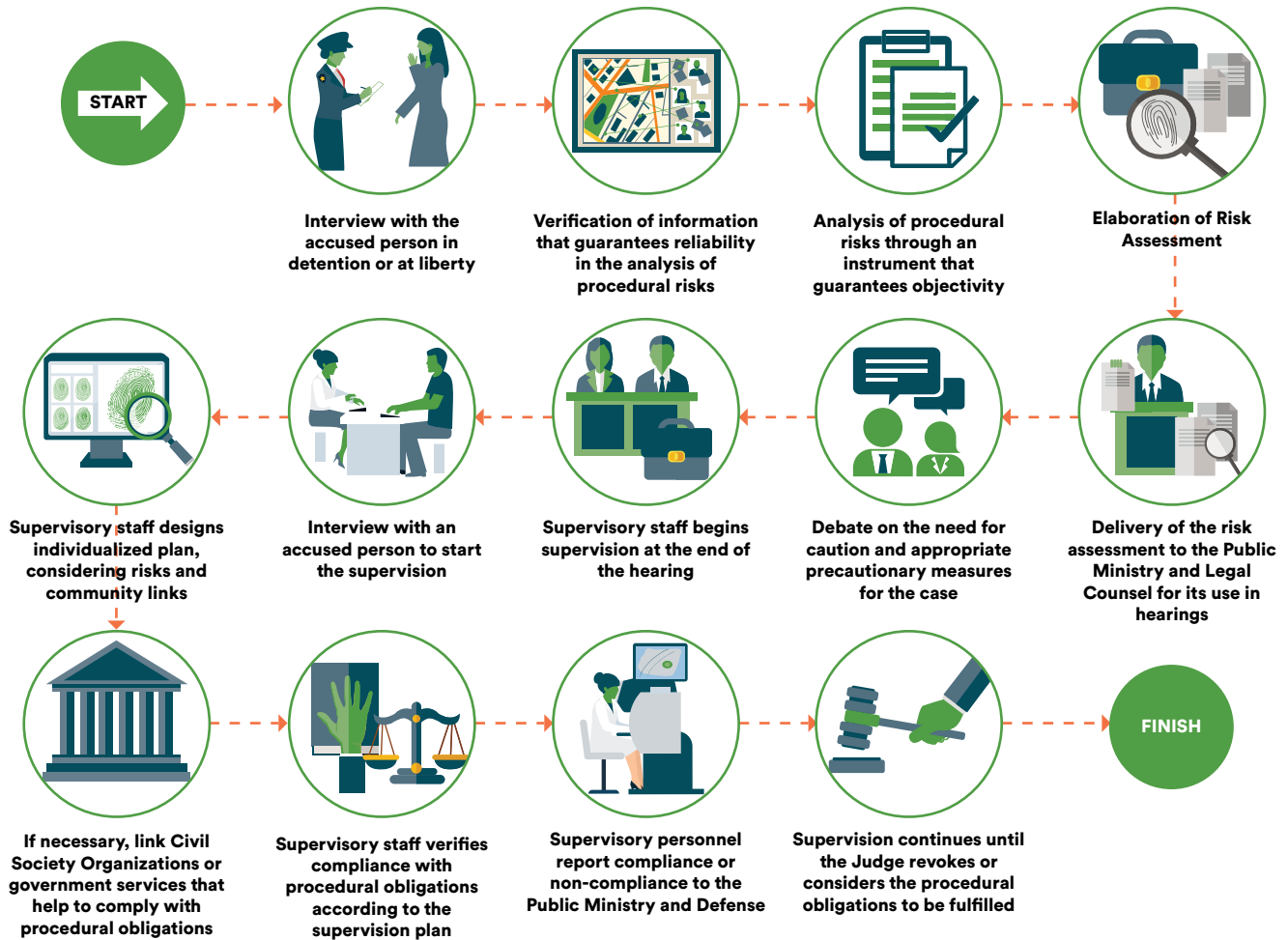
It is evident that a greater use of these alternate solutions could result in improved efficiency and efficacy of the criminal system. This must be considered a public policy objective given that it does not only imply decongestion and procedural efficiency, but also entails the benefit of damage reparation for the victim and the reduction of imprisonment rates of defendants.

4.3.7. Procedural risk evaluation

During the preliminary investigation, the prosecutor may request the Supervision Authority for Precautionary Measures and Probationary Suspension of Proceedings, also known as Precautionary Measures Units (*Unidades de Medidas Cautelares*, UMECA in Spanish) to conduct a risk evaluation for the cases in which it seeks to exercise judicial control, whether with a person detained or through a subpoena of a person investigated while not in prison. According to the NCCP (article 164), the risk evaluation must be delivered to the parties so as to decide on the need to apply or review precautionary measures. Thus, the Precautionary Measures Unit will begin the risk evaluation during the Prosecutorial Services's preliminary investigation.

A risk evaluation is conducted by specialized personnel and requires a social investigation that will allow to determine whether the freedom of a person accused throughout the criminal process could be considered a risk in terms of their not appearing in court for their hearings, whether it would alter the investigation in some way, or cause harm to the victims and witnesses. For these reasons, the personnel in charge of risk evaluations will compile information about the accused person during their first detention while under custody of the prosecutor, or at the Precautionary Measures Unit office if the person has not been arrested and is about to appear in their initial hearing. This information must be verified through ideal sources and means so as to be assessed in its entirety and a risk evaluation can be provided to the parties involved in the proceedings before the initial hearing, with the purpose of it being used by the parties in arguments

Figure 1. Risk evaluation process

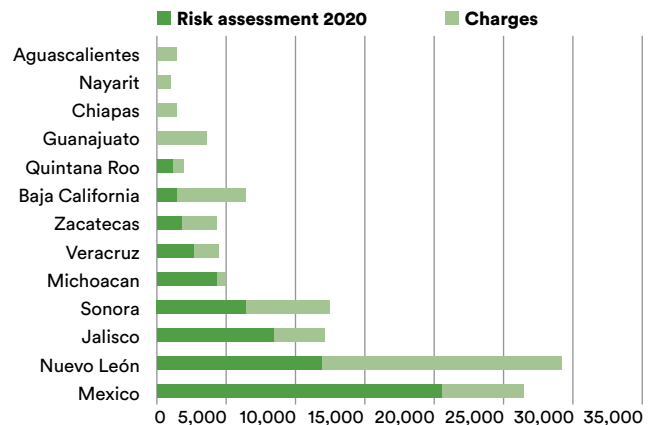


and debates regarding the need for caution in a specific case.

To this regard, only 14 entities responded as to the total number of risk evaluations made by the Precautionary Measures Unit in 2020⁴¹.

Given that Precautionary Measures Units provide information to the parties involved to identify risks in terms of the progress of each case, it is surprising to see that the State of Mexico, Nuevo León, and Jalisco have significantly more risk evaluations made than indictments. In the State of Mexico, there are 29 indictments for every 100 risk evaluations, and in Jalisco, 44 indictments for every 100 risk evaluations made.

Graph 33. Risk evaluations and indictments



Source: Prepared by the authors with data provided to México Evalúa through information requests.

⁴¹ The states that provided information are the State of Mexico, Nuevo León, Jalisco, Sonora, Michoacán, Veracruz, Zacatecas, Baja California, Quintana Roo, Guanajuato, Chiapas, Nayarit, and Aguascalientes.



These numbers are concerning: **it is obvious that risk evaluations are requested in an indiscriminate and streamlined manner.** Since this is a tool to provide information to the parties involved in the process regarding the risk elements to be considered for the application of precautionary measures, it is clear that in the aforementioned entities, this analysis is being generated in cases for which these will not be necessary or used. The Precautionary Measures Units are bodies that only recently were incorporated into the criminal justice system, and their consolidation is therefore still pending. The irrational use of resources, usually scarce, of this authority could compromise the quality of risk evaluations, the available information for a debate, and an informed analysis on the need for precautions related to accused persons and could even result in the indiscriminate use of precautionary measures involving imprisonment.

The same occurs in cases in which resources are sub-utilized in these units, such as in Baja California, Nayarit, Chiapas, Guanajuato, and Aguascalientes, where risk evaluations are conducted in 25, 15, 11, 4 and 3% of cases, respectively. In these entities, most charges are pressed without information pertaining to procedural risks for the informed debate on precautionary measure application.

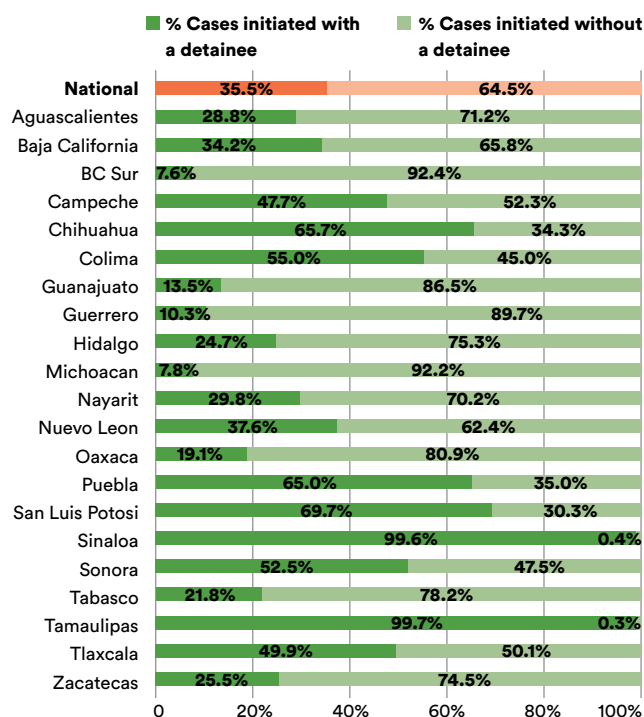
We must clarify that an equal number of risk evaluations and cases where charges are pressed is not what is expected, given that offenses specified in article 167 of the NCCP entail the mandated application pretrial detention as a precautionary measure. In these cases, it is assumed that procedural risks identified for the case will not be debated, and therefore no risk evaluation is needed. Something that, without a doubt, leads us to reflect once again on institutional practices and the indiscriminate use of imprisonment as a measure associated with greater security and justice. But this will be covered in the conclusions chapter.

4.3.8. Initiated criminal proceedings

Throughout the country, 64.49% of criminal proceedings are initiated in the court without an arrest, and 35.5% with an arrest.

Tamaulipas and Sinaloa are worth noting as 99.7% and 99.6% of criminal proceedings respectively in those states are initiated with arrests. However, these states have recorded a total of only 382 and 405 criminal proceedings initiated throughout the

Graph 34. Initiated criminal proceedings by type of offense



Source: Prepared by the authors with data provided through information requests.

year. In other words, besides having the fewest number of cases put forth to the authorities, almost all of these are opened with a person in custody. Tamaulipas reported that 74.8% of its investigations are pending, while Sinaloa reported 41.2%, and 43.6% with a temporary archive status. Furthermore, we must remember that these states are part of the group of five states with the highest dark figures in the country: Sinaloa with 94.5% and Tamaulipas with 94%, which indicates that very few reports are filed there, and that the justice system is based on cases of in flagrante arrests.

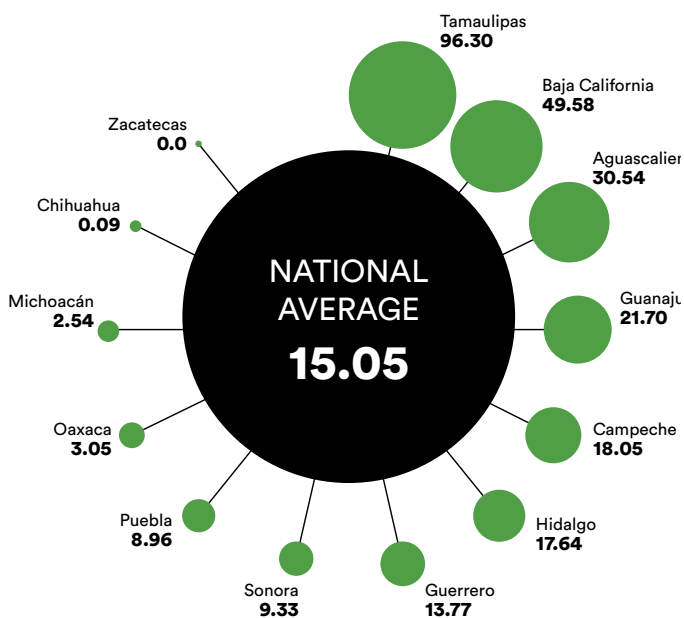
Although a deeper analysis is necessary in terms of the root causes of these conditions, these figures can indicate deficiencies in the progress of investigations, limited capacities for criminal prosecution, and an incentive structure that undermines due process. This is inferred, not only by the sparse number of cases for which charges are brought, but also from the fact that these are the cases for which prosecutorial authorities mostly require judicial control, as a person could not be kept in custody if this is not done.

4.3.9. Alternative justice at judicial authority headquarters

Article 189 of the NCCP establishes that from the first intervention made by a control judge, the parties involved could be invited to enter into a reparatory agreement. For this reason, once the case is forwarded to jurisdictional bodies, its solution is possible through Alternative Dispute Resolution Mechanism, if applicable. To this regard, the national average of cases forwarded to Alternative Mechanisms once they are in the judicial arena, is 15.0%⁴².

The case of Tamaulipas is particularly surprising given that the judicial authority headquarters will forward 96.3% of cases to Alternative Dispute Resolution Mechanisms and the ministerial office will do so for only 6.4% of cases. In Baja California, the judicial authority headquarters will forward 49.5% of cases to these mechanisms and its ministerial office will do so for 7.6% of cases. As for Aguascalientes, 30.5% of cases will be forwarded to Alternative Dispute Resolution Mechanisms from the judicial authority office headquarters, and only 2.5% from the prosecutorial office.

Graph 35. Alternative Dispute Resolution Mechanism in the judicial arena



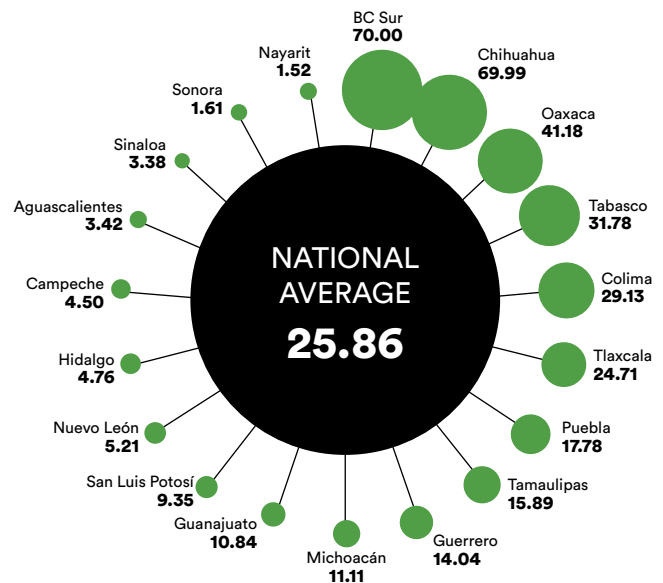
These figures reveal the little proactive use of alternative solutions to conflict resolution by Prosecutorial Services agencies, and above all, the necessary intervention on behalf of the judicial authorities to offer solutions and reparation to victims, without subjecting them to unnecessary proceedings.

4.3.10. Judicial review of detention

Review of detention is a test of the judicial authority in terms of the circumstances and reasons behind the detention or arrest of a person, to prevent it being arbitrary. On average, around the country, 25.8% of criminal causes for arrest are declared unlawful. The states with the greatest prevalence of detentions classified as unlawful are Baja California Sur (70%), Chihuahua (69.9%) and Oaxaca (41.1%). On the other hand, the states with the lowest recurrence of detentions classified as unlawful are Nayarit (1.5%) Sonora (1.6%) and Aguascalientes (3.4%).

It is important to mention that only 13 states provided information regarding the number of people detained and remanded to the prosecutor; thus, it is not possible to conduct an analysis of this data relating to the recurrence of detentions classified as unlawful.

Graph 36. Percentage of detentions classified as unlawful

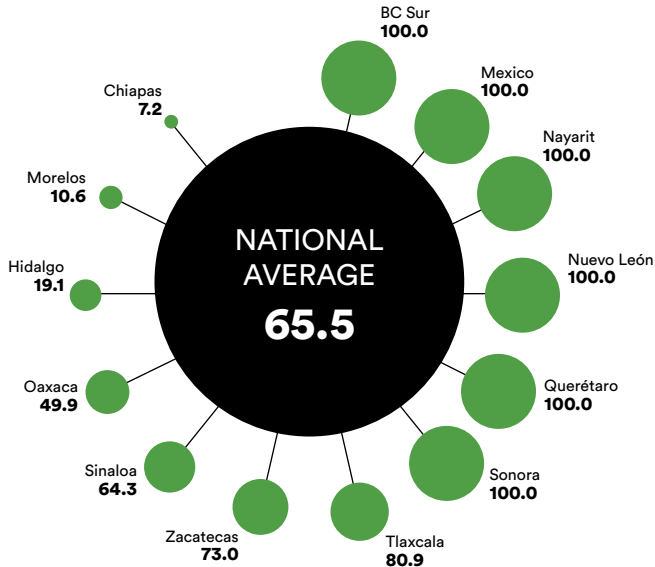


Source: Prepared by the authors with data provided through information requests. The figures for Baja California were omitted given that data was inconsistent.

⁴² This average is based solely on the thirteen states that provided information regarding criminal causes forwarded to alternative mechanisms for resolution: Aguascalientes, Baja California, Campeche, Chihuahua, Guanajuato, Guerrero, Hidalgo, Michoacán, Oaxaca, Puebla, Sonora, Tamaulipas, and Zacatecas.



Graph 37. Percentage of people detained and remanded to the prosecutor



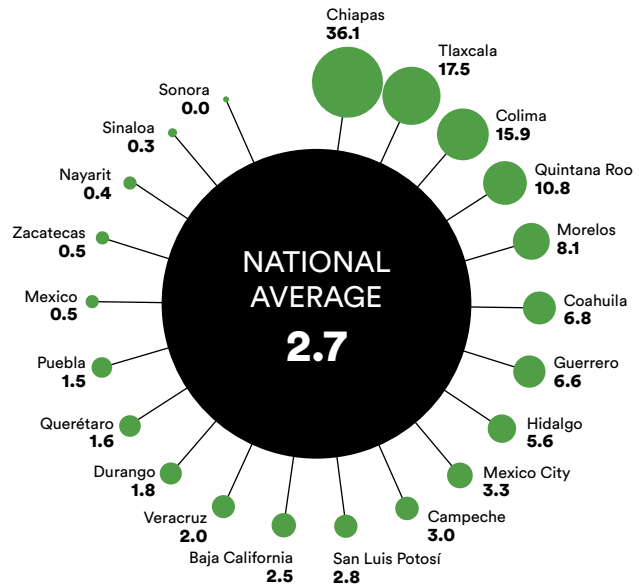
Source: Prepared by the authors with data provided through information requests. The states that reported a variable of zero are not included.

This situation highlights the limitations in terms of information regarding the causes for the Public Defender's Office to participate in the classification of unlawful detentions, given that the states with the highest rates of detentions classified as unlawful do not provide information about said authority.

As can be seen in Graph 37, the average of releases due to detentions having been declared unlawful, in cases in which the Public Defender's Office intervenes, is greater in Chiapas (36.1%). The cases of Sonora (0.03%), Sinaloa (0.3%), Nayarit (0.4%) and the State of Mexico (0.5%) portray a lower incidence of the public defender's office in the release of persons accused, due to their arrests having been declared unlawful. These figures must be cautiously analyzed because the quality of the public defense's intervention in terms of judicial review of detention is not necessarily a determining factor for the judicial ruling.

The analysis of this data leads us to consider the need to create policies to foster articulation between police, prosecutors, defenders, and judges, who promote best practices related to legality of detentions.

Graph 38. Persons represented by the public defender's office released due to their detention being declared unlawful



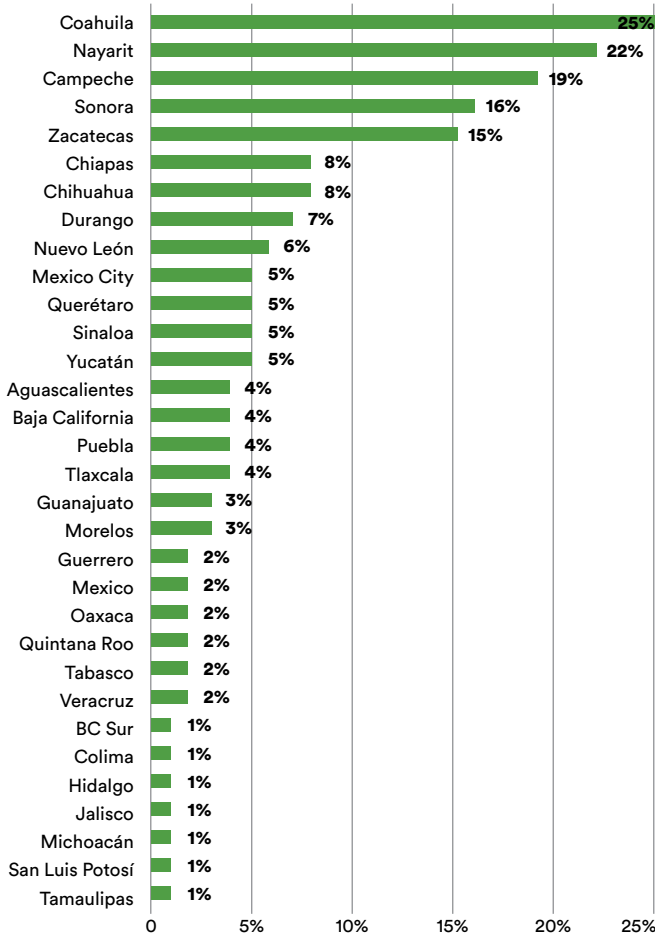
Source: Prepared by the authors with data provided through information requests.

4.3.11. Indictment

The national average of investigations launched that result in indictments is 2.5%. Coahuila is the entity with the highest indictment rate at 24.8% of cases, however, it is one of the states with highest prosecutorial congestion rates (71.9%). The state of Nayarit is second in line in terms of indictment, although it also has a rate of prosecutorial congestion (57.6%) above the national average. The same thing occurs with Campeche: although it is in third place in terms of indictment, it has a rate of prosecutorial congestion of 75.7%. **These figures show that the prosecutors' offices with the highest indictment rates are not necessarily the most efficient in terms of case resolution,** given that a large part of investigations result in indictments merely to keep the process open.

As with the review of detention legality, it is advisable to avoid "automatically" determining that no indictments will be brought forth with the intervention of the public defense. However, San Luis Potosí is a case worth highlighting because it recorded 78.8% of no-indictments with regards to the total of persons represented by the Public Defender's Office, an institution that is

Graph 39. Indictments



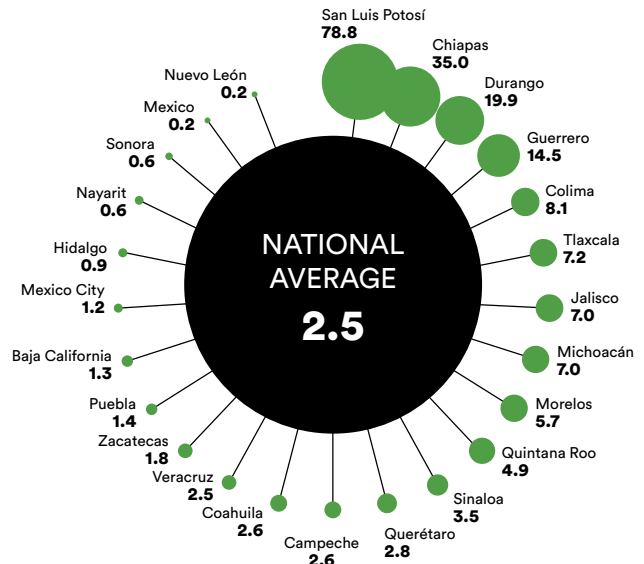
Source: Prepared by the authors with data provided from information requests.

characterized by having a team of defenders with years of experience, and that even are better paid than those from prosecutors⁴³. The structural strength is reflected in the results, at the time of litigation.

Indeed, San Luis Potosí shows that adjudication as for no-indictments can be completely tied to the performance of the public defense, although it might also have something to do with inadequate preparation of the hearing on behalf of the Attorney's Office.

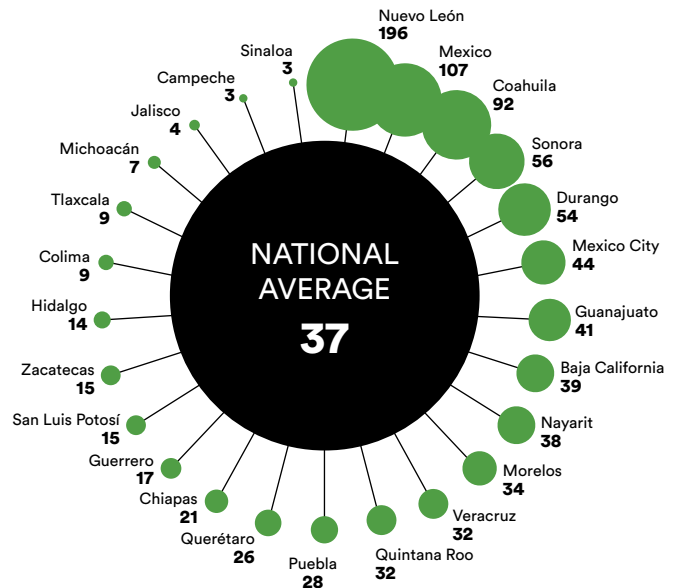
It is equally important to provide context: in San Luis Potosí, every public defender is assigned 15 accused persons on average. Nuevo León, for example, has a no-indictment rate of 0.2%, and each public defender is assigned 196 cases. The national average of people

Graph 40. Rates of no-indictment decisions in Public Defense



Source: Prepared by the authors with data provided through information requests.

Graph 41. Workload per public defender



Source: Prepared by the authors with data provided through information requests.

⁴³ Professionalization and working conditions for operators can have a profound impact on work quality, besides their permanence and development within institutions. Although it is not possible to link the conditions offered by the public defender's office of SLP to public defenders with their performance, the truth is that an analysis must be made in terms of the factors that could possibly explain its high performance.



represented by each public defender is 37, which puts San Luis Potosí below the national average, and nuevo León four-fold above.

Although the judicial decision to not charge can be based on multiple factors, the defense contributes to it, in great extent, by presenting solid and structured arguments that can only be achieved if they have the opportunity to prepare the case. It is obvious that when a public defender is assigned 196 cases in Nuevo León, or 107 in the State of Mexico, this situation has an impact on their capacity to prepare and structure arguments on behalf of the defense, and that could affect the judicial ruling. This clearly hinders the quality of a technical defense, as well as the access of accused persons to justice administration.

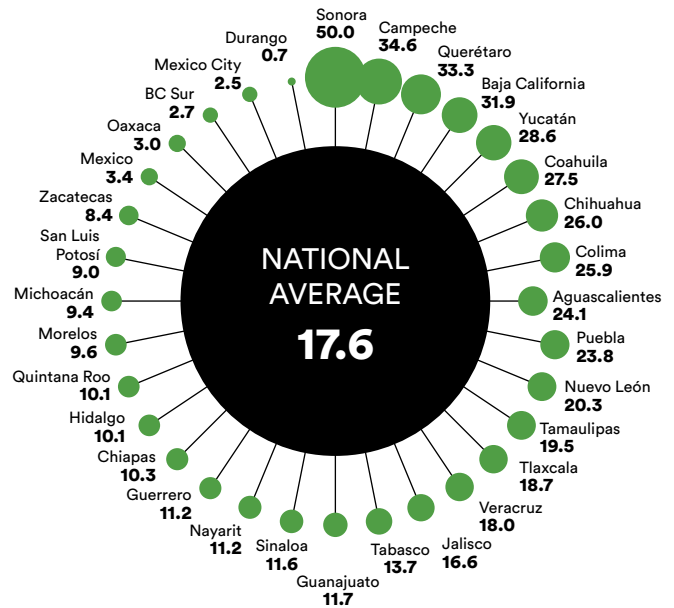
4.3.12. Precautionary measures

The use of precautionary measures to guarantee the presence of the persons accused in the criminal process, protect the investigation, and guarantee the safety of victims and witnesses, in terms of what is defined in article 19 of the Constitution, represents one of the main tools to operate the right to presumption of innocence.

The informed judicial ruling on the need to impose precautionary measures is conditioned by the relevant and timely information that the parties of the process provide during the debate for said measures. As pointed out before, the Precautionary Measures Units assemble the information resources from the parties involved for the informed discussion on the need for caution. **However, due to the pre-determination of the Legislative Branch, the precautionary measure of pretrial detention can be imposed without a debate or analysis as to the need for caution in cases of crimes defined in article 167 of the NCCP, and the hypotheses of which were broadened in February 2021.**

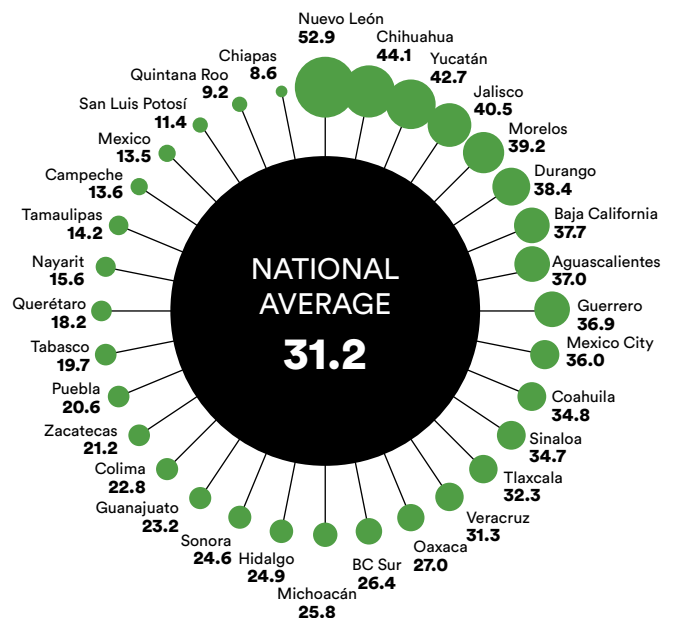
Therefore, 36.1% of people accused in the country are subject to mandated pretrial detention. In other words, without debate or analysis in terms of the need to impose this measure of imprisonment. On the other hand, a precautionary measure different from pretrial detention is imposed on 31.2% of accused persons: justified pretrial detention for 17.6% of accused persons due to the judicial authority considering that caution is needed; and criminal proceedings without precautionary measures are applied for 15.1% of cases.

Graph 42. Accused persons under mandated pretrial detention



Source: Prepared by the authors with data provided through information requests.

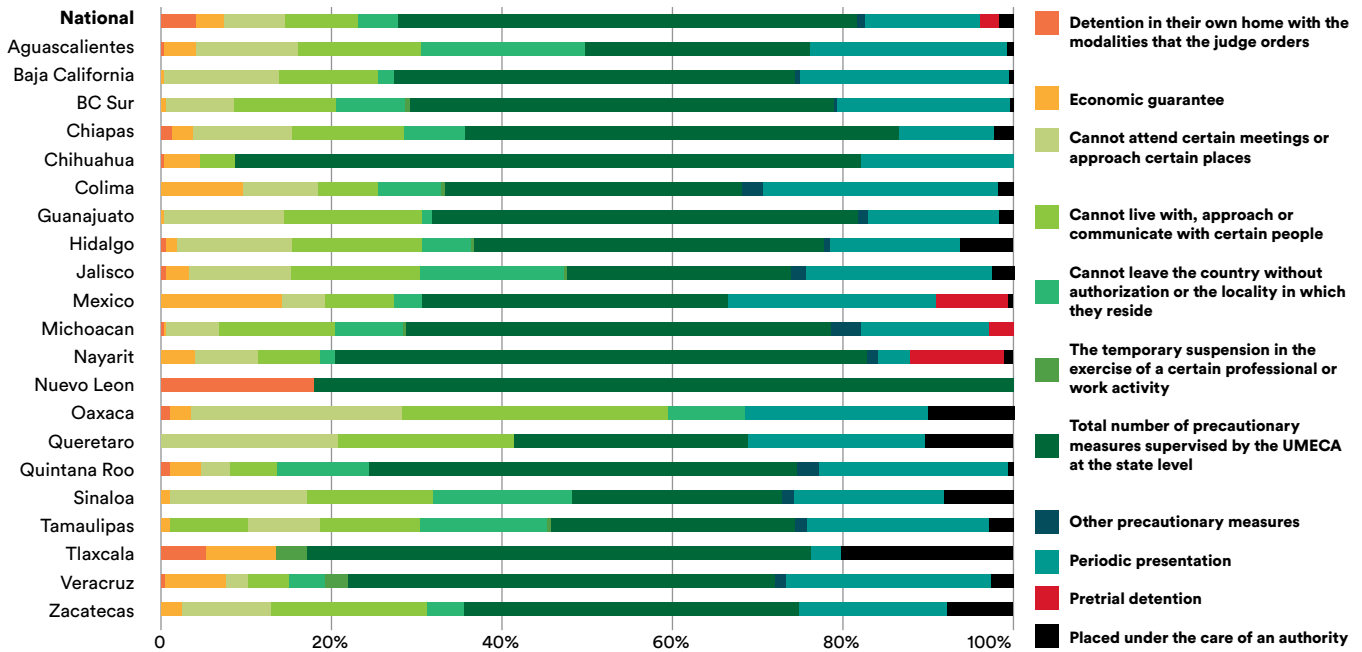
Graph 43. Accused persons with other precautionary measures imposed



Source: Prepared by the authors with data provided through information requests.

The states in which mandated pretrial detention, justified or not, is most used are Sonora (50.0%), Campeche (34.6%) and Querétaro (33.3%).

Graph 44. Precautionary measures different from pretrial detention



Source: Prepared by the authors with data provided from information requests.

Furthermore, the states in which, to a great extent, a precautionary measure different from pretrial detention is imposed are Nuevo León (52.9%), Chihuahua (44.1%), Yucatán (42.7%) and Jalisco (40.5%).

We have already analyzed the risk evaluation process and described the Precautionary Measures Units' interventions. To follow up on that, once the judicial authority rules on precautionary measures different from pretrial detention, the units have the authority to surveil their compliance. Periodic appearances as defined in article 155 of the NCCP is the most common of precautionary measures surveilled by the authorities, followed by restraining orders, as established in fraction VIII of the same legal provision.

We must clarify that the justice system evaluation model records the number of precautionary measures overseen by the supervising authority, and not the number of people under the supervision of said authority. This is relevant because a person under

supervision from the Precautionary Measures Unit can have two or more precautionary measures imposed different from pretrial detention. Thus, the number of precautionary measures supervised by these units is information that does not provide enough data to identify the compliance rate of the persons accused who are undergoing trial outside of prison. Both pieces of information are required: persons and measures being followed-up on.

4.3.13. Procedural aftermath of indictment

At a national level, 65,216 cases have resulted in indictment, 2.5% of the total of opened investigations. Of these, 0.23% of cases were granted referral for plea bargain⁴⁴, although 17.4% are still pending resolution by means of this acceleration mechanism, and 82.6% is registered as resolved. Furthermore, out of the total number of cases resulting in indictment mentioned, 45.5% were resolved through a probation.⁴⁵

⁴⁴ In the plea bargain, the defendant acknowledges criminal responsibility for the offense committed and, in exchange, their punishment is reduced. The plea bargain must be arranged at the request of the prosecutor in cases in which defendants admit the acts attributed to them and consent to the application of that proceeding, and the accuser is not opposed.

⁴⁵ In the probation, the accused person repairs the damage caused and is subjected to a series of conditions for a period of 6 months to two years. These conditions can consist of the defendant not approaching the victim or their address, or attending rehabilitation programs, for example. Once this timeframe is concluded, the charges are withdrawn, and no priors are included in their records.



In practice, the abbreviated process can be the equivalent of a confession in the former inquisitive model. The acknowledgement of guilt by the accused accelerates the process because it is no longer necessary to present further evidence regarding the perpetration of an offense, and the work of the court is reduced to determining a sanction. Overall, in the adversarial model, times are reduced even more so, because the application of the abbreviated process makes the trial unnecessary.

It is possible that the external use of this mechanism might be related to the number of in flagrante delicto cases, due to the narrow margin for obtaining an absolution that the defense has for these kinds of cases. The truth is that in the current phase of the system, more attention must be paid to what its increased use indicates. Meaning: **it is imperative that further data be compiled to confirm that its use does not imply a weak or passive defense for the accused, the possible impact on torture practices to obtain a self-confession and/or possible negotiation scenarios where impunity could be present.**

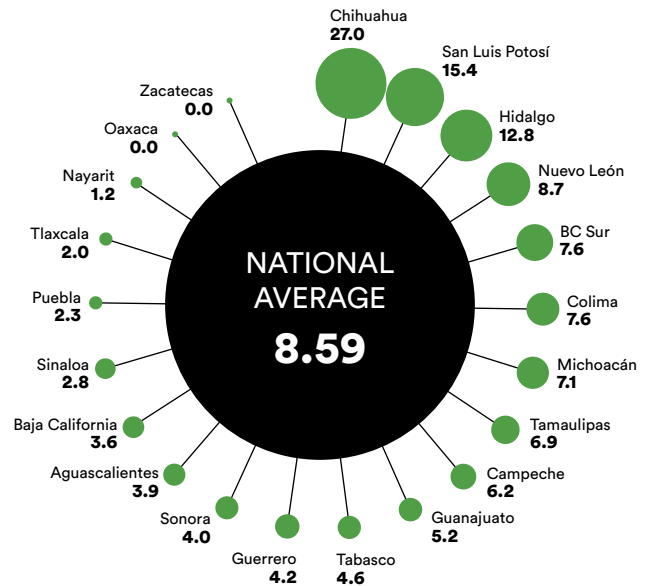
With the available data, it is possible to infer that the criminal system is essentially used to process crimes of low complexity, and that a high degree of incoming matters stem from in flagrante delicto detention. The expedited resolution is explained by the frequency of conclusion of judicial processes through plea bargain.

4.3.14. Remittance to oral trial

Out of all of the causes initiated this year, 8.59% were remitted to oral trials at a national level. The state with the highest percentage of cases remitted to oral trials is Chihuahua, registering 27.0%⁴⁶.

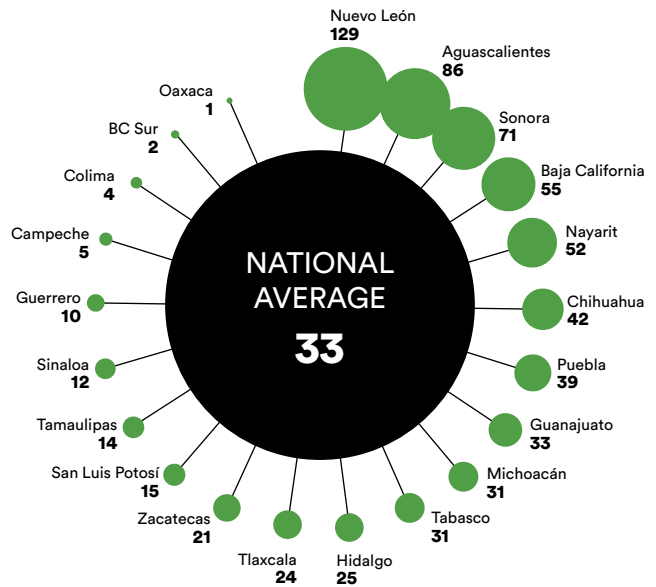
We must consider that oral trials are the form of solution for cases that require further focalization of efforts and resources on behalf of institutions. That is why data such as the 279 judges reported by Chihuahua are so important, as each is assigned 42 causes. The national average of causes per judge is 33. Seven states are above the national average, as shown in Graph 46.

Graph 45. Cases remitted to oral trials



Source: Prepared by the authors with data provided from information requests.

Graph 46. Causes per judge



Source: Prepared by the authors with data provided through information requests.

⁴⁶ It is important to consider that information from all states is not incorporated because only 22 responded to the information requests sent in terms of this analysis element.

The percentage of cases forwarded to oral trials in states like Chihuahua (27.0%) can be a red flag if we consider that judges are already being assigned a number of cases that is above the national average. This could contribute to their overload and response capacity. For example, San Luis Potosí (15.4%) and Hidalgo (12.8%) are still below the national average in terms of case assignments to judge staff: they are in a situation for which monitoring is recommended so as to avoid future overload.

4.3.15. Rulings

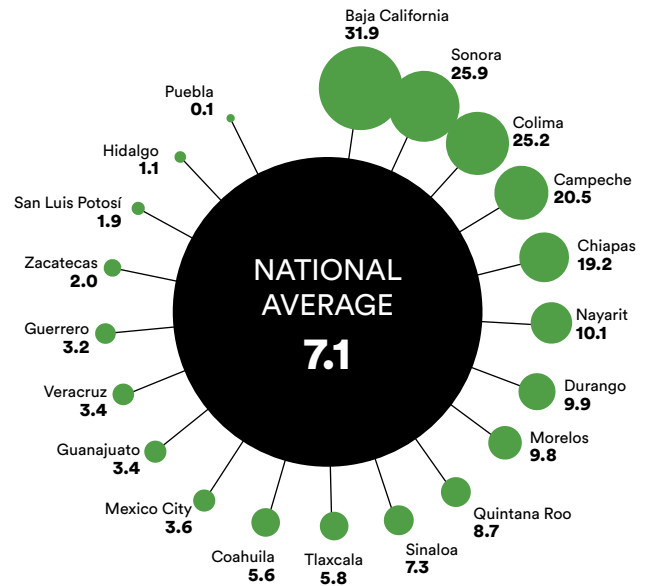
75.5% of rulings in the country are guilty verdicts, 23.8% are acquittals, and 0.7% are registered as mixed. Nayarit recorded 99.3% guilty verdicts, Guanajuato recorded 95.6%, and Aguascalientes, 96.9%. The fact that most rulings are guilty verdicts is not necessarily negative given the residual nature of the CJS.

More so, the high degree of guilty verdicts, considering the context in terms of capacity of public defense, allows for the reduction of risk related to errors in verdicts against innocent people, and it could be inferred that the persons that reach this stage are those for whom sufficient evidence was found to support the “accusation,” which makes a verdict imminent. In other words, **the high rate of guilty verdicts can be a sign that cases that result in a guilty verdict are those with true criminal relevance.**

That is why it is important to take note of public defenders’ offices with higher rates of represented persons that received a guilty verdict. These are in Baja California (31.9%), Sonora (25.9%) and Colima (25.2%). On the other hand, the case of San Luis Potosí stands out given that only 1.9% of persons represented by the public defense were found guilty, and as mentioned before, the highest percentage of non-prosecution comes from this local Defender’s Office. This allows us to see that the efficacy of the San Luis Potosí Public Defense is “enhanced” when it comes to the resolution of cases from the initial hearing phase. Presumably, that entity allows its efforts and resources to be focused in a more useful way on oral trial cases.

In this context, we must note legal counsellors’ tasks, as they play the vital role of informing the judges of the rights that were affected, as well as the impact or damage suffered by the victims of the crime committed, so that the case can be resolved based on comprehensive reparation measures. For this edition of *Hallazgos*, only the states of Coahuila, Durango, Querétaro, San Luis Potosí, and Sonora provided information regarding the

Graph 47. Average of persons represented by public defenders, who received a ruling at a national/state level



Source: Prepared by the authors with data provided through information requests.

number of victims that received damage reparation and who were represented by legal counsel.

According to the information provided by these states, the average of victims with legal counsel who received damage reparation was 0.30%. For example, in Querétaro, this happened in 0.56% of cases; in San Luis Potosí in 0.35%; in Coahuila, in 0.23%; and in Sonora, in 0.28% of cases.

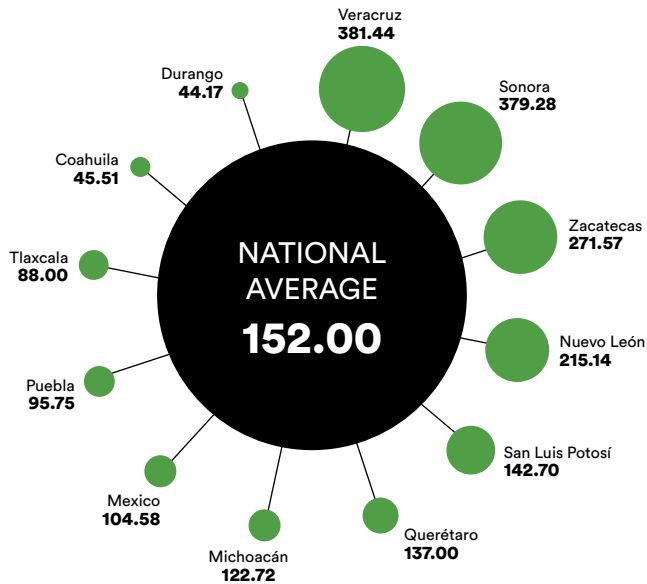
The lack of information by other states, added to the low rate of damage reparation recorded, is a significant sign that efforts must be improved to guarantee the victims’ rights to justice, truth, and reparation.

Up until now, the federative entities have shown little willingness to invest resources and build capacity in terms of legal counsel, and this represents a barrier in terms of victims’ access to justice.

Ideally, all victims should be guaranteed access to damage reparation. With the information obtained, we can only conclude that this does not happen in practice, although it is impossible to be certain of whether the number of victims represented by each legal advisor is not manageable, given that on average they are assigned 152 victims.



Graph 48. Average of people who are victims represented by a legal advisor



Source: Prepared by the authors with data provided through information requests.

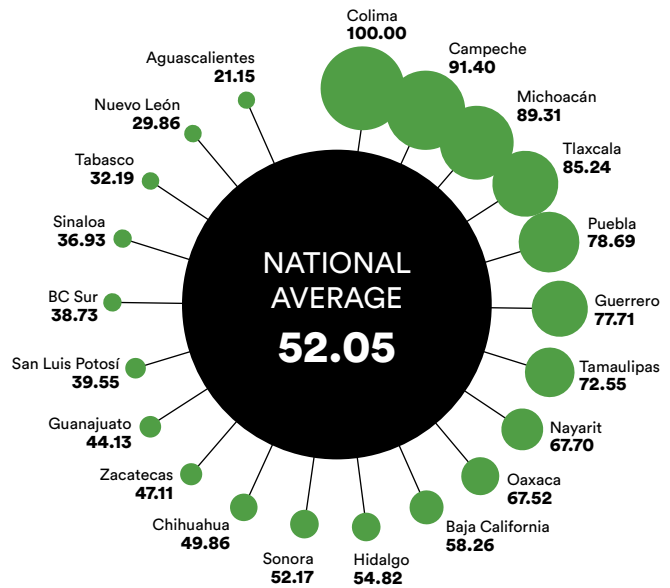
As shown in Graph 48, **the average number of victims represented by a legal advisor is disproportionate, especially in Veracruz, Sonora, Zacatecas, and Nuevo León.** This situation reflects alarming conditions in terms of access to justice, truth, and damage reparation for the victims of crime, especially in a country such as ours with high victimization rates.

4.3.16. Judiciary congestion rate

For the persons involved in the criminal process, case resolution means effective access to justice administration. In a year, the courts in our country resolved 47.9% of cases presented in their jurisdiction. Aguascalientes has the lowest case resolution rate (21.2%), followed by Nuevo León (29.9%), and Tabasco (32.2%), while at least twelve entities are above average, as shown in Graph 49.

As shown, the judiciary congestion rate in the country is 52.05%, meaning that Mexican courts resolve a little over half of the cases brought forth every year. The other half will accumulate with new criminal cases from the following year. It must be said that this judiciary

Graph 49. Judiciary congestion rate



Source: Prepared by the authors with data provided through information requests.

congestion could very well not be related to factors under the direct control of jurisdictional authorities, as is the case with hearing postponement. **To a great extent, congestion might be associated with investigations being conducted in intermediate phases and conditions fostered by prosecutors' offices.** For this reason, the reading and analysis of this information should be disassociated from what happens among those authorities and possible alternative solutions.

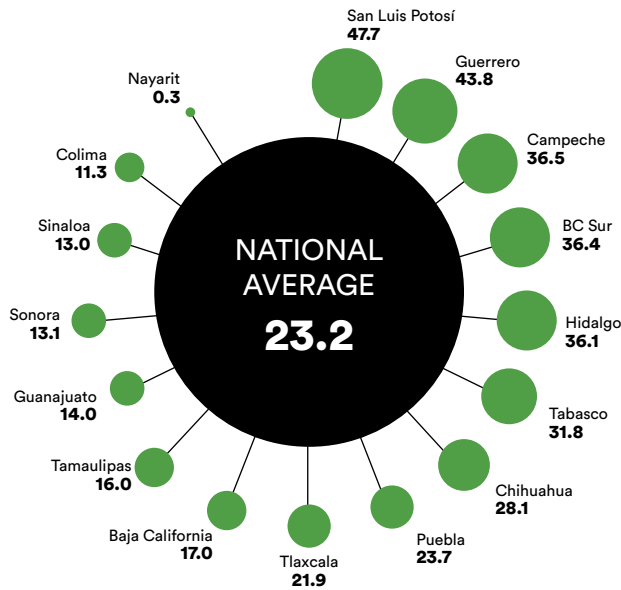
These figures are greatly concerning because the states with the highest congestion rates are those with the lowest workload assigned to their staff. Colima, with 48 judges, reports four causes assigned per judge, and Campeche, with 107 judges, assigns five causes per judge.

4.3.17. Hearing postponement

The postponement⁴⁷ of hearings is a factor that can aggravate the prosecutorial congestion rate. Nevertheless, it is important to specify the causes for postponement and determine whether they can

⁴⁷ The postponement of hearings is the situation in which hearings are postponed or reprogrammed. It can be associated with different causes, which include the impossibility to notify the parties involved regarding the hearing, the absence of the parties or representation, the unavailability of the courtroom, among others.

Graph 50. Percentage of hearing postponements



Source: Prepared by the authors with data provided through information requests.

be attributed to the defense, the investigation, or the management of hearings by the court, in spite of the fact that data is not disaggregated in all cases. For this reason, Graph 50 shows the percentage of postponement of hearings by courts in sixteen states.

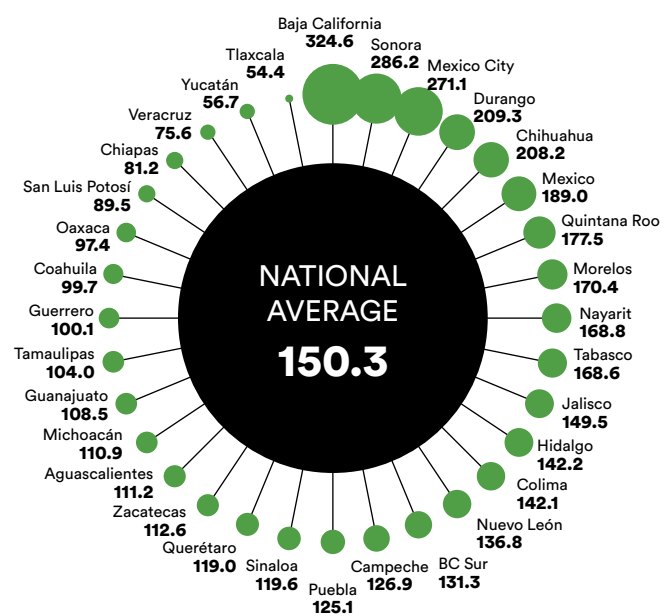
Thus, the hearing postponement rate requires analysis from the people in charge of judicial administration, given the causes, so that it can be addressed internally. Hearing postponement can hinder the principles of immediacy of the adversarial system, and especially, slow the conclusion of processes.

4.4. Prison population

The average prison population for local offenses, at a national level, is 150.3 for every 100,000 inhabitants.

41.8% of the prison population has yet to be sentenced. Graph 52 shows that the state with the

Graph 51. Average prison population for every 100,000 inhabitants

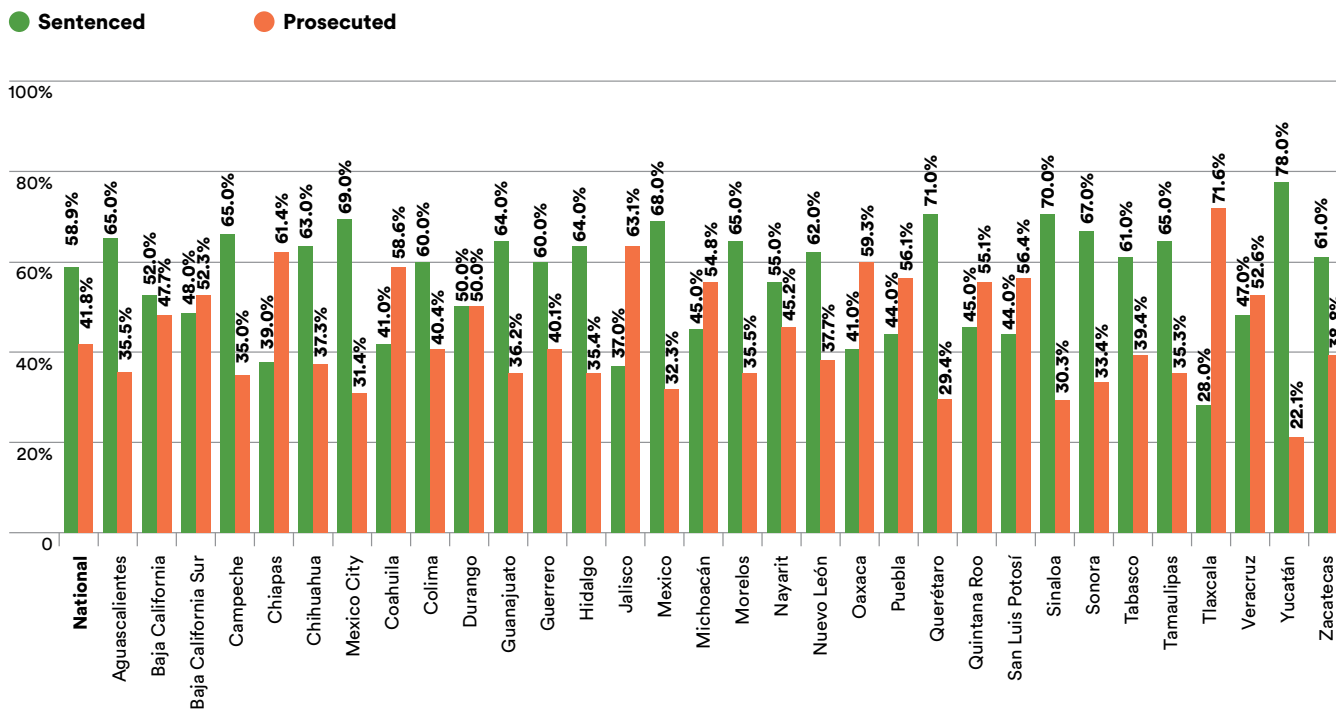


highest number of persons imprisoned without sentencing is Tlaxcala (71.6%), followed by Jalisco (63.2%), and Chiapas (61%). Half of federative entities are below 40% in terms of unsentenced prison population, while the other half, above 45%.

These levels in terms of use or abuse of pretrial detention are alarming, although it seems that levels are normalizing. **Pretrial detention must only be used exceptionally because its application hinders the principle of presumption of innocence and imposes a punishment in advance on people, without knowing whether they are innocent or guilty, and in many cases, without having conducted a risk evaluation.** Pretrial detention should only be used in cases in which it is determined that the person being accused of a crime is a flight risk, could hinder the investigation, or represents a risk to the victims. However, the extent to which it is used can be considered a continuation of the inquisitive system given that it would abuse the use of pretrial detention.



Graph 52. Percentage of sentenced and convicted prison population



Another element that must be considered is the current state of detention centers. According to the National Diagnosis of Penitentiary Supervision⁴⁸ carried out on a yearly basis, “the current situation pertaining to detention centers reflects how, in practice, deficiencies are still present, such as insufficient medical services, material resources, infrastructure, health and human services, among others, which prevent the guaranteeing of minimum conditions necessary for a life with dignity for imprisoned people, and given that this is exacerbated in some cases due to their legal situation, through intersectionality with other issues.”

To this regard, it is worth highlighting that since the entry into force of the reform that broadened the number of crimes for which mandated pretrial detention is applicable, the prison population awaiting proceedings has increased by almost 25%, from February 2020 to February 2021. As shown, the regulatory configuration analyzed in the *Enabling factors* chapter is relevant given that it reflects the impact of its use by prosecutors’ offices.

Federal results

4.5. Context and crime rate

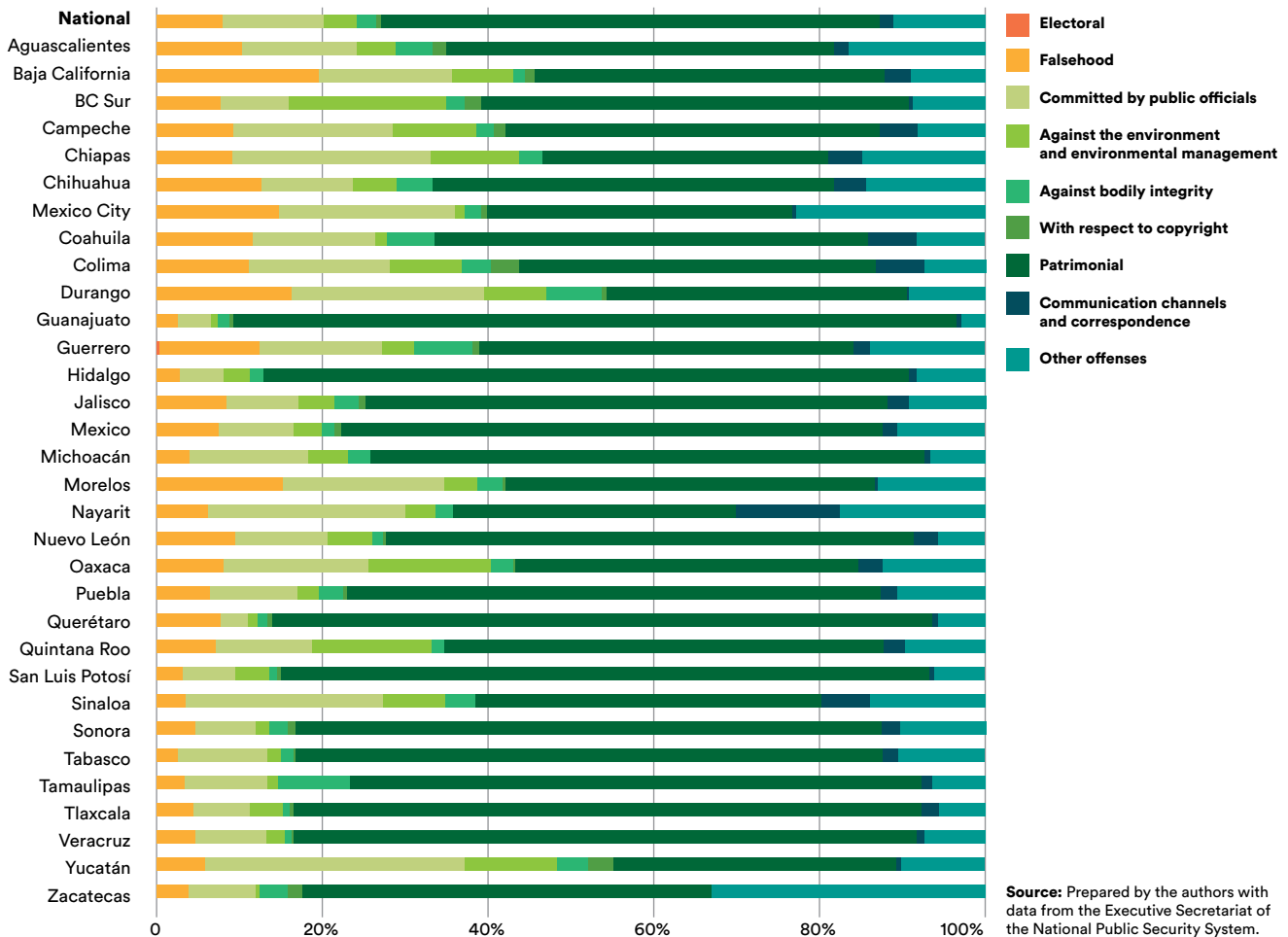
Similar to the state arena, at the federal level a reduction in crime rate has been seen. While in 2019, 98,396 federal crimes were committed, in 2020, the Executive Secretariat of the National Public Security System reported 78,482 implying a reduction of 20% in the number of crimes committed for which an investigation dossier was opened.

Crimes against public health (production, transportation, trafficking, sale, supply, possession, and others) represent 20% of all dossiers opened in 2019. Other offenses (electoral, committed by public officials, crimes against the environment, against integrity, among others) represent the remaining 80% and are distributed as shown in Graph 53

⁴⁸ National Human Rights Commission, National Diagnosis on Penitentiary Supervision 2020, Available at: https://www.cndh.org.mx/sites/default/files/documentos/2021-05/DNSP_2020.pdf



Graph 53. Federal offenses



The reduction by 20% of crimes registered in all federative entities, except in Baja California Sur and San Luis Potosí, in which there were increases by 28% and 18% respectively.

This reduction, in general terms, can be linked to the health emergency caused by Covid-19. Therefore, it is surprising to see the situation of the two states mentioned, where the context is not different from that of the rest. We will delve deeper into this topic further down.

Although at a global level we have identified a significant reduction of crime rates, **in terms of crimes against public health, among which production, transportation, trafficking, sale, supply, and possession are considered, an increase of 5%**

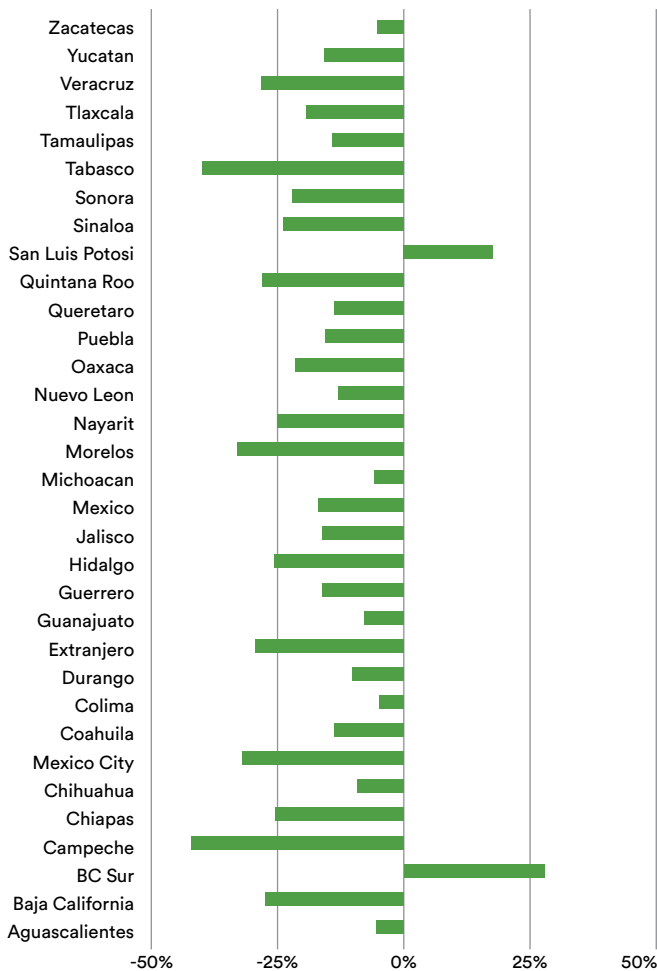
is observed. On the other hand, crimes listed in the General Health Law, including drug dealing, have seen a 47% reduction: the most important “drop” in crime rates between 2019 and 2020.

These figures reveal that crimes against public health represented a problem in terms of increase from one year to the next (5%). Among those, the crime with the highest increase in rate was trafficking (119%) and transportation (89%), and there was also a significant drop in production (-89%).

On the other hand, in terms of offenses cataloged as “Against the General Health Law” that have registered a significant downward trend from 2019 to 2020 (-47%), this significant decrease is reflected in the drug dealing modality (-51%).



Graph 54. Percentage of crime rate variation at the federal level



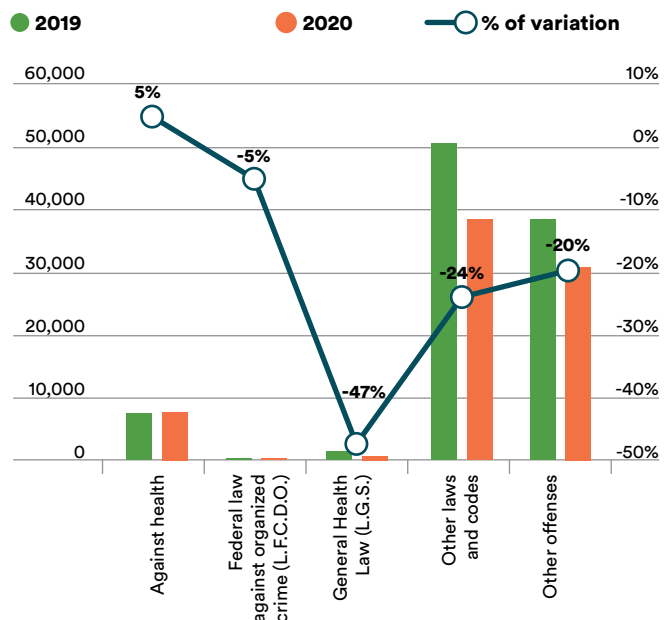
Source: Prepared by the authors with data provided by the Executive Secretariat of the National Public Security System.

Thus, the existence of a coordinated strategy of security policies, and justice procurement and administration, is crucial to face criminal phenomena. Though it is even more important to consider the criminal prosecution policy of the Attorney General’s Office to investigate and prosecute crimes that affect the population most.

But how can we explain San Luis Potosí and Baja California Sur being the states that escape the general downward trend of federal crime rates? Graph 67 shows a comparison between states.

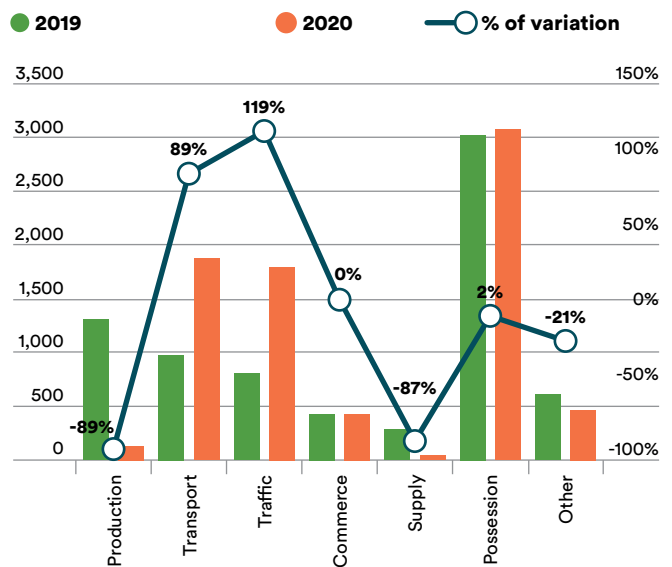
As seen, in these two entities, in accordance with national data, a significant increase was registered in crimes against public health (as mentioned, not including drug

Graph 55. Variation in crime rates at the federal level



Source: Prepared by the authors with data provided by the Executive Secretariat of the National Public Security System.

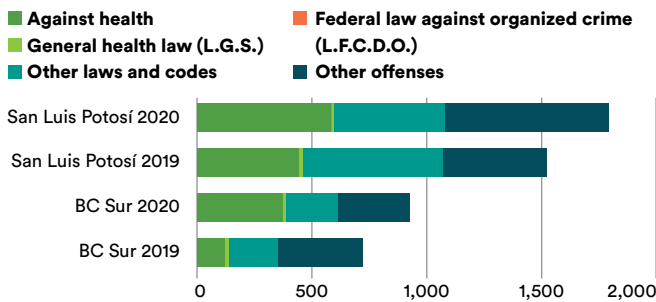
Graph 56. Variation in crime rates for crimes against public health at the federal level



Source: Prepared by the authors with data from the Executive Secretariat of the National Public Security System.



Graph 57. Criminal occurrence variation at the federal level in the states of Baja California Sur and San Luis Potosí



Source: Prepared by the authors with data provided through the Executive Secretariat of the National Public Security System.

dealing). However, San Luis Potosí sees a significant increase in “other crimes” (59%). Within this category, we see an increase in estate crimes: 271 in 2019, and 556 in 2020, an increase of 105%. In this same category, Baja California Sur shows a drop of 16%.

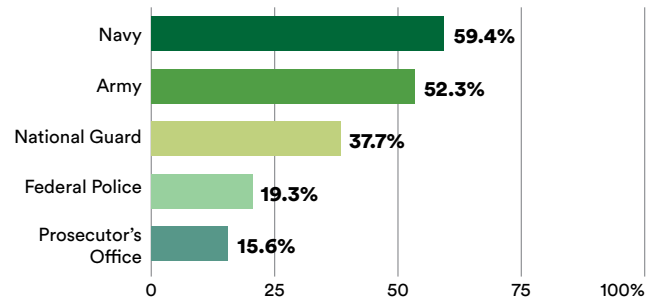
Furthermore, in the “other laws and codes” category, Baja California Sur registered an increase of 9%, and crimes related to Laws of credit, Investment, Bonds, and Insurance Institutions rose by 417%, going from 18 crimes registered in 2019 to 93 in 2020. Crimes relating to the Federal Law to Prevent, and Sanction Hydrocarbon Crimes increased by 117%, going from six registered in 2019, to 13 in 2020. As for “other crimes,” San Luis Potosí registered a drop of 22%.

This analysis that minimally represents differentiated conditions among entities shows the importance and urgency of a criminal prosecution policy for the Attorney General’s Office. In other words, when prioritizing criminal phenomena, it is important to consider that efforts must not be focused with the same proportion towards different territories given that the impact on the population and on federal public property is not the same.

An additional aspect to consider in the context of the operation evaluation of the CJS is the level of trust the population has relating to federal authorities. As shown in Graph 68, the Navy is perceived by the population as more trustworthy, followed by the Army, according to Envepe 2020.

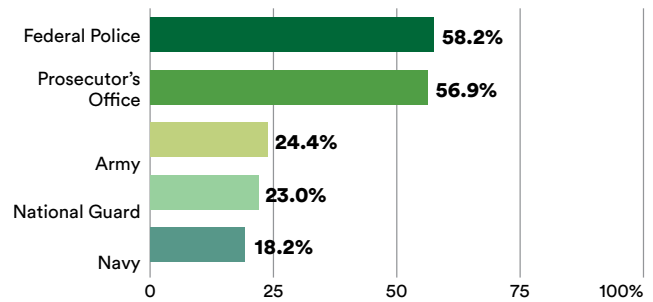
According to those figures, the perception of corruption regarding federal authorities is higher for the Federal

Graph 58. Level of trust on behalf of the population



Source: Prepared by the authors with data from Envepe (2020).

Graph 59. Perception of corruption



Source: Prepared with data from Envepe (2020).

Police and the Attorney General’s Office, as depicted in Graph 59.

These figures are revealing because the crimes for which an increase has been detected in terms of the number of investigation dossiers opened are those relating to the General Health Law (production, transportation, trafficking, sales, supply, possession, and others). And the fight against drug trafficking policy that has been applied in our country for several administrations involves the Navy and the Army, highly trusted authorities.

Nevertheless, for the efforts of these institutions to be fruitful in terms of justice administration and criminal sanctions, a coordinated intervention from the Attorney General’s Office and the Federal Police (before it was extinguished) was required, two authorities that the population in general does not trust and believes to be corrupt. This leads us to wonder whether the efforts and resources directed towards the strengthening of the Army and the Navy would be successful if the authorities in charge of criminal prosecution were facing the same circumstances in terms of opacity and legitimacy.



It is therefore necessary to reiterate the importance of criminal prosecution policy at the Attorney General’s Office that will help generate certainty regarding priorities and that can be subjected to public scrutiny based on measurable and observable results. This could contribute to improving transparency and accountability towards the community.

4.6. Procedural pipeline

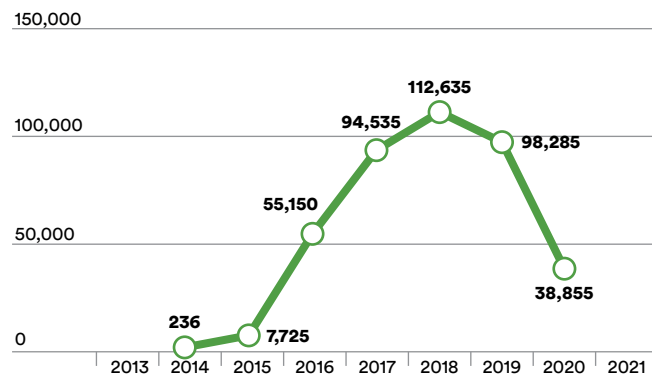
4.6.1. Opening of investigation

In 2020, the Attorney General’s Office launched 38,855 investigations, which according to information reported for the year 2019, represents a decrease of 60%. This is added to the drop of 12.7% in launched investigations in 2019, compared to 2018.

As can be seen in Graph 70, federal criminal prosecution has experienced a drop in terms of investigations launched since 2019. Its biggest drop was reported in 2020. In this context, we must highlight that, according to the Federation’s Expenditure Budget, the budget allocated for the FGR for the year 2020 was of \$16,702,187,474 Mexican pesos. In 2019, public investment in what was known as the PGR was made for \$15,351,082,687 Mexican pesos. Meaning that there was an increase in terms of budgetary investment of \$1,351,104,787 Mexican pesos: 9%.

Thus, despite the increased budget for the FGR, the data shows a decrease in launched investigations by this federal authority. It must be highlighted that at the time this document was drafted, the FGR had yet to

Graph 60. Launched investigations by PGR and FGR



Source: Prepared by the authors with data from Hallazgos 2019 and the Executive Secretariat of the National Public Security System.

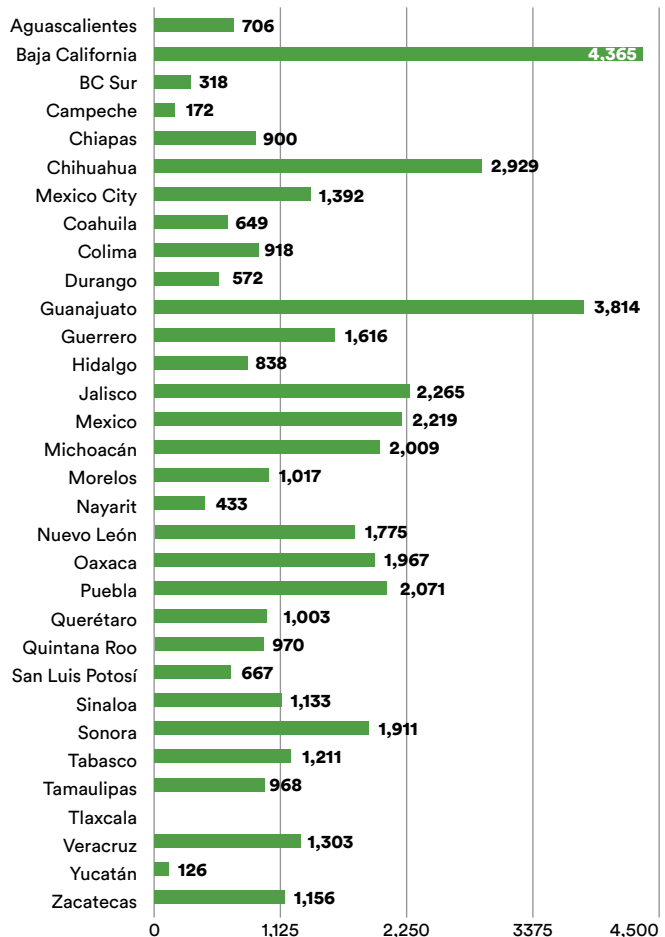
publish its activities report for the year 2020, and it did not report its compliance with the indicators established in the Results Indicator Matrix (*Matriz de Indicadores para Resultados*, MIR in Spanish). Also, the FGR did not respond to our public information request, and so the rulings corresponding to the investigation dossiers of 2020 were not reported.

4.6.2. Initial hearing

Regarding the investigations launched and resulting in indictments, 51.26% were made with an arrest, and 48.74% without one.

The Federal Public Defense represented 43,393 accused persons, which entailed a workload of 50 cases for each one of the 864 federal defenders, on average. In states like Baja California, Guanajuato, and Chihuahua there is a greater number of cases of persons accused

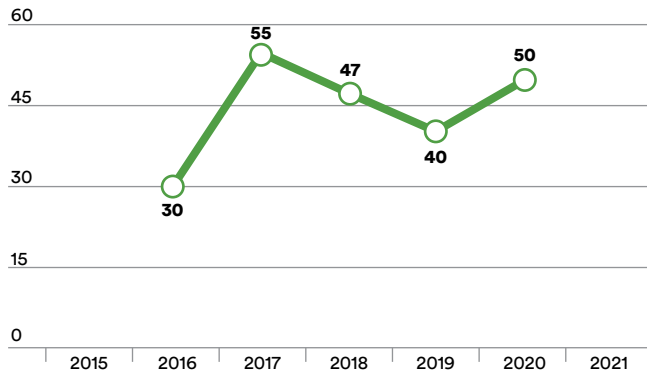
Graph 61. Total representations by the Federal Public Defense



Source: Prepared by the authors with data from the Institute for Public Defense.



Graph 62. Persons represented by each public defender



Source: Prepared by the authors with data from the Institute for Public Defense.

represented by the Federal Public Defense. The ratio of these cases is seen in Graph 61.

According to the Federal Institute for Public Defense, in 2020, 8,484 people were released who had been represented by said authority. 79.34% of these releases occurred during the investigation phase, 17.34% were tied to a precautionary measure, and in 3.32% of cases, pretrial detention was withdrawn.

Also, 19.5% of people represented by the Federal Public Defense were released because they were detained unlawfully. Although this information must be analyzed within the context of the Public Defense's functions, it is important to highlight that the number of persons represented by each federal defender increased compared to 2018 and 2019, as shown in Graph 62.

In terms of legal counsel for victims, the number of people represented by members of the Executive Victims' Commission was 166 on average in 2020, considering that a total of 16,978 active cases of representation and legal counsel were registered, as well as a total of 102 legal advisors by the end of 2020.

On the other hand, the information provided by the Federal Judiciary shows that the majority of criminal processes are at the investigation phase (51.02%), 20.66% are at the phase prior to the initial hearing, and 21.0% in intermediate hearing. Graph 63 shows the ratio of criminal processes based on their status at the Federal Judiciary.

It is noticeable that the federal Precautionary Measures Unit did not report the number of cases for which a risk evaluation was made, or for which a supervision or persons in liberty under precautionary measures or

Graph 63. Status of criminal processes at the Federal Judiciary



Source: Prepared by the authors with data provided by the Federal Judiciary.

a probation. This lack of information is a significant red flag, given the constant concern from federal authorities regarding a possible detraction of action of justice in terms of accused persons. In any case, this concern has not resulted in the strengthening of risk assessment and supervision mechanisms for these cases.

The circumstances are critical: almost half of criminal processes are at the investigation phase, as shown by Graph 63, and at least 1,471 people represented by the Federal Institute of Defense are free under precautionary measures, and it is possible to assume that they are not under surveillance by the authorities in charge of precautionary measure supervision.



The Federal Judiciary did not provide information pertaining to postponed or cancelled hearings, or the reasons for it. Thus, it is impossible to determine if the nonappearance of persons accused is a cause for delays, postponements, or cancellations of hearings. If that is the case, it would be worthwhile to analyze the role of the federal Precautionary Measures Unit in this situation, especially as they are charged with analyzing and supervising the risk of non-appearance based on what is defined by the NCCP.

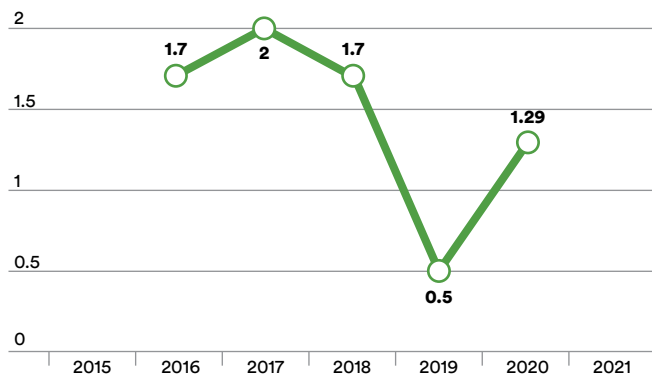
4.6.3. Oral trials

Based on what has already been pointed out, the percentage of cases of oral trials is 6.30%. This shows a more than significant increase compared to 0.5% registered for 2019. Graph 74 shows the evolution of cases forwarded to oral trials.

Indeed, the covid-19 health emergency could have affected the drop of investigations launched. However, it does not seem to have affected oral trial hearings. On the contrary, a significant increase was registered compared to the year before. A possible explanation is the small number of cases of oral trials in 2019, which, in terms of legal timeframes, should be held in 2020.

Although resolved cases through oral trials increased in 2020, the most recurring type of resolution during that year was the plea bargain (63.6%), followed by probation (26%). 2.9% of cases were resolved through reparatory agreements, and 1.10% resulted in dismissal.

Graph 64. Cases forwarded to oral trials

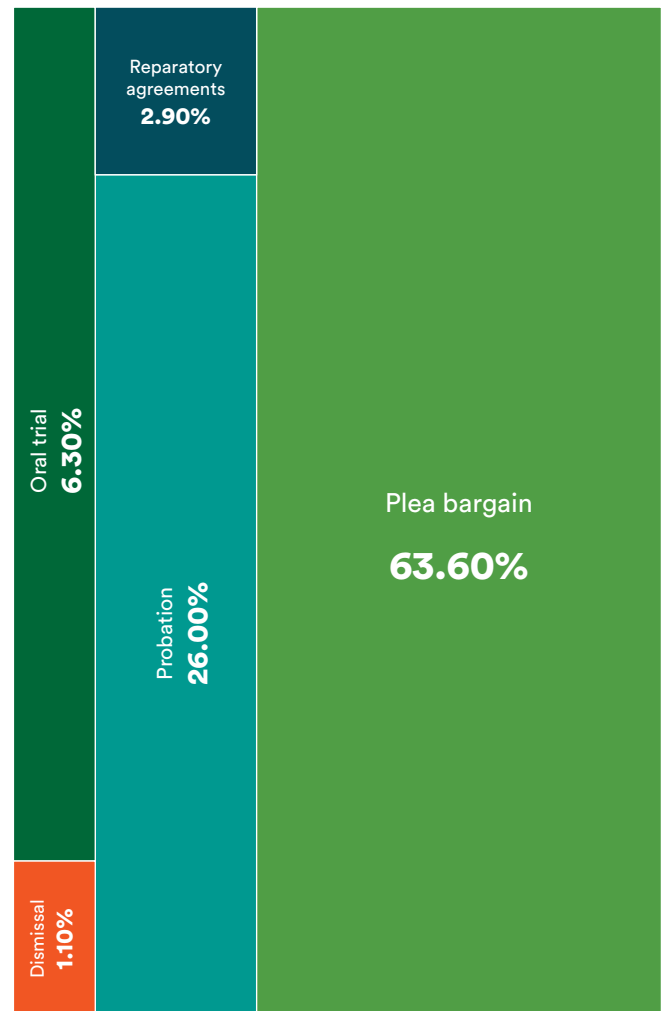


Source: Prepared by the authors with responses to information requests made by México Evalúa.

The Federal Judiciary and the Attorney General’s Office did not provide information about rulings, however, the Institute for Public Defense reports that 93% of rulings received by persons who appeared in court were guilty verdicts, and 7% were acquittals. In general, the state of Quintana Roo has a higher rate of guilty verdicts, and states like Guanajuato, Durango, Colima, Coahuila, Campeche, Baja California Sur, and Aguascalientes did not report any acquittals.

Finally, according to the National Victims’ Commission⁴⁹, a total of 16,978 active cases of representation and legal counsel were registered, which were covered by 102 legal advisors, which implies that, on average, each

Graph 65. Types of resolution for federal cases

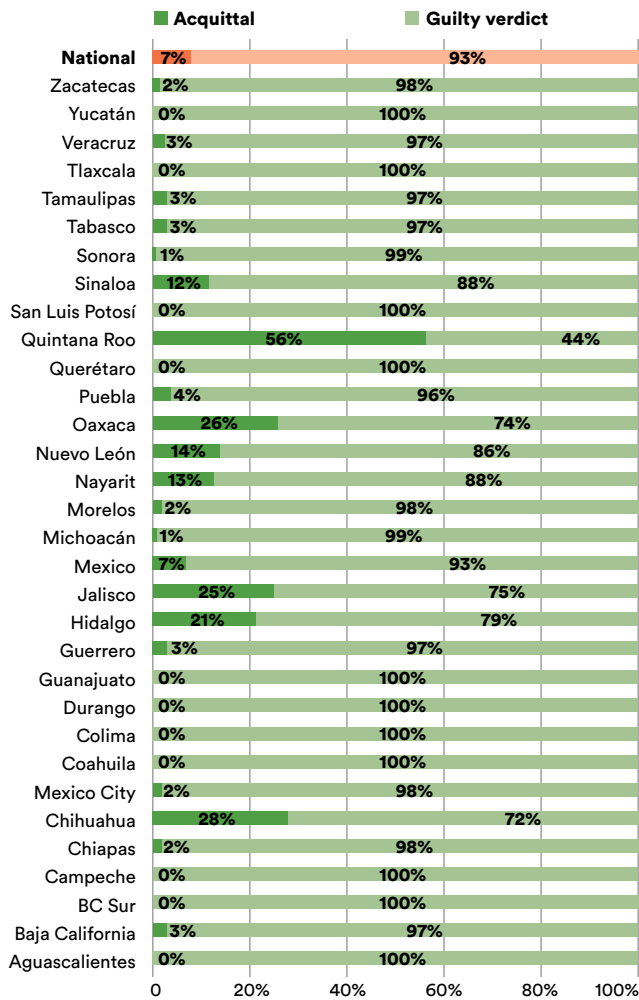


Source: Prepared by the authors with responses to information requests made by México Evalúa.

⁴⁹ Executive Victims’ Commission, Institutional Program 2020-2024, Progress and results report 2020, p.12.



Graph 66. Ratio of rulings at the federal level

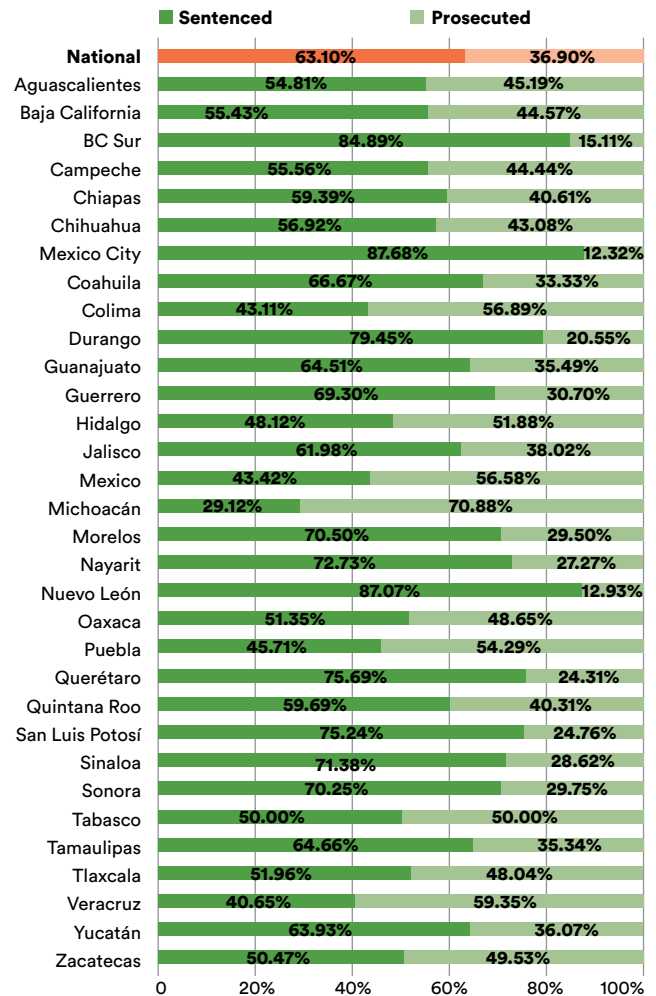


Source: Prepared by the authors with responses to information requests made by México Evalúa.

person covered 166 cases of representation during the year 2020. Furthermore, the National Victims Registry (*Registro Nacional de Víctimas*, Renavi in Spanish), received registration requests from 41,429 people, 29,596 from the federal level, and 11,923 from the local level. Especially when it comes to the federal level, an increase in registration requests was seen, compared to 2019.

Renavi is an administrative mechanism that allows for the integration of information regarding victims, and the definition of support, assistance, and integral reparation measures granted to monitoring compliance. One of its main goals is to guarantee victims' effective access to justice, reparation, assistance, and support. However, until now, the statistical information provided by the Executive Victims' Commission through Renavi is limited

Graph 67. Ratio of persons sentenced and convicted among the prison population, federal level



to a number of assigned registrations, without any reference to types of measures granted and complied with to guarantee the rights of the victims registered.

4.6.4 Prison population

The prison population related to federal crimes is composed of 9,927 convicted people, and 5,746 imprisoned persons without a ruling. 63% of the population is imprisoned with a ruling, and 36.9% still has a process pending. The states with fewer people imprisoned without a ruling for federal crimes are Baja California Sur, Mexico City, and Nuevo León. On the other hand, the case of Michoacán stands out because 70.8% of the prison population is without ruling, meaning



that they are serving time in advance, a situation that effectively cancels the exercise of their rights and hinders the principle of presumption of innocence.

It must be highlighted that women represent 6.30% of the convicted prison population, while this percentage increases to 11.8% for those pending ruling. However, men are those who make up the majority of the prison population for federal crimes, which has seen a downward trend in terms of all other crimes since 2016, although the greatest drop was registered in 2020, with regard to 2019.

4.7 Main conclusions

Let's summarize: a public policy approach in terms of criminal justice requires the coordination of different orderly and coherent interventions to address the issues at hand.

¿What issues? There are many complex issues, but it would be possible to determine a starting point and define that the adversarial criminal justice system does not guarantee access to justice for victims and accused persons. We will elaborate:

1 The investigation launch is affected by models that do not have the user population's needs at its core, so that the dark figure is stable throughout the years, largely attributable to the authorities. This means that crime victims' access to justice in Mexico is not guaranteed by the State. On the contrary, the State is obstructive. Although operating institutions have made decisions seeking to decongest the system, the mechanisms that come with them have not shown they are based on defined criminal prosecution policies with clear criteria for prosecutorial decisions. Another aspect is the promotion of reporting and the mechanisms for filing: a high proportion of crimes go unreported to the authorities or are not addressed. If report filing practices are not modified, or the gap of trust in justice institutions is not reduced, it will be difficult to revert current levels.

2 Once the State is made aware of criminal acts through reports or suits filed, investigations are not launched in the same proportion, nor an expedited response is provided, whether to determine that they will not go through with them (temporary archive, non-prosecution, or abstaining from investigating), or to provide an alternative

solution. Doing so requires clear and previously defined criteria, sufficient training of operators, control mechanisms that guarantee their application, and investigation models that ensure planning, development of criminal and context analysis, as well as litigation strategy considerations.

3 Furthermore, it is important to take note of prosecutor's decisions, especially in terms of **temporary archive and non-prosecution, given that they can become incentives to reduce workload, but not to provide effective response for a case,** which after investigation results, is significantly reduced for each prosecutor. Also, these prosecutorial decisions must not imply a possible loss of information that would be useful for intelligence purposes, and for defining prevention strategies and strategies that would make it possible to reponne investigations with a macro-criminality based and/or local approach.

4 It must be highlighted that investigation decisions are up to agents and prosecutors, which allows for a management of workload and focusing of efforts towards more complex investigations. However, **without a criminal prosecution policy that defines priority criteria for criminal phenomena, these determinations end up depending on individual, heterogenous criteria that have little transparency.** Equally, the lack of a public policy approach causes the police forces to be charged with, in practice, determining prosecution priorities at prosecutors' offices. Thus, investigation efforts are focused on cases, and not on the criminal phenomena affecting the population the most.

5 Without a doubt, these points impact the functioning of the CJS as a whole, **making use of risk evaluations made by Precautionary Measures Units** without a rational basis, leading to the imposition of precautionary measures that entail imprisonment without prior risk analysis. The imposition of measures ends up depending on the involvement of counsel and defense personnel. Something similar happens with the forwarding of cases towards Alternative Dispute Resolution Mechanisms, which based on the involvement of these operating authorities, defines the forwarding and resolution, even when these could be defined from the beginning of the initial investigation.



- 6 It is clear that the lack of systemic vision in the Criminal Justice System impacts the facts, the decisions made, and the progress of the initial investigation. Nevertheless, the greatest impact is forced on the user population which faces long processes to resolve their conflicts and must, in many cases, directly foster the investigation and process by providing evidentiary elements. In the end, less than 1% of cases will see reparation.
- 7 If public policy interventions in the field of justice keep focusing on depressurizing the criminal justice system, on “efficiency-based” visions aimed at reducing the use of resources, or on approaches that seek the best quick solution, results will continue to be delivered at an individual level (apparently), but **without impact on the main issue: not guaranteeing victims and accused persons access to justice.**
- 8 Another surprising element is the **broad use of plea bargain.** Although this solution is considered in the adversarial system and can result in more agile processes with less resource investment, it must be analyzed in terms of which cases are being resolved through this option, what kinds of sanctions are being imposed, and in what context, so as to avoid this solution representing a risk for torture and/or corruption, similar to those that occurred within the framework of the inquisitive system.
- 9 **It is also concerning to see a significant increase in the prison population awaiting a ruling on their case.** Although this increase stems from the legal reform in terms of mandated pretrial detention, it must also be noted that it is the prosecutors’ offices which suggest what kind of precautionary measure to impose, and the ones underusing risk evaluations that would lead to an exceptional use of pretrial detention. With current operations, the prison population is rising without there being sufficient elements to support it and without living conditions being provided in detention centers based on dignity, safety, minimum hygiene measures, health, nutrition, and work.



4.8 Approaches for an assessment with a gender-based perspective

Unequal organizations produce and reproduce inequality

In recent years, various civil society organizations and international bodies have highlighted the inequality and discrimination generated from the practice of criminal law itself. Emblematic cases resolved by the Inter-American Court of Human Rights, such as *González et al. ("Campo algodonero") v. Mexico* and *Women Victims of Sexual Torture in Atenco v. Mexico*, reveal the androcentric biases and gender stereotypes that women face when pursuing their right to justice, truth, and reparation, either as defendants or as victims of an offense. Furthermore, Mexico's Supreme Court of Justice (SCJN, abbreviated in Spanish), through the *amparo* constitutional judgment 554/2013 on Mariana Lima Buendía femicide, noted the important deficiencies in the investigation of an offense linked to gender violence, and its lack of due diligence.

At the same time, various civil society organizations have highlighted the lack of a gender-based perspective in many courts' rulings throughout the country, as well as its discriminatory and perpetuating effects of gender violence. For this reason, at México Evalúa we are committed to evaluate and issue public policy recommendations from a gender, intersectional and human rights perspective.

The first exercise was conducted in 2020, with the publication of our analysis of hearings and court rulings

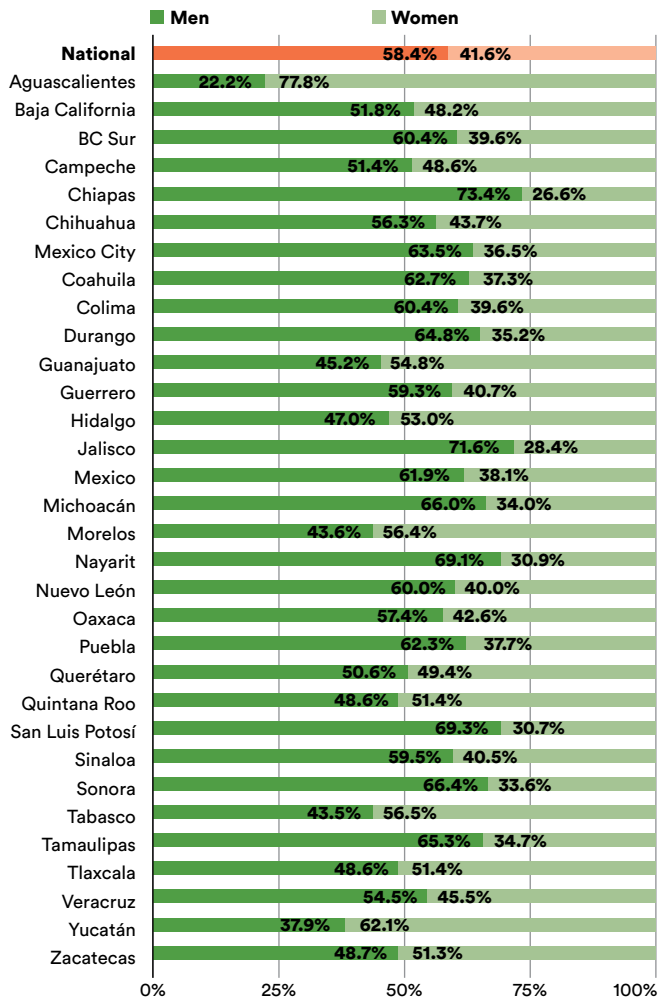
with a gender-based perspective, an analysis we have replicated in 2021. Beyond this necessary and timely exercise, we consider the assessment of the CJS must be transformed. Drawing attention to gaps, inequalities, barriers, and discriminatory treatments is not enough; all operational analysis, public policy and recommendations should be integrated under this paradigm. We will reformulate the assessment methodology of the CJS based on this commitment and it will be made public in 2022. Nevertheless, we deemed it relevant to make a first exploration of the current data from a gender-based perspective. This first exercise will serve as a basis and learning about the scope and limitations of the information for subsequent reports.

4.8.1. Decision-making spaces

In this context, it becomes relevant that decision-making positions, where the policies, values and practices of the judicial system are defined and dominated by men. Of the thirty-two state attorney generals' offices, only four are run by women. At the top of the Judiciary, only four women occupy the Presidency. Although the fact that women occupy decisionmaking positions does not guarantee the institutionalization of a gender-based perspective, this scenario reflects the underrepresentation of women in the public space.



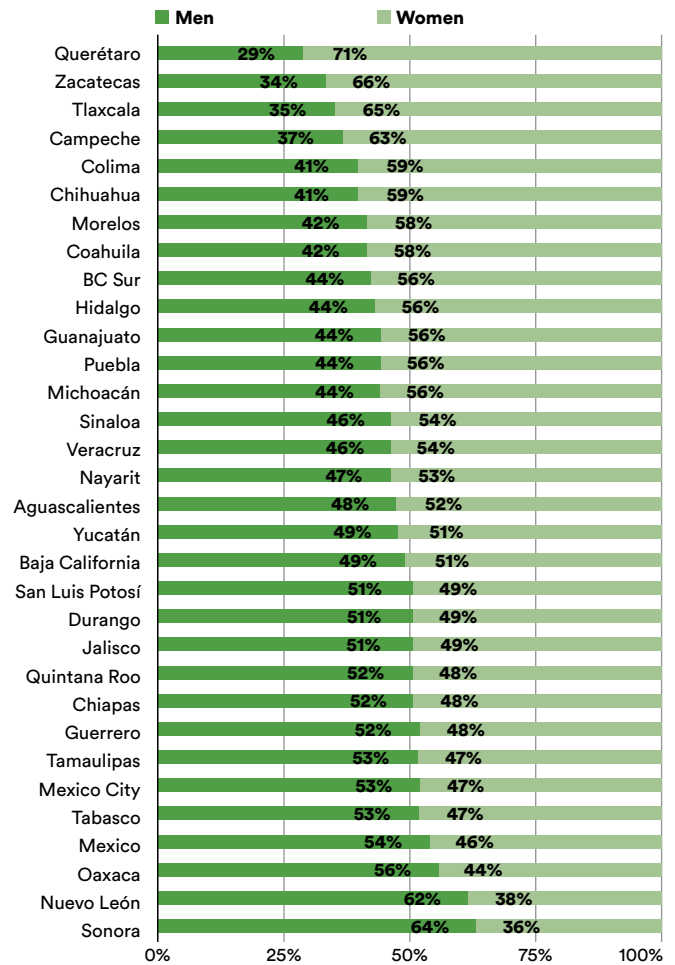
Graph 68. Judges by sex



Source: Prepared by the authors with data from the National Census of State Justice Administration 2020, INEGI.

In this sense, we start off from the assumption that **public organizations in charge of prosecution and administration of justice are not foreign to the effects of the social and historical constructions of gender**, responsible for the inequality and discrimination against women. In the country, 58.4% of judges are men and 41.6% women. Aguascalientes stands out for having 21 women judges out of a total of 27, that is, 77.8%. Yucatán and Tabasco also stand out with 62.1% and 56.5% women judges, respectively. On the other hand, other entities present considerably lower percentages, such as the states of Chiapas, San Luis Potosí, and Nayarit, with 26.6%, 30.7% and 30.9%. The proportion of men and women as judges in the country's states is shown in Graph 68.

Graph 69. Prosecutors by sex



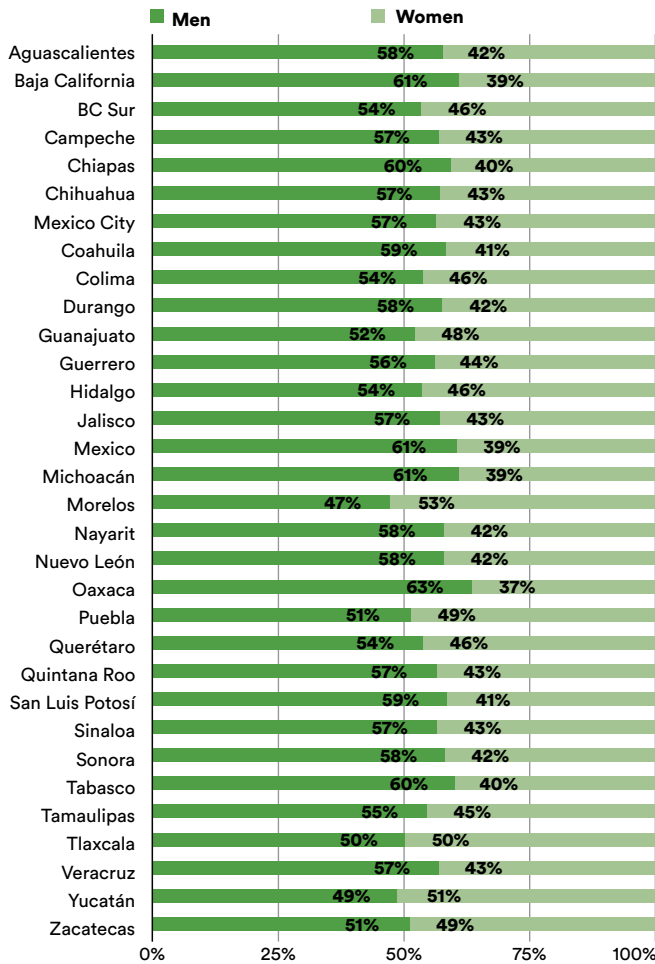
Source: Prepared by the authors with data from the National Census of State Law Enforcement 2020, INEGI.

On the other hand, in the country's attorney generals' offices, the distribution of men and women who are prosecutors varies significantly. Querétaro registers 71% of women as prosecutors; Zacatecas, 66%; Tlaxcala, 65% and Campeche, 63%. The attorney generals' offices with the lowest proportion of women as prosecutors are Oaxaca (44%), Nuevo León (38%) and Sonora (36%).

The national average distribution at the federal Attorney General's Office (FGR, in Spanish) is 56.9% of men and 43.1% of women. There are only two states in which the women staff of the FGR exceeds half: Morelos (52.8%) and Yucatán (51.3%). At the other end, the states with the lowest representation of women are Michoacán (39%) and the State of Mexico (39.2%).



Graph 70. Attorney General’s Office officials, by sex and state



Source: National Census of State Law Enforcement 2020, INEGI.

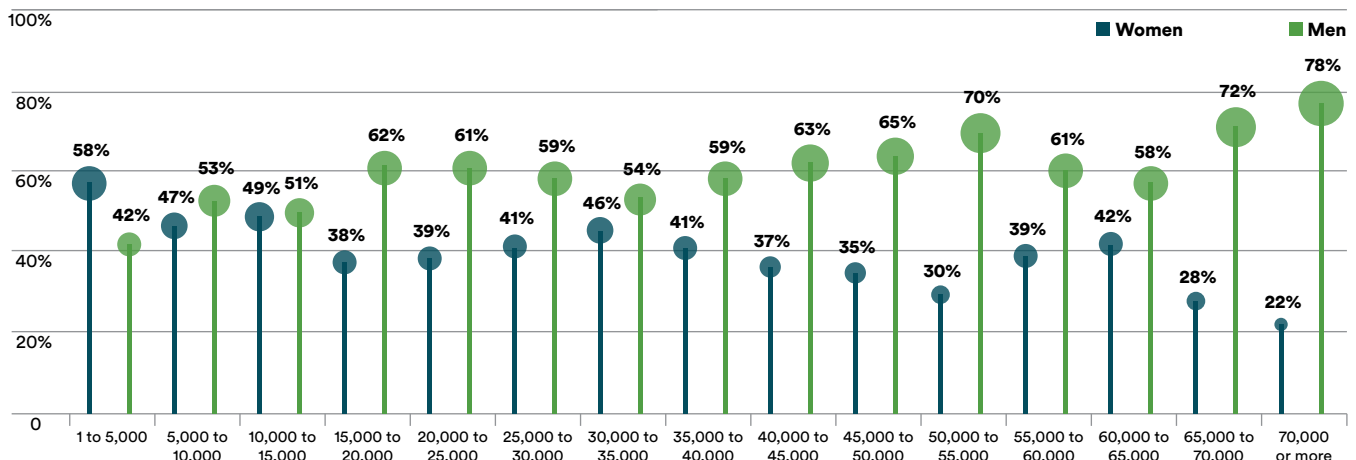
It is important to note that, in general, the authorities we consulted for this exercise did not disaggregate the information required by sex, so it was not possible to analyze the distribution of men and women in the public defender’s offices, in the executive victims’ committees or in the units that supervise precautionary measures and probation. We must emphasize that the registration of the sex variable is the first step to produce relevant information that allows defining a strategy for mainstreaming the gender-based perspective in the organization of institutions, beyond political discourse.

4.8.2. Gender-sensitive budget

Projected expenditure is oblivious to the differentiated impact that the CJS has on men and women. Of the eight programs towards which the Contribution Fund for Public Security (FASP, in Spanish) is distributed, none is directed towards addressing gender inequality. The apparent neutrality with respect to gender of public budgets maintains structural inequalities between men and women, as they do not specifically address existing gender inequality gaps, for example, the distribution of wages.

In the country’s attorney generals’ offices, women mostly occupy positions with a monthly income of up to 5,000 pesos (58%). Nonetheless, this ration changes as income rises. As shown in Graph 81, starting off at an income of 15,000 pesos or more, the percentage of women drops to less than 45% and reaches only 22% in positions with an income of more than 70,000 pesos.

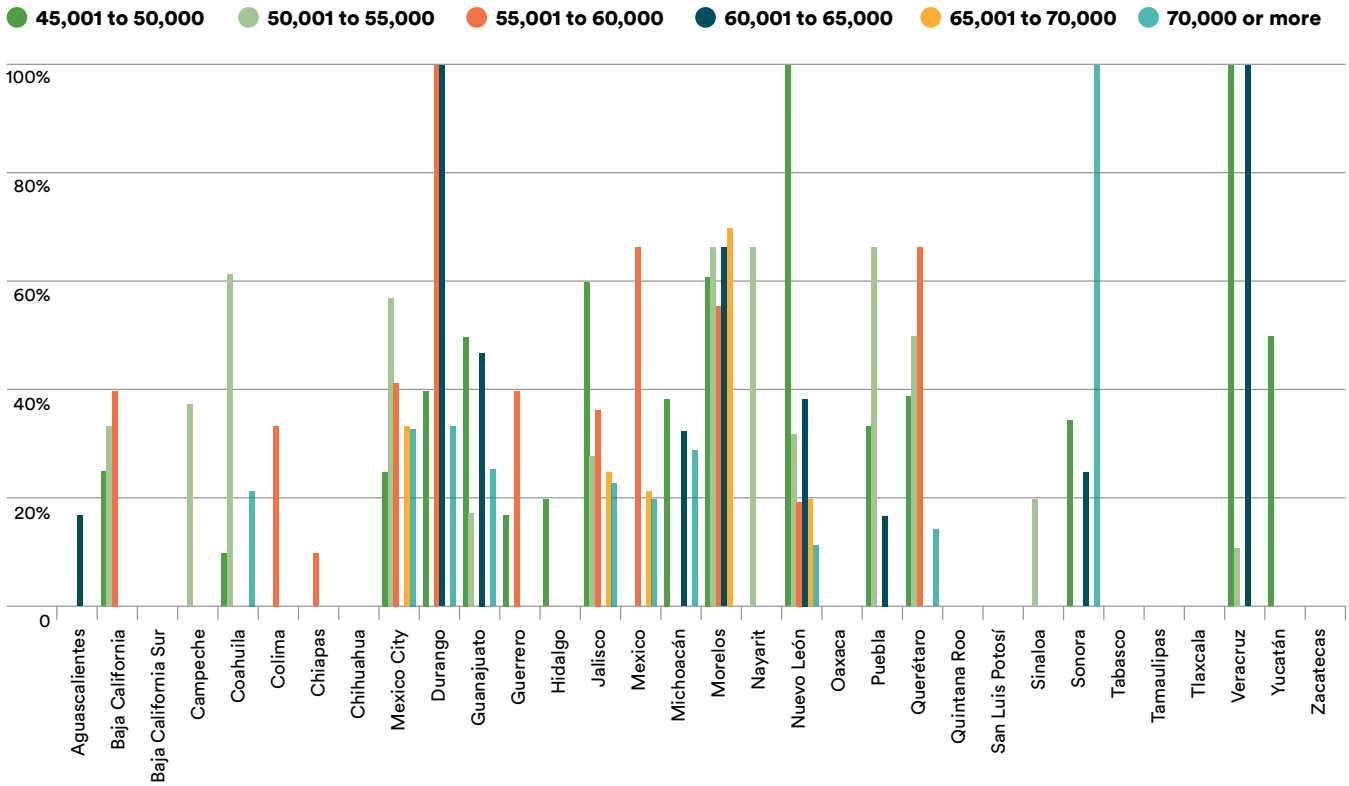
Graph 71. Income of men and women in attorney generals’ offices



Source: Prepared by the authors with data from the National Census of State Law Enforcement 2020, INEGI.



Graph 72. Percentage of women by salary range over 40,001 pesos



Source: Prepared by the authors with data from the National Census of State Law Enforcement 2020, INEGI.

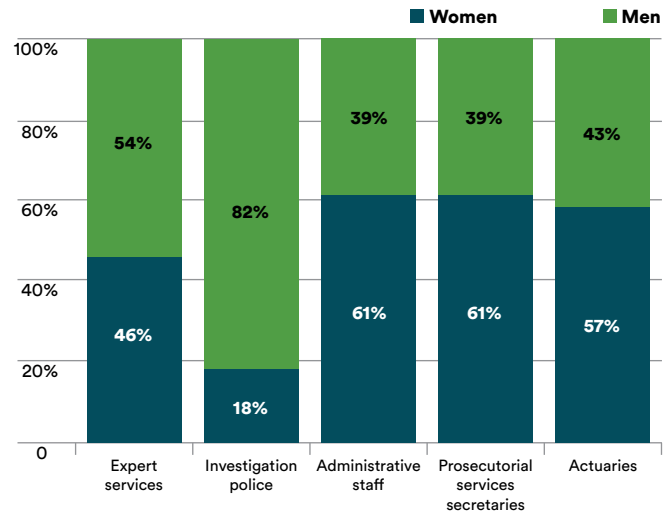
There are extreme cases. In the offices of Baja California Sur, Chihuahua, Oaxaca, Quintana Roo, San Luis Potosí, Tabasco, Tamaulipas, Tlaxcala, and Zacatecas there are no women in positions with incomes greater than 40,001 pesos.

It is important to clarify that the 2020 National Census of State Justice Administration does not gather judges' range of wages, so this analysis cannot specify on that authority, as well as all other organizations of the adversarial system.

4.8.3. Sexual division of labor

This type of division is a distinguishing factor of 'gendered' organizations. It finds its basis in the association of women who provide essential care and services and conduct administrative tasks, and the placement, to a greater extent, of men in positions in which physical skills or the knowledge of exact sciences are required.

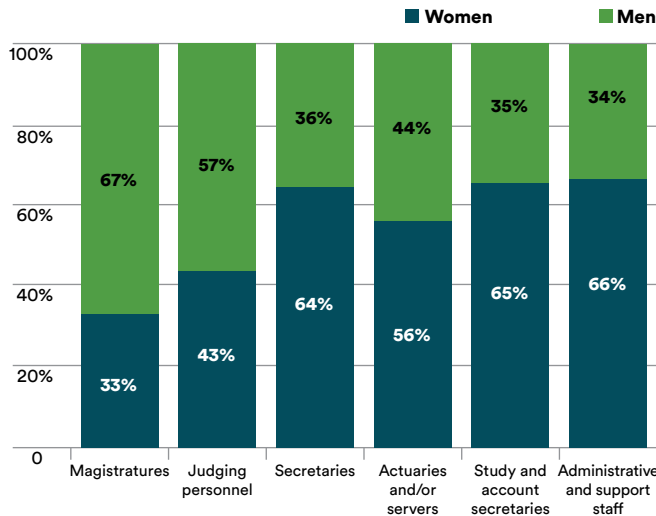
Graph 73. Sexual division of labor



Source: Prepared by the authors with data from the National Census of State Law Enforcement 2020, INEGI.



Graph 74. Sexual division of labor in the Judiciary at state level



Source: Prepared by the authors with data from the National Census of State Justice Administration 2020, INEGI.

An eloquent example of this sexual division of labor: 54% of the forensic experts of the country’s attorney generals’ offices are made up of men, and 82% of the investigative police are made up of men as well, as can be seen in Graph 73.

This division is verified in the same proportions in state jurisdictional bodies. Here, decision-making, and senior positions are held to a greater extent by men. 67% of magistrate positions are occupied by men and 57% of judges are men as well.

On the other hand, positions related to administrative staff are occupied by 66% of women. In the same manner that the study and account secretaries and planners are by 65%.

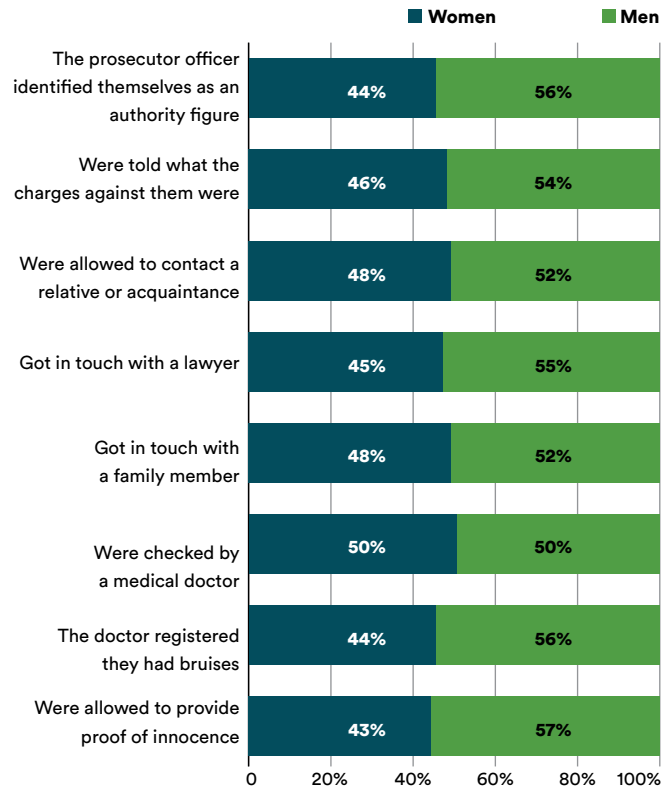
4.8.4. Results of gender inequality

4.8.4.1. Detention at a prosecutor’s office

The law is neutral. Women and men are equal before it; however, it is clear that, in practice, discrimination prevails: women’s rights tend to be less respected at the prosecutor’s office, as shown in Graph 75.

Women, as shown in the National Survey of the Population Deprived of Liberty, have less access to their rights while

Graph 75. Rights exercise before the prosecutor’s office



Source: Prepared by the authors with data from the National Survey of the Population Deprived of Liberty (ENPOL) 2016, INEGI.

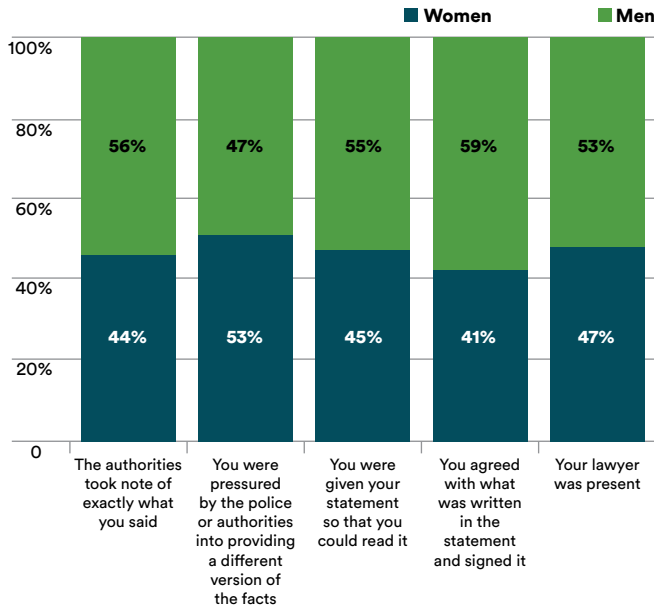
in custody of the prosecutor’s office. It is of particular concern that the record of injuries is substantially more limited in women than in men, and they have a smaller possibility of seeking legal counsel.

In the cases in which women provide a statement, they are pressured to give another version of the facts to a greater extent than men in the same situation. In addition to this, women are given their rights to read to a lesser extent than men, and they have fewer opportunities to read their own statement. In Graph 76 we show the details of the conditions in which women and men give their statements.

During custody, the violence suffered by men and women is also differentiated. Women are threatened with harm to a relative in 62% of cases, and men in 38% of them. Men, on the other hand, are undressed and tied up marginally more frequently than women: 58% and 57%

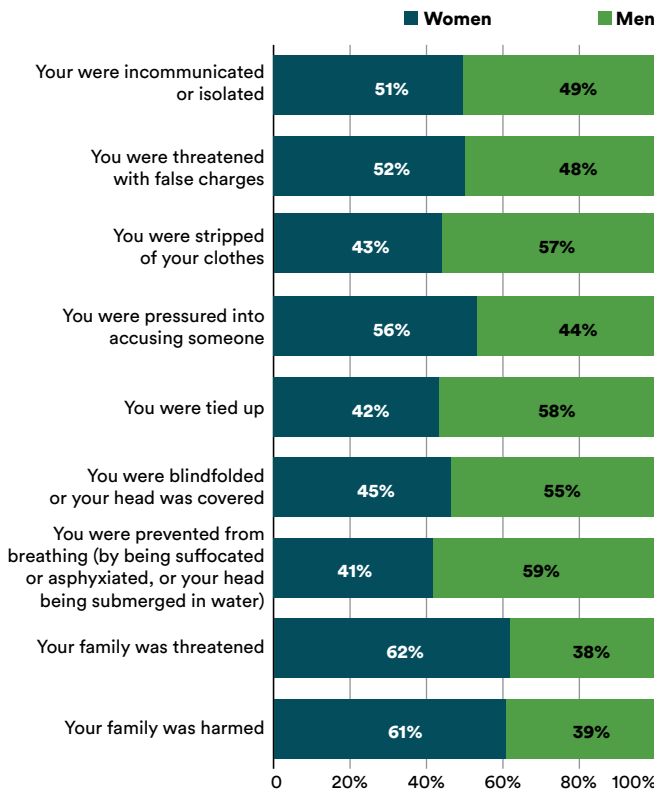


Graph 76. Conditions in which men and women give their statements



Source: Prepared by the authors with data from the National Survey of the Population Deprived of Liberty (ENPOL) 2016, INEGI.

Graph 77. Violence against men and women during custody



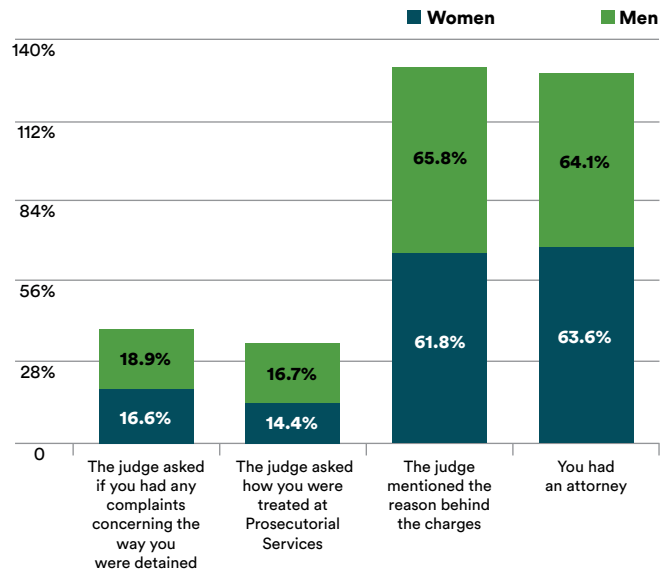
Source: Prepared by the authors with data from the National Survey of the Population Deprived of Liberty (ENPOL) 2016, INEGI.

respectively. Graph 77 shows violence conducted or permitted by ministerial police or authorities, according to ENPOL.

4.8.4.2. Judicial review of detention

Before judicial authorities, women also suffer discrimination in access to the administration of justice. During the judicial review of detention, jurisdictional staff corroborate to a lesser extent if they received ill-treatment during custody and are informed on fewer occasions of the motive of the accusation.

Graph 78. Situations during detention review



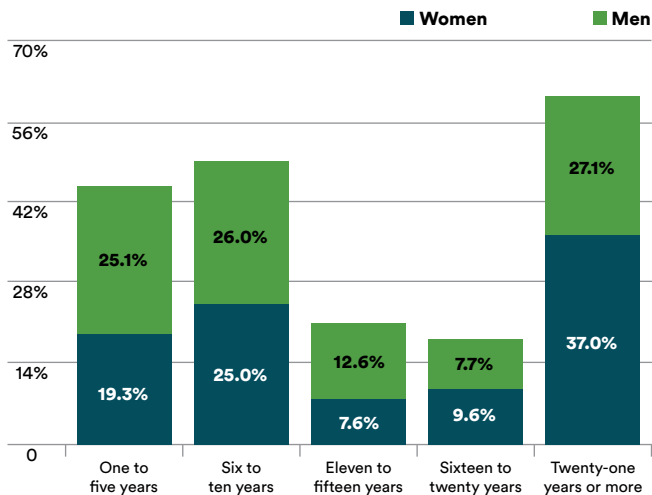
Source: Prepared by the authors with data from the National Survey of the Population Deprived of Liberty (ENPOL) 2016, INEGI.

4.8.4.3. Sentencing

According to the National Survey of the Population Deprived of Liberty, in 2016, the year of measurement, 70.1% of men were deprived of liberty because of a conviction, while only 57.6% of women were deprived of liberty because of a conviction. This situation can only worsen, considering the expansion in the use of mandatory pretrial detention: in 2020 four out of 10 men (25%) were deprived of their liberty while awaiting a sentence; in the case of women, this proportion increased to one in two (50%).



Graph 79. Imprisonment time



Source: Prepared by the authors with data from the National Survey of the Population Deprived of Liberty (ENPOL) 2016, INEGI.

These figures reveal clear distinctions in the definition of the legal situation of men and women. However, analyzing the differences in imprisonment time of one and the other is even more indicative of the conditions of discrimination.

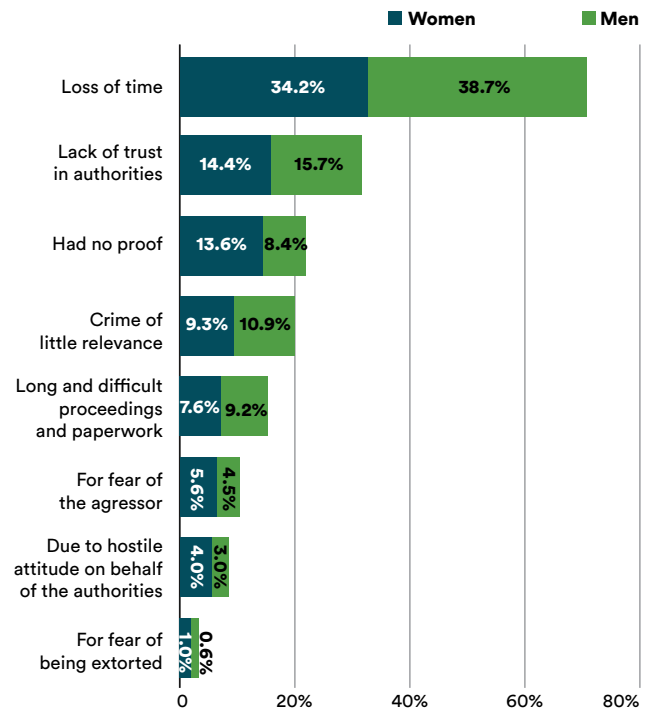
Indeed, the National Survey of the Population Deprived of Liberty reflects that imprisonment is longer for women than for men. Convictions from 1 to 5 years is faced by 25.1% of men, compared to 19.3% of women; convictions of 16 to 20 years is faced by 9.6% of women, compared to 7.7% of men, and convictions of 21 years or more is given to 37% of women and 27% of men.

4.8.4.4. Victims

The country's attorney generals' offices have made efforts to set up specialized offices to deal with offenses committed against women, which are reflected, for example, in the Justice Centers for Women. These efforts, although positive, tend to divide attention to women; that is, they treat them as a separate issue, and this prevents the creation of strategies that address inequality in a comprehensive manner.

According to the 2020 National Survey of Victimization and Perception of Public Safety, the reasons why women and men do not go to law enforcement agencies to report offenses are different. While men generally do not report because they consider it a waste of time (38.7%), because they believe the offense to be of little importance (10.9%), or because they consider it will

Graph 80. Reasons behind unreported crime



Source: Prepared by the authors with data from the National Survey of Victimization and Perception of Public Safety (ENVIFE) 2020, INEGI.

imply long and difficult bureaucratic procedures (9.2%), women do not report because of a lack of evidence (13.6%), due to fear of the aggressor (5.6%) and due to a hostile attitude from authorities (4.0%).

In Graph 80 the different reasons why men and women do not report offenses are detailed.

The precise reading of these figures allows for different strategies to be defined to promote reporting, since women reflect a greater need for protection from authorities. Although women show greater trust in authorities than men, the survey shows that they consider their saying to have less credibility, so they do not report due to lack of evidence.

4.8.4.5. Damages

Damage reparation to victims is often monetized without paying attention to the most impactful effects of the offense. The lack of distinction between the impact of the offense for men and women victims leads to solutions that do not guarantee full/comprehensive/integral reparation and access to justice.



In the country, men report that the main type of damage is economic (28.6%), compared to 23.9% of women. On the other hand, psychological damage is reported in a higher proportion by women (19.3%) than men (8.0%). That this damage is reported to a lesser extent by men may be linked to prejudices and gender roles (men avoid showing vulnerability), an issue that makes it necessary to reconsider/reframe the division of support services for men and women provided by the

authorities in charge of prosecution and administration of justice. In this manner, a strategy that integrates the gender variable in institutional design, in policies, procedures and solutions can be implemented.

In the CJS, this is the starting point for the practice of law to begin to address the conditions of inequality and discrimination that women face when trying to exercise their rights.

CHAPTER
5

Impunity Index

F

or the third consecutive year, we present in *Hallazgos* an approximation of the level of effectiveness of the CJS. Edition after edition we have tried to strengthen the construction of an index that presents/reflects/reveals the degree of effective response that justice institutions provide to the cases they are aware of. We refer to **the measurement of direct impunity**. That is to say, the failure to address a case and achieve its resolution. Either because a reparation agreement was not entered into, or an early solution was not found, or a ruling was not made.

While impunity is a phenomenon present in all societies, it is true that the mechanisms that control it and the conditions that promote it illustrate the difference between a robust rule of law and another that is not. Effective justice systems manage to establish differentiated response mechanisms to criminal conflicts, depressurize the system by focusing its resources on those phenomena considered as priorities and offer conditions of legal certainty to society. On the contrary, **deficient, or unstructured criminal systems are incapable of strategically managing the offenses they are responsible for attending and solving.**



Therefore, the approximation to the level of impunity of our CJS is an indicator of the degree of effectiveness or institutional failure to face criminal conflict, compellingly address the phenomena that affect society and favor conditions of legality. In addition, **the study of impunity can be a way to shed light on the sociopolitical use of the criminal system when it is analyzed at the offense or criminal phenomenon level**, as it weighs the sensitivity and response it offers, or the associated indifference and disregard.

Finally, the analysis on impunity would not be complete if it did not inspire reflections on the practices, policies and/or tools that are being implemented in light of its results, as well as those cases in which its implementation is required to improve performance.

Brief methodological description

We have given ourselves the task of generating an indicator that estimates a record of the effectiveness with which justice procurement and administration institutions respond to the commission of offenses, how they are managed and, where appropriate, resolve them. It is important to state that the scope of this measurement matches the degree of response of only those cases that were known by the authorities; therefore, it does not include the so-called dark figure of its dimensions. In other words, offenses that were not reported are not included in the assessment.

We use the impunity measuring system developed by the International Commission against Impunity in Guatemala (CICIG, in Spanish) as a reference, a measurement we judge to be correct if we consider the adversarial system provides for different conflict solutions and/or responses. Thus, the sentences that emerge from criminal action are not measured exclusively, but the cases in which an agreement between the parties was reached, the offended was pardoned or other types of responses are also considered as favorable. Based on this, we built an adequate index to measure impunity in the adversarial system in the Mexican context, considering the various outcomes, determinations, or other types of resolutions provided by the National Code of Criminal Procedures (CNPP, in Spanish).

In the first year of assessment (2018) we used as an information source the National Censuses of State Justice Procurement and Administration at the local level, and the information provided by authorities themselves at the federal level. Notwithstanding, considering the changes implemented in the National Census of Justice Procurement –the same ones we have documented in past editions–, it was necessary to use another source for the following years (2019 and 2020). For this edition, the construction of the index remained unchanged with respect to 2019. We also considered the information provided by the Evaluation and Monitoring Model (MES, in Spanish).

Formula, variables, and main metadata

Impunity Index Formula 2020			
Impunity = $\frac{1 - \text{Alternative Dispute Resolution Mechanism} + \text{Plea agreements} + \text{Sentences}}{\text{Reported crimes} - \text{dismissals}}$			
Interpretation	It is considered the higher the percentage, the greater impunity. as it means that the system was unable to offer a satisfactory response to a greater number of cases. The estimate refers to “direct impunity,” understood as the inability to respond effectively to offenses that are known and prosecuted by authorities. The calculation is made based on the logic of the adversarial system, which is why it accepts as satisfactory answers not only the sentences, but other possible outputs provided by the CJS -alternative dispute resolution mechanisms and plea agreements-. Similarly, cases for which the resolution is attributable to the justice system, as they do not constitute offenses or because they are not under the jurisdiction of such authority, are excluded or dismissed from the universe.		
Sources	Evaluation and Monitoring Model (SEGOB). For Coahuila, Nuevo León, San Luis Potosí, and Zacatecas we use the information provided directly through information requests, due to inconsistencies observed in the MES. Local-level information.		
Time coverage	Exercise 2020	Geographic coverage	National and by Federative Entity



With this edition of the Impunity Index, it is possible to make a comparison between the results from 2019 and those of 2020, as they are methodologically comparable. As can be observed later on, despite remaining at a similar level with respect to the national average (although with a slight increase), the results of the 2020 Index suggest a reordering of the states, with certain changes with respect to the year before.

This situation must be analyzed in relation to public policies, criminological policies, management models or specific practices. The increase in levels of impunity may be associated with various factors, such as the specific impacts of the health contingency, the suspension of deadlines or, simply, the lack of prioritization instruments that facilitate the depressurization of the system. Nevertheless, it would be necessary to carefully study those states that showed notable improvements from one year to the next, and identify that specific changes were made.

State Impunity Index 2020

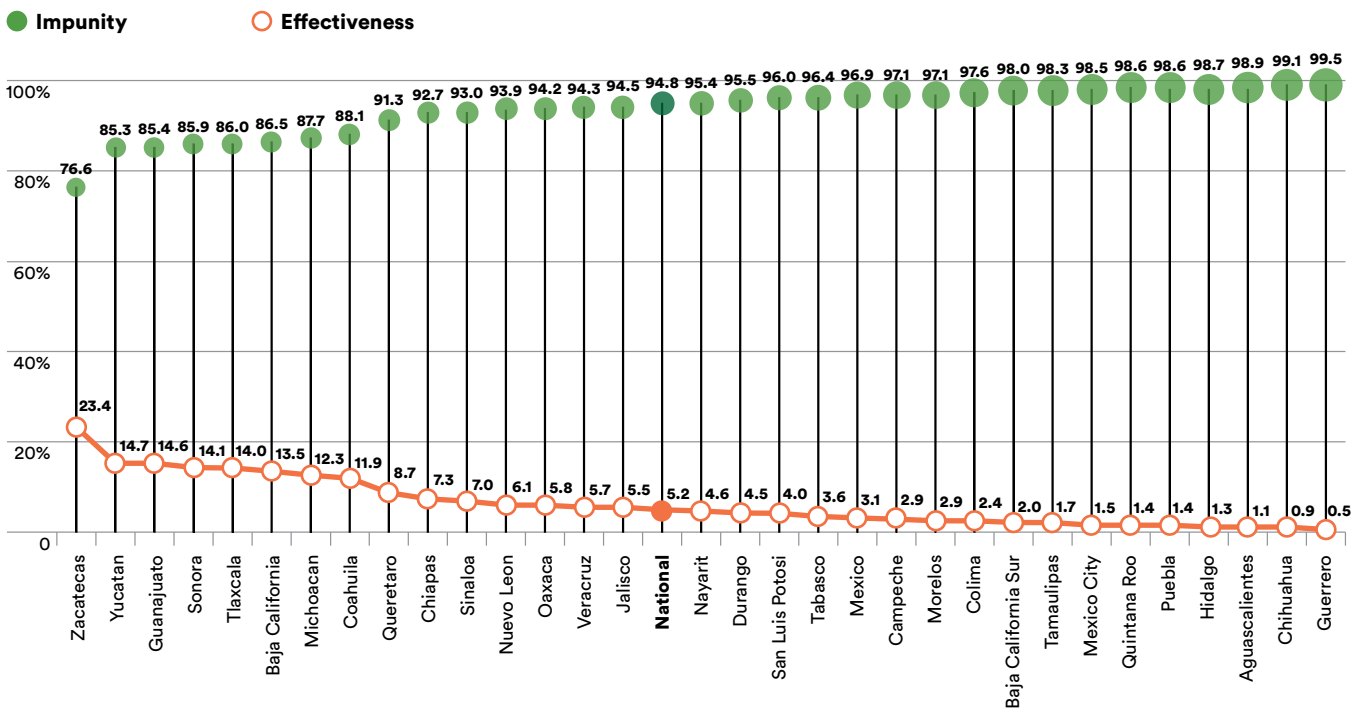
The 2020 Impunity Index reveals that, overall, the CJS still exhibits significant levels of impunity. The national average was 94.8%, which is higher than that reflected in 2019 (92.2%). The states that presented the lowest levels of impunity still reached levels between 76% and

86%, while there are 24 states with levels above 90% and 17 exceeded the national average. As shown, the challenge faced at the local level is enormous.

The states with the lowest levels of impunity and/or the highest levels of effectiveness are Zacatecas, 76.6%; Yucatán, with 85.3%; Guanajuato, with 85.4%; Sonora, with 85.9%, and Tlaxcala, with 86%. By contrast, the highest levels of impunity were located in Guerrero, with 99.5%; Chihuahua, with 99.1%; Aguascalientes, with 98.9%; Hidalgo, with 98.7%, and Puebla and Quintana Roo, both with 98.6%.

This allows us to identify which states are achieving less congestion in the operation and are using the various planned outputs and solutions to provide an effective response to cases. However, **it should be noted that the Index statistically analyzes flows, inputs, and outputs, without a qualitative analysis by offense, type of case, type of victims or defendants, as information to achieve this is not available.** Ultimately, the Index makes it possible to identify the capacity of the system to respond to the cases it is aware of, but a much more disaggregated and qualitative analysis is required to know if the responses to the cases are adequate, if mechanisms are provided by the system being used correctly and if prioritization tools are being used.

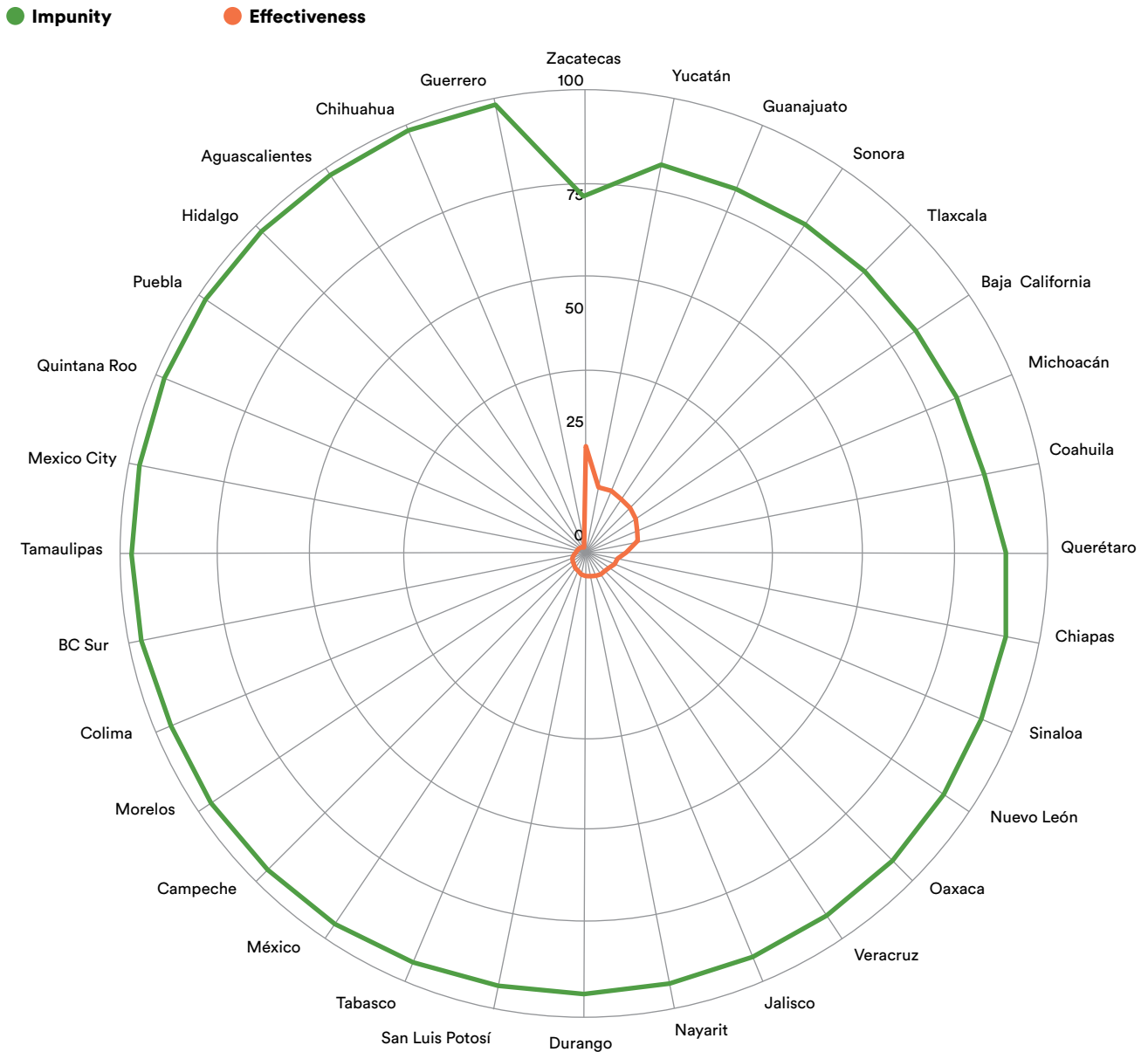
Graph 81. State Impunity Index and degree of effectiveness of the Criminal Justice System 2020



Source: Prepared by the authors with data from the Evaluation and Monitoring Model of the Consolidation for the Criminal Justice System, SEGOB and from information requests, 2020.



Graph 82. State Impunity Index and degree of effectiveness of the Criminal Justice System 2020, radial view



Source: Prepared by the authors with data from the Evaluation and Monitoring Model of the Consolidation for the Criminal Justice System, SEGOB and from information requests, 2020.

National Average

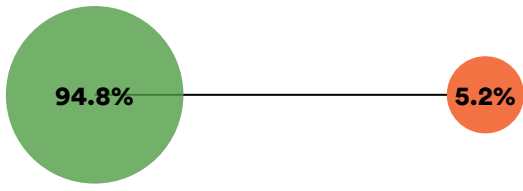




Table 8. States with greatest changes from 2019 to 2020, according to reason and direction of change

	Entity	2019 Impunity Index	2020 Impunity Index	Change
Improved	Zacatecas	91.8%	76.6%	-15.1%
	Coahuila	94.8%	88.1%	-6.6%
	Sinaloa	99.0%	93.0%	-6.0%
Worsened	Baja California	66.9%	86.5%	19.6%
	Guanajuato	74.2%	85.4%	11.2%
	Baja California Sur	89.4%	98.0%	8.6%
	Nayarit	87.6%	95.4%	7.7%

Beyond the national levels of impunity, we are struck by the states that presented the greatest changes, either in a positive or negative sense. We show them in Table 8.

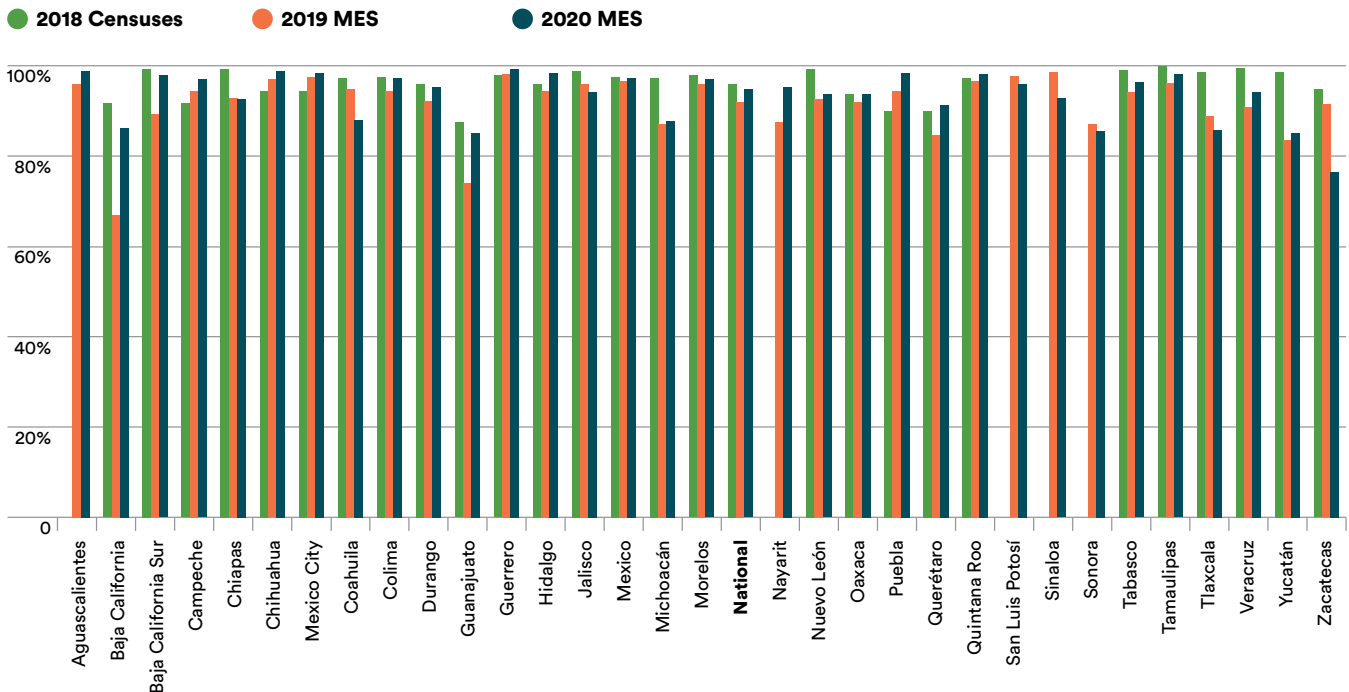
This observation allows us to demonstrate the behavior of the Impunity Index for states, over time, with the inclusion of the 2018 numbers (which, although it does not allow for a direct comparison due to the use of a different source of information, it is still a useful reference to appreciate the exercise in its entirety).

As mentioned, the Impunity Index of 2020 suggests that the CJS authorities in the various states have not improved. A high percentage of unsolved cases persists (or nearly all the cases without an effective response), a grave situation if we consider that the offenses committed are left out and are not known to authorities. Likewise, certain exploratory exercises⁵⁰ have allowed us to caution that when this index is replicated at the offense level, the average impunity index is close to 100%. This should be cause for a serious reflection, leading us not to abandon the efforts to strengthen the CJS; to stabilize or consolidate its current poor performance.

Cross-referencing the Impunity Index with the National Progress Ranking of the Consolidation of the Criminal Justice System 2020

It would be expected that a greater level of progress in the conditions of the CJS operations, as we have described in Chapter 2, would be related to a greater institutional capacity to respond to citizen demands and, therefore, a lower level of impunity or greater effectiveness. The 2020 Ranking, whose standard is 1,100 points, observes a very high lag, as the average is located at 458 points,

Graph 83. Comparative of the Impunity Index, by year



Source: Prepared by the authors with data from the Evaluation and Monitoring Model of the Consolidation for the Criminal Justice System, SEGOB, and from information requests, 2020. And for the 2018 measurement, the National Censuses of State Procurement and Administration of Justice, 2019, INEGI.

⁵⁰ While in 2019 federal impunity was equivalent to 95.1%, for example, once analyzed per offense with impunity rates for cases of torture and disappearance was practically 100%, according to information in the Annual Report of the Specialized Attorney's Office for Human Rights.



practically the same as during 2019, when it registered 444. This, by itself, sets off warnings about the inertial trend of the system.

We cross-referenced the Ranking and the Impunity Index of the CJS of 2020 to confirm whether the following occurs: the greater the advance in public policy conditions focused on the consolidation of the system, the greater the effectiveness.

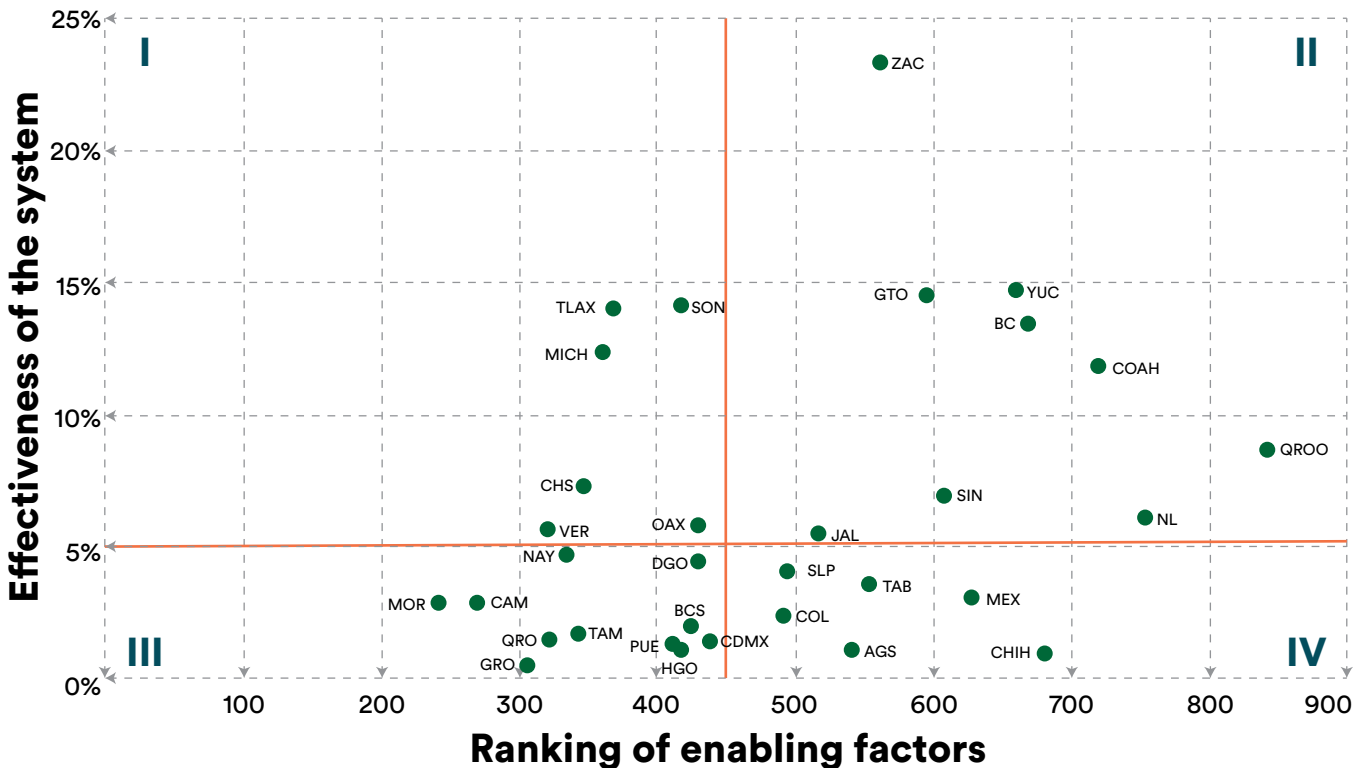
We propose the crossing on these four quadrants:

Cuadrant II	Cuadrant I
States with lower operating conditions, but with an effective operation.	States with better operating conditions and greater effectiveness.
Cuadrant III	Cuadrant IV
States with lower operating conditions and with a high level of impunity.	States with better operating conditions but with a high level of impunity.

States such as Querétaro, Coahuila, Baja California, and Yucatán – located in the upper right quadrant of Graph 93 (Quadrant I) – were identified as states whose advances in terms of operating conditions can be related to better results in the operation. However, in that same quadrant, states such as Zacatecas are observed, with a moderate level in the conditions for the operation, but with high effectiveness in the resolution. On the other hand, in the upper left quadrant (Quadrant II), entities are identified that, without having basic operating conditions, are managing to improve their response to criminal conflicts; such is the case of Sonora, Tlaxcala and Michoacán.

Eleven states, like the national average, are located in the lower left quadrant (Quadrant III), meaning they demonstrate insufficient progress in the operating conditions and, simultaneously, their performance in terms of effectiveness is deficient; for example, the cases of Guerrero, Quintana Roo and Tamaulipas. Lastly, in the lower right quadrant (Quadrant IV) paradigmatic cases are identified, with better operating conditions

Graph 84. Effectiveness crossover 2020 and Progress Ranking of the Consolidation of the Criminal Justice System 2020



Source: Prepared by the authors with data from the Evaluation and Monitoring Model of the Consolidation for the Criminal Justice System, SEGOB, and from information requests, 2020; as well as available public information.

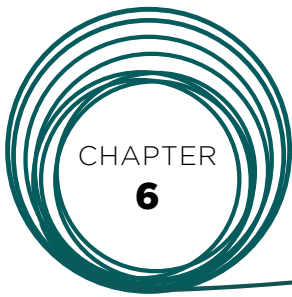


(presumably) but that are providing low-effectiveness responses, such as Chihuahua, the State of Mexico and Tabasco, among others.

With this exercise it is possible to identify that 20 of the 32 states confirm the expected relationship: greater progress in the operating conditions - understood as basic elements of all public policy: planning, budget and systemic coordination with information and assessment elements -. They favor better operations and results on the part of the system as a whole. Or the opposite: poorer conditions in the operation of institutions negatively affect their results, leading to poor performance. Regardless, it is necessary to analyze in greater detail the situation of twelve entities, which are divided into two blocks: those with poor operating conditions and moderate results - six entities - and those

with moderate operating conditions and poor results (six entities). The specific analysis of these cases will allow the identification of additional factors that may affect operations, both positively and negatively. The recommendations and learning will also be specific.

The truth is that high levels of impunity remain. Although counting 'good' public policy factors can be a precondition to guarantee efficient results, it is not the only variable. In this sense, **the establishment of criminal prosecution policies and institutional management models that 1. close spaces that prevent arbitrariness, and 2. put people's rights at the center should become the variable that can significantly reduce impunity** and ensure that criminal phenomena with the greatest impact are solved and access to justice is guaranteed.



Perception and understanding of the Criminal Justice System

Moving towards trust in the system

MAIN FINDINGS

- Despite the efforts to consolidate the CJS under an adversarial process, we found the majority of people have little knowledge of its rules and principles. **Although they have heard of mediation and oral trials, the concept of damage reparation is not a widely understood concept.**
- **The socialization efforts of the justice system have not succeeded in uprooting the understanding of imprisonment as a sanction mechanism**, as the plurality of norms and the various measures and/or sanctions provided by the system are not widely known.
- Although the population expresses that they know their rights both in the event of being a victim of an offense and in the event of being accused of committing an offense, **which institutional figure could provide advice or support on this, as well as the mechanism to guarantee it, is unknown.** This may have negative repercussions on the exercise of their rights.
- **The perception of the CJS is a factor that directly affects the level of civic trust expressed by the population.** Although perception is not a factor of agile conversion, as it is commonly maintained over time and may be associated with various factors, it is observed that citizen perception of the system has remained negative over the last ten years, causing a lack of rapprochement with the institutions in charge of justice procurement and administration.
- Along with this, **civic trust in institutions tends to be greater when citizens interact in a limited or scarce way with them.** Thus, it is confirmed the population mistrusts the institutions that are most within their reach; such is the case of the municipal police, while it relies to a greater extent on institutions such as the Army.



Citizen engagement in the CJS is an essential element for its proper functioning. In fact, citizens are given a central role in the adversarial model, through the activation of a process that aims to protect their rights. Nevertheless, the proverbial distrust of justice institutions, based on perceived poor performance, inefficiency, or acts of corruption, can discourage the population from turning to the system. Indeed, **the decline of trust in the courts, the prosecutors, the police, or lawyers bodes ill for the rule of law.**

Based on the above, it is pertinent to complement the *Hallazgos* methodology with a study that allows us to know the public perception of the evolution of the justice institutions in the country. To do this, we designed and conducted the Survey on the Strengthening of the Criminal Justice System, which seeks to analyze, from the perspective of the user public, the perception, knowledge, and experience of the CJS, at the national and local levels.

The survey was conducted by telephone from March to June 2020 in nine states: Baja California, Mexico City, Coahuila, Jalisco, Nayarit, Nuevo León, San Luis Potosí, Tabasco, and Zacatecas. The feedback was analyzed from the processing of quantitative indicators that allow us to understand the context, trends and main changes arising from the implementation of the new CJS. The results were compared to the National Survey on the Criminal Justice System in Mexico (ENJISUP, in Spanish), conducted by the then Technical Secretariat of the Coordination Council for the Implementation of the CJS (Setec, in Spanish) in 2012, at the time of implementation of the adversarial system. This contrast allowed us to observe citizen perception at two different times: implementation and consolidation of the CJS reforms.

We present the general results in four main domains:

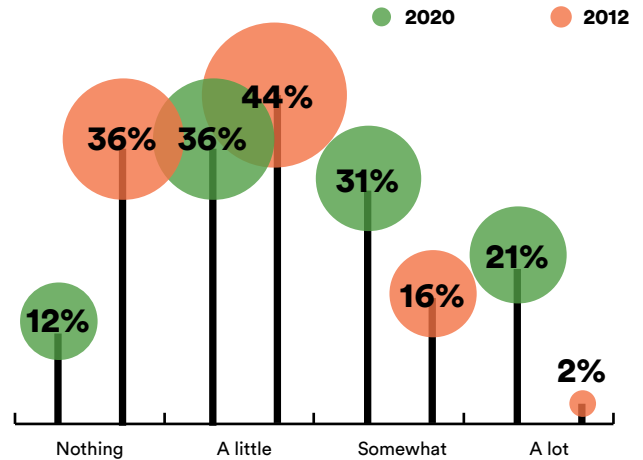
1. **knowledge;**
2. **perception;**
3. **user experience,** and
4. **socio demographic aspects.**

6.1. Understanding of the criminal justice system

A justice system refers to the set of institutions and people who intervene in the criminal proceedings: courts, prosecutors, defenders, counselors, police,

Graph 85. Understanding of the Criminal Justice System, 2012 and 2020

How much have you heard about the criminal justice institutions: a lot, somewhat, a little or nothing?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: The answers “does not know” and “did not answer” were not included in the graph.

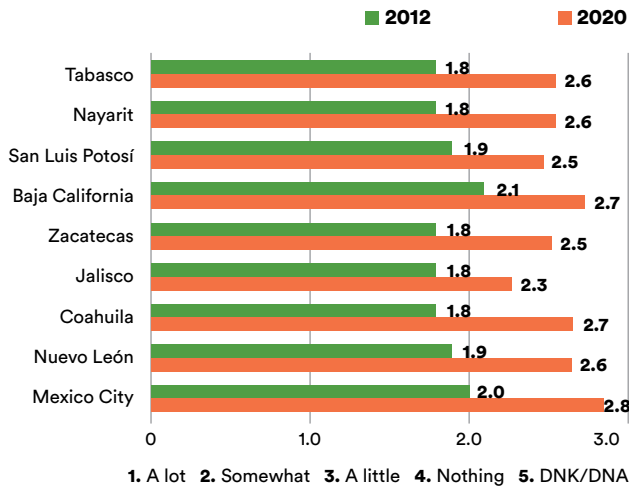
among others. It is useful to know how familiar the public is with such institutions.

48% of people surveyed in 2020 have heard “nothing” (12%) or “a little” (36%) of criminal justice institutions. Meanwhile, 52% have heard “something” (31%) or “a lot” (21%) about these institutions. We can infer that over the years people have become more familiar with the CJS. The 2012 National Survey on the Criminal Justice System in Mexico, for example, asked the public how familiar they believed to be with the justice institutions in the state: 36% answered “not at all”, a percentage that dropped significantly in 2020 (12%). In contrast, the percentage of people who heard “a lot” about criminal justice institutions increased to 21% (Graph 85).

The comparison between 2012 and 2020 also reveals that in all the federal entities that were analyzed, the understanding of the CJS by those who participated in the survey increased. In Coahuila and Mexico City, understanding increased to a larger extent (Graph 86).

Graph 86. Understanding of the Criminal Justice System, 2012 and 2020

How much have you heard about the criminal justice institutions: a lot, somewhat, a little or nothing?



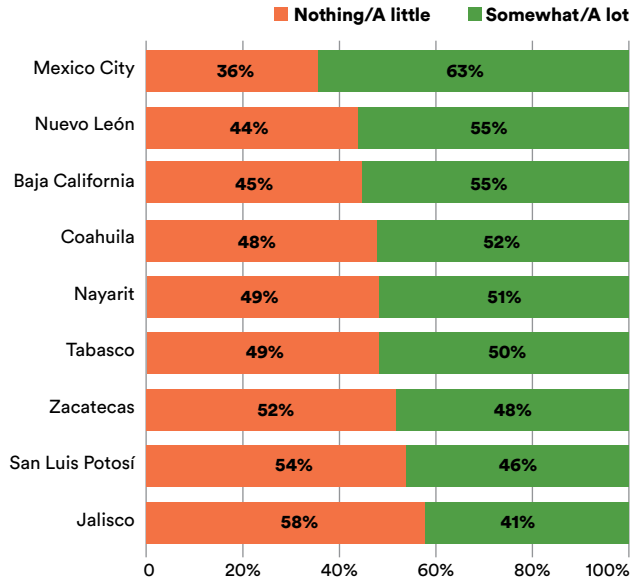
Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

6.1.1. Understanding of justice institutions

In the inquiry on the public’s familiarity with criminal justice institutions, it stands out that in Mexico City, six out of 10 people (63%) affirm having heard “something” or “a lot” about them. In contrast, in Jalisco four out of ten (41%) affirm the same. Other entities in which over half claim to have heard “something” or “a lot” about the justice institutions are Nuevo León, Baja California, Coahuila, Nayarit, and Tabasco. Among the states in which this proportion is less than half are Zacatecas and San Luis Potosí (Graph 87).

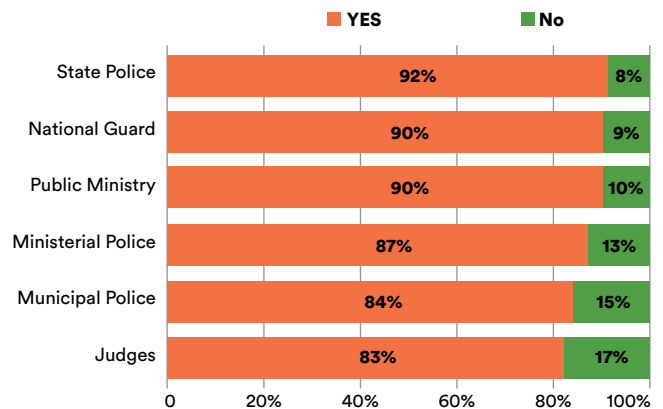
Which institutions are citizens most familiar with? Within the measurement of levels of citizen identification, we consider six authorities related to security and justice: 1. the municipal police, 2. the state police, 3. the National Guard, 4. the prosecutorial police, 5. the prosecutors and 6. the judges. On average, eight out of every 10 inhabitants of the studied entities have heard of these authorities, but the state police is the institution identified with the highest percentages. On the other hand, the authority they have heard least about are the judges, followed by the municipal police (Graph 88). That the public is not very familiar with the last authority is

Graph 87. How much have you heard about criminal justice institutions: a lot, some, a little or nothing?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers “does not know” and “did not answer” were not included in the graph.

Graph 88. Of the following authorities that I will mention to you, tell me which ones you have heard about...



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers “does not know” and “did not answer” were not included in the graph.



Table 9. Of the following authorities that I will mention to you, tell me which ones you have heard about

	Municipal preventive police	State police	National Guard	Prosecutorial police	Prosecutors	Judges	Index
Jalisco	80%	87%	92%	80%	85%	79%	0.84
Mexico City	68%	84%	94%	84%	94%	87%	0.85
Nuevo León	79%	91%	81%	92%	86%	80%	0.85
Coahuila	89%	95%	89%	89%	89%	77%	0.88
Baja California	87%	91%	90%	92%	88%	79%	0.88
San Luis Potosí	86%	94%	88%	87%	91%	83%	0.88
Nayarit	90%	93%	90%	81%	93%	86%	0.89
Tabasco	88%	94%	94%	86%	94%	85%	0.90
Zacatecas	93%	96%	96%	95%	93%	88%	0.93

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

striking, as it is assumed that the municipal government is one of the authorities closest to citizens, although the lack of identification could be associated with the difficulty of the public to differentiate the different types of police forces.

Considering the six authorities examined, Zacatecas obtains the highest institutional knowledge index (0.93); this means that it is the state where the CJS authorities are best known. In contrast, Jalisco has the lowest index (0.84).

A comparative analysis by type of authority shows us that in Mexico City the least known authorities are the municipal preventive police and the state police. However, it must be taken into account that in this entity the public security service is not decentralized in municipalities, as there is a unified command in charge of the central government. Meanwhile, in Nuevo León the least known authority is the National Guard. In Jalisco, the two least known authorities are the prosecutorial police and the prosecutors. Finally, judges are the least known authority in Coahuila (Table 9).

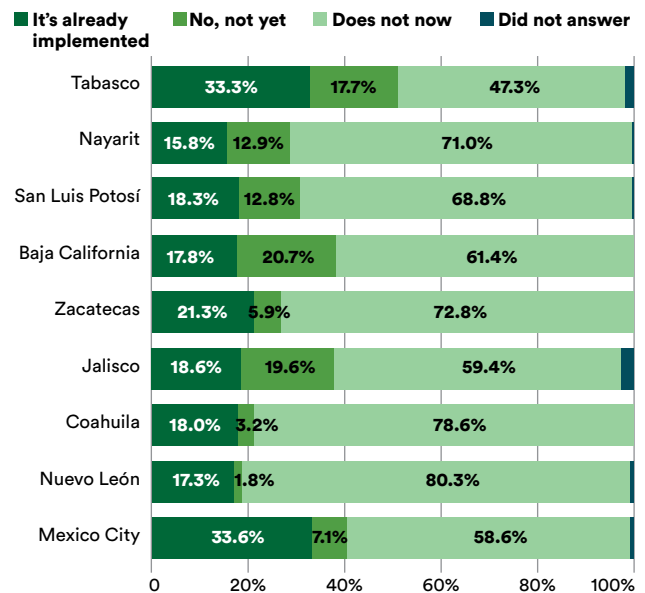
6.1.2. Understanding of justice processes

The CJS's objective is to resolve conflicts in a prompt, fair, transparent way, being respectful of individual rights. For this reason, the survey sought to identify the level of understanding of the various options or solutions offered by the system.

Mexico City and Tabasco are the two entities where a greater number of people affirm that the "new" criminal justice process is already being implemented. In contrast, in Baja California and Jalisco a higher percentage of

Graph 89. In 2008 there was a reform to the Constitution to develop a new criminal justice process in Mexico.

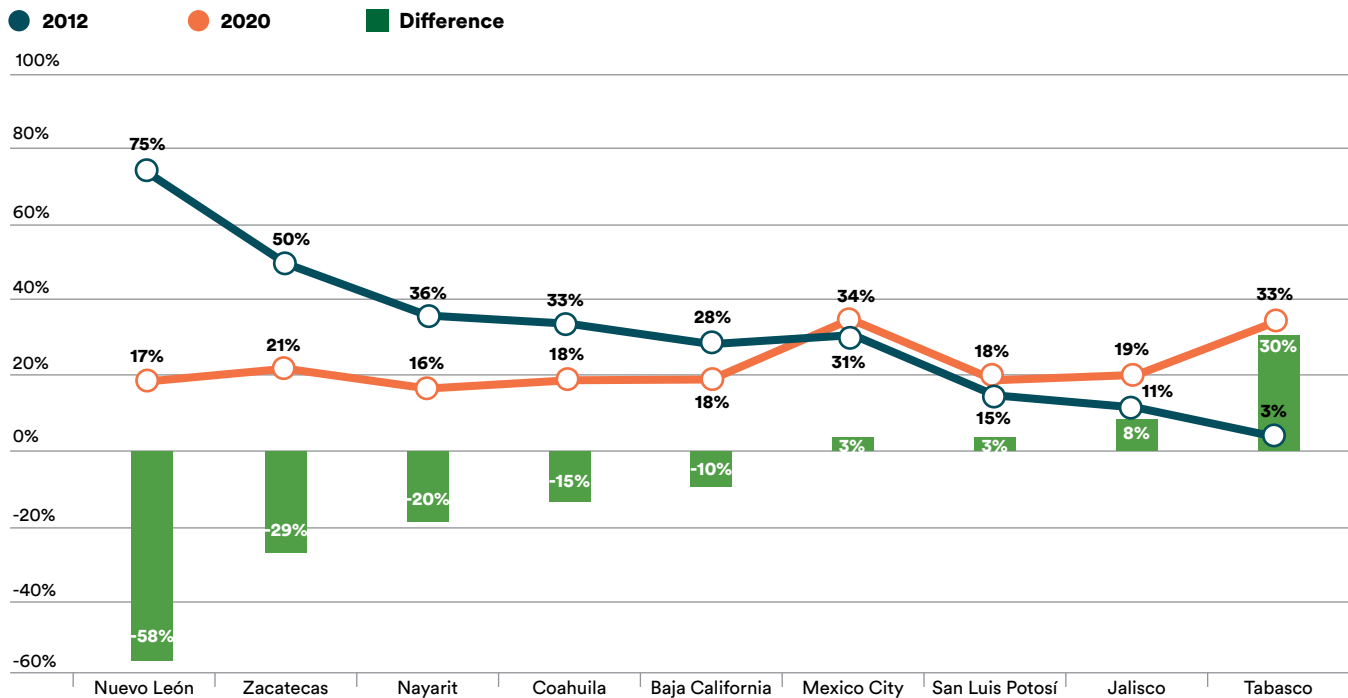
Do you know if the new justice process is already being implemented in this state?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.



Graph 90. Understanding of the new criminal justice process, 2012 and 2020. In 2008 there was a reform to the Constitution to develop a new criminal justice process in Mexico. Do you know if the new justice process is already being implemented in this state?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

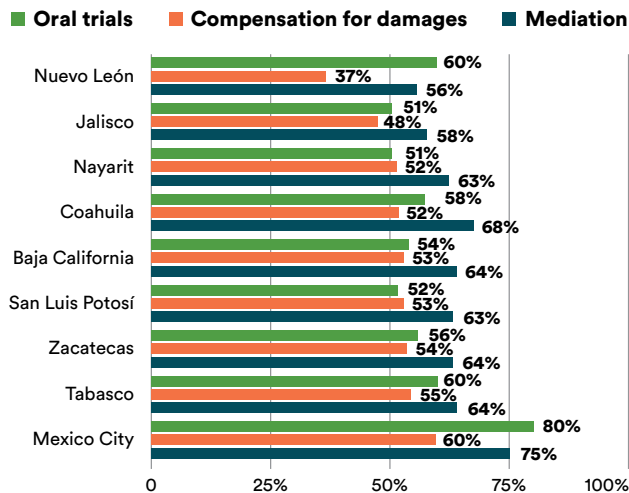
people responded it is not. In general, it can be pointed out that the adversarial system is not very well known. Of the people surveyed, between 47.3% and 80.3% “do not know” if a new criminal justice process is already being implemented in their state. On the other hand, when comparing the level of understanding that existed in 2012 with that of 2020, some interesting cases emerged. In Nuevo León, for example, understanding of the adversarial criminal justice process decreased notably, from 75% to 17%. Other cases of a drop in the level of understanding are Zacatecas, Nayarit, and Coahuila. Meanwhile, the two states that exhibited the most notable increase in this regard were Tabasco (it went from 3% to 33%) and Jalisco (it went from 11% to 19%) (Graph 89.)

The “new” criminal justice process aims to speed up conflict resolution. It offers several possibilities for those involved to reach agreements before facing oral trial; for example, damage compensation and mediation as dispute resolution. This feature makes it very necessary to explore the level of understanding about the specific processes of the CJS. We offer an overview in Graph 91.

In the analyzed states, 64% of the people surveyed have heard of mediation, 58% of oral trials and 52% of damage compensation. It is possible to establish that mediation is the best-known way to solve criminal disputes; Mexico City (with 75%) and Coahuila (68%) stand out, along with Tabasco, Baja California, and Zacatecas (all three with 64%) as the entities where it has been heard about the most. Oral trials are the second-best known dispute resolution mechanism; Mexico City again stands out, where eight out of 10 (80%) residents of the capital city have heard of them. In Nuevo León, Tabasco, Coahuila, and Zacatecas they are identified by six out of 10 people (between 56% and 60%), while in Baja California, San Luis Potosí, Jalisco, and Nayarit a proportion of just over half (between 51% and 54%) recognize them. Finally, the least known mechanism is damage repair: 60% in Mexico City and 55% in Tabasco, these stand out as the entities where this mechanism has been heard of the most, while in Nuevo León only a third of the people have heard of it.



Graph 91. Have you heard of oral trials, the possibility of damage reparation after an offense and mediation between parties to resolve criminal disputes?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option "Yes" were included in the graph.

As we have emphasized in previous editions of *Hallazgos*, **in the CJS not every punishment is synonymous with imprisonment.** For the commission of an offense, there are sanctions other than imprisonment, which under an analysis of procedural risks can be privileged. In fact, a series of offenses, considered as not serious, can be solved through alternative solutions. Therefore, it is important to find out if people know the existence of other types of sanctions and solutions when someone commits an offense. **On average, two out of every five people surveyed (41%) still believe the only sanction or punishment possible when a person commits an offense is that they are imprisoned.** In Mexico City (66%), Coahuila (60%), Nuevo León (57%), Jalisco (54%) and Baja California (53%) the knowledge that there are other sanctions that do not imply imprisonment is higher than the average. In contrast, in Tabasco most of the people consider that the only possible punishment is imprisonment: 57% think so (Table 10).

6.1.3. Understanding of victims' and accused persons' rights

With the new criminal justice process, not only the victims of an offense, but also those possibly responsible

Table 10. And, as far as you know, if a person commits an offense: a) the only possible sanction or punishment is imprisonment; or b) there are other sanctions that do not involve imprisonment

	A	B	DK/DA
Mexico City	26%	66%	8%
Nuevo León	35%	57%	8%
Coahuila	32%	60%	8%
Jalisco	39%	54%	7%
Zacatecas	48%	48%	4%
Baja California	41%	53%	6%
San Luis Potosí	46%	47%	7%
Nayarit	48%	47%	5%
Tabasco	57%	38%	5%
Average	41%	52%	6%

DK: does not know; DA: did not answer.

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

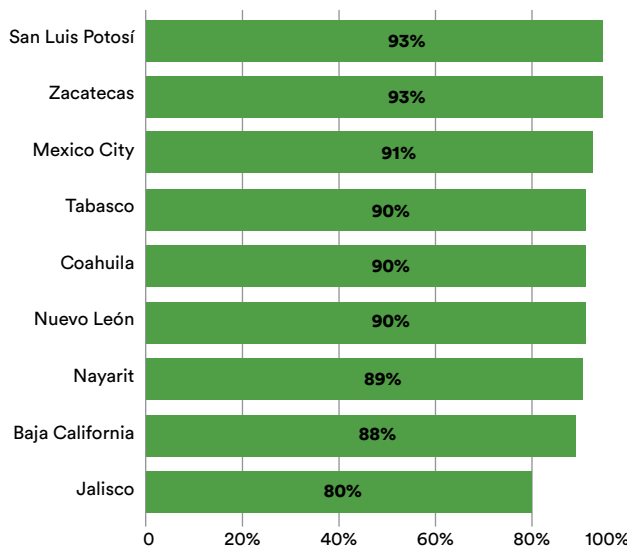
for committing it, should know from the beginning how justice works, what to expect from the criminal process, and clearly understand what happens during a trial. Thus, the legal situation of the accused, known as presumption of innocence, is recognized with greater emphasis in the adversarial system, to the extent of becoming a pillar that, together with due process and respect for the fundamental rights of people, is part of the procedural guarantee that characterizes the system.

How familiar are people with the rights of all individuals who have been identified as possible perpetrators or participants in an offense? Undoubtedly, the presumption of innocence is well known: on average, nine out of 10 people surveyed have heard that accused persons have the right to be considered innocent until proven otherwise. San Luis Potosí and Zacatecas (93%) have the highest levels of understanding about this right. Jalisco is the entity where a lower percentage of people (80%) know about presumption of innocence.

Similarly, another basic premise of the adversarial system is that there are controls between the different operators of the system. Hence the institution of *supervisory judges*. As we have noted, one of the greatest current challenges has to do with the weakness of the criminal investigation by the police and prosecutors, since it is operated mainly in *flagrante delicto*, that is, the person

is arrested committing the offense or fleeing of the same. However, with the adversarial system, **a criminal process involves gathering plausible evidence and making it true evidence against the accused.**

Graph 92. Have you heard that every person has the right to be considered innocent until proven otherwise?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: Only the percentages of the answer option "Yes" were included in the graph.

On the other hand, in the 'new' criminal justice process, the judge is always present at the hearings, together with the intervening parties in the process: litigants, witnesses and accused persons. In the old system, sentences were often issued without the judge being present and without the participation of the other stakeholders. Thus, the prosecutors operated without counterweights; false testimonies and mere suspicions were enough to issue a conviction. Due to this, it is important to inquire about the understanding of the steps that people have to follow in case of being victims of an offense or being identified as possible perpetrators of an offense.

The answers we display in Table 11 indicate that in the states surveyed, most of the people surveyed understand some basic elements of the criminal process. They know what to do if they suffer or witness an offense, and they know some of the rights, both for victims and for the accused. However, we can observe that Jalisco is the federative entity where a lower percentage of people are familiar with these aspects of the criminal process. Nevertheless, **in all the states analyzed, and in almost all areas, over 80% of those surveyed have an understanding of these aspects.** For example, between 93 and 100% of the people surveyed know that both victims and accused persons should have access to an attorney; Jalisco is the entity with a comparatively lower proportion in this regard (83%).

Similarly, 9 out of 10 people affirm that the authority responsible for investigating an offense is the prosecutor, except in Jalisco, where the proportion drops to 8 out of 10 (78%). The presence of the judge in the hearings

Table 11. Please answer yes or no to the following affirmations based on what you have heard

	In case of suffering or witnessing an offense, you can ask for help to a police officer	The authority responsible for investigating an offense is the prosecutor	Any victim must have access to a public attorney	The judge must be present at all hearings	Any accused person must have access to an attorney
Mexico City	84%	90%	95%	86%	96%
Nuevo León	91%	93%	99%	91%	99%
Coahuila	81%	92%	100%	88%	99%
Jalisco	83%	78%	83%	74%	83%
Zacatecas	84%	93%	96%	88%	95%
Baja California	87%	90%	94%	88%	94%
San Luis Potosí	84%	91%	97%	90%	97%
Nayarit	84%	93%	97%	91%	97%
Tabasco	85%	90%	93%	88%	95%
Average	85%	90%	95%	87%	95%

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: Only the percentages of the answer option "Yes" were included in the graph.



is an aspect that 9 out of 10 identify in all states, except for Jalisco, where the proportion is only 3 out of 4 people (74%). Finally, the fact of asking for help from a police officer in the event of being a victim or witness of an offense is the aspect that, comparatively, is least identified in each of the states. Overall, 85% of the people surveyed know about it.

On the other hand, a victim is the natural or legal person directly affected in their rights by the commission of an offense; these rights can be over their life, liberty, heritage, security, among others. In fact, the rights of the victim are guaranteed in the Constitution and are also contemplated in the National Code of Criminal Procedures. For example, the victim has the right to receive legal counsel, to be informed of the rights established in their favor by the Constitution and to be informed of the development of the criminal procedure. They can also contact a family member or legal counselor immediately after the offense has been committed, and should be treated with respect, dignity and without discrimination. They must even receive emergency medical and psychological care; from the moment the offense was committed. In the same way, they can also have free legal counsel to know where to go to report an offense. Offenses can be reported to a prosecutor, but the police also have a legal obligation to file the complaint. Table 12 includes the answers of the people surveyed on their understanding about where to report an offense.

Generally speaking, most of the people surveyed know that they should report an offense to a prosecutor's office.. However, **the case of Nuevo León draws**

Table 12. Do you know where a victim should go to report an offense?

	Yes, to the Prosecutorial Services	Yes, to the Police	Yes, to another	Does not know
Mexico City	72%	4%	13%	11%
Nuevo León	38%	6%	27%	29%
Coahuila	60%	3%	16%	21%
Jalisco	62%	14%	8%	16%
Zacatecas	69%	9%	5%	17%
Baja California	73%	11%	6%	10%
San Luis Potosí	71%	9%	4%	16%
Nayarit	72%	13%	4%	10%
Tabasco	72%	8%	6%	14%

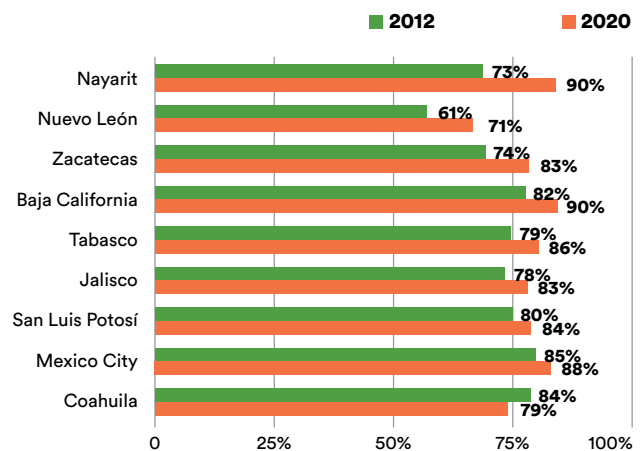
Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

attention, because the percentage of people (38%) who are certain about where to report is very low. It is even the entity where a higher percentage of people (29%) answered that they "do not know" where a victim should go to report an offense. Thus, the proportion of people who said they knew where to report an offense - whether it was specified "to the prosecutor" or "to the police" - was 8 out of 10 in Baja California, Mexico City, Nayarit, San Luis Potosí, and Tabasco; 7 out of every 10 in Jalisco, Zacatecas and Coahuila; and only 4 out of 10 in Nuevo León.

On the other hand, as we already pointed out in the *Enabling* chapter, it is striking that **a very small proportion of people have an understanding of the faculties of the police to receive complaints, which is critical**, since it is the first moment in which these actors should get involved in the system, as the first component in the investigation.

It should be noted that the level of understanding on this subject has evolved over time. When comparing 2012 and 2020, we observe that in almost all states the percentage of people who know where a victim should go to report an offense has increased; that is, they answered that in agencies of the prosecutor. In Nayarit, for example, it increased from 73 to 90%; in Nuevo León from 61 to 71%; in Zacatecas from 74 to 83%, and in

Graph 93. Do you know where a victim should go to report an offense? Comparative between 2012 and 2020



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option "Yes, to the prosecutor" were included in the graph.



Table 13. Do you know who could provide you with advice or support, in the event of being a victim or being accused of committing an offense?

	Yes, some public institution	Yes, the National Human Rights Commission (CNDH, in Spanish)	Yes, civil society organizations	Yes, another	Does not know	Did not answer
Mexico City	16%	2%	0%	49%	31%	2%
Nuevo León	12%	1%	0%	38%	49%	0%
Coahuila	11%	1%	1%	47%	40%	0%
Jalisco	47%	9%	2%	22%	20%	0%
Zacatecas	22%	9%	1%	29%	39%	0%
Baja California	27%	4%	3%	40%	26%	0%
San Luis Potosí	21%	5%	1%	39%	33%	1%
Nayarit	43%	3%	2%	22%	30%	0%
Tabasco	42%	3%	3%	27%	25%	0%

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Baja California from 82 to 90%. In general, **the level of understanding about where a victim should go to report an offense has increased in all states**; the only exception is Coahuila, where the positive response decreased from 84 to 79% (Graph 93).

In addition to knowing where to report an offense, it is desirable for people to have basic information on what to do in case of being a victim or being accused of committing an offense. In this regard, the adversarial system establishes that a legal advisor can legally guide and advise the victim or accused person of an offense during the criminal process. Their appointment can occur at any stage of the process. The legal advisor can be a private person designated by the victim or the offended, and if they cannot appoint one, they will have the right to a public defender. As the legal advisor can be public or private, there is a great opportunity for the victims commissions to join the criminal process. Regardless of its public or private nature, the legal advisor must be a graduate in law with a degree and will need to prove their profession from the beginning of their intervention with a professional license.

Among the substantial rights that the legal advisor must oversee are guaranteed to the victim are that the public prosecutor and, where appropriate, the supervisory judge facilitate their access to justice; their right to be informed about their constitutional and legal prerogatives, as well as to be informed of the

process. It is also important that the victim is informed about their presence or participation in any alternative dispute resolution mechanism, participation in the criminal process, or even about filing for appeals. The information in Table 13 allows us to confirm that, in all the states analyzed, the percentage of people that do not know who could provide advice or support in the event of being a victim or being accused of committing an offense is still very high, although Nuevo León stands out as the federative entity with the highest level of ignorance (49%).

In each federative entity, people mention the National Human Rights Commission (CNDH, in Spanish) as an institution that could provide them with advice or support in the event of being a victim or being accused of committing an offense, but they are less than 10% in all the cases analyzed. On the other hand, **those who believe civil society organizations can support them barely reach 3% of the people surveyed in some states**; in fact, in Mexico City and Nuevo León it is 0%. In the meantime, the people who mentioned other types of institutions ranged from 22% in Jalisco and Nayarit, to 47% in Coahuila and 49% in Mexico City. Finally, nearly half of the people in Nuevo León (49%) say they do not know who should accompany them; four out of 10 in Coahuila and Zacatecas gave the same answer, and three out of 10 in the other federal states, except in Jalisco, where the percentage is even lower (20%).



In the CJS, the figure of a legal advisor to the victim is aimed at providing support for their rights, which are guaranteed in the Constitution. Thus, the victim or offended have the right, among other things, to...

(The subsections of these rights correspond to those in Table 14)

- A. Have an interpreter or translator if you do not understand Spanish.
- B. Be heard.
- C. Actively participate in the trial against the accused.
- D. Resort to a competent authority should they have any complaint or disagreement with the decisions of the trial.
- E. Protection and immediate assistance.
- F. Identify the person they presume to be responsible without being put at risk.
- G. Be informed of the status of their case.
- H. Testify without being in front of the accused.
- I. To be compensated for the damage suffered in the offense.
- J. Receive immediate medical and psychological attention and care.

In general, most of those surveyed have heard of victims' rights (Table 14); yet there are some interesting elements that will be addressed later.

As can be seen, the average understanding of victims' rights, for each federative entity, is close to or over 80% (Nayarit stands out, with a level of 84%), with the exception of Jalisco, the state with the greatest ignorance of victims' rights, with a result of 73%. Despite this, each and every one of the rights of the victims is known to most of the participants. **In general terms, the rights to a hearing and for the victims to be informed of the status of their case concentrate the highest levels of awareness** (both with 88%), as opposed to the rights to "actively participate in the trial against the accused" (70%) and to "testify without being in front of the accused person" (66%). This is interesting because, among the changes of the adversarial system, the margin of maneuver was broadened so that the victim has a more active participation in the process. If the accused decides to testify at the initial hearing, for example, within the formulation of the accusation made to him, the victim may ask questions about the statement, although the accused is not obliged to answer those that may incriminate them.

On the other hand, the right to have an interpreter or translator, in case the victim does not understand Spanish, is known by nine out of 10 people (89%) in both Mexico City and Nayarit, and by eight of every 10 in the other states (from 76% to 85%), Jalisco being the one with the lowest percentage (76%). The right to a hearing is identified in a practically homogeneous way by nine out of 10 people (between 86% and 91%) in each of the

Table 14. Of the following rights of a person who was the victim of an offense, which ones had you heard of before (yes or no)?
(Figures represent percentages)

	A	B	C	D	E	F	G	H	I	J	Average per entity
Mexico City	89	90	67	81	78	82	91	65	81	84	81
Nuevo León	85	89	67	81	79	85	90	62	79	86	80
Coahuila	83	90	65	82	74	84	90	58	81	83	79
Jalisco	76	80	64	72	71	76	79	69	69	73	73
Zacatecas	83	86	71	81	80	77	86	64	77	81	79
Baja California	83	86	69	81	78	83	87	68	76	81	79
San Luis Potosí	85	89	75	84	80	84	88	66	80	85	81
Nayarit	89	91	77	85	84	84	89	73	84	84	84
Tabasco	81	88	75	84	76	86	88	72	85	86	82
Average per each right	84	88	70	81	78	82	88	66	79	83	

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option "Yes" were included in the graph.



states observed, with the exception of Jalisco, where the proportion is eight out of 10 (80%).

With regard to actively participating in the trial against the accused person, as it is one of the rights of the victim with comparatively lower levels of understanding, we observe that seven out of 10 (between 67% and 75%) had heard of it in most of the demarcations, with the exceptions of Nayarit, where the proportion is eight out of 10 (77%), and Coahuila and Jalisco, entities in which only six out of 10 (65% and 64%, respectively) are aware of this right. Meanwhile, resorting to a competent authority if the victim has a complaint or disagreement with the decisions of the trial is identified by eight out of 10 individuals in each federative entity (between 81% and 85%), except, again, Jalisco, in which this ratio is seven out of 10 (72%). The right to protection and immediate assistance had previously been heard of by eight out of every 10 people (from 76% to 84%) in each of the federal states, not counting Coahuila and Jalisco, where the proportion changes to seven for every 10 (74% and 71%, respectively). On the other hand, the identification of the person who the victim presumes to be responsible, without being put at risk, is known in each federative entity by approximately eight out of 10 people. In this right, Tabasco stands out positively, state where the level is 86%.

Being informed of the status of their case is a right of the victims that nine out of 10 individuals (86% to 91%) had heard about in all the entities studied, with the exception of Jalisco, where the proportion is eight out of 10 (79%). The right to testify without being in front of the accused person - this being, as we stated, one of the relatively less known - is recognized by seven out of 10 (between 73% and 66%) in Nayarit, Tabasco, Jalisco, Baja California, and San Luis Potosí, while in Mexico City, Zacatecas, Nuevo León, and Coahuila the proportion is six out of 10 (65% to 58%). Damage reparation resulting from the offense is known to eight out of every 10 people interviewed (76% to 85%), with the exception of Jalisco, where it is seven out of 10 (69%). The immediate reception of medical and psychological care for the victim is a right identified by eight out of every 10 people, except in Nuevo León and Jalisco, states where it is 86% and 73%, respectively.

In summary, **the state with the greatest ignorance about victims' rights is Jalisco, followed by Coahuila, Zacatecas, and Baja California.** In contrast, Nayarit and Tabasco are the states where a higher percentage of people answered affirmatively that they had heard about the rights of the victims. However, throughout time the identification of the main rights of

the victims has been changing in almost all the states. In 2012, the best identified victims' right was that of "protection and immediate assistance", followed by the right to "be heard". Regardless, by 2020 the best identified right is "to be informed of the status of your case", followed by the right to "be heard". Only in Nayarit is the best identified right, in 2020, the one to "have an interpreter or translator if they do not understand Spanish."

Like the victims, **the CJS guarantees respect for the rights of those accused of committing an offense, because both parties are on procedural equality, based on the presumption of innocence for the accused.** This strengthens due process and full respect for the human rights of all those involved in criminal proceedings. In fact, that was one of the reasons why the justice system had to adapt and transform, given that many times it was presumed the accused person was guilty, leaving them in a defenseless state, with judicial processes being conducted from prison and in writing. Thus, the accused person has the right to...

(The subsections of these rights correspond to those in Table 15)

- A. Be treated as innocent until proven otherwise.
- B. Be informed of what they are being accused of.
- C. Be presented to the prosecutor after being arrested.
- D. Decide if they are to declare or be silent.
- E. Declare with the assistance and in the presence of legal counsel.
- F. Be assisted without charge by an interpreter or translator.
- G. Have a licensed attorney represent them.
- H. Present supporting evidence.
- I. Be made aware of the evidence that may be against them.
- J. Have a hearing before a competent judge.
- K. Not to be coerced or subjected to torture or intimidation.



- L. Have a fast process.
- M. Be present when supporting evidence is revealed against them in order to give their point of view.

In this manner, it is important to know the degree of familiarity of citizens with the rights of people who have been accused of committing an offense. In Table 15 we present the analysis of the answers on the rights of the accused, which were obtained from the survey applied in 2020.

We observe that the average level of understanding of the rights of people accused of committing an offense, for each federative entity, is higher than 80% (again, Nayarit stands out with a level of 88%). In the other states, the average is around 85% (Nuevo León and San Luis Potosí) or around 80% (Mexico City, Coahuila, Zacatecas, Baja California, and Tabasco). Jalisco, with a result of 77%, is the state with the greatest level of ignorance in regard to the rights of the accused.

In this sense, the 13 rights of the accused or defendant are identified in the states by between eight and nine out of every 10 people. Among the best known are having a lawyer defend the accused person (92%) and being informed of the reasons for the filing of the complaint (91%). Meanwhile, among the relatively less identified rights are having a quick process (74%) and not being subjected to torture or intimidation (73%). The Presumption of innocence is known as a right for nine out of 10 people (between 85% and 90%) in each of

the entities, except Jalisco, where eight out of 10 people know about it. The right to be informed of what they are accused of is recognized by nine out of 10 people; only in Jalisco the level of knowledge is 85%. Likewise, the detained person being presented to the prosecutor immediately after his arrest is a right recognized by eight out of every 10 individuals (76% to 85%) in almost all states; only in Mexico City the proportion increases to nine out of 10 (87%).

On the other hand, deciding between declaring or being silent is a right of the victims that is known by eight out of 10 people in the federal states in question, with the exception of Nuevo León and Nayarit, where nine out of 10 (87% and 90%, respectively) had heard of it previously. Declaring in the presence of legal counsel is a right known to nine out of 10; only in Jalisco is it 80%. Meanwhile, receiving assistance from an interpreter or translator is identified by eight out of 10 respondents, except for Tabasco, where the proportion is 76%. The rights to have a defense attorney and to present supporting evidence in favor of the accused had been heard by nine out of 10 people in all entities, with the exception, again, of Jalisco, where the proportion drops to eight for every 10 people. Knowing the evidence against the accused person is also recognized by nine out of 10, although it decreases to eight in Tabasco and Jalisco (83% and 77%, respectively). The right to have a hearing before a competent judge is known by 77% in Jalisco and by nine out of 10 in the rest of the federal states.

That the person accused of an offense is not coerced or subjected to torture or intimidation

Table 15. Of the following rights of a person who was accused of committing an offense, tell me if you have or have not heard of them before? (Figures represent percentages)

	A	B	C	D	E	F	G	H	I	J	K	L	M	Average per entity
Mexico City	86	91	87	85	90	86	92	89	84	88	77	71	76	85
Nuevo León	90	94	83	87	93	83	95	91	90	91	69	74	78	86
Coahuila	90	95	79	83	89	78	94	90	87	88	69	72	74	84
Jalisco	80	85	76	77	80	77	83	81	77	77	71	71	72	77
Zacatecas	89	92	82	80	91	77	92	90	86	87	76	70	72	83
Baja California	85	92	82	82	89	79	91	89	86	86	74	75	74	83
San Luis Potosí	90	92	81	84	90	83	93	92	88	90	69	79	87	86
Nayarit	90	92	85	90	92	88	93	93	90	91	74	81	88	88
Tabasco	86	90	82	82	89	76	92	91	83	87	73	73	82	84
Average per each right	87	91	82	83	89	81	92	89	86	87	73	74	78	

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option "Yes" were included in the graph.



is one of the relatively less well-known rights: only in Mexico City and Zacatecas are eight out of 10 people aware of it (77% and 76%), while in the other states the proportion is seven out of 10. A similar case is the right to have a fast process, only here the exception is Nayarit, where it is known to eight out of 10 (81%), and in the rest only to seven out of every 10. Finally, that the accused is present at the time the evidence against him is revealed, is recognized as a right by nine out of 10 in Nayarit and San Luis Potosí; by eight out of 10 in Tabasco, Nuevo León, and Mexico City, and by seven out of 10 in Baja California, Zacatecas, and Jalisco.

Thus, in the federative entity analysis, the state with the greatest ignorance of the rights of the accused is, again, Jalisco, followed by Zacatecas and Baja California. In contrast, Nayarit, San Luis Potosí, and Nuevo León are the states where these rights are best known.

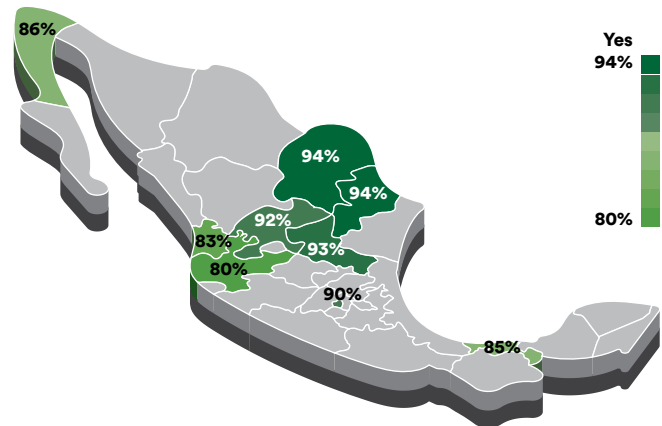
In a trend similar to what happened with the rights of victims, over time, the identification of the main rights of people accused of committing an offense has been changing. In 2012, the most well-known right of the accused was the presumption of innocence, followed by “being informed of what they are accused of”. On the other hand, by 2020 the best-known right was “to be informed of what you are accused of”, followed by the right to “have a licensed attorney represent you.” However, people who participate in a criminal process, either as victims or defendants, often have peremptory questions related to the CJS. Having this information is crucial for them. For this reason, in the next section we will analyze the sources of information citizens have access to.

6.1.4. Access to information

Access to information on the criminal process is a subject of early development in Mexico. Although progress has been made, there’s still a long way to go. In fact, in the states analyzed, most of the people surveyed (between 80% and 94%) consider it important to have more information on the CJS; about its processes and institutions (Map 1).

If this need for information is apparent, it makes sense to find out which media provide it to the public. In that respect, the most popular source of information amongst those surveyed is television (45%), followed

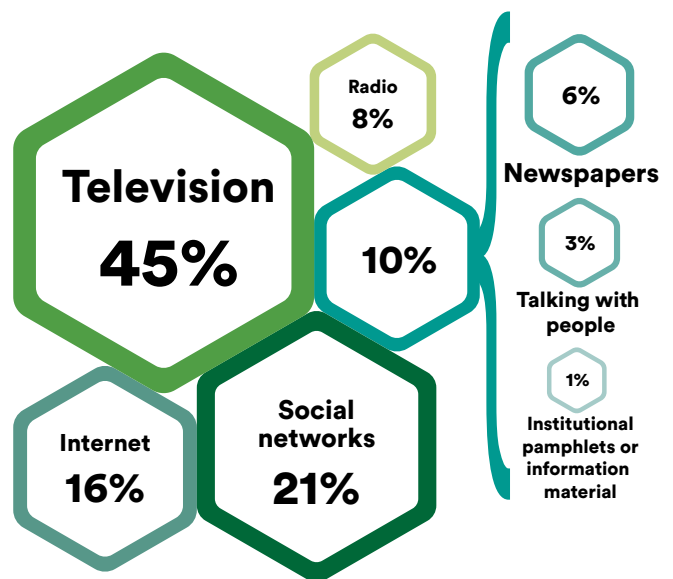
Map 1. Would you consider it important to have more information about the criminal justice institutions and processes in your state?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option “Yes” were included in the map.

Graph 94. What is the main type of media through which you are informed about things that happen in your state?



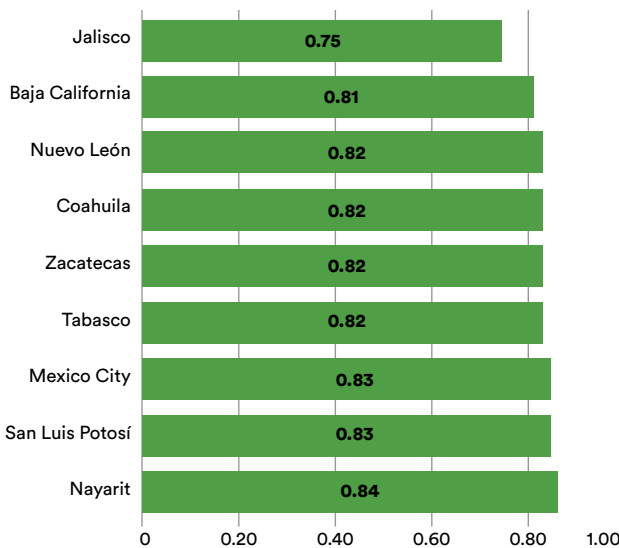
Source: Prepared by the authors with data from México Evalúa/Strategic Social Research (2020).



by social media (21%). The foregoing indicates that, despite the popularity and grasp of social media, citizens have yet to consider them as sources of information that surpass the *par excellence* mass media, altogether, although they have displaced radio and traditional newspapers (Graph 94).

In closing of this section on the understanding of the CJS, we present below the results of the General Index of Understanding of the Criminal Justice System⁵¹. 39 elements integrate this index as they refer to the survey questions on the understanding of justice institutions, victims' and accused persons' rights, as well as other aspects of the criminal process. In nearly all states this index oscillates at around 0.8, with Nayarit being the state with the highest score (0.84) and Jalisco with the lowest (0.75) (Graph 95).

Graph 95. Understanding of the Criminal Justice System General Index



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

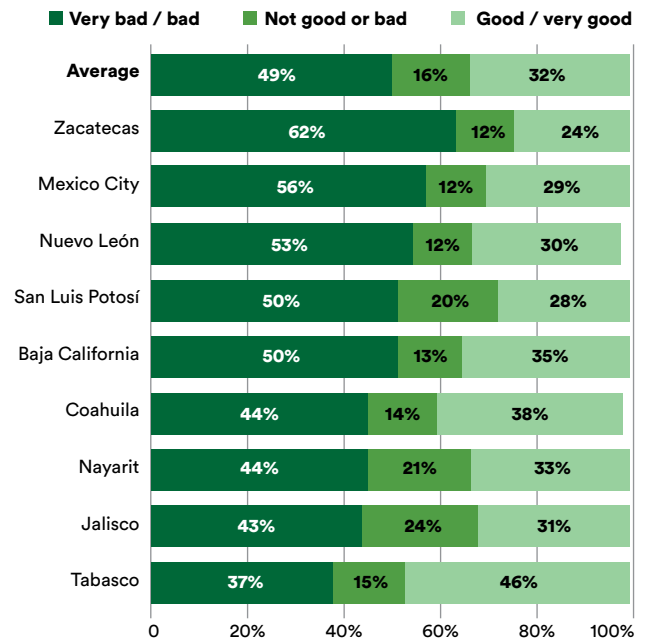
6.2. Perception of the criminal justice system

6.2.1. Trust in the criminal justice system

In the states analyzed, the perception of those surveyed of the justice institutions is mostly negative. On average, half of the respondents (49%) have a "very bad" or "bad" opinion of them. Zacatecas stands out with the highest percentage of negative opinion (62%). On the other hand, in Tabasco, 46% of those surveyed have a "good" or "very good" opinion of the justice institutions (Graph 96).

Indeed, justice institutions are valued negatively, and this assessment has changed little over the years: 41% of the people surveyed believe that the criminal justice

Graph 96. Based on what you know or have heard, what is your opinion of the criminal justice institutions in your state: very good, good, bad, or very bad?

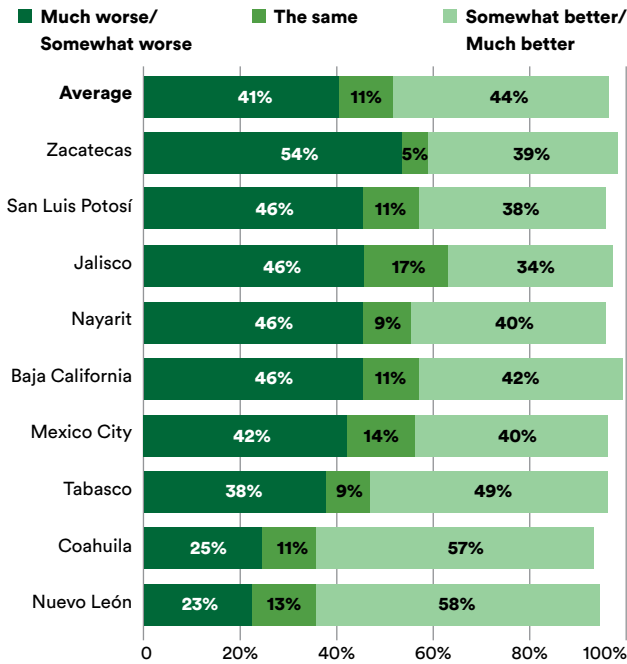


Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: The answers "does not know" and "did not answer" were not included in the graph.

⁵¹ The rates of the General Understanding Index are obtained from the following formula: $IGC = (\text{Sum of positive responses (P4-P8)} + \text{sum of indexes}) / (\text{Total number of questions})$. In other words, it is obtained from the sum of positive responses to the questions about the criminal justice process, plus the sum of the rates corresponding to the questions about the level of understanding of the CJS authorities, as well as victims' and accused persons' rights, among the total number of questions.

Graph 97. Compared to 10 years ago, how do you believe criminal justice institutions function in your state nowadays?

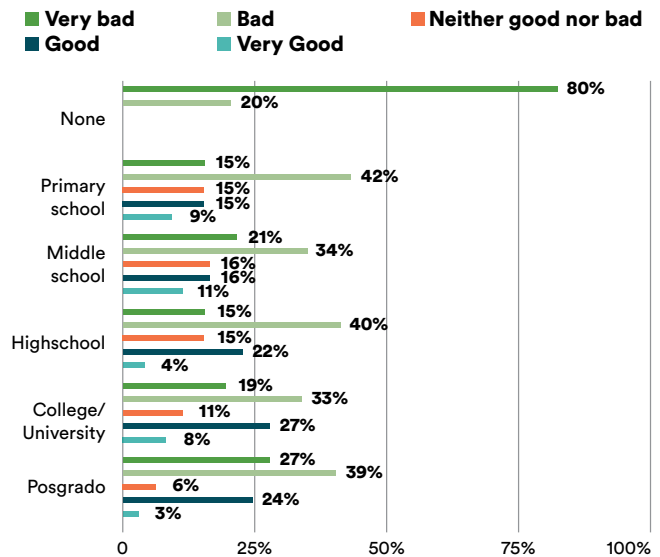


Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers “does not know” and “did not answer” were not included in the graph.

institutions in their state perform “much worse” or “somewhat worse” nowadays than 10 years ago. The most notable changes in the evolution of a negative perception of justice institutions are found in Zacatecas (54%). On the other hand, in Nuevo León positive valuation has increased by 58% in the last 10 years (Graph 97).

There is a correlation between the level of studies and the opinion that people have about justice institutions. In Mexico City, for example, people who do not have studies rated the justice institutions very badly (80%) or badly (20%). On the contrary, people with a degree have a good opinion (27%) or a very good opinion (8%) of these institutions. The same occurs with people with a postgraduate level degree, since 24% of them have a good opinion of justice institutions and 3% have a very good opinion (Graph 98).

Graph 98. Opinion of justice institutions in Mexico City by education level (percentages)
 Based on what you know or have heard, what is your opinion of criminal justice institutions in your state: very good, good, bad, or very bad?



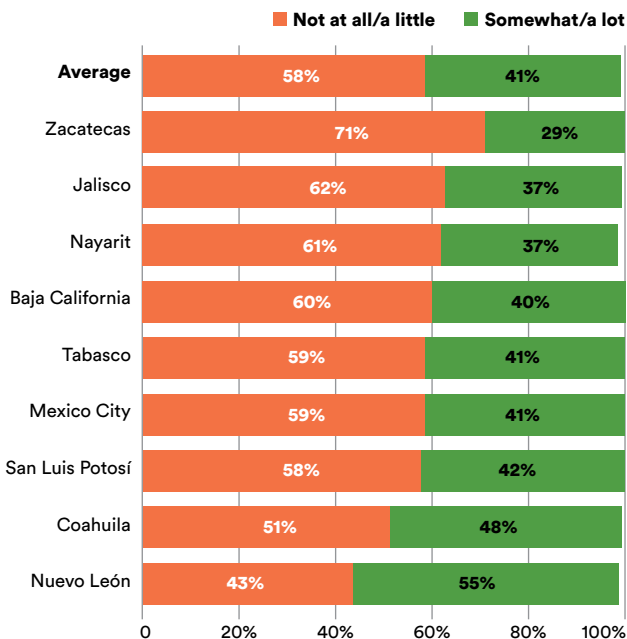
Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers “does not know” and “did not answer” were not included in the graph.

6.2.2. Trust in the respect of the victims’ and accused persons’ rights

The Survey on the Strengthening of the Criminal Justice System also attempts to capture public opinion on respect for victims’ rights. In eight of the nine federal states, the proportion of those who believe that the rights of the victims are “not at all” or “a little” respected is in the majority compared to those who believe they are respected “somewhat” or “a lot”. Zacatecas stands out, as this majority reaches seven out of 10 people (71%). In Coahuila, 51% believe that they are respected, while in the other entities between 58% and 62% consider the same. The exception is Nuevo León,

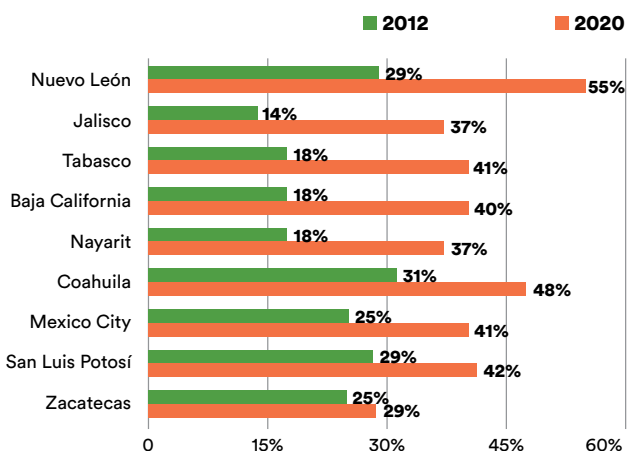


Graph 99. How much do you think the authorities respect victims' rights in your state?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers "does not know" and "did not answer" were not included in the graph.

Graph 100. Evolution of respect of victims' rights per state, 2012 and 2020

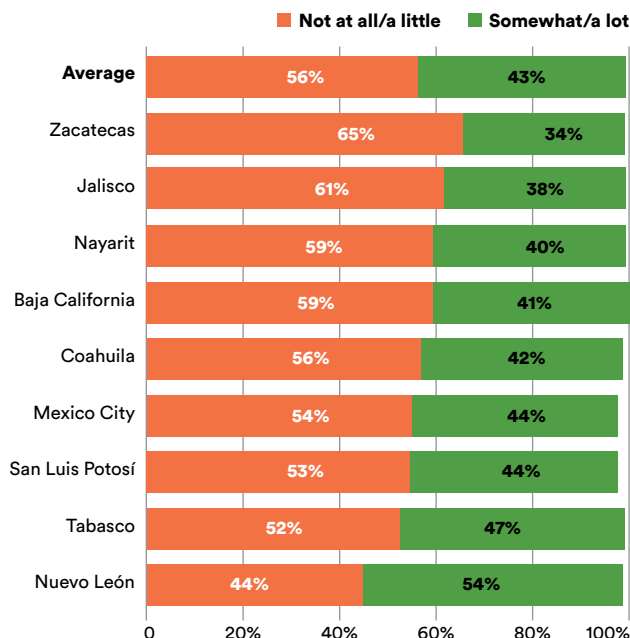


Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: Only the percentages of the answer options "somewhat" and "a lot" were included in the graph.

where 55% of those surveyed maintain that they are respected "somewhat" or "a lot" (Graph 108). When comparing how this opinion has evolved over time, it is observed that in all states the percentage of people who believe that they are respected "somewhat" or "a lot" has increased significantly. The greatest increase occurs in Nuevo León: the positive perception increased by 26% from 2012 to 2020. Jalisco and Tabasco follow, with 23%. On the contrary, in Zacatecas the positive perception had the lowest growth (4%).

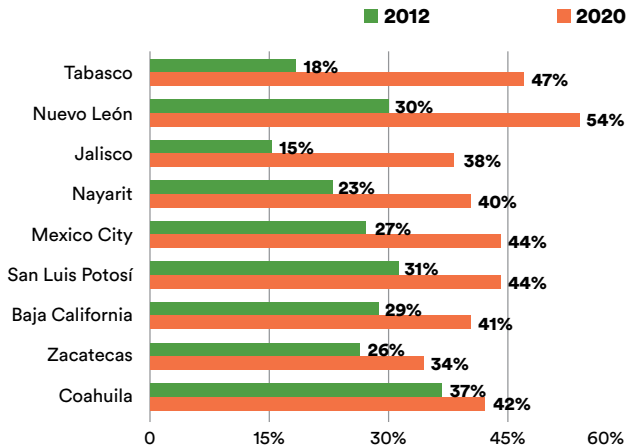
In a situation similar to the opinion on victims' rights, in all federal states, over half of those surveyed consider that the rights of people accused of committing an offense are "not respected at all" or "a little", excluding Nuevo León, where only four out of 10 people (44%) believe this. Zacatecas also stands out, since the negative perception corresponds to practically two thirds of the people surveyed (65%) (Graph 101).

Graph 101. How much do you think authorities respect accused persons' rights in your state?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
 Note: The answers "does not know" and "did not answer" were not included in the graph.

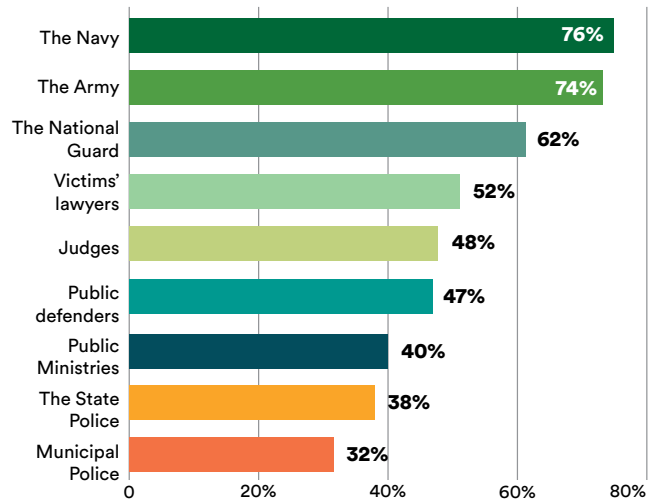
Graph 102. Evolution of respect for accused persons' rights per federative entity, 2012 and 2020



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: Only the percentages of the answer options "somewhat" and "a lot" were included in the graph.

The perception of respect for accused persons' rights has increased favorably over time. In the states analyzed, the percentage of people who believe that their rights are respected "somewhat" or "a lot" has increased from 2012 to 2020. Tabasco is the state with the highest increase in positive perception regarding respect for the rights of accused persons: it increased 29% from 2012 to 2020. It's followed by Nuevo León and Jalisco, with an increase of 24% and 23%, respectively. In contrast, the state where the positive perception had the lowest growth was Coahuila with 5% (Graph 102).

Graph 103. How much do you trust each of the following institutions?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: Only the percentages of the answer options "somewhat" and "a lot" were included in the graph.

6.2.3. Trust in justice institutions

Civic trust in the institutions is important for the proper functioning of the CJS, as it conditions its legitimacy and usefulness. Trust, in that sense, can be seen as a resource for citizens and governments. For the former, trust in institutions reduces the fear that their rights will be violated; for the latter, institutional trust brings certainty that institutional channels will be used to resolve conflict.

Table 16. How much trust do you have in each of the following institutions: a lot, somewhat, a little, or none? (Figures represent percentages)

	A	B	C	D	E	F	G	H	I	Trust Index (0 a 1) *
Mexico City	27	36	26	29	38	44	68	74	53	0.44
Nuevo León	54	63	46	55	61	64	84	85	70	0.65
Coahuila	45	57	35	43	49	53	84	85	70	0.58
Jalisco	43	43	36	41	41	43	66	67	59	0.49
Zacatecas	29	46	13	23	51	64	80	83	58	0.50
Baja California	46	58	39	39	60	62	72	77	64	0.57
San Luis Potosí	39	45	29	37	47	48	76	77	67	0.51
Nayarit	37	36	31	38	37	41	66	65	60	0.46
Tabasco	43	48	30	37	41	45	71	71	56	0.49

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: The percentages of the answer options "somewhat" and "a lot" were included. Institutions analyzed were A) Prosecutor's Office, B) judges, C) municipal police, D) state police, E) public defender's office, F) victim lawyers, G) Army, H) Navy, I) National Guard. The index results from the average of the percentages of each of the authorities analyzed.



Based on the number of people who said they trust the institutions analyzed “somewhat” or “a lot”, we discover that the highest percentages of civic trust are placed in the Navy (76%), the Army (74%) and the National Guard (62%), while the lowest are observed in the state (38%) and municipal (32%) police.

In addition, when examining all institutions, the lowest institutional trust index is observed in Mexico City (0.44) and the highest in Nuevo León (with 0.65) (Table 16).

As can be observed, the prosecutor’s office is seen as reliable for over half of the people surveyed in Nuevo León (54%); in the other states, between three and five out of 10 consider it so, Mexico City being where the lowest percentage is registered (27%). On the other hand, more than half of those surveyed trust the judges in Nuevo León, Baja California, and Coahuila (63%, 58% and 57%, respectively); in the other entities, only between four and five out of every 10 people do so (between 36% and 48%). In this respect, Mexico City and Nayarit have the lowest figures.

We established the municipal police as the institution with the least civic trust among people. Only in Nuevo León it’s close to half (46%), while in Baja California and Jalisco only four out of 10 people trust it (39% and 36%, respectively). In the other federal states, this trust is manifested only in three out of every 10 people (between 26% and 35%), with the exception of Zacatecas, where the proportion is much lower (13%). Trust in the state police, for its part, is expressed by four out of 10 individuals (between 37% and 43%), except in three states: Nuevo León, where the highest proportion is observed (55%), Mexico City (29%) and Zacatecas, where the lowest level is obtained (23%). One must remember that, as we pointed out in the Enabling chapter, the trust and understanding of the municipal police can be affected by the fact that citizens often confuse them with the state police.

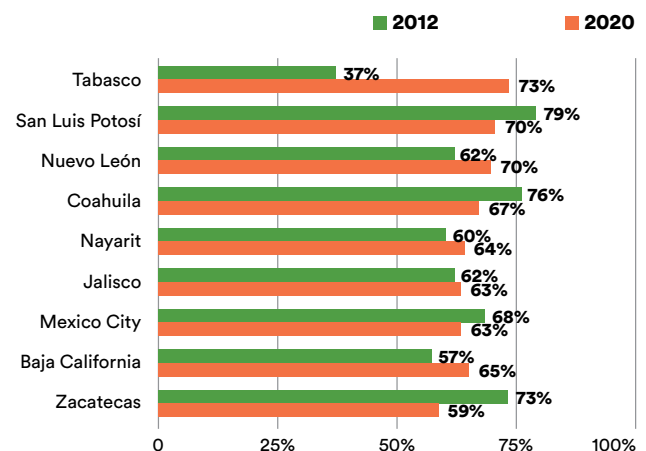
Regarding the figures of public defenders and victims’ attorneys, in the states of Nuevo León, Baja California, Zacatecas, Coahuila and San Luis Potosí over half (or practically half: from 47% and up to 64%) place their trust in them. In the other states, the proportion is four out of 10, with Nayarit presenting the lowest percentages: 37% for public defenders and 41% for victims’ attorneys.

As we have anticipated, the Navy, the Army, and the National Guard, in that order, are the institutions people trust the most. The first two bodies are reliable for eight out of 10 people (between 76 and 85%) in Nuevo León, Coahuila, Zacatecas, and San Luis Potosí (and in these same terms, the Navy in Baja California), and for seven out of 10 in the other states (between 65% and 74%). In the same manner, the National Guard is reliable for seven out of every 10 individuals in Nuevo León, Coahuila, and San Luis Potosí (70, 70 and 67%, respectively), and for six out of 10 in the other states (between 56 and 64%).

6.2.4. Budgetary resources

Finding out how many resources, according to the respondents, should be invested in justice institutions is another way to assess trust in them. In this regard, in all states, in 2020, a significant majority of people (between 59% and 73%) agree that more public resources should be invested to have a better CJS, even if it means reducing investment in other areas. The

Graph 104. Would you be willing to see more public resources invested to have a better criminal justice system in your state if it means less investment in other areas: yes or no?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: Only the percentages of the answer option “Yes” were included in the graph.

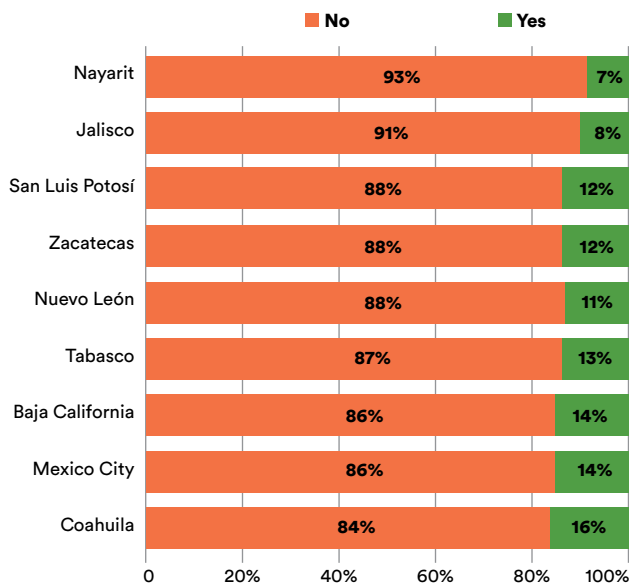


highest proportions are registered in Tabasco (73%), San Luis Potosí (70%) and Nuevo León (70%), while the lowest are observed in Zacatecas (59%). This opinion in favor of more investment in the CJS has changed over time in a differentiated way in the states analyzed. In Tabasco, Nayarit, Baja California, and Nuevo León, for example, the intent to invest more public resources for a better justice system increased from 2012 to 2020. In fact, Tabasco was the state with the highest growth in favor of greater investment (it went from 37% to 73%). However, in four states - San Luis Potosí, Zacatecas, Coahuila, and Mexico City - the 'intent' to invest more public resources to improve the CJS decreased. There was practically no change in this regard in Jalisco.

6.3. Experience as users of the criminal justice system

The consolidation of the adversarial system is conditioned on its users finding a satisfactory experience in the daily operation of the institutions that comprise it. This section provides a brief overview of the interaction respondents have had with justice institutions. In this regard, in

Graph 105. In the last year, have you resorted to any criminal justice institution due to an offense?



Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.
Note: Only the percentages of the answer option "Yes" were included in the graph.

the federal entities analyzed, a substantial majority of people (between 84% and 93%) did not appear before any criminal justice authority for an offense. However, between 7% and 16% did resort to these institutions.

Among the people who did appear before criminal justice authorities, the majority did so in their capacity as victims, between 50 and 73%, with the exception of Jalisco, a state where a balance is observed between victims and those who were accused of committing an offense (38 and 41%, respectively). In the same manner, two out of 10 in Coahuila, Nayarit and Tabasco (20, 18 and 17%, respectively), as well as one in 10 in Baja California and San Luis Potosí (12 and 10%) also attended after having been accused of committing an offense. On the other hand, between 7% and 20% of those who came forward did so as witnesses. Finally, between 3% and 18% did so for work purposes.

Table 17. Which of the following modalities is most similar to the situation you faced when recurring to criminal justice institutions?

	Victim of an offense	Accused of committing an offense	Witness to an offense	For work purposes
Mexico City	68%	2%	18%	11%
Nuevo León	63%	4%	20%	13%
Coahuila	57%	20%	20%	3%
Jalisco	38%	41%	15%	6%
Zacatecas	59%	2%	20%	18%
Baja California	68%	12%	7%	11%
San Luis Potosí	73%	10%	8%	8%
Nayarit	50%	18%	11%	18%
Tabasco	55%	17%	14%	14%

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: The answers "does not know" and "did not answer" were not included in the graph.

On a different note, the vast majority of those who did not resort to justice institutions did not do so because they "did not need it" (between 84% and 95%). What is striking is that among the other reasons stated by this group of people, one in 10 –in Mexico City– said that they had not gone to authorities because "it is useless".

In the same sense, to know about the users' experience before criminal justice institutions, we proposed six items. Those surveyed were placed on the positive or negative side of each one: the ease in solving the case, honesty, service, amount of time, facilities, and



Table 18. For what reason would you say you have not resorted to some criminal justice authority or institution to solve an offense case?

	Did not need it	It is useless	The process is too difficult	Does not know how	Does not trust authorities or the justice system
Mexico City	84%	10%	1%	0%	3%
Nuevo León	95%	2%	1%	0%	1%
Coahuila	93%	2%	0%	0%	2%
Jalisco	85%	6%	4%	2%	2%
Zacatecas	93%	3%	1%	0%	3%
Baja California	89%	6%	0%	0%	4%
San Luis Potosí	93%	2%	1%	1%	3%
Nayarit	92%	6%	0%	0%	2%
Tabasco	88%	6%	3%	1%	1%

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.

Note: The answers "does not know" and "did not answer" were not included in the graph.

general satisfaction. For example, most of the people in each of the federal entities perceive difficulty to reach a solution: in Mexico City, Coahuila, Baja California, and San Luis Potosí. Approximately three quarters of respondents have this opinion (between 71% and 77%). The state of Jalisco is the exception, since only 41% think this way.

Possible answers were: A) Ease - difficulty to resolve, B) Honest - corruption, bribery or extortion, C) Good service - violent, insensitive, or intimidating treatment, D) Implied a reasonable amount of time - implied a long and slow process, E) Facilities were comfortable and accessible - unpleasant facilities, and F) Very satisfactory - not satisfactory at all.

That said, and as can be seen in Table 19, the majority of users in Zacatecas, Nuevo León, Nayarit, and

Coahuila report an honest experience, unlike Baja California, Tabasco, Mexico City and Jalisco, where there are greater reports of corruption, bribery, or extortion. In San Luis Potosí, on the other hand, both positions are represented in identical proportions (46%). Regarding the service, **the majority of states surveyed perceived kindness and good treatment. We highlight the states of Zacatecas, Nayarit, and Nuevo León, where over 75% have this impression.** The other states report the same with levels between 55 and 71%, with the exception of Mexico City, where identical proportions are observed between people who report friendly service (48%) and those who say they received violent, insensitive, or intimidating treatment (48%).

In Nayarit and Tabasco there is a majority of people who report having spent a reasonable amount of time

Table 19. Would you say your experience with criminal justice institutions was...?

	Would you say your experience with criminal justice institutions was...?											
	A		B		C		D		E		F	
Mexico City	20%	77%	43%	52%	48%	48%	16%	82%	38%	57%	14%	82%
Nuevo León	35%	61%	65%	24%	76%	22%	37%	57%	87%	13%	39%	59%
Coahuila	24%	74%	47%	42%	55%	46%	27%	71%	46%	55%	23%	76%
Jalisco	59%	41%	47%	50%	62%	38%	29%	71%	56%	44%	21%	79%
Zacatecas	35%	65%	71%	29%	86%	14%	37%	63%	76%	25%	45%	55%
Baja California	23%	75%	42%	56%	56%	40%	39%	60%	46%	49%	30%	70%
San Luis Potosí	25%	71%	46%	46%	60%	35%	25%	73%	52%	46%	25%	75%
Nayarit	39%	61%	61%	32%	82%	18%	54%	43%	61%	39%	32%	64%
Tabasco	45%	53%	41%	55%	71%	28%	53%	47%	57%	43%	39%	61%

Possible answers were: A) Ease - difficulty to resolve, B) Honest - corruption, bribery or extortion, C) Good service - violent, insensitive, or intimidating treatment, D) Implied a reasonable amount of time - Implied a long and slow process, E) Facilities were comfortable and accessible - unpleasant facilities, and F) Very satisfactory - not satisfactory at all.

Source: Prepared by the authors with data from México Evalúa, Strengthening the Criminal Justice System, 2020.



in a process before the courts, in contrast to the other states, where more say that it involved a long process. Mexico City stands out negatively, as eight out of 10 people (82%) perceive these delayed times. Regarding the facilities in the courts, they are reported as pleasant and accessible in six states; even in Nuevo León nine out of 10 people (87%) think the same. However, in Mexico City, Coahuila and Baja California, a majority of people consider the facilities to be unpleasant.

Despite the variety of answers in the previous results, there is an item where the majority of those surveyed in the nine states agree: a general dissatisfaction with criminal justice institutions, ranging from 55% in Zacatecas to 82% in Mexico City.

6.4. Conclusions

Our Survey on the Strengthening of the Criminal Justice System explores the attitudes and opinions of Mexicans in three aspects: 1) understanding of the CJS, 2) perception of the CJS, and 3) experience as users. **The survey revealed the plurality of perspectives of a citizenry that understands and critically evaluates the services that justice institutions provide to Mexican society.** The following is a synthesis of the main results of the present chapter and some conclusions are provided.

Section 6.1. allowed us to conclude that most people surveyed have little understanding of the system. When we inquired how familiar citizens are with the CJS authorities, we discovered that the state police is the best-known institution. In contrast, **the authority that citizens have heard the least about are the judges, followed by the municipal police.** The latter is striking since the municipal government is supposed to be one of the authorities closest to the citizenry.

The survey also sought to identify the level of understanding of the new criminal justice process. In this sense, it is possible to observe that it is not well known in the states analyzed. Regarding some specific aspects of the criminal process, **most people surveyed have heard of mediation and oral trials; damage reparation, on the other hand, is a lesser-known mechanism.** In addition, **two out of five people still believe the only possible sanction or punishment when a person commits an offense is imprisonment.**

A positive finding of the survey is that the majority of those interviewed say they know the rights of the

victims and of the people accused of committing an offense. The presumption of innocence, for example, is well known: on average, nine out of 10 people surveyed have heard that those accused of committing an offense have the right to be considered innocent until proven otherwise. Likewise, a large proportion of citizens are able to identify what a person should do if they suffer an offense and where to report it.

A worrying aspect is that **in all the federal states analyzed, the percentage of people who do not know who could provide them advice or support in the event of being a victim or being accused of committing an offense is still very high.** On the other hand, access to information on the criminal process is a subject of early development in Mexico. Although progress has been made, there is still a long way to go. In the states analyzed, most of the people surveyed consider it important to have more information about the CJS.

In section 6.2. we analyzed the data that allowed us to establish trends regarding the trust that the people surveyed have in the CJS. The results show a range of opinions and perspectives. However, there is a clear trend in the states analyzed: **the perception of the CJS is mostly negative.** On average, half of the respondents have a very bad or bad opinion of the justice institutions in their state; furthermore, this assessment has changed little over the years, as a decade ago a negative opinion on justice institutions also persisted.

In the same manner, when examining all the institutions of the system, we observed that the highest percentages of civic trust are found in the Navy, the Army, and the National Guard, while the lowest percentages are observed in the state and municipal police. Notwithstanding, other data contrasts with this low level of trust in justice institutions: it is about the 'willingness' of people to invest in the CJS: in 2020, in all states, a significant majority of people are in favor of more public resources being invested to have a better CJS, even if it means reducing investment in other areas.

In section 6.3. we examined the experience and degree of satisfaction of the people surveyed with the CJS. An interesting finding is that a substantial majority of people have not had contact with criminal justice institutions, either because they did not need it or because, from their point of view, it is useless. In the group of people who did appear before criminal justice authorities, the vast majority did so in their capacity as victims. In a smaller proportion, those accused of committing an offense and those who presented themselves as witnesses or for



work purposes resorted to them. Similarly, although a significant percentage of the people surveyed consider having had a kind, honest, fast, and comfortable experience when they went to the justice facilities, there is a general dissatisfaction with the services offered by said institutions.

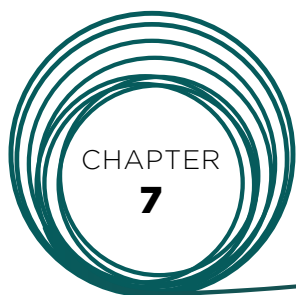
From this section we warn that both the progress in the consolidation as well as the results offered by the CJS are not “even” in all territorial areas or in the diverse analyzed areas. For example, while the level of understanding of the adversarial process shows progress in Tabasco and Jalisco, Nuevo León and Zacatecas show a significant decline in the level of understanding expressed by the population. Situations like this are also identified in the areas of civic trust and user experience, so it is necessary to conduct case-by-case analysis and design strategies accordingly.

It is clear that justice system institutions have to make greater efforts to overcome the distrust that citizens still have in them. Despite the fact that the number of citizens who come into contact with them is small, it is essential to develop a culture of service and an environment of justice that leaves behind the vision of the CJS as a bureaucratic entity in charge of processing

files and not solving the most pressing needs of Mexican citizens.

We must also point out that the dark figure has remained high in the last 10 years, which is mainly explained by causes attributable to the authorities, such as the time it takes to file the complaint, the perception of ineffectiveness of the process and/or the expectation of being mistreated by the people who run the institutions themselves. It is essential that these phenomena are taken seriously by the authorities. **To modify the perception and experience of the people who interact with the CJS, communication and socialization campaigns are not enough; a change in perspective and daily practice is needed.** This, in turn, will only be possible through the design of institutional policies focused on users, aimed at closing gaps and eliminating barriers, as well as through the establishment of supervision and control mechanisms that avoid risk of arbitrariness and corruption.

Finally, we have to recognize the importance of access to information, citizen participation mechanisms, and accountability exercises. Through them, various sectors of the population can monitor and interact with their institutions and demand better results.



Conclusions and recommendations

T

his edition of *Hallazgos* has been particularly rich in analysis and information, derived both from the experience and methodologies that we have collected and perfected over our years at Mexico Evalúa and from the inclusion of topics and tools that allowed us to be closer to the operators and users of the justice system. In this sense, the Survey on the Strengthening of the Criminal Justice System, and the section on gender in the Results chapter have provided us with a more humane approach to the situation of those who live the day-to-day justice in Mexico. It is the best complement that we have proposed to the systemic vision since our first edition, which gains greater understanding from the authorities every day, who are also recipients of this annual report.

A gender-based perspective, the centrality of users and operators of the justice system, a systemic vision and the balance between institutions have been proposed as intersectional axes. We hope that they will be analyzed and discussed by the authorities and non-institutional stakeholders –civil society organizations, the media, universities, analysts– to continue building the justice system that we need. From México Evalúa we assume the task of systematizing the data and analyzing the information that the institutions provide, but we also want to bring our vision and recommendations for the design of better responses.

Next, we present the conclusions of the exercise conducted during 2020, a critical year due to the covid-19 pandemic, which further evidenced the system's areas of opportunity and, at the same time, forced it to provide solutions that would bring justice closer to people.



Conclusions

Transparency and access to information by justice institutions is still a pending issue, which is focused on some specific stakeholders such as the State Attorney's Office in Morelos and authorities in Chihuahua, but above all, on federal institutions, whose response rate to the transparency questionnaires we sent was only of 22%. This leads us to several conclusions: the grounds for reserve argued by some prosecutors have no basis (one can simply look at those that do respond); at the federal level there is a notable trend towards opacity, and the level of transparency is not necessarily linked to the presence (or not) of advanced information systems (there are, for example, public defenders, that commonly lack them, and they are the ones that had the highest response rate to our requests).

A practice that greatly facilitates transparency and the analysis of institutional results is the delivery of information in digital formats that allow for flexible use by applicants. This is another way of saying that the scanning or photocopying of documents should stop. It is clear that this will not be achieved unilaterally: it is necessary to establish a dialogue between civil society organizations that monitor justice system institutions, institutional areas in charge of transparency, and those that produce the information themselves, so as to generate an understanding about the importance of accountability and data accessibility.

In terms of **coordination, as one of the most important conditions for preserving the systemic vision of justice**, we observe a clear weakness and asymmetry, which particularly affect the public defender's offices and the Executive Victims' Commissions. Without the inclusion of the agendas, budgets and needs of such public defenders and commissions, the consolidation of the system cannot advance in a balanced and comprehensive manner. Continuing to concentrate resources and powers, for example, in the attorney's offices, without considering the commissions as complementary entities that watch over the victims' rights and the public defenders as a necessary quality counterweight, will lead us to return in the medium and long term to the inquisitorial system, characterized by the absence of controls by prosecutors, to the detriment of individual rights

Coordinating institutions at the state level have also lost relevance. They tend to stagnate or disappear

altogether, like in Zacatecas, Campeche, Mexico City, Michoacán, Morelos, and Oaxaca. The most notable weaknesses of the State Technical Coordination Institutions (ICTE, in Spanish), demonstrate a low effectiveness for **reaching agreements and creating guidelines, budget incidence with a systemic vision, construction of computer systems and definition of common objectives**. One factor that seems to affect the coordinating bodies and encourage institutional asymmetry is the lack of leadership from authorities such as the Justice System Support Unit (UASJ, in Spanish) of the Department of the Interior.

Planning as a necessary exercise to project results and manage resources is an 'uneven' condition in the country: eleven states integrate sector programs with performance indicators; seven states conduct inter-institutional plans and the rest of the states simply do not conduct planning exercises. This lack of consistency at the moment of planning has one result: **the discrepancy between the allocation of budgets, the definition of goals and the identification of priorities**.

On the other hand, **investment in computer systems** is essential for the consolidation of procedures, the generation of information for decision-making and the streamlining of processes and, even then, it is diminished in most of the country's institutions. In some cases, the more functional computer systems have been developed by the institutions' own work teams, without having to spend large sums of money to acquire technological solutions. It is convenient to identify these good practices and articulate specialist networks of information technology in the justice sector. From these communities, an exchange of experiences can be generated, which can make it possible to overcome the delays.

The **availability of information on the National Statistical System of Justice Procurement** is scarce and depends on the monitoring of the National Conference on Justice Procurement. For its part, the efforts of the Justice System Support Unit to produce the Evaluation and Monitoring Model for the Consolidation of the Criminal Justice System (MES) have certain biases and discrepancies regarding the sources of information and updating times. Both at the state and national level, **it is necessary to reach agreements to raise the quality of the data and derived information, that**



also encompasses all justice institutions. Continuing to generate rates that are detached from one another will not allow us to analyze the problems of the system as a whole, and consequently, the decisions taken will always be partial and without a long-term effect.

In the section on regulations, we observe that reforms that were made, and laws that were issued –mainly in the Congress of the Union–, address more political and punitive discourses rather than realities and data that demonstrate the need to generate a better balance between operators.

This edition of *Hallazgos* allowed us to verify once again that **the sufficiency and capabilities of the operators are the main key to the transformation of the system.** In other words, the institutions are the people who operate them. In the states, we identified a trend towards an increase in personnel; however, **the increase in jurisdictional personnel is more moderate compared to that of the personnel of the attorney's offices** – prosecutors and investigative police officers. One possible explanation: the sense of urgency to have more judges has not been generated, because the cases are not reaching a judicial court either. **To the extent that the functions of the attorney's offices are increasingly focused on litigation and less on mediation or investigation, we can aspire to more cases being prosecuted,** which would give rise to a greater number of judges that allow the efficient flow of criminal proceedings. On the other hand, we reiterate the need to **counteract the personnel limitations in public defender's offices and for victim counseling.** This insufficiency ends up having an impact on the quality of services provided to users, both on the side of the accused as well as the victims.'

In the same logic, **it is necessary to thoroughly review the career civil service.** Until now, efforts have focused on two matters: issuance of laws or regulations and the creation of institutes or bodies. Most cases regarding institutionalization begin by building training centers, and little by little it grows into the operators' performance assessment and the articulation of the Civil Service. To take a frank and immediate step forward, institutions could review the patterns of advancement in the career ladder and the permanence or rotation of staff. A large part of the attorney's offices, judiciary, and public defenders have made progress in the first two matters we mentioned; the challenge now is to focus the attention on promotion mechanisms and career incentives.

Regarding the **investigation**, we observe that there is increasing awareness to articulate a **comprehensive criminal policy** that includes the work of all institutions, starting with the investigative police, in coordination with the attorney's offices. Hence the appreciation of the efforts of the Sonora and Nuevo León attorney's offices to issue **criminal prosecution plans** that include the prioritization of crimes and a vision of complex criminal phenomena. It is necessary, however, not to lose sight of good international practices and projects in Mexico on the articulation of effective investigations, in order to identify all the elements necessary to achieve the objective: **methodologies, profiles, training, management and coordination systems between authorities, presentation at hearings, investigation strategies, lines of investigation**, to name a few. It is not enough to solve certain cases; we need to lay the foundation for investigations in Mexico to be professional and robust enough for the adversarial system.

Based on a gender based transversal approach, we observe that **discrimination against women operating** the CJS is reflected in terms of income (in several states it is difficult for them to exceed forty thousand pesos in their monthly salary), despite the fact that they constitute a good part of the workforce of these institutions. In other words, **many women run the justice system, but in lower positions.** This scenario is observed both in attorney's offices and in judiciary. **Also, as users of the system, women face discrimination and violence:** detainees are threatened with harm to family members, their injuries are not recorded at the time of arrest, their deprivation of liberty without a sentence is more common than among men, the sanctions imposed on them are more severe and, as victims, they suffer greater psychological damage and are more afraid of reporting for fear of the aggressors and even the authorities. In other words, the system, despite its reforms, has not managed to incorporate a gender-based perspective as one of the foundations of access to justice.

Finally, the exercise we conducted in 2020 to further examine **civic trust in justice system institutions and the understanding of victims' and accused persons' rights**, in general terms, shows a greater awareness and the need for a CJS that works. We can observe that among the citizens, high expectations were generated for the implementation of the reform that promised a more transparent, efficient, and fair system. We can say that some of the objectives were met: greater understanding of the rights of victims and



defendants - highlighting the right to the presumption of innocence - and the institutions that intervene. Nevertheless, **there are pending subjects. The main one: to gain public trust in the authorities**, with the guarantee that their rights will be respected, and their conflicts will have some kind of resolution. An interesting answer, and one that should encourage us

to disseminate good practices and efforts to transform the system, is that between 59% and 73% of the people surveyed agree that more public resources should be invested in the CJS, with a view to improve it, even if it means reducing investment in other areas. **In other words, citizens value justice, they are waiting for it, and are willing to invest in it.**

Public policy recommendations

A. Regarding the conditions and enablers of the system, who constitute its institutional structure, we recommend:

- **Strengthen the capacities of institutions to standardize their information.** When incorporating technological tools, database characteristics must be considered, in order to allow for the delivery in digital formats of responses to access requests.
- **That the Support Unit for the Justice System resumes its support for the public defenders. At the same time, dialogues and the definition of an agenda with the aim of strengthening the public defender's office should be encouraged,** underlining the relevance of reducing procedural asymmetries and promoting equality in victims' and accused persons' rights.
- **Promote the systemic understanding through local planning and budgeting exercises,** with the definition of common obstacles to systems, goals, and objectives from which strategic and tactical objectives are derived at the subnational level.
- **Promote vertical articulation between the states and the Federation,** mainly with regard to the persecution and the fight of criminal phenomena that cross and cover both jurisdictions.
- Regarding state coordination, **distribution and exchange exercises should be carried out between operators that allow good practices to be introduced,** such as the coordination that comes about in Querétaro and Coahuila. Waiting for the Federation to take the lead to promote necessary inter-institutional coordination implies a significant risk of erosion of the system. On the contrary, if these exchanges of state experiences are conducted (in which universities and civil society organizations can play a key role), leadership and innovation can be strengthened, the source of which is currently more alive in the states than in the Federation.
- **Promote the integration of sectoral plans** - a more advanced level of articulation than inter-institutional plans, as performance, results and budgeting indicators are shared among the various members of the system. In some institutions, it would be positive to work towards defining budgets as the result of the analysis of quality information, goal setting, identification, and prioritization of needs, and not merely of the annual and conjunctural lobbying of each fiscal year.
- **Work on the identification of the different CJS solutions per types of offenses or criminal phenomena.** This effort would provide essential information for decision-making when prioritizing the offenses that affect the community the most, as



well as for the development of systemic strategies for different types of offenses or criminal phenomena that even point to deep-rooted causes.

- Gather information from operators and users by sex, in such a way that the challenges women face within the CJS can be analyzed through differentiated approaches.
- **Update the strategic indicators of the Evaluation and Monitoring Model (MES)**, so that they allow for the visibility of institutional interrelations and their impact on the CJS. That is to say, to provide it with a vision of a law enforcement and administration perspective, as opposed to their current public security approach.
- *(Among our recommendations regarding regulations)*: review the positive and negative effects of concentrating Legislative Branch through national laws in the Congress of the Union. Promote the adoption and implementation of the femicide protocol in remaining states.
- *(Regarding the sufficiency of personnel)*: **make projections of inter-institutional workloads** that allow for the visualization of growth requirements for each stakeholder. Staffing efforts in particular should target public defenders and victims' commissions.
- **Standardize internal personnel and user information on its services based on gender**, to thoroughly analyze the inequality gaps that exist between men and women and begin to implement policies to mitigate discrimination. At the same time, generate regulatory schemes and management tools based on the experience of women as operators, defendants, or victims, which help develop equal conditions for men and women.

B. Regarding the operation of the system so as to improve results, our recommendations are:

- **Define clear policies in the attorney's offices when receiving a case.** Although a high rate of "open cases" is reported in the attorney's offices, the truth is that according to the procedural pipeline, a good part of the cases is "resolved" by means of a ruling - the non-exercise of criminal action,

temporary archive, accumulation, and incompetence - which does not imply quality solutions. On the other hand, and with respect to these rulings, in most attorney's offices there's a lack of capacity to analyze the information contained in these case files, which could be valuable to find criminal patterns.

- **Make an in-depth analysis of the determinations of the attorney's offices, particularly the temporary filing and non-exercise of criminal action.** It would be helpful to have information on the typology of cases that are closed this way, especially in the case of offenses that imply a greater workload for the system, such as robberies and domestic violence. In any case, it is necessary for the attorney's offices to analyze what is happening in these rulings, design measures and conduct actions that increase the quality solutions provided by the adversarial process.
- **Abandon the idea that the prosecutor's main function is to have "open case files" and more resources should be dedicated to it.** Investigations and litigation should be positioned as the primary functions of the persons operating in the attorney's offices.
- **Take advantage of Alternative Dispute Resolution Mechanisms both in prosecutorial and judicial headquarters.** This solution is not being leveraged, as the national average of this route is 6.1% of the cases.
- *(Regarding the evaluation of procedural risks)*: **calibrate the cases that require an evaluation, so as not to waste scarce resources.** System operators should use the UMECA evaluations to determine the need and relevance of precautionary measures in each case. Set indicators on the use of evaluations issued by the UMECA for prosecutors and defenders, as well as judges.
- *(In the case of the states that report a high number of detentions classified as illegal: Baja California Sur, Chihuahua, and Oaxaca)*: make an analysis of the causes of said ruling and find out if they are attributable to the police or the prosecutor, in light of the judicial criteria that are being examined at this stage of the process.



- *(Regarding the respect of victim's rights):* **both the attorney's offices and victim counselors must pay better attention to damage repair.** For this, we also recommend an analysis of the institutional capacities to make these requests and design measures that in most cases obtain suitable damage reparations, as well as to set indicators in this matter for public prosecutors and victim counselors.
- *(Regarding the federal authorities):* set priorities on the offenses within their competence that lead to the greatest social impact, and establish policies to prosecute the offenses that, although federal, imply less social harm. The most urgent recommendation: **that federal authorities do not stagnate in the implementation of the adversarial system** and, rather, evaluate and reveal the results obtained to date.

The document *Hallazgos 2020: Assessment of the Criminal Justice System in Mexico* is the result of the efforts of the members of México Evalúa, Centro de Análisis de Políticas Públicas. The research, analysis and writing would not have been possible without the participation of each team member:

Edna Jaime

General Director of México Evalúa

Chrístel Rosales, Enrique Bouchot y Jorge Carbajal

Researchers in the Justice Program

Arturo Velázquez y Pedro Lucio López

Research Assistants

**Susana Camacho, Anel Pineda, Diana Pardo, Yenaro Flores,
Alejandro Navarro, Israel Palazuelos y Diana Manuel**

Research Associates

IPM, Investigación Estratégica Social A.C.

Survey on the Strengthening of the Criminal Justice System

Pablo García

Editorial Coordinator

Miguel Cedillo

Graphic Editor

Cynthia Castañeda

Communications Coordinator

Mariana Villalobos

Communications for the Justice Program

We thank the Judiciaries, Attorney Generals' Offices, public security institutions, Victims' Commissions, forensic services and coordination areas, in the state and federal levels, for their collaboration. We are specially thankful to the Coahuila, Nuevo León, San Luis Potosí, Querétaro and Zacatecas governments: they opened their doors for us, with excellent disposition.

This report was made possible thanks to the support of the **United States Agency for International Development**. The contents of this report are the responsibility of México Evalúa and do not necessarily reflect the views of the Agency.

México Evalúa is a think tank that focuses on the evaluation and monitoring of government operations in order to raise the quality of its results. We support the processes of public policy improvement at the federal, state and local levels by generating and/or reviewing evidence and making recommendations. Conducted by our researchers and by external academics and experts who collaborate with us, our studies are impartial, independent and non-partisan and serve to make transparent, evaluate and compare government actions.

You may download, copy, or print this document for your own use and may include excerpts in your own documents, presentations, blogs, websites, and teaching materials, as long as proper credit is given to the authors and México Evalúa as the source of the information.



mexicoevalua.org