

Hallazgos 2021

Assessment of the Criminal Justice System
in Mexico

Content

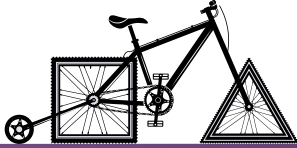
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Presentation

EDNA JAIME | DIRECTOR OF MÉXICO EVALÚA

Hallazgos is primarily a measurement tool. In 2013, when we 'presented it to society', what we proposed to measure/observe was the implementation and attempts to operate a criminal justice model that represented, and still represents, a civilizational leap unparalleled in recent history of our country. Starting in 2016, when the accusatory system began to operate throughout the territory, our tool was oriented towards monitoring and *reporting* the creation of a national strategy in the sectoral, institutional and citizen spheres that would coordinate the efforts to consolidate the system. It was, let's say, the moment of truth. What does it measure now, in 2022? What are the findings?

It is inevitable to point out, and I'll do it soon enough, that we have not quite lived up to that defining moment. Instead of this widespread and committed investment of efforts to cement quality justice, we observe a lack of will to break inertia. In 2021 (year of analysis of this edition of *Hallazgos*) we saw what we call a *state withdrawal*, which translates into a lack of definition, on the part of the Federal Government, of clear objectives and joint strategies. It is frankly shocking that we have not identified a single planning instrument that defines the horizon to be

achieved in the medium and long term, and that is capable of turning the criminal justice system into just that, a system, and not a weak set of uncoordinated agencies.

However, something else surprised us, and in a positive sense. A kind of green shoot in the states before the absence of federal leadership. If in previous editions of *Hallazgos* we identified a tendency to dismantle the bodies created for the coordination and consolidation of the system, in this we verified its reinstatement in Baja California Sur, Guanajuato, Morelos, Nayarit, Hidalgo and Zacatecas. It is as if the operators and decision makers in these entities realized that the spirit of collaboration is even more necessary today than before 2016; that if we do not resume the momentum of the accusatory model today, we will very likely lose the last opportunity to build justice that puts people at the center. These green shoots are very significant: let us remember that the transformation movement that ended up crystallizing in the 2008 reform originated precisely in these bodies of state coordination. From the states came the good 'contagion'. Can it come now? From México Evalúa we will be pending, analyzing and accompanying.

I said at the beginning that *Hallazgos* is first and foremost a measuring instrument. I need to say that it has also

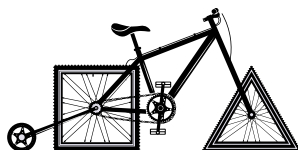
become, over the years, a reference document that feeds deep reflection, outside of simplistic discussions about justice, which almost always end up focusing on punitiveness. In this sense, our report has the mission of influencing public policies that reinforce the protection of rights and that increase the capacity of the system to give differentiated responses to criminal phenomena. The foregoing involves elucidating what exactly impunity is and what its consequences are in people's lives.

Around this last point, the study of impunity, is one of the contributions of this edition of *Hallazgos*. For the first time, from the perspective of the accusatory system, it was possible for us to scrutinize the State's response to phenomena that have a great impact on society, such as intentional homicide, femicide or extortion, but also to types of crime that due to their volume they saturate the system, such as simple robbery, drug dealing or domestic violence, for example. Impunity is not conceived the same for one or another type of crime, and responding accordingly is at the base of the aspirations of the accusatory model. I hope that what has been said about it in Chapter 5 will promote informed debate.

All that remains for me is to thank the effort and value the vision of Chrístel Rosales, coordinator of the Justice program of México Evalúa, and Alejandra Hernández,

Denise González, Enrique Bouchot, Héctor Sebastián Arcos and Jorge Carbajal, researchers of the program. I am also deeply grateful to the foundations that make this evaluation possible: the United States Agency for International Development (USAID) and the Friedrich Naumann Foundation.

I want to especially acknowledge the governments of Baja California, Mexico City, Coahuila, Guanajuato, Jalisco, Nayarit, Nuevo León, San Luis Potosí, Tabasco, Querétaro and Zacatecas, for the interest and effort they showed to improve the generation and systematization of information, as well as for showing us their openness, trust and commitment to continuous improvement. Collaboration with these governments lays solid foundations for a governance model in justice, strengthening transparency, citizen participation and consolidating dialogue and accountability exercises. At the federal level, I appreciate the support of the Public Defender's Office and the Executive Victims' Commission. I also recognize the invaluable help that the Consolidation Unit of the New Criminal Justice System, belonging to the Federal Judiciary, provides us year after year, since they have established high standards in terms of generation and dissemination of statistical information, which allow the development of independent evaluations such as *Hallazgos*.



Introduction

We must not give up on the effort to observe and point out, from the position of citizens, the progress, setbacks or stagnation of public policies on security and criminal justice. This system is one of the most complex institutional frameworks, since its mission is to offer tools to face the crisis of impunity and violence that our country is experiencing. We simply cannot afford to abandon its analysis and monitoring. That is the *raison d'être* of *Hallazgos*.

Although it is difficult to keep in focus the situation of the criminal justice system when its course is blurred and the euphoria for the 'new' model has passed, we assume our responsibility as facilitators of accountability by federal and state authorities, with a view to consolidating the reform of the justice system.

In this ninth edition of *Hallazgos* (the first report was published in 2013), and six years after the constitutional reforms that gave life to an accusatory criminal justice system were in force at the national level, we reiterate some conclusions from previous years but, above all, we note with concern a withdrawal of the federal authorities with respect to their basic responsibilities for the articulation of criminal justice policies –design of plans and programs, budget allocation, definition of goals and coordination points for the harmonious functioning of the system, among others–.

Once again, as in the period immediately prior to the time when the Constitution was amended under pressure from the federal entities to guide the course towards an accusatory and oral justice system, we see that the Federation is trying to pacify the country, favoring the areas of security, and with a very clear policy towards militarization and measures that in practice reduce rights and freedoms. This inevitably ends up blurring the need to deliver genuine justice and rebuild the social fabric from less punitive forms than prison. In addition, the hegemonic narrative has prevented an in-depth analysis of the real challenges we face in terms of crime and access to justice, as well as the urgent need to build State institutions.

In short, with this report we insist, as we have done for almost a decade, on the need to obtain data, analyze it and disseminate what it reveals. It's the only way to get objective facts about our criminal justice system.

One of the most notable elements in *Hallazgos 2021* is that, along with the aforementioned withdrawal of the federal authorities, we identify that some states, despite their deficiencies, have retaken the baton of their internal policies through the reinstatement of coordination bodies, gender policies, incorporation of information technologies, improvement and disaggregation of public information and design of programmatic instruments that allow them to define the course in certain crimes or to speed up their internal processes.

This leads us to endorse the need to refocus on local practices, as a starting point and access to criminal justice in Mexico. However, it is indisputable that in the face of certain criminal phenomena, coordination from federal institutions would be desirable, allowing the investigation and prosecution of high-impact crimes that operate interstate and even internationally.

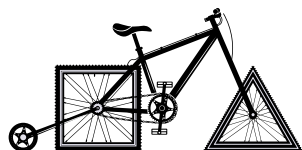
For the fourth consecutive year we present the State Impunity Index, an approximation of the level of effectiveness of the criminal justice system. It is a measurement of the *direct impunity*, that is, the one that implies lack of attention, investigation and/or resolution of cases known by the authority, either due to not having reached a restitution agreement, not being referred to any alternative justice mechanism, or not having a sentence. The source of information, the same since *Hallazgos 2019*, is the Monitoring and Evaluation Model, today in charge of the Ministry of the Interior.

However, this key indicator, the Index, is subject to continuous improvement. And with that in mind we built the 2021 State Impunity Index on *specific crimes*. Given that impunity cannot be understood in the same way for the process followed by a simple robbery or a forced disappearance, we decided to start the exploration of a measurement by criminal phenomenon, in order to generate *ad hoc* reflections. The first relevant results can be seen in Chapter 5.

For the rest, as in previous years, this report updates the situation of the institutions of the criminal justice system based on open data and information requests to federal and state institutions on...

- Access to information related to justice.
- Conditions that allow or do not allow institutional functioning.
- Installed capacity and organization.
- Results observed by area, geographic space, sex and type of crime.
- State of the justice system from a gender perspective.

We reiterate the need to consolidate the criminal justice system through a systemic approach applied by all authorities and actors, identifying critical nodes, obstacles and priorities in the provision of the service. Only in this way will it be possible to structurally influence the improvement of the justice experience of users, respect for their rights and the resolution of criminal conflicts through institutional channels.



CHAPTER 1

Access to information

Access to public information related to criminal justice is key to citizen oversight, effective accountability, and guaranteeing access to justice.

Mexico has a long history of strengthening the institutional and legal framework aimed at protecting and guaranteeing rights. One of the most comprehensive results is the General Act on Transparency and Access to Public Government Information (2015), which provides that the information generated, obtained, acquired, transformed or in possession of the government agencies is public and accessible to anyone. Thus, the right of access to information is defined as “the human right that includes requesting, investigating, disseminating, seeking and receiving information.”

Among the main achievements of the law, it is necessary to distinguish the express recognition of the maximum publicity of information that may be related to serious violations of human rights, as established in its fifth article:

It may not be classified as confidential any information that is related to serious human rights violations or crimes against humanity, in accordance with national law or international treaties to which the Mexican State is a party

No person shall be subject to judicial or administrative investigation for the purpose of exercising the right of access to information, and this right may not be restricted by direct and indirect methods or means.

This provision would mean that any entity that is part of the Mexican State must have specific protocols and mechanisms to ensure that the information in its possession, related to human rights, is accessible, from its generation to its socialization. In addition to this, some type of record of their actions and decision-making must be generated, so that they are observable and auditable. **Both the obligation to register and the impossibility of classifying it mean significant advances for accountability.**

Despite regulatory advances, the truth is that in practice there are considerable gaps and barriers when it comes to safeguarding the exercise of the right to information, especially if its dissemination may involve monitoring the performance of institutional actors.

In a governance model that recognizes the active role of each member of society, access to public information is equivalent to the implementation of mechanisms that cause the State to fulfill its role as guarantor of rights and facilitator of conditions for a safe and violence-free life.

At México Evalúa we are convinced that information on the events of justice is the compass to advance in the civilizing process. For this reason, in this ninth edition of *Hallazgos* we seek to give one more twist in the process of collecting, integrating and using public information, which we will explain below.

1.1 Information Sources

Access to public information, both the one generated and shared proactively and the one requested and

processed by México Evalúa, is a precondition for the monitoring and evaluation of the criminal justice system (CJS) done by *Hallazgos*. It is the fundamental piece to put together a puzzle that is increasingly complex, and to have a cross-section vision of the CJS throughout the country, both in the federal jurisdiction and in the common jurisdiction.

Two important elements should be noted in the information used for this edition of *Hallazgos*.

On the one hand, we took advantage of the information available in public sources that would guarantee elements of reliability, in order to complement and enrich the analysis. That is, for the integration of *Hallazgos* we have taken advantage of and analyzed databases that are published periodically, and that allow us to know their integration and updating methodologies, which has allowed us to notice changes that represent setbacks in terms of traceability, quality and scope of information, and even risk areas.

Thus, in this edition we use information on criminal incidence published by the Executive Secretariat of the National Public Security System (SESNSP); on perception and experience of people in their relationship with the justice system, produced by the National Institute of Statistics and Geography (Inegi) through the National Survey of Victimization and Perception of Public Safety (ENVIPE) and the National Survey of the Population Deprived of Liberty (ENPOL); on the installed capacity and elements of the exercise of the public function, contained in the censuses of government, public security, penitentiary system and prosecution and administration of justice, both federal and state, also integrated by the Inegi; on the situation in prisons located in the monthly prison information notebooks published by the Decentralized Administrative Body for Prevention and Social Rehabilitation (OADPRS), and on the management of cases through the Evaluation Model of the criminal justice system that collects the Ministry of the Interior (SEGOB).

On the other hand, we have expanded the information collected through requests for information and direct delivery from authorities, with a progressive mechanism that allows for better data and analysis.



A Statistical Improvement Process

Let's recap: the main objective of this effort to collect public information is to have timely, comparable and traceable information among the institutions that operate the system: prosecutor's offices, defender's offices, victims' commissions, precautionary measures units and pre-trial services, judiciaries and penitentiary bodies. It intends to offer a 'cut' in time, but also to shape a public mechanism that identifies information flows, trends and challenges.

We are now in a position to affirm that this exercise has had an impact on improving the statistical information generated by the bodies of the system. After nine editions of *Hallazgos*, the vast majority of the institutions know the required information very well, have taken measures to improve it and have managed to establish coordination and communication mechanisms that result in information of a higher quality and comparable over time with that of other institutions.

For the first time, the authorities have been able to provide us with information broken down by judicial district, sex, type of crime and various other variables. This deserves recognition, since each effort invested in statistical improvement allows a better understanding of reality and of the existing advances and challenges.

Such institutional progress translates into more precise, consistent information, better aligned with the statistical culture promoted by Inegi through government censuses and more in harmony with the democratic exercise of access to information that various organizations carry out.

It is necessary to recognize in a special way the higher courts of justice, agencies that facilitated the information disaggregated by cause and person processed, as well as with its different variables in time and space, which allows the recovery of complete life histories. This is a degree of integration that may well serve as a guide for the rest of the institutions of the criminal justice system. It is also the suitable set up for future investigations of *Hallazgos* and similar evaluations, that will be able to not only reflect institutional challenges and advances, but also portray the people who are positively or negatively affected by the penal system.

1.2 Access to Information Exercise

The exercise of sending information requests to the operating institutions supposes, in the first place, an

update of the mapping, in order to detect possible changes and/or reappointments. This exploration positively affects the times and the identification of the institutions that are competent to answer the requests.

Indeed, not all institutions or operators are sole obligated subjects in terms of transparency. That is the case of operators who are attached to a secretariat or autonomous body and are requested for information (e.g. defender's offices and the victims' commissions, whose requests are actually 'received' by the transparency units of the judiciaries or the different secretariats of the corresponding local executive branch).

Based on the above, for this year we sent 640 requests for information. Of the total sent to the state level, we obtained a response rate of 81%, slightly higher than the 79.22% of last year.

Having direct contact with the institutional statistics areas and with the transparency units, with whom doubts have been cleared up and agreements reached for the delivery of information, helped us achieve that response rate. Anyway, **it was necessary to appeal in 18 cases; 13 of them have been resolved and the information delivered.** We directed nine appeals to victims' commissions and a few to penitentiary centers and public security secretariats, which are still reserving information –it's important to remember that such information should be public.

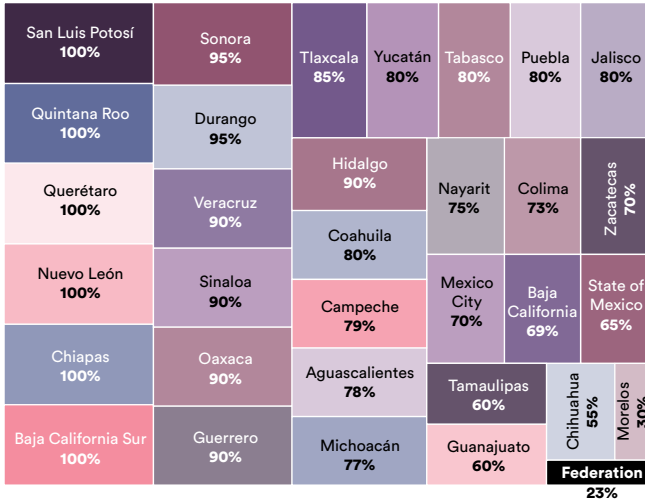
Meanwhile, among **the requests for information that we sent to the federal level, we obtained a response in only 23% of the cases**, a level significantly lower than the 78% of last year. The cases of the Attorney General's Office (FGR in Spanish) and the National Guard stand out, due to their practices of opacity.

1.3 Main Indicators of Transparency and Access to Information

As we have said, the response rate among the states was 81%, but Morelos (30%), Chihuahua (55%), Tamaulipas (60%), Guanajuato (60%) and the State of Mexico stand out with lower rates (65%); while there are states such as Baja California Sur, Chiapas, Nuevo León, Querétaro, Quintana Roo and San Luis Potosí that responded to all the requests for information.



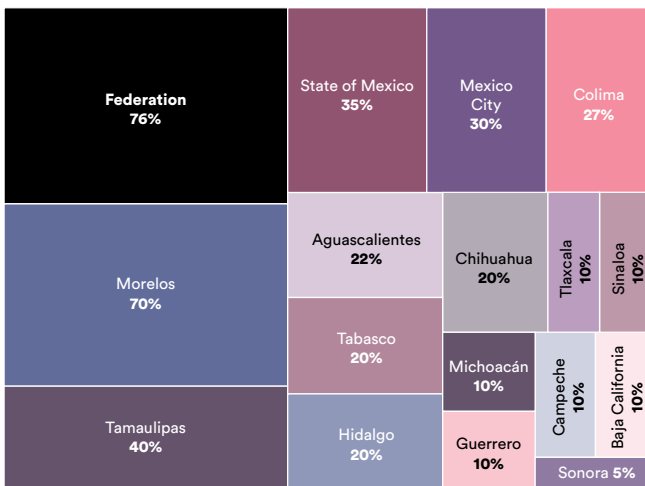
Graph 1. Average Percentage of Responses to Requests for Information, by State



Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

The appeals filed –in addition to those sent to the Federation– were concentrated in the states of Morelos, Tamaulipas, Mexico, Mexico City and Colima, as well as in the local secretariats of public security and organs of the penitentiary system.

Graph 2. Average Percentage of Appeals Filed, by State

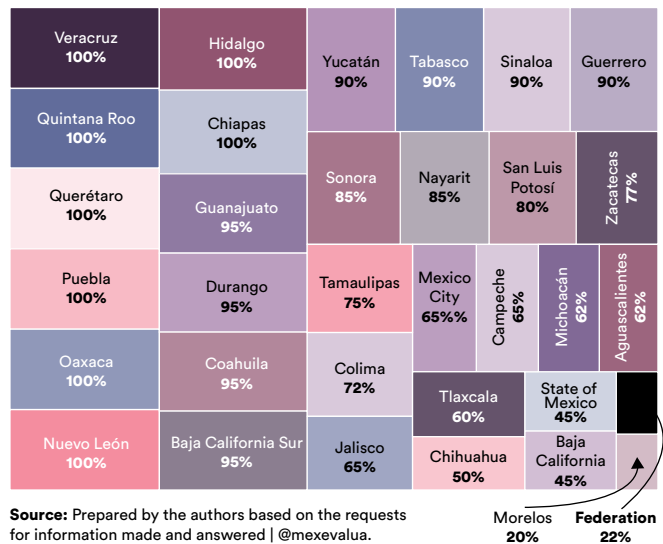


Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

Making a general characterization of the quality of the information provided is extremely difficult, given the enormous variations between states. Many of our questions were aimed at investigating the existence and/or application of certain mechanisms, protocols and manuals, as well as computer systems.

It should be noted that, contrary to the trend of previous years, in which we observed that the Federation stood out for the degree of systematization of information and for the use of open formats, on this occasion it was the states that, to a greater extent, delivered the information in user-friendly formats. What Graph 3 shows is that, although in Morelos, the State of Mexico, Chihuahua and Michoacán there are still gaps to be closed, the case of the Federation is one of clear regression, not only in the delivery of public information but also in the use of open formats.

Graph 3. Average Percentage of Response in Open Format, by State

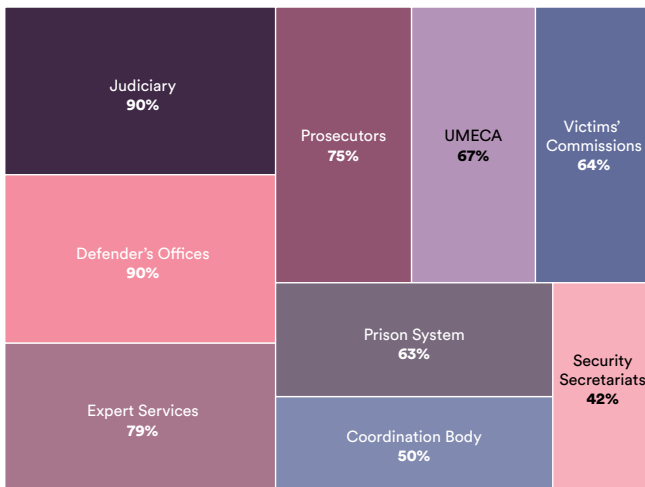


Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

The levels of transparency are more uniform if we consider the different government bodies. So, **regarding the quality of the information generated and its delivery on time, the judiciaries stand out, since together with the prosecutors they are the agencies from which we require more detailed and disaggregated information.** The judiciaries, in addition to a high response rate, deliver more complete and better disaggregated data.



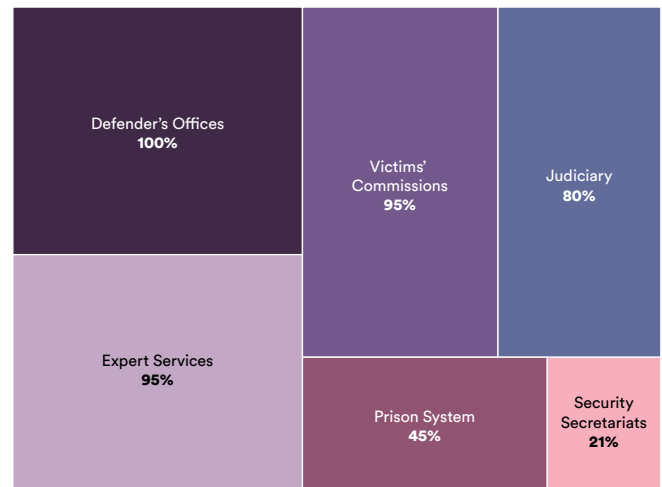
Graph 4. Response Rate by Body in the Local Criminal Justice System



Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

Finally, it should be reiterated that all information provided by obligated subjects, within the framework of the General Act on Transparency and Access to Public Government Information, must be timely, verifiable, understandable, updated, and complete. And perhaps the most important aspect: **It must be disseminated in the most suitable and accessible formats for the general public.** Around this issue we identified most of the weak practices.

Graph 5. Response Rate by Body in the Federal Criminal Justice System



Fuente: Prepared by the authors based on the requests for information made and answered | @mexevalua.

We also note resistance to disaggregating the information and complying with the principle of maximum publicity. We are confident that access to information will gradually be more agile and less laborious, even for the institutions themselves, since only in this way is it possible to carry out exhaustive and precise analyzes and diagnoses.



CHAPTER 2

Determining Factors

Factors that foster or hinder the operation of the criminal justice system

MAIN FINDINGS

- We noted that **the trend towards the weakening of technical coordination bodies has been reversed**, since several of them that had been dismantled were reinstated, and at the same time we identified regulatory changes in various states aimed at strengthening coordination capacities.
- **We did not register any change in systemic planning:** goals with medium and short-term objectives are still not established; nor is there a definition of strategies and actions to face the challenges of the system and give coherence to institutional action.
- **A public policy logic is absent** in the field of justice, understood as a State action to address public problems.
- **There is no effective mechanism and evaluating the impact of the penal system**, since this evaluation and calibration of the system is carried out with irrelevant indicators and from an exclusive point of view of public security, which makes the work of prosecution and administration of justice invisible.
- Derived from the previous point, **the asymmetry between the operating institutions is maintained and deepens**. That is, no effective planning efforts related to the allocation of resources have been identified that can be reflected in the daily operation of the institutions. Such asymmetry does nothing but weaken the system.

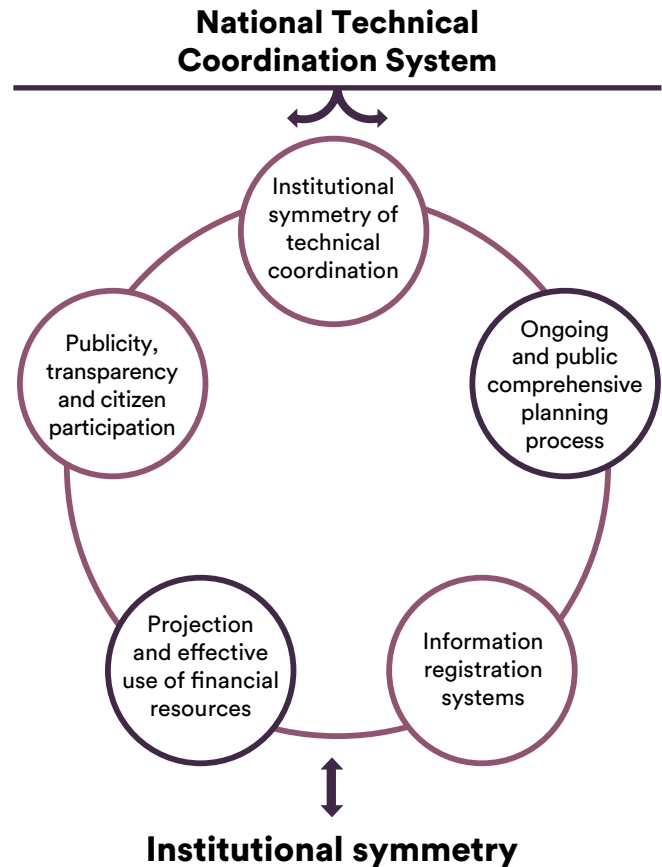


The criminal justice system (CJS) must be understood holistically. For this, it is necessary to start from the analysis of the initial conditions on which its operation is developed; that is, of the factors that favor or hinder the harmonious and aligned operation of the system. Let us remember that every system depends on the interaction of its various components, which develop their function and roles in order to achieve common objectives and give adequate responses to the demands that come from the environment. Based on this basic definition, the conditions for the operation of the CJS are:

- **Technical coordination mechanisms** between the components that perform different roles and functions, to achieve an operation aligned with the fulfillment of common objectives.
- **Planning mechanisms**, in which definitions of common challenges and objectives are established, aimed at giving a satisfactory response to citizen demands, and from which the distribution of resources is defined and the strategies and actions that each component must carry out are outlined.
- **Distribution of available resources**, which must be guided by the principles of cost-benefit and maximization of investment to ensure its social return.
- **Information systems and information flow.** Just as the inappropriate allocation of resources can generate significant institutional asymmetries, limiting the flow of information can increase asymmetries. On the contrary, an adequate flow of information promotes the correct performance of institutional functions, the optimization of resources and speeds up daily operations.
- **Generation of information on performance.** Without adequate, pertinent, precise and updated information on the performance of the system when responding to the demands of the environment, it is not feasible to eliminate the deficiencies and overcome the limitations in any of the above conditions.

Few areas of public action build systems as complex as criminal justice, which combines the operation of at least six institutions¹ framed in two government branches, plus a body that enjoys constitutional autonomy in several

Diagram 1. Determinants of the Operation of the Criminal Procedural Justice System



entities that overlaps with two additional systems: crime prevention and enforcement. **We are talking about six different 'logics', with different incentives, with very divergent budgetary needs and whose functions can have a high level of antagonism.**

In this scenario, having solid operating conditions facilitates the delivery of harmonious and effective responses to citizen demands to reduce impunity. On the other hand, weakened conditioning factors or factors that hinder the operation of the system may result in the withdrawal of the State in one of its basic functions: the administration of social conflict through criminal proceedings.

¹ Police, which can be state, municipal or one of the different federal forces; 2. Attorney General's Offices; 3. Defender's offices; 4. Executive commissions for attention to victims; 5. Judiciaries; 6. Penalty enforcement system.

2.1 Technical Coordination National Body

National technical coordination should be the steering wheel within this scheme. It is the mechanism that precisely gives the criminal justice system a systemic nature, by articulating its different components in the definition of common goals, the identification of systemic challenges and the approach of differentiated strategies for each institution.

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

- **Generation and strengthening of systemic planning processes**, with short, medium, and long-term horizons, in which common objectives and goals are established that allow the articulation of public policies with a State vision, as well as institutional policies for the achievement of tactical and strategic objectives.
- **Assumption of leadership** to formulate national policies on criminal justice.
- **Construction of guidelines** and operating standards.
- **Promotion of the registration, production, systematization and flow of information** for the construction of public policies, the planning and definition of specific improvement projects, the monitoring of the impact of the strategies developed and the consolidation of the adversarial justice system.
- **Carry out periodic and permanent monitoring and evaluation** of the criminal justice system.

In *Hallazgos 2019*, we analyzed the transfer of coordination powers from the Executive Secretariat of the National Public Security System (SESNSP) to the Justice System Support Unit (UASJ) of the Ministry of the Interior. This transfer occurred through an agreement of the National Public Security Council² and the issuance of the Internal Regulations of the Ministry of the Interior³, in which faculties and attributions are assigned to it. We observe that, of the 18 faculties assigned to the UASJ, nine of them refer only to the criminal execution system

and post-criminal services, together with a transversal faculty of issuing opinions.

Of the remaining faculties, four are part of the consolidation of the system, without indicating any matter —domestic, civil, labor, criminal or administrative. They have to do, as understood, with activities such as the issuance of opinions for the standardization of criteria or the promotion of programs to obtain performance indicators.

On the other hand, only three attributions are specific to the criminal justice system:

- Act as an operational and coordination liaison between local and federal authorities for the strengthening and consolidation of the criminal justice system, in terms of the applicable regulations.
- Coordinate, with the responsible institutions, the signing of agreements and other legal instruments, as well as the development of mechanisms that allow strengthening the system, as well as the actions necessary for its consolidation.
- Establish technical, legal, training and dissemination criteria on the system aimed at the subjects of criminal proceedings referred to in article 105 of the National Code of Criminal Procedures, for the strengthening and support of the consolidation of the system itself.

In the aforementioned edition of *Hallazgos* we concluded that the powers assigned to the UASJ could be insufficient to achieve adequate national technical coordination, especially due to the overlap of its coordinating function with other institutional coordination mechanisms, such as the National Conference of Security, the National Conference for Justice Procurement or the National Conference of Courts, which with greater or lesser success develop the coordination efforts of the institutions they represent, although with a loss of systemic vision.

Already in *Hallazgos 2020* we had the opportunity to analyze the work developed by the UASJ. We identified an effort on the part of the Unit in the development and execution of the 'Roundtables for Justice', which review specific cases presented by any of the procedural subjects – accused-defender, public prosecutor, victim-legal advisor – in which there is any controversy, in order to

² AGREEMENTS of the National Public Security Council, approved at its Forty-fifth Ordinary Session, held on December 18, 2019. Available at: https://dof.gob.mx/nota_detalle_popup.php?codigo=5583703 accessed July 4, 2022

³ Internal Regulations of the Ministry of the Interior. *Official Journal of the Federation* (DOF, 05/31/2019). Available at: https://dof.gob.mx/nota_detalle.php?code=5561631&date=05/31/2019#gsc.tab=0



issue a technical opinion, showing the support routes in the prevention, investigation, enforcement and restitution. In short, they are an informal mechanism for reviewing cases, parallel to the formal protection and challenge mechanisms provided for in procedural regulations. Although it is stated that the approval and management criteria are generated through the roundtables, this information has not been made public, nor are the national efforts in this regard known. There is also no work to identify spaces of arbitrariness or the origins of the acts that violate the rights of the parties, based on the cases themselves analyzed by the roundtables.

The previous observations are maintained in this edition. Without regulatory changes, the powers assigned to the UASJ continue to be insufficient to achieve national technical coordination. On the other hand, the limitations of personnel and resources, as well as the organizational structure itself, inhibit any effort that tries to cross through the various institutions, in pursuit of national coordination.⁴

As can be seen in the context of the regulatory structure of the Ministry of the Interior (Scheme 2), the UASJ does not foresee general directorates destined to articulate with the public security secretariats, public defenders, victims' commissions, human rights organizations, the Attorney General's Office of the Republic, nor with the Federal Judiciary. Moreover, the general directorate for courts and state attorneys does not have the powers to articulate with the National Commission of Superior Courts of Justice, nor with the National Conference of Procurement of Justice.⁵ Indeed, the low hierarchical position of the UASJ and its reduced organizational structure allow us to glimpse the degree of political will of the current Executive towards strengthening the coordination of criminal justice.

One way to assess the political scope of the UASJ – its possibilities of coordinating the system beyond its regulatory powers– is to identify its hierarchical level and the size of its organic structure. For example, it is enough to compare the UASJ with the Undersecretariat for Democratic Development, which has three units and adds six general directorates. Another contrast is offered by the decentralized bodies that are part of SEGOB, among which is the National Institute for

Federalism and Municipal Development (INAFED), whose purpose is to promote policies and actions on federalism, decentralization, and municipal development⁶ or the Office for the Comprehensive Care of Migration on the Southern Border, whose existence is parallel to the Migration Policy Unit, the National Institute of Migration and the General Coordination of Mexican Commission for Refugee Assistance⁷.

This circumstance has led the UASJ to concentrate its efforts on the installation of the aforementioned Roundtables for Justice and on the publication (May 2021⁸) of the *Therapeutic Justice Guide*, through which the “rehabilitation of this population [drug users deprived of liberty] is promoted, offering a process of social reintegration and achieving reconciliation and forgiveness, both with the victim and with their community”⁹.

On the other hand, the efforts to update the Monitoring and Evaluation Model of the Criminal Justice System (CJS) (whose indicators were built by the SESNSP with a public security perspective, which makes invisible the work of procuring and administering criminal justice) have been left out. **The result: there are no relevant and accurate indicators that describe the work of the justice system.** In addition, the important effort that the UASJ made to carry out a diagnosis of institutional needs has not been accompanied by actions to attend to such needs. In short, we do not identify an effort to reduce asymmetries.

Nor do we observe any interest in fostering a discussion about the needs of the defenders and victims' commissions, both in terms of resources, training, capacities, and access to expert services, as well as the regulatory limitations that give prosecutorial offices an operational advantage. This situation constitutes a regression, since it blocks the possibility to have an effective criminal defense and impacts due process.

The withdrawal of the technical coordination bodies persists, which has concentrated its efforts on the development of activities that lack a systemic perspective or consolidation of the system itself. This leaves a panorama of isolated and fragmented efforts, which do

⁴ Decentralized bodies sectorized to the Ministry of the Interior are not included.

⁵ Article 65. Internal Regulations of the Ministry of the Interior.

⁶ Article 117. *Ibid*

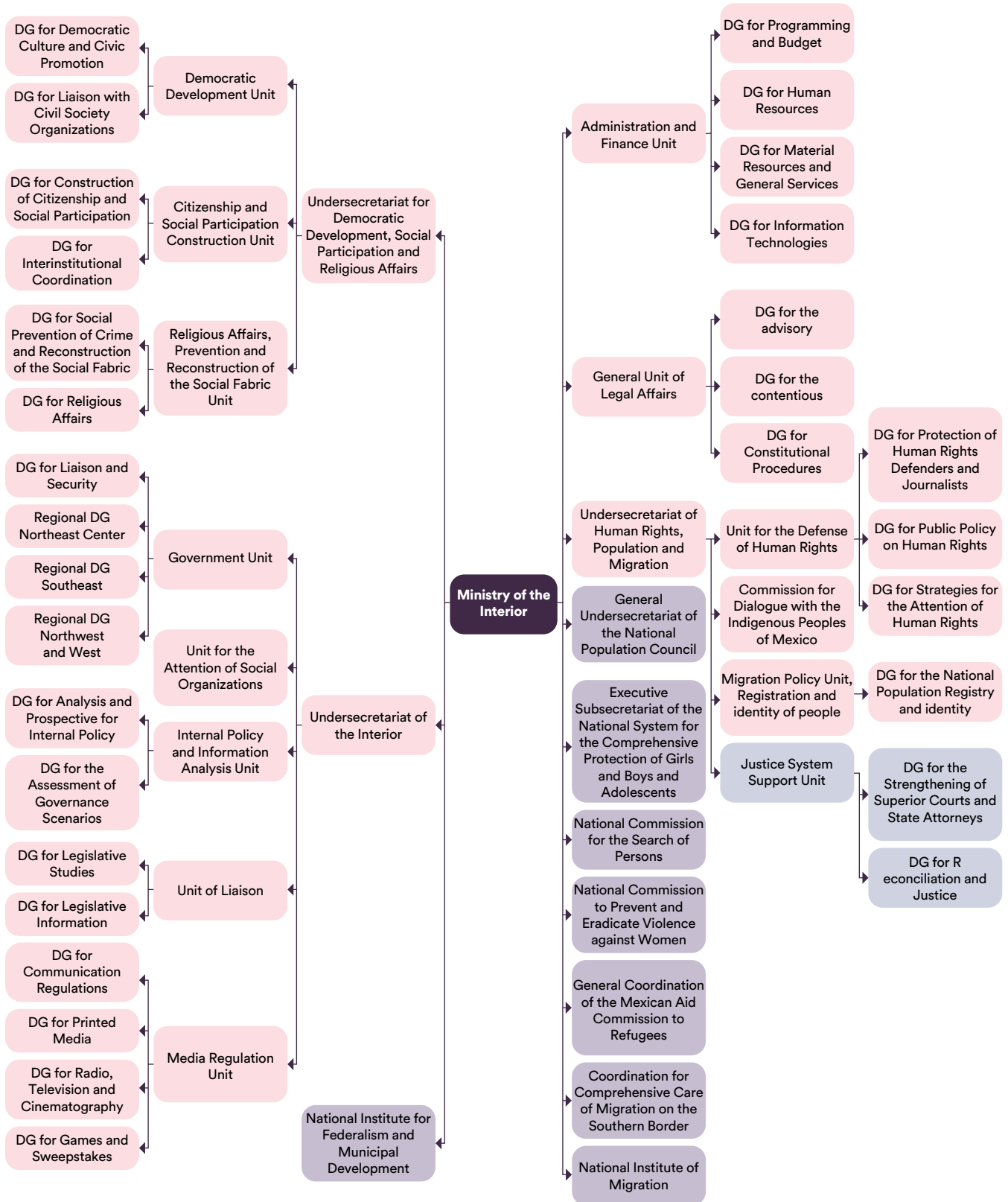
⁷ Article 154. *Ibid*

⁸ Justice System Support Unit. Ministry of the Interior (2021). *Therapeutic Justice Guide*. Justice System Support Unit. Available at: https://justicia.segob.gob.mx/es/UASJ/Direccion_General_para_la_Reconciliacion_y_Justicia Accessed August 4, 2022

⁹ *Ibid*. Page 7



Diagram 2. Regulatory Structure of the Ministry of the Interior (SEGOB)



Note: The decentralized bodies attached by Regulation to SEGOB are shown in purple (but decentralized bodies also sectorized to SEGOB are not included).
Source: Own elaboration based on the Internal Regulations of the Ministry of the Interior | @mexevalua.



not underpin the weaknesses detected, particularly in entities that lack formal coordination mechanisms, such as public defenders and victims' commissions.

In short, and as its name indicates, **the Justice System Support Unit (UASJ, in Spanish) is more of a support unit than a true body of national coordination.** In other words, the main purpose of this unit is to provide support to the presidential decree for the pre-release of convicted persons, those in pretrial detention, and victims of torture deprived of their liberty,¹⁰ as well as the implementation of the Amnesty Law published in 2020.

The current regulatory framework and the institutional framework do not understand criminal justice as a *true system*. This means that in Mexico we do not have a regulatory framework or a national coordination body that makes possible the articulated, coordinated and harmonious operation of criminal justice. This conclusion is further reinforced by remembering that other countries have a ministry of justice that reports directly to the Executive Branch. For example, in Argentina, Chile and Perú, a Ministry of Justice and Human Rights was established in charge of building bridges between the Executive Branch and the Judiciary, and promoting respect for human rights.

2.2 State Coordination Bodies

As we have seen, the proper functioning of the CJS requires constant and harmonized interactions between the different institutions, from which uniform responses are offered. Thus, technical coordination can be understood as the transmission mechanism that attends to individual and group needs, challenges, and limitations. It can only function properly if the state coordination bodies can effectively work on the lines of action that we describe in Table 1.

2.2.1 Mapping of the Technical Coordination Bodies and their Changes

In February 2020, the so-called First Session of Consolidating Bodies of the Criminal Justice System was held. Headed by SEGOB, the representatives of the federal entities in charge of this issue met. The second session

Table 1. Areas and Attributions Necessary for Adequate Technical Coordination

Axis 1: Coordination Articulation	Axis 2: Planning and Budgeting	Axis 3: Facilitators	Axis 4: Regulations
Horizontal coordination between the operating institutions of the system	Planning	Infrastructure	Criteria Homologation
Vertical articulation with the Federal and Municipal levels of government	Budget Design	Training	Agreements and Guidelines
	Tracking and Monitoring	Information Systems	Proposals to Modify the Legal Framework
	Evaluation and Diagnosis	Databases	

was held in September 2021. Based on these works, the UASJ published a mapping of the basic institutional structures related to criminal justice in each entity.¹¹

According to this report, there are no institutions that function as consolidating bodies or entities in Michoacán, Morelos, Oaxaca and Querétaro. Obviously, there are errors in the mapping, since it is well known that Querétaro has a commission established years ago for these tasks, which is a national reference for the coordination of the justice system.

Even with its errors, the UASJ exercise is useful to demonstrate how difficult it is to identify which institutions perform this function. In addition, it allows to quickly locate the states that maintain the articulation of criminal justice as one of the functions of the State Public Security System: Aguascalientes, Campeche, Durango, Guerrero, Hidalgo, Quintana Roo and Tabasco.

In *Hallazgos 2020* we observed that the withdrawal of the National Technical Coordination Body was having an impact on state entities, verifiable in the weakening or disappearance of some of them. In order to deepen and understand more precisely this 'effect' of the national body on its state counterparts, we compare the information reported by the UASJ with the information requests that we prepared for this work, as well as with the information that each entity publishes on its website. Table 2 shows the results of the comparison, where we can note that the information from the three sources does not necessarily coincide, despite coming, in theory, from the same data. The *lack of clarity and centrality*

¹⁰ AGREEMENT by which the institutions indicated therein are instructed to carry out actions to manage, before the competent authorities, the requests for pre-release of sentenced persons, as well as to identify cases of both, persons in pretrial detention, as well as those who have been victims of torture, in terms of the applicable legal provisions. *Official Journal of the Federation* (DOF, 08/25/2021). https://www.dof.gob.mx/nota_detalle.php?codigo=5627705&date=08/25/2021#gsc.tab=0

¹¹ Structure of the Criminal Justice System. Official page of the Government of Mexico. https://justicia.segob.gob.mx/es/UASJ/Estructura_del_sistema_de_justicia_penal



Table 2. Entities for the Articulation of Criminal Justice

State	Instance of Articulation of Criminal Justice	Assignment of the Technical Secretariat or Liaison Unit	Legal Basis	Recent publications on the articulation of the criminal justice system (official website)
Aguascalientes	Executive Secretariat of the State Public Security System	General Secretariat of Government	Decree of 2019	It has no publications on the articulation of criminal justice
Baja California	Department of Attention to Justice Affairs of the Legal Undersecretariat	General Secretariat of Government 2021. Changed to Legal Counsel in 2022.	Internal regulations of the SGG, until 2021. Internal regulations of the Legal Department in 2022.	The page now refers to the Legal Department. It has recent information
Baja California Sur	Commission for the Consolidation, Evaluation and Monitoring of the Criminal Justice System	Executive Secretariat attached to the General Secretariat of Government	2017 Agreement (reinstated in 2021)	Yes. Reinstated in December 2021
Campeche	State Council of Public Safety	Secretariat of Government	Law of the State Public Security System. But it does not have attributions for the articulation of the criminal justice system	It has no publications on the articulation of criminal justice
Mexico City	General Legal and Human Rights Coordination	Attorney General of Justice	Organic Law of the General Prosecutor of Justice. But it does not have attributions for the articulation of the criminal justice system	It has no publications on the articulation of criminal justice
Chiapas	Inter-institutional Commission for the Implementation of the Constitutional Reform in Matters of Security and Criminal Justice	Superior Court of Justice (but the Technical Secretariat does not appear in the organization chart)	Decree of 2010	Latest publications regarding the SETEC subsidy 2016
Chihuahua	State Center for the Consolidation of the Criminal Justice System	Superior Court of Justice	Decree of 2017	Yes
Coahuila	Coordination Council for the Implementation of the New Criminal Justice System	Commission (Technical Secretariat) attached directly to the Executive Power	Organic Law of the Public Administration of the State. Law for the Implementation, Monitoring and Evaluation of the Accusatory and Oral Criminal Justice System in the State	Yes
Colima	Commission for the Implementation of the Criminal Justice System	General Secretariat of Government	2010 agreement	Latest posts of 2019
Durango	Coordination of Consolidation of the Criminal Justice System and Social Communication	Executive Secretariat of the State Council of Public Safety	Internal Regulations of the Executive Secretariat of the State Council for Public Safety	It has no publications on the articulation of criminal justice
State of Mexico	Ministry of Justice and Human Rights	Direct from the Executive Power	Organic Law of the Public Administration of the State. But it does not have attributions for the articulation of the criminal justice system	Latest publications regarding the SETEC subsidy 2015
Guanajuato	In 2021 there was no entity. In 2022 the State Commission for the Implementation of the Criminal Justice System was installed	Technical Secretariat attached to the Government Secretariat	2021 Convention	It was incorporated in January 2022
Guerrero	Executive Secretariat of the State Public Security System	Department of Public Security	Law of the State Public Security System. But it does not have attributions for the articulation of the criminal justice system	It has no publications on the articulation of criminal justice
Hidalgo	Executive Secretariat of the State Council of Public Safety	Secretariat of Government	Decree of 2017	It has no publications on the articulation of criminal justice
Jalisco	Coordination Council for the Implementation of the New Criminal Justice System	Executive Secretariat attached to the General Strategic Security Coordination	2013 agreement	Latest posts of 2016
Michoacán	There is no "consolidating body" according to the mapping of the UASJ and the institutions referred to in the requests for access to information declared incompetence			
Morelos	There is no "consolidating body" according to the mapping of the UASJ and the institutions referred to in the requests for access to information declared incompetence			



Table 2. Entities for the Articulation of Criminal Justice (Continued)

State	Instance of Articulation of Criminal Justice	Assignment of the Technical Secretariat or Liaison Unit	Legal Basis	Recent publications on the articulation of the criminal justice system (official website)
Nayarit	In 2021 there was no entity. In 2022, the Inter-Institutional Coordination Commission for the Consolidation of the Criminal Justice System was reinstated	Technical Secretariat attached directly to the Commission	2014 agreement	Reinstated in June 2022
Nuevo León	Executive Commission for the Consolidation of the Justice System and Supervision of Conditional Release	Decentralized Body attached to the General Secretariat of Government	Internal Regulations of the General Secretariat of Government	It has no publications on the articulation of criminal justice
Oaxaca	Executive Secretariat of the State Public Security System	General Secretariat of Government	Internal Regulations of the General Secretariat of Government. But it does not have attributions for the articulation of the criminal justice system.	It has no publications on the articulation of criminal justice
Puebla	Executive Commission for the Update and Modernization of the Procurement and Administration of Justice	Ministry of the Interior	2016 agreement	There is no official page where the Commission appears. Nor does it appear on the State Transparency Portal
Querétro	Commission for the Evaluation of the Operation of the Accusatory Criminal Justice System of the State of Querétro (COSMOS)	Directly from the Executive Power (with the participation of the three powers)	Law that creates the Commission for the Evaluation of the Operation of the State Accusatory Criminal Justice System	Yes
Quintana Roo	Executive Secretariat of the State Public Security System	General Secretariat of Government	Internal Regulations of the General Secretariat of Government. But it does not have attributions for the articulation of the criminal justice system. And the Secretariat declared incompetence to respond to the request for information	It has no publications on the articulation of criminal justice. In fact, the Secretariat responded with incompetence to the request for information
San Luis Potosí	Inter-institutional Commission for the Strengthening of the Criminal Justice System	Collegiate body" chaired by the General Secretariat of Government	It does not seem to have any legal basis. Within the Administrative Units of the Secretariat there is no liaison or technical work for the Commission. And the Secretariat declared incompetence to respond to the request for information	There is only one publication from 2020 that refers to an online meeting during which the Commission was "installed"
Sinaloa	Quadripartite Instance for the Consolidation of the Criminal Justice System	Liaison unit attached to the Executive Secretariat of the State Public Security System	2017 agreement. Regulations of the Executive Secretariat of the State Public Security System	The government's "Unique Portal" does not have publications on the articulation of criminal justice
Sonora	Interministerial Commission for the Consolidation of the Criminal Justice System	Technical Secretariat attached to the Attorney General's Office of Justice	2020 agreement	Yes
Tabasco	Executive Secretariat of the State Public Security System	Decentralized body of the Secretariat of Government	Internal Regulations of the Executive Secretariat of the State Public Security System	It has no publications on the articulation of criminal justice
Tamaulipas	The UASJ mapped a Technical Secretariat, but it does not appear on the official pages of the State	General Secretariat of Government	The Secretariat declared incompetence to respond to the request for information and referred it to the Executive Secretariat of the State Public Security System	The Technical Secretariat does not appear on the pages of the SGG nor the SESESP
Tlaxcala	Directorate for the Evaluation and Monitoring of the Criminal Justice System	Secretariat of Government	Internal Regulations of the Secretariat of Government	Yes
Veracruz	General Directorate for the Consolidation of the Criminal Justice System	Undersecretary of Legal and Legislative Affairs of the General Secretariat of Government	Internal Regulations of the Secretariat of Government	Yes



Table 2. Entities for the Articulation of Criminal Justice (Continued)

State	Instance of Articulation of Criminal Justice	Assignment of the Technical Secretariat or Liaison Unit	Legal Basis	Recent publications on the articulation of the criminal justice system (official website)
Yucatán	Commission for the Implementation of Security and Justice	Executive Secretariat attached to the Legal Department	Decree of 2009	Latest publications on the subject of 2018
Zacatecas	The UASJ mapped a Pro Tempore Secretariat, but it does not appear on the official pages of the State	The state did not respond to the request for access to information		The Pro Tempore Secretariat does not appear on the official pages of the State
Federation	Justice System Support Unit	SEGOB Human Rights Undersecretariat	Internal regulations of SEGOB	Yes

Source: Own elaboration based on the mapping of the UASJ, 16 data obtained from requests for public information and review of the official pages of the states. |@mexevalua.

concerning the entities of technical coordination thus becomes an important finding.

In Table 2, the term ‘articulation’ is used because the vast majority of these institutions only have powers to function as spaces for communication and agreement monitoring. Their attributions allow them to function as links between various institutions, but they cannot design and implement strategies for the consolidation of the system on their own initiative. **There are few (really very few) that can design, implement and evaluate actions for the orderly and harmonious performance of institutions related to criminal justice.**

In short, it is not possible to find evidence –online or through requests for information– that all states have in 2021 some instance of articulation of criminal justice. Apparently, no institution exercised this function in Michoacán, Morelos, Tamaulipas and Zacatecas. In Baja California Sur, a commission was reinstated in December 2021, and in Guanajuato, Morelos, and Nayarit, commissions were reinstated only in 2022. It should be noted that the three states that reinstated their commissions did so through agreements or other forms of formal ‘contracts’. This adds evidence in favor of the hypothesis that establishing this type of instance through this type of legal instrument ends up giving them very little institutional stability.

In another 18 states, it is not possible to find recent evidence of efforts to articulate the criminal justice system online. This does not mean that they are not working: some of the corresponding institutions sent reports on their activities during 2021, and many of these dedicate a good part of their time to training activities. But it is necessary to highlight the absence of proactive accountability, as well as the lack of publication of indicators that allow monitoring and evaluating progress in the consolidation of the criminal justice system.

Likewise, the great disparity that prevails among the states that do have articulation agencies is striking. **While Baja California Sur and Querétaro have extensive and specialized organizational structures, in Veracruz, for example, the organization chart of the General Directorate for the Consolidation of the Criminal Justice System includes only four people.** In Durango, only one person works in the Coordination for the Consolidation of the Criminal Justice and Social Communication System.

Finally, it should be noted that in the states where the articulation of criminal justice has been left in charge of the Executive Secretariats of the State Public Security Systems (SESESP, in Spanish) it is not possible to find online evidence of their recent work, since their websites are mostly focused on the dissemination of public security tasks. This undoubtedly reflects their institutional priorities and shows the imbalance caused by the establishment of the SESESPs as coordinating bodies of the criminal justice system. And while being framed in crime prevention systems, their interests and priorities, their definition of problems and strategies will have a perspective that is not aligned with the work of the institutions of the criminal justice system.

2.2.2 Technical Coordination Index

To analyze whether the technical coordination bodies are able to carry out inter-institutional coordination effectively, based on *Hallazgos 2019* we have built the Technical Coordination Index (ICTE), which measures the four main axes of technical coordination, as defined at the beginning of this section:

1. Coordination and Articulation
2. Planning and Budget
3. Facilitators
4. Normativity



No axis is more important than another for the effective functioning of the coordination entities. Thus, it appears to be the appropriate approach to develop the ICTE: its simplicity allows us to easily observe the areas of technical coordination that require further strengthening.

During 2021, clear changes can be seen in the ICTE because, as we already mentioned, some of the state technical coordination entities were reinstated, others had modifications in their regulatory framework. An increase in coordination powers is observed, going from a national average of 33.9 points out of 100 in coordination capacity (2020) to 34.76 points in 2021. **In this way, a reversal of the trend observed in previous years is identified**, marked by the withdrawal and closure of the state entities of technical coordination.

The National Coordination Body also acts as a technical coordination entity at the federal level, so the UASJ fulfills a double function: articulate the consolidation efforts of

the system at the national level –vertical articulation– and coordinate efforts to consolidate the criminal justice system at the federal level –horizontal articulation–. It must be said that the efforts at the federal level are null: there is no work to identify objectives, needs and common challenges, nor an effort to standardize criteria. In the technical part, the necessary training frameworks are not generated either; the exchange and flow of information between the different actors that make up the system is not facilitated. The result is that **each institution carries out its work without a systemic understanding: without dimensioning how its individual challenges fit into common challenges**.

Six years have passed since the consolidation stage of the judicial reform of 2008. It is imperative to reach a consensus on the need for technical coordination and the form it should take. During 2021 we observe that there is an awareness of its importance; for this reason, we believe that the momentum should be seized and

Table 3. Technical Coordination Index*

State	Axis 1 Coordination and Articulation	Axis 2 Planning and Budget	Axis 3 Facilitators	Axis 4 Normativity	ICTE
Querétaro	1	1	1	1	100
State of Mexico	1	0.5	0.75	1	81.25
Baja California Sur	1	1	0.25	0.5	68.75
Coahuila	0.5	1	0.25	1	68.75
Colima	1	0.5	0.75	0.5	68.75
Veracruz	1	0.75	0.5	0.5	68.75
Guanajuato	0.5	0.75	0.5	1	62.5
Aguascalientes	0.5	1	0.25	0.5	56.25
Chihuahua	1	0.75	0.5	0	56.25
Hidalgo	0.5	0.75	0.5	0.5	56.25
Jalisco	0.5	0.5	0.25	1	56.25
Chiapas	1	0.25	0.25	0.5	50
Tlaxcala	0.5	0.75	0.25	0.5	50
Nuevo León	0.5	0.5	0.25	0.5	43.75
Sinaloa	0.5	0.75	0.5	0	43.75
Puebla	1	0	0	0.5	37.5
Yucatán	0.5	0.5	0.5	0	37.5
Sonora	0.5	0.75	0.25	0	37.5
National Average	0.4394	0.3333	0.2045	0.3030	34.7656
Federation	0.5	0.25	0	0.5	31.25
Baja California	0	0.5	0	0.5	25
Durango	0.5	0.25	0.25	0	25
Mexico City	0.5	0	0	0	12.5
Quintana Roo	0.5	0	0	0	12.5

* Each axis is measured by binary variables that show whether or not the ICTE has the necessary characteristic for its correct operation. If the ICTE has the characteristic, it is assigned a value of 1; otherwise the value is 0. The score of each axis corresponds to the average score obtained in each of the variables that compose it...

...where:

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

n = total number of variables of component N



the coordination models that are being successfully developed should be analyzed, while providing the entities with the necessary capacities and resources to achieve effective coordination, reduce institutional asymmetries and the definition of objectives and goals of the system with medium and long-term horizons.

As **good practice examples**, this year we highlight the cases of Baja California Sur and Coahuila.

Baja California Sur

States that do not have coordinating entities or bodies of the criminal justice system can find a good example in the reinstatement of the Consolidation Commission in Baja California Sur, which became a reality thanks to the existence of a prior agreement between the three powers of the state.¹² Its main attribution, established in the agreement, is to form a harmonious whole from the state institutional framework.

It is recommended that, in order to give the Commission solidity and foster its stability, the Legislative Branch should follow up on its performance, with a view to providing a more solid regulatory framework. In fact, this route was the one followed in Querétaro, and it could well be useful to other states (and the Federation itself).

According to the considerations of the agreement itself, the Commission was originally created because at the end of the implementation period of the accusatory system it was estimated that the progress was not sufficient to achieve “permanently and successfully the comprehensive operation of the system throughout the State.”¹³

This, added to the fact that “it is necessary to carry out permanent monitoring, in order to identify those aspects that deserve some degree of adjustment or rectification”¹⁴. These two motivations shaped the objectives of the Commission:

1. **Promote conditions for inter-institutional collaboration** among the other public and private institutions whose interference is relevant to achieve the consolidation of the accusatory and oral criminal justice system in the state.

Diagram 3. Members of the Commission for the Consolidation, Evaluation and Monitoring of the Criminal Justice System in Baja California Sur

Executive Power	Judiciary	Legislative Power
<ul style="list-style-type: none"> • Governor of the State (who chairs it) • General Secretary of Government • Attorney General of Justice • Undersecretary of Public Safety • Undersecretary of the Legal Department • Executive Secretary of the Commission (with voice, without vote) 	<ul style="list-style-type: none"> • President of the Superior Court of Justice • Magistrate appointed by the Plenary of the Superior Court of Justice 	<ul style="list-style-type: none"> • President of the State Congress • President of the Permanent Commission on Constitutional and Justice Points • President of the Permanent Commission of Public Safety

Source: OOwn elaboration based on the Agreement of the Commission creation | @mexevalua.

2. **Evaluate its operation and formulate proposals and technical recommendations** for the continuous improvement of the operating institutions of the criminal justice system.

The agreement specifies the powers of the Commission, among which are:

- Approve the annual investment projects for the consolidation of the criminal justice system, as well as the budget for it.
- Analyze and, where appropriate, cancel approved projects for non-compliance.
- Evaluate the physical and financial progress registered by the institutions operating the system.
- Plan, schedule, evaluate and monitor all the activities of the operating institutions.
- Know the inventories of the operating institutions and analyze their needs assessment.
- Request information from the institutions operating the system in order to integrate statistical evaluation with which to follow up on all the actions required to achieve the consolidation of the system.

¹² AGREEMENT that creates the Commission for the Consolidation, Evaluation and Follow-up of the Criminal Justice System for the State of Baja California Sur and its Executive Secretariat and replaces the Commission for the Implementation of the New Criminal Justice System for the State of Baja California Sur and its Executive Secretariat. *Official Gazette of the Government of the State of Baja California Sur*, No. 34 (08/31/2017). Available at: https://justiciapenalbcs.gob.mx/documentos/marco_normativo/AC_CCESSJP.pdf

¹³ *Ibidem*. Page 156

¹⁴ *Loc. Cit.*



In particular, the agreement emphasizes that “monitoring, evaluation and follow-up is essential” of the following topics:

- Alternative Dispute Resolution Mechanisms
- Procurement and administration of justice, in general
- Public and Private Defense Services
- Compensation system for crime victims
- Police institutions and supervisory authority for precautionary measures and pre-trial diversion
- Comprehensive Criminal Justice System for Adolescents
- Criminal execution system
- Prison System

Coahuila

In October 2012, the Law for the Implementation, Monitoring and Evaluation of the Accusatory and Oral Penal System was published in Coahuila, with the objective of “establishing the bases for coordination and collaboration between the State Powers, the municipalities and the public, social and private sectors”, for the proper functioning of the criminal justice system. The law was amended in 2019 and its current provisions provide the main legal support for the operation of the Coordination Council for the Implementation of the Criminal Justice System.

Among the powers granted by law to the Coordination Council, these can be indicated as good practices:

- Approve the indicators for evaluation and measurement of progress in the implementation of the System in the State *and ensure compliance* (the emphasis is ours).
- Promote the presentation of bills or legislative reforms.
- Propose organizational, management and competition changes.
- Assist with the local Congress in the monitoring and evaluation of the budgetary resources exercised.

In order to operate and execute the agreements and determinations of the Council, the law provided for the creation of a Commission for the Implementation of the New Criminal Justice System, as a decentralized unit attached to the Office of the Governor. It is

Diagram 4. Members of the Coordination Council for the Implementation of the Criminal Justice System in Coahuila

Executive Power	Judiciary	Legislative Power
<ul style="list-style-type: none"> • Governor of the State (who chairs it) • Secretary of Government • Attorney General of Justice • Public Safety Secretary • Finance Secretary • Secretary of Infrastructure and Transportation • Head of the Legal Department • State Attorney General • Commissioner for the Implementation of the New Criminal Justice System (who acts as Technical Secretary) 	<ul style="list-style-type: none"> • President of the Superior Court of Justice • Magistrate of the Plenary Chamber of the Superior Court of Justice • Counselor of the Council of the Judiciary 	<ul style="list-style-type: none"> • President of the Governing Board of the State Congress • Coordinator of the Commission of the Interior, Constitutional Points and Justice • Public Safety Commission Coordinator • Coordinator of the Commission for the Defense of Human Rights

Source: Own elaboration based on the Law for the Implementation, Monitoring and Evaluation of the Accusatory and Oral Criminal System in the State of Coahuila de Zaragoza | @mexevalua.

expected that the Commission has, at least, the following areas:

- Planning and programming
- Legal and regulatory analysis
- Management and reorganization
- Training
- Infrastructure
- Diffusion
- Assistance and inter-institutional coordination
- Administration and finance

Valuable examples of coordination faculties granted by law to the Commission include:

- Design and implement policies, programs and mechanisms for the criminal justice system.
- Execute and supervise the actions necessary to comply with the Council’s agreements.
- Promote the study, research, updating and improvement of the state legal framework.
- Analyze, evaluate and monitor coordination programs.
- Design (and propose to the Council for its approval) the indicators for evaluating and measuring the progress of the criminal justice system.



2.3 Comprehensive, Continuous and Public Planning Process

The Political Constitution of Mexico establishes the obligation to organize a system of *democratic planning* to harmonize the efforts of the public administration, and thus achieve the established goals, address public problems in an effective and coherent manner and pay attention to citizen demands on different issues. The main instrument of this system is the *development plan*, either the National Development Plan (PND) or the State Development Plans (PES), to which the public administration programs will be compulsorily subject.

On the other hand, the Planning Law, which regulates this system, specifies that the National Development Plan will indicate the sectoral, institutional, regional and special programs that must be prepared, without prejudice to those whose preparation is provided for in the laws or that are subsequently determined by the Republic President.

The fact is that **the National Development Plan 2019-2024¹⁵ does not indicate which sectoral, institutional, regional and special programs should be developed.** In the previous six-year terms, the 2007-2012 Justice Procurement Sector Program,¹⁶ and, subsequently, the National Justice Procurement Program 2013-2018¹⁷ were published. But at the time of writing these lines, no similar program has been published for this six-year term.

Instead of a strengthening of the planning of the system and its compression, isolated efforts are observed to carry out necessarily fragmented planning, e.g. the development of prosecution plans or policies by the prosecutor's offices, which although they are an important exercise to carry out an adequate orientation of the institutional efforts towards the attention of crime, we do not observe that they are related to a distribution of human, material, investigative or logistical resources; nor do we notice that these planning efforts have an impact on the budget and program design, on the professional career service, on the management model and, above all, that they

communicate with the actions of the other institutions that make up the system.

As an example of the above, we have the Strategic Plan for the Procurement of Justice that the Attorney General is required to prepare, and which is unrelated to the National Development Plan and any sectoral or special inter-institutional program for the procurement of justice:



*The Attorney General's Office must publish the Justice Procurement Strategic Plan every three years. **In said programmatic instrument, the institutional strategies will be determined,** objectives, measurable goals in the short, medium and long term, as well as research priorities for the efficiency and effectiveness of criminal prosecution, based on the analysis and determination of human capital and financial resources available for the proper performance of the substantive function; **it must structure the functions and establish the principles that will govern the Institution,** from a criminal policy based on in-depth knowledge of the criminal phenomenon to focus its efforts and resources on responding to the criminal conflict, providing adequate attention to the victim and improving access to justice" (the emphasis is ours)¹⁸.*

As can be seen, this new programmatic document only refers to the institution itself, the Attorney General. In other words, it is not an instrument that articulates the operation of various institutions as, in theory, the previous Sectoral Program and the National Program for the Procurement of Justice did. As if this were not exceptional in itself, it is not possible to find this new Strategic Plan on the Prosecutor's website, which also had to be delivered to the Senate within a period that expired on May 21, 2022 (transitory article twelfth of this law). Only one Provisional Criminal Prosecution Plan is published on the Attorney General website.¹⁹

¹⁵ National Development PLAN 2019-2024. *Official Journal of the Federation* (DOF, 07/12/2019). Available at: https://www.dof.gob.mx/nota_detalle.php?code=5565599&date=07/12/2019#gsc.tab=0

¹⁶ Justice Procurement Sector PROGRAM 2007-2012. *Official Journal of the Federation* (DOF, 02/21/2008). Available at: https://dof.gob.mx/nota_detalle.php?code=5030258&date=02/21/2008#gsc.tab=0

¹⁷ National Justice Procurement PROGRAM 2013-2018. *Official Journal of the Federation* (DOF, 07/12/2019). Available at: https://www.dof.gob.mx/nota_detalle.php?code=5326462&date=12/16/2013#gsc.tab=0

¹⁸ ARTICLE 88. Law of the Attorney General of the Republic. Available at: https://www.diputados.gob.mx/LeyesBiblio/pdf/LFGR_200521.pdf

¹⁹ Attorney General of the Republic (2019). Provisional Criminal Prosecution Plan. Attorney General of the Republic. Available at: https://www.gob.mx/cms/uploads/attachment/file/537437/PPP_Provisional_Versi_n_Final_Firmada_con_Anexo.pdf



If no planning instrument aligned with the National Development Plan is published —be it a sectoral program or a special inter-institutional program for the administration of criminal justice—, the present Administration will effectively abandon planning as part of the functioning of the institutional framework related to the administration of justice.

It is clear that each of the institutions related to criminal justice must prepare its own institutional planning, but these exercises are annual and for budgetary integration purposes: they do not make up a *systemic planning* for medium and long term.

In the states, it is not easy to find inter-institutional programs on criminal justice either. Few entities made reference to official programmatic “instruments” (documents) in their responses to our requests for information. For this reason, we prefer to review the State Development Plans (PED), which local governments are obliged to prepare.

As a first result, we have that not all the entities mention the State Development Plan in their main “programmatic instrument” nor subjects related to justice, which offers a marked contrast with public security, a subject that the 32 entities discuss in their plans, not to mention that all of them have at least one State Public Safety Program (and some even develop several additional programs, related to topics such as the social prevention of crime or violence). As ‘extreme’ cases, the State Development Plan of Veracruz does not include a single mention of law enforcement; in the one of Tamaulipas only some isolated mentions are made of the matter, within actions related to public safety. Most entities do not mention it the work of judges or courts.

In Table 4 we show **good local practices**, that is, State Development Plans that explicitly mention the obligation to prepare sectoral or special inter-institutional program documents related to criminal justice.²⁰

Nuevo León

One of the greatest successes of the Security and Justice Sector Program 2016-2021²¹ of Nuevo León is that it considers the institutions of public security and criminal justice —those that are within the sphere of the Executive Branch— as a sector, therefore they must be diagnosed and strengthened as one. In addition, it states that other institutions of the same Executive Branch —Institute for

Table 4. Inter-institutional programs explicitly mentioned in the State Development Plan, and which were in force during 2021

State	Inter-institutional programs whose elaboration is mandatory in the State Development Plan
Baja California Sur	State Law Enforcement Program (which includes Labor Justice)
Coahuila	Special Program for the Procurement of Justice for Boys, Girls and the Family
Hidalgo	Special Law Enforcement Program
Jalisco	The State Governance and Development Plan 2018-2024 itself includes sections to support the planning of the institutional development of: <ul style="list-style-type: none"> • The State Judiciary; • The State Human Rights Commission; and • The Court of Administrative Justice. In addition, there is a Sectoral Plan for Security, Justice and the Rule of Law
Michoacán	Sectoral Program for Public Safety and Justice Administration
Nuevo León	Security and Justice Sector Program
Querétaro	COSMOS Strategic Plan
San Luis Potosí	<ul style="list-style-type: none"> • Peace and Justice Sectoral Program • Sectoral Program for Justice and Solid Institutions • Sectoral Program for Social Reintegration • Sectoral Program to Combat Crime and Attention to Victims
Sonora	The State Development Plan 2016-2021 indicates that “derived programs” of the peace and tranquility axis should have been carried out, among others: <ul style="list-style-type: none"> • New criminal justice system • Law enforcement • Rehabilitation and social reintegration

Source: Own elaboration based on the review of the State Development Plans in force in 2021 | @mexevalua.

Innovation and Technology Transfer, the State Institute for Women or the State Institute for Human Rights— can help the development of this sector and, in fact, are included within the strategies and lines of action.

Another of its successes is that it emphasizes information and knowledge as pillars for the development of the sector, and dedicates specific sections to discussing the contributions of the Information Analysis Unit and the Security Sciences University.

It is worth noting that their strategies and lines of action make direct reference to budgetary programs, so that, at least in theory, each of the state strategies has

²⁰ For those not mentioned in this table, it has not been possible to find the *expressed* obligation in their State Development Plans to develop sectoral or special inter-institutional programs in the field of criminal justice.

²¹ Security and Justice Sector PROGRAM 2016-2021 of the State of Nuevo León. Available at: https://www.nl.gob.mx/sites/default/files/programa_seguridad_y_justicia.pdf

resources for their implementation. In addition, a list of “strategic projects” is included, which indicates the responsible agencies and the budget assigned to each of these projects.

Finally, another good practice of this programmatic instrument has to do with the discussion, within the same section, of the budget assigned to the following institutions, which offers a sector vision of the allocation of public resources. This is the ‘universe’ of entities:

- State Executive Victims’ Commission
- Information Center for State Security, Evaluation and Confidence Control
- Public Defender Institute
- State Institute of Public Safety
- Attorney General’s Office
- Executive Secretariat of the Coordination Council of the Comprehensive Public Security System
- Department of Public Security
- University of Security Sciences

Querétaro

In 2018, the state government decided to establish by law the Commission for the Evaluation of the Criminal Justice Operation, called ‘Cosmos’, originally created in 2017 through an agreement. In the same way, the management model that the Commission would promote was named, together with a single computer system, for all those state institutions involved in the matter, including police operation, attention to victims, public defenders, justice for adolescents and the prison system.

As part of its planning efforts in justice and security, by 2021 the following programmatic documents were in force in Querétaro, in hierarchical order:

1. State Development Plan 2016-2021
2. Cosmos Strategic Plan 2019-2023
3. State Security Program 2022-2027
4. Diagnosis Reports and Program to Strengthen the State of Force and State and Municipal Institutional Capacities in Security Matters in the State of Querétaro 2020-2025
5. Cosmos 2021 Work Plan

6. Citizen survey 2021

The purpose of Cosmos Strategic Plan 2019-2023²² is to review and evaluate the “various dimensions” of the state’s criminal justice system, to ultimately promote an administration model “for continuous improvement.” Three main types of objectives are specified in this Plan: coordination, collaboration and strategic. The latter are broken down into operational objectives, with their respective specific actions and the institution in charge of them, along with expected compliance dates.

Among the coordination objectives, which remain in charge of the Commission, it is worth mentioning two of them, along with their lines of action, to show the importance of establishing a coordination body by law, which articulates and orders the planning of the various institutions that make up the criminal justice system:

- Objective 1. Institutional strengthening
 - 1.1 Consolidation of the Internal Legal Framework
 - 1.2 Design and Innovation of Technologies
 - 1.3 Professional Career Service
- Objective 4. Concurrent communicability of the justice system.
 - 4.1 Promote the use of technologies to progressively develop various applications that allow personalized services with users of the justice system in the different operating models.
 - 4.2 Establish a management system that enables the opinions, expressions, criticisms and proposals of system users or participating citizens to be captured through various mechanisms, which facilitates their systemic analysis by the technical and strategic areas.
 - 4.3 Generate interdisciplinary studies that allow the reflection and construction of the communicability of contents, functional objectives, inferential processes and the different operative actions that make possible the evolutionary processes of knowledge of the system from concrete practice, identifying areas of opportunity for improvement.

²² COSMOS Strategic Plan. *La Sombra de Arteaga* (2/08/2019). <https://www.cosmos.gob.mx/comision/view?id=4777AB02-B981-11EB-8F12-E454E8843527>



2.4 Information Systems

Solid computer systems are a powerful tool for management, planning, internal control, transparency and accountability; in short, to strengthen the operation of each institution of the criminal justice system.

We managed to understand the scope and role that computer systems are called upon to have by describing each of their 'areas' of daily and potential utility. Namely:

- As a **management tool**, it should facilitate the monitoring and control of each file and cause entered into the system.
- As a **planning tool**, it must have the capacity to generate the necessary statistical inputs to identify the workloads, management challenges and problems faced by the system.
- As a **criminal investigation support tool**, it can support the identification of criminal patterns, as well as risk areas, procedural risks and system trends, among others, by providing and processing the data contained in all the files.
- As an **internal control tool**, it allows the individual monitoring of public officers' performance which can be used to identify good practices, promotions in the professional career service and identify of spaces of arbitrariness and corruption.
- As a **transparency and accountability tool**, it can provide the information that is made public to society to monitor institutional performance.

Therefore, **properly planned computer systems serve to strengthen the operation of the entire criminal justice system, since they facilitate the flow of information, which is one of its essential characteristics.** This flow also reduces the asymmetry between the parties.

A computer system with an overall vision becomes a tool for coordinating the operation of the system and articulating the work of each operator. It facilitates the standardization of criteria and increases the response capacity and effectiveness of the defense and counselors of victims.

In this sense, the characteristics of the computer system condition, facilitate or hinder the operation of the criminal justice system, since it determines the ability to interconnect different institutions and generate statistics for the analysis of the system itself. Along the way, they have an impact on the ability to contain digitized records of the investigation and inter-institutional actions.

Regarding the last point, it is necessary to specify that the capacity of the computer system to digitalize the records of the investigations not only enriches the databases, but also facilitates the management of their flow in each case through each of the institutions. It is also a tool for transparency and control, to prevent undue modifications to the investigation records.

2.4.1 Design of an Information System

Just as criminal justice must operate as a well-coordinated and harmonized *system*, the information referring to it must have a *systemic approach*. Unfortunately, what we observe in the vast majority of cases is that there is data *intra-institutional* that do not connect with other institutions or respond to their needs (that is, that they lack an *interinstitutional*, and much less a *systemic* orientation).

Since the 1980s, the United Nations Statistics Division published a first manual for producing criminal justice statistics. Although this document is obviously limited, it offers a very good example of the *systemic approach* criminal justice information should have²³. It presented a general framework for establishing an *information system*, understanding the term not as a simple computer use, but as a comprehensive approach to all government information.

The 2004 edition of the *Manual for the elaboration of criminal justice statistics* can still be found on the website of this division of the United Nations²⁴. It describes the fundamental requirements that an information system must have, among which we can highlight:

- **Statistics are not an end in themselves**, rather, they are a means to an end, such as decision-making and the criminal investigation itself.
- Statistics provide the greatest degree of utility **in the context of or in relation to other statistics.**

²³ UNITED NATIONS, Statistics Division (1989). *Manual for the development of a criminal justice statistics system*. Available at https://unstats.un.org/unsd/publication/SeriesF/SeriesF_89s.pdf

²⁴ UNITED NATIONS, Statistics Division (2004). *Manual for the elaboration of criminal justice statistics*. Available at: <https://shop.un.org/books/manual-dev-system-criminal-25377>

- Like the criminal justice system, **the criminal justice statistics system needs to be effectively planned and managed.** The production of good quality statistics is a complex and potentially costly process that therefore requires effective management of human and financial resources.

In relation to the *systemic character* of information on criminal justice, the *Manual* explains the following (see also Table 5):



To the extent that criminal justice components constitute a system, the [information] products of each agency are inputs to others. For example, the cases presented by the police to the public prosecutor should appear in the police output statistics in the public prosecutor's input statistics.

Similarly, the cases resolved by the courts should appear in the statistics of judicial outcomes and in those of inputs of the prison system. [...]



In a systemic approach it is necessary to link inputs, processes, outputs and data on resources and consider them together, instead of separately. Such criminal justice system indicators can be extremely useful in tracking demand for criminal justice services, service delivery, treatment of offenders in criminal justice, liaisons between different agencies and different components of the criminal justice system, the effects of decisions in each of the components on the other components, and the costs and incidence of criminal justice decisions and services.²⁵ (emphases are ours).

Table 5. United Nations Statistics Division Illustrative Framework for the Systems Approach to Criminal Justice Statistics

Component of the Justice System	Type of Statistical Indicator			
	Input Statistics	Process Statistics	Product Statistics	Resource Statistics
Police	<ul style="list-style-type: none"> Police Service Orders Criminal incidents reported to the police Suspects Suspects arrested 	<ul style="list-style-type: none"> Incidents investigated Deployed officials Corroborated incidents 	<ul style="list-style-type: none"> Crimes clarified by formulation of charges Crimes clarified in other ways Persons charged Cases transmitted to the prosecutor 	<ul style="list-style-type: none"> Staff amount Authorized endowment Budget / expenses
Public Ministry	<ul style="list-style-type: none"> Cases-person Charges made 	<ul style="list-style-type: none"> Court appearances, by type of court hearing 	<ul style="list-style-type: none"> Concluded cases-person, by type of decision Number of people found guilty 	<ul style="list-style-type: none"> Staff amount Authorized endowment Budget / expenses
Courts	<ul style="list-style-type: none"> Cases-person Charges made Recidivism rate Appeals filed 	<ul style="list-style-type: none"> Court appearances Court hearings Duration of the case (from the first appearance to the final decision) 	<ul style="list-style-type: none"> Concluded cases-person, by type of decision Convictions, by type of cases Length of sentence, amount of fine, etc. 	<ul style="list-style-type: none"> Staff amount Authorized endowment Budget / expenses Average Cost Per Trial
Prison System	<ul style="list-style-type: none"> Income Probation and probation revocations Recidivism rate 	<ul style="list-style-type: none"> Average number of inmates (according to records and effective) Infractions and violations 	<ul style="list-style-type: none"> Releases, by type 	<ul style="list-style-type: none"> Staff amount Authorized endowment Prison capacity Budget / expenses
Non-custodial measures	<ul style="list-style-type: none"> Income Recidivism rate 	<ul style="list-style-type: none"> Average number of offenders Infractions and violations 	<ul style="list-style-type: none"> Releases, by type 	<ul style="list-style-type: none"> Staff amount Authorized endowment Prison capacity Budget / expenses

Note: A "case-person" includes all charges against a person.

Source: *Manual for the elaboration of criminal justice statistics*. United Nations Statistics Division (2004) | @mexevalua.



2.4.2 Design of Computer Systems for the Criminal Justice System

Despite the long statistical tradition in Mexico, a statistical system with a systemic nature and focused on criminal justice —and not on public safety, such as the one recommended by the United Nations— has never been implemented at the Federation level.

It must also be admitted that the federal regulatory framework imposes limitations for the development of computer systems. The Organic Law of the Federal Public Administration establishes that the Administration and Finance Units be in charge of information technologies²⁶, because it supposes that the institutional utility of these technologies is limited to “administrative support services”.

For their part, the provisions of the National Digital Strategy that were in force until September 2021²⁷ focused on the contracting and public tender processes for *acquiring* and *leasing* information and communication technology (ICT) services. This obviously responded to the same outdated vision of the Organic Law: the main function of the areas in charge of ICT was the contracting of support services, when the international trend points to the development of computer systems by work teams within organizations, and as areas of *development and operations*.

The current Administration made a good decision by publishing, in September 2021, a new National Digital Strategy 2021-2024²⁸, along with new policies and provisions on the matter²⁹. They establish that ICT must be in charge of its own Information and Communication Technologies Unit (ICTU), that is, independent and with the same hierarchical level as the Administration and Finance Unit. In addition, the door is opened to the internal development of computer systems, based on free *software*:



Article 65.- The development and maintenance processes of computer applications must follow a software architecture model that generates reusable and interoperable applications between

the areas of the Institution and other Institutions, likewise, they must favor the use of programming languages and development platforms based on free software and open standards that are established in the Technical Standards.”

In order for federal institutions to take full advantage of the possibility of developing their own computer systems, it is still necessary to reform the Organic Law of the Federal Public Administration, in order to create the aforementioned Information and Communications Technology Units (ICTU). This is because, for practical purposes and when faced with institutional performance audits, a law takes precedence over any agreement (and because the actions of officials and institutions must be governed by the principle of legality). Unfortunately, in the agreements related to the new National Digital Strategy, and its policies and provisions, no specific dates were established for the harmonization of the digital policy legal framework of the Federal Public Administration.

In any case, it is worth noting the basic capabilities that an adequate computer system must have:

- **Achieve interconnection between different institutions**, since this conditions the flow of information and the ability to establish management based on inter-institutional dialogue.
- **Register variables with homogeneous definitions** that facilitate case monitoring and statistical analysis.
- **Have the capacity to house the records of the investigations**, in order to facilitate the management of each case and its correct flow through the process that crosses through the different institutions.
- **Record in the files the actions carried out during the investigation by each institution**, which allows horizontal control over cases, while serving as a lock against corruption, by preventing undue modifications to files.

Such capacities are verified in the set of states, as shown in Graph 6.

²⁶ ARTICLE 20, Organic Law of the Federal Public Administration. Available at <https://www.diputados.gob.mx/LeyesBiblio/pdf/LOAPF.pdf>

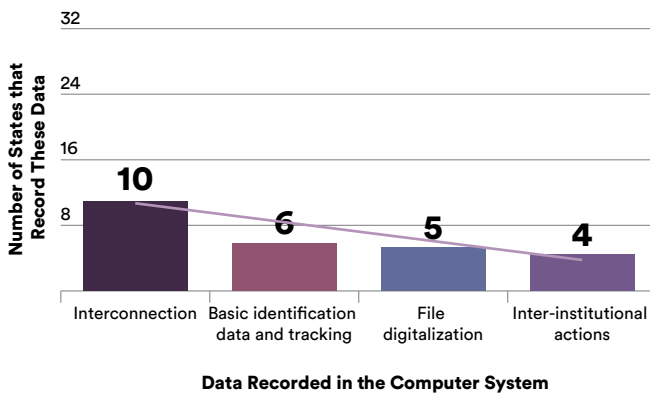
²⁷ AGREEMENT that modifies the policies and provisions for the National Digital Strategy, in the field of Information and Communication Technologies, and in Information Security, as well as the Administrative Manual of General Application in said matters. *Official Journal of the Federation* (DOF, 07/23/2018). Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5532585&fecha=23/07/2018#gsc.tab=0

²⁸ AGREEMENT issuing the National Digital Strategy 2021-2024. *Official Journal of the Federation* (DOF, 09/6/2021). Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5628886&fecha=06/09/2021#gsc.tab=0

²⁹ AGREEMENT by which the policies and provisions are issued to promote the use and exploitation of information technology, digital government, information and communication technologies, and information security in the Federal Public Administration. *Official Journal of the Federation* (DOF, 09/6/2021). Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5628885&fecha=06/09/2021#gsc.tab=0



Graph 6. Sophistication of Computer Systems



Source: Own elaboration with data obtained from public information requests | @mexevalua.

As observed, **only 31% of the states report having computer systems that allow some level of interconnection between the operating institutions of the SJP**, as well as the registry of basic information of the files.

It is important to highlight that in most of these cases the institutions understand as “interconnection” the possibility of openly consulting the actions of the Prosecutor’s Office, without this implying that each institution has a system connected to the Prosecutor’s system or that it is a single system with modules for each institution. In half of these cases, the interconnection limits the flow of information between the prosecutor’s offices and the judiciary. Only in 16% of the states does the computer system allow the digitalization of the file, and in 13% it allows the registration and consultation of inter-institutional actions.

It is important to mention that the federal authorities did not provide us with sufficient information to analyze the capacity and sophistication of their systems; for this reason, it was not possible for us to know if they have at least a basic interconnection that facilitates the flow of information between the operators.

Of course, the interconnection or the existence of a single computer system that connects all the institutions facilitates the systemic understanding of criminal procedural justice; it makes it possible to align the actions of each operator with the general objectives of the system, enables the traceability of its internal processes and reduces the asymmetry of the parts. However, it should be noted that in the states with computer systems that effectively allow interconnection, it is unknown how

THE INTERCONNECTION OR THE EXISTENCE OF A SINGLE COMPUTER SYSTEM THAT CONNECTS ALL THE INSTITUTIONS FACILITATES THE SYSTEMIC UNDERSTANDING OF CRIMINAL PROCEDURAL JUSTICE

much and how the statistical information is used and who has access to the basic data to achieve an adequate administration of each case.

One of the items analyzed in our Technical Coordination Index (ICTE) is the capacity of technical coordination bodies to build and promote the use of computer systems with appropriate levels of sophistication, interconnection, and articulation. These, as we have seen, are basic tools for planning and homologation, but they are even more important in the system consolidation stage: by facilitating the flow of information and generating uniform management models, they reduce the asymmetries that affect defenders and executive commissions for victims’ assistance.

The construction of computer systems that serve as true management instruments both for the judiciary and prosecutor’s offices as well as for defenders and executive victims’ commissions is still a pending issue. The National Technical Coordination Body should take the lead of this effort.

Next, some **good practices**.

Querétaro

The Single Computer System of the Cosmos Commission is a management system for *all operators* of the accusatory penal system: General Prosecutor’s Office, Judiciary, Public Defender’s Office, UMECAS, Alternative Dispute Resolution Mechanisms (ADRM), Victims and police as first responder. The Single Computer System began operations on May 30, 2016. It is an in-house development, which has 54 modules through which the



processes related to investigation files, court orders, complaints, precautionary measures, alternative solution agreements, assistance to victims, etc., are carried out. In previous editions of *Hallazgos*, as well as in the *Guide of Good Practices On the use of New Technologies for the Administration of Justice* (also from Mexico Evalúa)³⁰ we describe in detail the attributes of this system.

Without further ado, the Single Computer System is the only benchmark in the country for a *comprehensive information system* in criminal justice matters.

Chihuahua

The entity's coordination body has enough faculties to develop a comprehensive information system. However, it should be noted that its attributions are not established by law, but by decree. On October 4, 2017, the local government published a decree to reform the entity in charge of the implementation of the accusatory system³¹ and turn it into the State Center for the Consolidation of the Criminal Justice System³². This center, to the letter of the decrees and subsequent reform, has powers to develop an *information system*³³, as described in fractions of article 2:

- Coordinate, promote and carry out research projects, studies and analyzes related to the creation, consolidation, evaluation and monitoring of the criminal justice system.
- Establish and manage a specialized consultation center on the criminal justice model.

Integrate a state information center, which contains an analytical and individual data bank on the course

IN 2021 THE BUDGET ASSIGNED FOR THE CRIMINAL JUSTICE SECTOR AT THE LOCAL LEVEL, WHICH INVOLVED 98% OF THE REPORTED CRIMES, WAS 190.5 BILLION PESOS

followed by each of the cases that are handled in the criminal justice system, to carry out specific studies, comparative analyses, evolution studies and prospective and practical cases.

- Develop computer and communications systems, aimed at achieving an exchange of information between the different instances that intervene in the operation of the criminal justice system, as well as promoting its uniform use at the state level, under the real-time model.

- The foregoing, in order to propose concrete actions to consolidate it and also establish an efficient quality control mechanism in the application of this model, to detect failures and propose corrective measures.

Based on the response to our request for information, we conclude that such information system is not yet operating.³⁴

2.5 Projection and Effective Use of Financial Resources

Budget increases by themselves do not guarantee the success of the criminal justice system. It is necessary, rather, that the expense complies with the rationale for its allocation. The essential aspects to achieve efficient and effective spending are the strategic and operational planning exercises analyzed in previous sections.

The starting point for an adequate distribution of resources is the definition of the results to be obtained, as well as the strategies to achieve them, and from there the needs of the system as a whole and of each operator in particular can be defined, as well as the processes and actions that emerge from the strategies.

³⁰ *Guide of Good Practices on the Use of New Technologies for the Administration of Justice*. México Evalúa (2020). <https://www.mexicoevalua.org/guide-to-good-practice-on-the-use-of-new-technologies-for-the-administration-of-justice/>

³¹ DECREE that creates the commission called State Center for the Implementation of the New Criminal Justice System. Decree No. 259/08 II PO Available at: <http://www.congresochihuahua2.gob.mx/biblioteca/decretos/archivosDecretos/231.pdf>

³² DECREE that creates the commission called State Center for the Consolidation of the Criminal Justice System. Decree No. LXV/RFDEC/0367/2017 VII P.E. Available at: [http://www.congresochihuahua2.gob.mx/biblioteca/decretos/archivosDecretos/634\\$ 0.pdf](http://www.congresochihuahua2.gob.mx/biblioteca/decretos/archivosDecretos/634$ 0.pdf)

³³ *Ibid.* Article 2, sections, XI, XII, XIII and XLIV

³⁴ Application folio number: 080144522000173. In said response, the State Center for the Consolidation of the Criminal Justice System reported through official letter CONSPEN-024/2022: "This instance does not have its own information system that provides updated information on the Accusatory Criminal Justice System, since that is the responsibility of the Executive Secretariat of the State Public Security System, however, this Consolidation Body coordinates the operators of the Criminal Justice System to concentrate the information that feeds the Strategic Indicators of the Monitoring and Evaluation Model of the Executive Secretariat of the National Public Security System, approved by the National Public Security Council through Agreement 06/XLII/17".

In other words, there is a cascade effect: institutional operational planning is derived from the strategic planning of the system, which establishes the work of each institution and, transversally, the definition of the necessary resources to achieve the goals and face the systemic challenges.

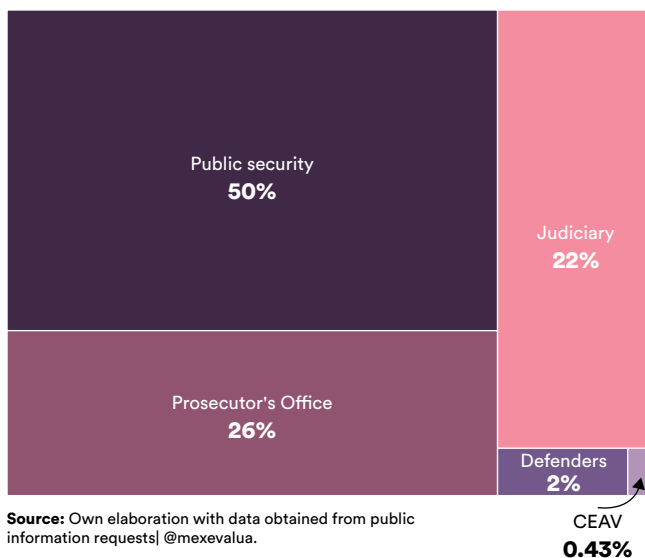
Since strategic planning is scarce in the justice sector, the operational planning exercises necessary to request budget from the local Congresses are disjointed and lack a systemic vision, without clear objectives, and without defined goals. The consequence: public spending that is not only inefficient and ineffective, but also an inhibitor of the system itself, since instead of goals it can draw collision routes between institutions.

2.5.1 Budget Distribution

Indeed, the budget as an isolated amount does not guarantee the success of the criminal justice system, but it does condition its operation. In other words, although a sufficient budget does not necessarily improve results, it certainly allows institutions to have the resources for their daily operations, increase their installed capacity, and approach the objectives set in systemic and institutional strategic planning. The next question is: How much does each of the main institutions of the system get?

In 2021 the budget assigned for the criminal justice sector at the local level, which involved 98% of the

Graph 7. Distribution of the Total Budget of the Local Justice System in 2021



reported crimes, was 190,517,117,713 billion pesos. In real terms, this meant an increase of 0.07% compared to 2020; that is to say, **an inertial allocation and distribution of budgetary resources is observed at the national level.** Graph 7 shows that the participation of public security is 50% of the budget, while that of the attorney general's offices is 26%, of the judiciary 22%, the defender's offices 2% and attention to victims 0.43%.

This budget distribution reveals a deep asymmetry between the resources assigned to the attorney general's offices, defender's offices, and executive victims' commissions (CEAV, in Spanish). These three institutions must have resources not only to maintain daily operations, but also to increase their installed capacity.

Table 6. Comparison of Institutional Budgets Allocated in 2021 (proportions)

State	2020 budget symmetry		
	Budget Ratio FGE: SSP	Budget Ratio Defense: FGE	CEAV Budget Ratio: Defense
Aguascalientes	\$ 0.62	\$ 0.06	\$ 0.17
Baja California	\$ 19.27	\$ 0.04	
Baja California Sur	\$ 0.43	\$ 0.11	
Campeche	\$ 0.61	\$ 0.06	\$ 0.02
Coahuila	\$ 2.32	\$ 0.08	\$ 0.26
Colima	\$ 0.92		
Chiapas	\$ 0.13	\$ 0.15	
Chihuahua	\$ 1.20	\$ 0.05	\$ 0.67
Mexico City	\$ 0.38	\$ 0.21	\$ 0.03
Durango	\$ 0.63	\$ 0.04	\$ 0.46
Guanajuato	\$ 0.64	\$ 0.12	\$ 0.10
Guerrero	\$ 0.82		
Hidalgo	\$ 0.37	\$ 0.00	
Jalisco	\$ 0.53	\$ 0.07	\$ 0.29
State of Mexico	\$ 0.37	\$ 0.05	\$ 0.74
Michoacán	\$ 0.46	\$ 0.05	\$ 0.57
Morelos	\$ 0.49	\$ 0.03	
Nayarit	\$ 0.65		
Nuevo León	\$ 0.69		
Oaxaca	\$ 0.44	\$ 0.11	\$ 0.02
Puebla	\$ 0.43	\$ 0.01	\$ 1.40
Querétaro	\$ 1.65	\$ 0.06	\$ 0.53
Quintana Roo	\$ 0.73		
San Luis Potosí	\$ 0.47	\$ 0.14	\$ 0.25
Sinaloa	\$ 1.35	\$ 0.08	\$ 0.32
Sonora	\$ 0.61	\$ 0.04	\$ 0.08
Tabasco	\$ 0.46	\$ 0.05	\$ 0.04
Tamaulipas	\$ 0.36		
Tlaxcala	\$ 0.53	\$ 0.05	\$ 0.30
Veracruz	\$ 0.33	\$ 0.01	4.88
Yucatán	\$ 0.11	\$ 0.07	\$ 0.60
Zacatecas	\$ 0.72	\$ 0.07	\$ 0.25
Federation	\$ 0.31	\$ 0.00	256.87
National Average	\$ 0.44	\$ 0.05	\$ 0.57

Source: Own elaboration with data obtained from public information requests | @mexevalua.



Table 6 portrays this asymmetry in the allocation of resources state by state. As seen in the national average for 2021, the defenders receive five cents for each peso that the prosecutor's offices receive, and the executive victims' commissions receive 57 cents for each peso that the defenders receive, and three cents for each peso that the prosecutors receive.

Compared to the proportional distribution of the previous budget year (2020), there was a 3% increase in the ratio between the budget assigned to the attorney general's offices (FGE) and that of the public security secretariats (SSP). Likewise, we observed a 7% increase in the budget of the executive commissions for victims' assistance (CEAV), in relation to the defenders. On

the other hand, we identified an 18% reduction in the budget allocated to the defender's offices in relation to the attorney general's offices.

2.5.2 Budget Variance

The marginal increase of 0.07% in real terms of the budget assigned to the criminal justice system was not homogeneous. We discovered important variations between the states, with a variation of 182% in Jalisco (which in the previous period had had a decrease of 57%). On the other hand, we have Baja California, which in 2020 had a 60% increase in its budget, and for 2021 a 38% reduction.

Table 7. Budget Variations (Δ) in Real Terms 2020-2021

State	Variación (Δ) 2020 - 2021					Δ 2020-2021
	Δ SSP	Δ FGE	Δ Defender's Offices	Δ CEAV	Δ Judiciary	
Aguascalientes	36%	2.34%	26.23%	19.82%	14.56%	18.89%
Baja California	-95%	0.00%	3.04%		9.02%	-37.78%
Baja California Sur	4%	5.13%	40.71%		740.06%	40.80%
Campeche	9%	3.21%	-6.88%	-97.80%	3.69%	4.00%
Coahuila	-78%	12.25%	-11.07%	-12.10%	6.74%	-32.25%
Colima	-34%	-16.92%			7.08%	-21.67%
Chiapas	13%	-72.35%			1.76%	-12.11%
Chihuahua	12%	-5.74%	7.59%	109.44%	20.33%	7.55%
Mexico City	9%	0.01%	0.16%	366.27%	0.91%	4.94%
Durango	5%	-0.87%	-3.87%	2.86%	415.28%	23.43%
Guanajuato	17%	20.96%	3.23%	258.58%	2.41%	14.80%
Guerrero		5.54%			-58.81%	60.56%
Hidalgo	6%	-7.76%	-99.93%		2.76%	-15.59%
Jalisco	4107%	2.05%	6.84%	-0.52%		181.83%
State of Mexico	46%	-7.26%	3.18%	-31.38%	32.64%	26.46%
Michoacán	-27%	9.19%	-21.02%	7.90%	4.07%	-14.57%
Morelos	37%	-3.61%	-8.99%		46.50%	25.47%
Nayarit	-3%	4.72%		-12.60%	5.41%	1.49%
Nuevo León	7%	16.91%		26.04%	-10.85%	2.68%
Oaxaca	1%	-0.31%	2,159.87%	-31.11%	877.35%	36.95%
Puebla	0%	-0.90%	-66.80%	-36.58%	-4.03%	-1.61%
Querétaro	-14%	10.63%	-2.39%	14.78%	5.72%	2.14%
Quintana Roo	-21%	0.11%		-19.33%	1.93%	-10.24%
San Luis Potosí	-2%	15.45%	0.19%	4.40%	-1.66%	1.64%
Sinaloa	-1%	-12.29%	-0.15%		5.52%	-2.94%
Sonora	-2%	-7.00%	-1.78%	-93.12%	6.79%	-2.66%
Tabasco	2%	5.95%	1.91%	-40.43%	-0.93%	2.51%
Tamaulipas	6%	469.58%			-23.14%	19.34%
Tlaxcala	-27%	5.73%		3.68%	34.87%	-2.01%
Veracruz	8%	-2.43%	2.14%	-0.59%	-3.80%	3.16%
Yucatán	-9%	-6.08%	-6.24%	-19.63%	39.83%	-4.21%
Zacatecas	2%	9.41%	5.47%	323.49%	3.75%	4.98%
Federation	-15%	7.70%	-49.27%	41.06%	6.99%	-2.12%
National Average	0%	3.04%	-12.68%	-5.62%	9.10%	3.22%

Source: Own elaboration with data obtained from public information requests| @mexevalua.

As we have verified throughout several editions of *Hallazgos*, budget variations are a reflection of the lack of systemic vision in budget allocation. Each institution is assigned resources without considering the needs and challenges of the other institutions. There is not even an inertial allocation, since high variations are repeatedly observed year after year, not only in the total allocated to the justice system, but also in the budget allocated to each institution.

It would be worth asking if the budget allocation criterion addresses calibrations based on previous adjustments, with annual horizons and without a medium or long-term vision.

2.5.3 Budget Design

Public safety and criminal justice are areas that fully touch the sensitivity of the population, and those that face the greatest challenges and the greatest demands for improvement. It is not surprising then that the authorities involved in them have the most intense exogenous pressures and, therefore, the greatest

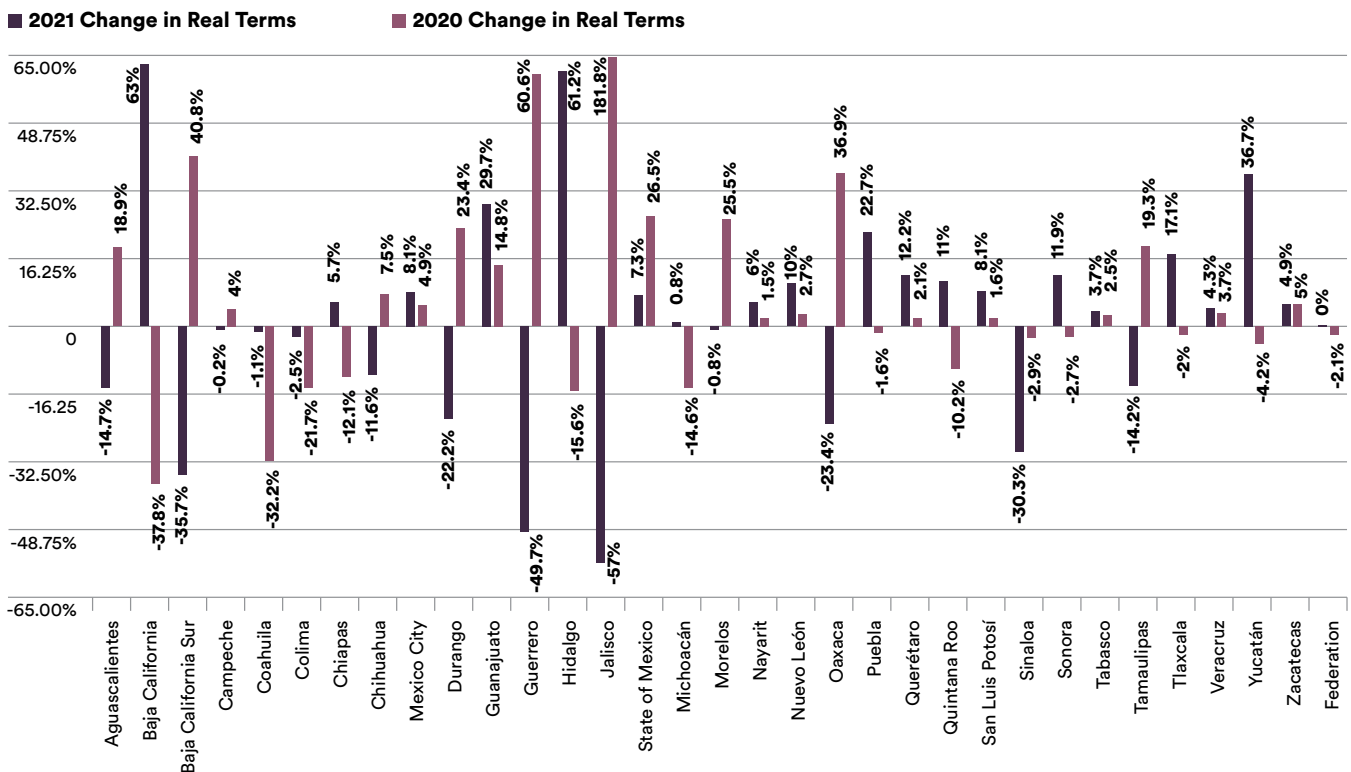
incentives to show results. In this sense, they are the areas in which the most sophisticated public policies should be built, with a high expectation of social return on the investment of public resources.

To understand the budgetary importance given to criminal justice, it is useful to explore the institutional allocation per 100,000 inhabitants and its proportion in the total expenditure budget of each state. A more detailed view of the profound inequality in the allocation of resources between institutions that we have referred to in previous paragraphs begins in Table 8.

The budget information at the federal level was not provided with the levels of disaggregation necessary to include them in this analysis of the budget design.

For the present edition of *Hallazgos* we decided to apply a different perspective, more in line with specialized analysis of public finances—using the classification of ‘functions’ and ‘sub-functions’ of the official Financial Report—, for our study of the resources invested in the criminal justice system. Using the functional classification makes it possible to compare the spending

Graph 8. Annual Variations 2019-2020 and 2020-2021 in the Criminal Justice System Budget



Fuente: Own elaboration with data obtained from public information requests|@mexevalua.



Table 8. Institutional Budgets in Rate of 100 thousand Inhabitants

State	Public security	Prosecutor's Office / Attorney's Office	Defender's Budget	CEAV	Judiciary
Aguascalientes	\$58,505,045.71	\$36,403,861.65	\$2,079,044.22	\$359,054.07	\$38,020,377.64
Baja California	\$3,724,516.40	\$71,771,937.64	\$3,017,364.20		\$30,366,798.58
Baja California Sur	\$94,219,152.30	\$40,973,032.27	\$4,433,414.12		\$56,395,817.00
Campeche	\$78,083,402.25	\$47,744,187.94	\$2,815,133.30	\$ 60,914.10	\$38,344,321.65
Coahuila	\$10,897,942.75	\$25,263,491.37	\$2,046,884.48	\$ 538,427.36	\$33,807,105.32
Colima	\$55,234,112.82	\$50,620,700.15			\$34,547,772.76
Chiapas	\$55,863,947.46	\$7,387,540.52	\$1,088,345.59		\$20,102,454.77
Chihuahua	\$59,240,778.02	\$71,027,615.93	\$3,320,799.02	\$2,238,878.56	\$63,749,816.44
Mexico City	\$205,614,738.46	\$77,276,291.39	\$16,007,690.82	\$524,636.95	\$68,355,588.86
Durango	\$51,185,560.45	\$32,460,189.12	\$1,452,823.85	\$672,824.99	\$22,738,457.40
Guanajuato	\$85,593,207.69	\$54,875,253.73	\$6,625,044.83	\$676,157.94	\$32,824,561.35
Guerrero	\$48,859,709.01	\$40,197,806.85			\$9,366,290.32
Hidalgo	\$67,001,310.26	\$25,104,913.49	\$8,441.34		\$20,278,574.39
Jalisco	\$51,699,949.25	\$27,457,870.37	\$1,791,725.21	\$516,107.14	\$22,640,798.05
State of Mexico	\$87,013,384.44	\$32,269,039.05	\$1,631,163.82	\$1,210,474.70	\$30,549,095.49
Michoacán	\$69,559,085.23	\$31,991,982.85	\$1,519,843.93	\$864,951.14	\$29,330,501.91
Morelos	\$74,246,527.40	\$36,303,729.20	\$1,002,655.41		\$40,676,475.31
Nayarit	\$67,550,869.25	\$44,081,297.96		\$631,345.84	\$41,908,139.72
Nuevo León	\$89,523,207.25	\$61,989,996.27		\$561,402.24	\$38,542,282.90
Oaxaca	\$43,165,884.53	\$19,079,517.79	\$2,110,084.53	\$42,530.27	\$24,153,293.68
Puebla	\$43,664,736.64	\$18,811,965.71	\$189,832.77	\$266,121.82	\$12,718,952.47
Querétaro	\$25,926,686.46	\$42,899,021.31	\$2,461,958.60	\$1,314,717.45	\$45,031,000.01
Quintana Roo	\$73,775,891.62	\$53,522,337.37		\$1,279,504.41	\$38,742,024.29
San Luis Potosí	\$87,529,515.33	\$40,917,662.22	\$5,692,167.89	\$1,395,473.20	\$49,455,755.42
Sinaloa	\$20,879,780.09	\$28,262,806.14	\$2,204,611.15	\$706,958.87	\$22,158,142.59
Sonora	\$87,618,797.90	\$53,864,689.29	\$1,887,567.47	\$152,191.60	\$45,047,539.42
Tabasco	\$100,891,979.31	\$46,442,389.20	\$2,351,542.37	\$97,558.18	\$37,751,914.39
Tamaulipas	\$96,752,650.18	\$34,411,319.50			\$26,244,013.60
Tlaxcala	\$35,943,802.44	\$19,004,509.05	\$1,031,097.69	\$308,706.92	\$35,556,350.59
Veracruz	\$68,805,472.03	\$22,820,537.94	\$243,776.82	\$1,190,747.58	\$22,672,782.89
Yucatán	\$147,586,144.11	\$16,325,429.00	\$1,190,044.33	\$715,626.93	\$26,448,253.22
Zacatecas	\$63,847,397.45	\$45,709,911.73	\$3,095,360.75	\$783,210.56	\$36,115,261.03
National Average	\$118,642,176.82	\$51,972,460.84	\$2,774,063.55	\$1,574,311.46	\$89,239,243.46

Source: Own elaboration with data obtained from public information requests| @mexevalua.

of the states among themselves and with the federal government, regardless of the names of the institutions in charge of the functions categorized by the Treasury.

Table 9 highlights the expenditure exercised in 2021 by Mexico City in security and justice functions. This entity allocates a much higher proportion of its total expenditure than the rest of the states (26.3% vs. the national average of 10.6%).

In 2021, the states allocated, on average, 5.2% of their total spending to the justice function and 5.4% to the security function. In contrast, the Federal Government allocated only 2.2% to the justice function and 0.8% to the security function³⁵. However, it is important to remember that for several terms (several 'sexenios')

the Secretariats of the Navy and National Defense have dedicated a good part of their activities to public security tasks, but their spending is labeled, mainly, under the function of national security.

Therefore, it is reasonable to assert for purposes of comparative analysis that **the Federal Government allocated 2.2% to the justice function and 4.0% to both public and national security functions**. By including this third function, the expenditure exercised by this level of government presents relevant similarities with the average of the states (see graphs 9 and 10), and makes it possible to demonstrate the following points, taking as a total (100%) the expenditure exercised in the added functions of security and justice:

³⁵ Public Account 2021. Secretariat of Finance and Public Credit. Available at: <https://www.cuentapublica.hacienda.gob.mx/es/CP/2021>

Table 9. Expenditure Exercised in 2021 in Security and Justice Functions, by State

State	Spending on Security and Justice*	
	As a Percentage of the Entity's Total Expenditure (%)	For every 100 Thousand Inhabitants
Aguascalientes	9.4	183.8
Baja California	6.7	122.2
Baja California Sur	7.6	168.7
Campeche	8.6	207.6
Mexico City	26.3	670.6
Chihuahua	9.4	201.5
Chiapas	4.6	61.0
Coahuila	7.8	144.0
Colima	10.0	232.0
Durango	6.8	137.8
State of Mexico	11.5	165.7
Guerrero	7.6	147.6
Guanajuato	13.5	210.0
Hidalgo	8.2	139.6
Jalisco	8.6	134.3
Michoacán	10.2	176.8
Morelos	8.3	159.6
Nayarit	9.3	194.2
Nuevo León	11.3	237.5
Oaxaca	6.0	115.5
Puebla	6.5	100.0
Querétaro	9.9	182.2
Quintana Roo	10.0	202.6
Sinaloa	6.1	122.6
San Luis Potosí	11.5	208.4
Sonora	8.3	194.8
Tabasco	7.7	193.2
Tamaulipas	10.4	200.4
Tlaxcala	7.6	129.6
Veracruz	6.8	126.1
Yucatán	12.1	226.2
Zacatecas	5.4	103.6
National Average	10.6	193.9

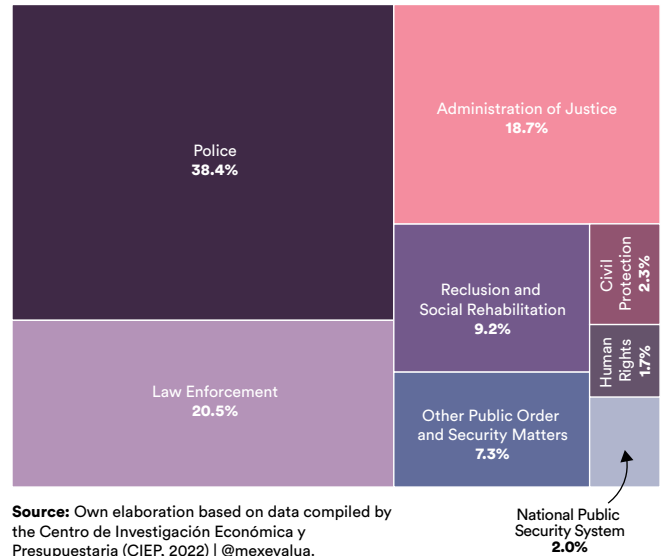
NOTE: * The Financial Report classifies spending by 'functions' and 'subfunctions'. The data presented here correspond to the sum of the functions of Justice (Law Enforcement, Administration of justice, Imprisonment and social rehabilitation, Human Rights) and Affairs of Public Order and Internal Security (Police, National System of Public Security, Civil protection and, Other matters of public order and security).

** Millions of constant pesos as of 2022 (discounting the effect of inflation).

Source: Data compiled by the Center for Economic and Budgetary Research (CIEP, 2022) | @mexevalua.

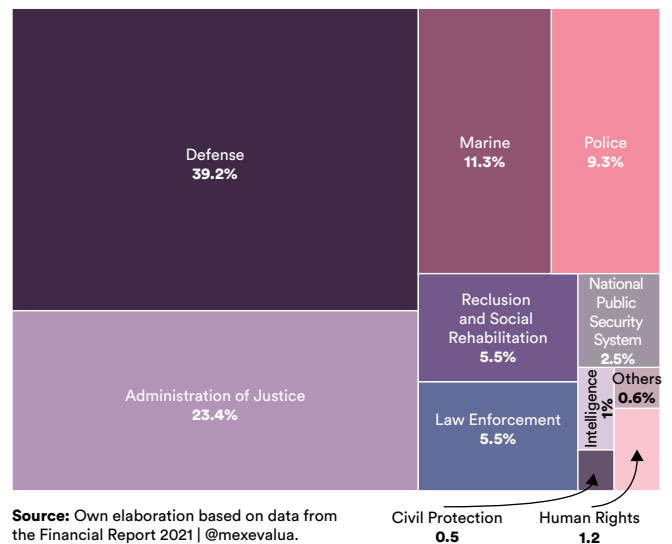
- The Federal Government and the states allocated similar proportions of their spending to the subfunction of **Administration of Justice** (about 20%).
- The same goes for the subfunctions of **Human Rights** (around 1.5%) and the **National Public Security System** (SNSP) (2.3%).

Graph 9. Distribution in 2021 of the average expenditure exercised in security and justice functions by the states



Source: Own elaboration based on data compiled by the Centro de Investigación Económica y Presupuestaria (CIEP, 2022) | @mexevalua.

Graph 10. Distribution in 2021 of the Expenditure Exercised in Security and Justice Functions by the Federal Government



Source: Own elaboration based on data from the Financial Report 2021 | @mexevalua.

- However, this is not the case with the **Law Enforcement** (5.5% from the Federal Government *versus* 0.5% on average in the states).



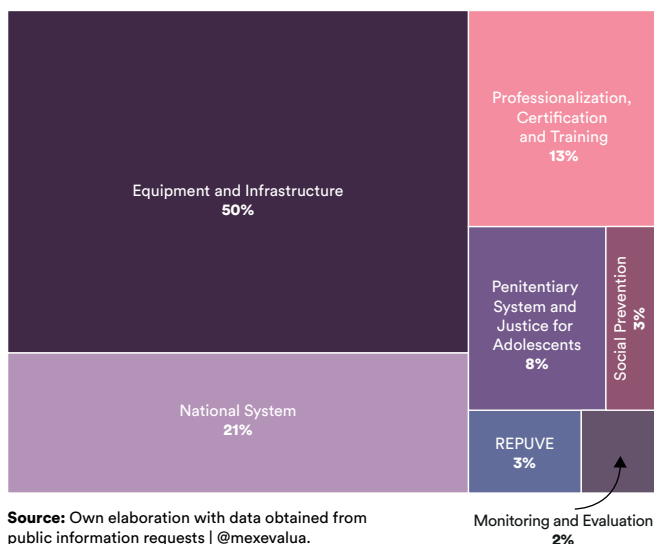
Nor does it occur with the sub-function of **Reclusion and Social Re-adaptation** (5.5% in the Federal Government *versus* 9.2% on average in the states).

Finally, if we assume that the sub-functions of **Defense** and **Marine** may be comparable to the subfunction of **Police** (given that a good part of the activities of these secretariats is dedicated to public security tasks), we can conclude that the states allocated an average of 38.4% of their spending to this sub-function, *versus* 59.8% by the Federal Government.

On the other hand, it must be taken into account that the budget assigned by the states for the administration of justice is complemented by federal contribution funds. Currently, there is only the Public Security Contributions Fund (FASP, in Spanish), since the Security Strengthening Fund (Fortaseg), which could be used to finance equipment and infrastructure, professionalization, certification and training, crime prevention, National Police Model and National Public Security System, disappeared in this fiscal year.

The FASP is found within the SNSP, so it can only be used for public security policies that are agreed upon by such a system. The items financed in each fund can be seen in Graph 11.

Graph 11. Distribution by Item of the FASP



Source: Own elaboration with data obtained from public information requests | @mexevalua.

The FASP, being administered and budgeted labeled by the SESNSP, is managed with a logic focused on public safety and not on the criminal process. In other words, it favors public security institutions. **The Defender's Office is not part of the SNSP and, therefore, is not likely to receive resources from both funds.**

In short, since these contribution funds are not conceived from the point of view of the criminal procedural justice system, they do not meet its needs, nor do they facilitate the achievement of systemic objectives; on the contrary: they tend to deepen institutional asymmetries and procedural inequality.

2.6 Publicity, Availability of Information and Citizen Participation

As a matter of principle, it never hurts to remember that, in accordance with the General Act on Transparency and Access to Public Information, government institutions have the obligation to generate open databases and public versions of their documents. In general terms, it is feasible to affirm that public security and criminal justice institutions fail to comply with this fundamental obligation of proactive accountability (part of the evidence of this is in the first chapter of this Hallazgos). For this reason, civil society organizations must request access to public information via the National Transparency Platform.

Given the lack of an information system at the national level —such as the one recommended since 2004 by the United Nations Statistics Division—, it is difficult to find databases that allow analyzing the transversal operation of the criminal justice process. Government efforts to create indicators in this area have most likely run into this same limitation, which has led them to focus on figures related to the availability of resources —human and budgetary— and relief of workloads, rather than on true performance and results indicators.

During 2021, few changes have occurred in this area: the already described Justice System Support Unit (UASJ) monitors the indicators of the Monitoring and Evaluation Model (MES) in the Consolidation of the Criminal Justice System³⁶ designed by SESNSP³⁷, which as mentioned repeatedly, are an input to have a general perspective of

³⁶ Monitoring and Evaluation Model in the Consolidation of the Criminal Justice System. Justice System Support Unit (UASJ). Available at: [https:// mes.segob.gob.mx/](https://mes.segob.gob.mx/)

³⁷ Monitoring and Evaluation Model in the Consolidation of the Criminal Justice System. Executive Secretariat of the National Public Security System (SESNSP). Available at: <https://sesnsp.net/mes/>

the flow of the criminal process, mainly during the initial phase of the investigation. But since they were designed by the national coordinating body for public security, their optics are “loaded” towards public security, and they fail to want to delve into the behavior of the system or the interrelationships between the actors, as well as in the quality of justice. Also, **these series of indicators are based mainly on the “integration” of investigation files and not on the effectiveness of the investigations, nor on the different outputs offered by the accusatory system.** Somehow, these indicators favor the conservation of old practices —such as the preparation of files—, and lead us to measure the new accusatory system with the same “preliminary investigations”, which were simply changed in name to “Investigation Files”.

Then, what is required is to update the ‘official’ set of indicators with which the consolidation of the system is evaluated and monitored, in such a way that they are not limited to having a perspective of the flow of the criminal process, but also allow:

- **Disaggregation of statistics by types of crime**, in order to know the behavior of the system in a differentiated way.
- **Build measurements and statistical records that facilitate the visibility of criminal phenomena** that do not necessarily coincide with a record of information by criminal type (since a criminal phenomenon can ‘cross’ through various criminal types).
- **Thoroughly review and verify statistical information** with which the Monitoring and Evaluation Model is fed.
- **Guarantee the homogeneity of the criteria for sending information** by the entities.
- **Establish audit processes** of the information provided by the states.
- **Observe different interrelationships between operators of the criminal justice system** to detect areas of opportunity, good practices and consolidation strategies.

Having disaggregated information by type of crime or by criminal phenomena would facilitate the definition of

priorities for the attention of criminal justice systems, as well as the setting of goals, the articulation of local strategies, between states, regional and national, for the persecution of specific criminal phenomena. This would drive the systemic understanding of the criminal justice system, the identification of needs and the adequate distribution of resources, which would result in a greater impact on the results of the system.

The UASJ also published figures on what it calls “institutional strengthening of justice system operators,”³⁸ based on questionnaires sent to the states. But it is not possible to find a methodological document on its website that explains the rationality of these figures, nor its capture and review mechanisms. It is important to note that this set of figures does not include institutions of the Federation —no data from the Federal Public Administration, nor from autonomous bodies, nor from the Federal Judiciary—. **It is also relevant to point out that, as occurred with the mapping of the coordination entities, some of the responses that the states sent to the UASJ differ from those that were sent to us via requests for access to public information.**

Table 10 is displayed in records by operator and by entity, which makes it easier for decision makers to compare information that is, originally, concentrated in technical records. (The federal level is not included in the information provided by the UASJ.)

This effort is a step in the right direction in terms of technical coordination, identification of needs, and overall system consolidation. What is important to define from here is the frequency in which the information is updated and the route to attend to the identified needs, essential factors for the making of a medium-term consolidation plan.

It is equally necessary that the life cycle of this UASJ project be made public, and thus know the calibration stages of the indicators and variables, as well as the mechanisms for the participation of experts in its construction and design.

The case of Inegi, FGR and the National Statistical System for the Procurement of Justice

As another example of a sectoral effort to integrate information (although *non-systemic*, in a transversal sense of the criminal justice process) is what was

³⁸ Justice System Support Unit (2021). “Institutional Strengthening of Justice System Operators”. Available at: <https://esj.segob.gob.mx/>



Table 10. Information compiled by the UASJ on the “institutional strengthening of justice system operators”
(does not include data on Federal Government institutions)

Component of the Criminal Justice System	Human Resources in the state	Dichotomous questions (Yes/No) on conditioning factors in the state	Dichotomous questions (Yes/No) on institutional needs in the federal state
Police	Number of elements: <ul style="list-style-type: none"> Trained in criminal justice system issues Speak indigenous languages Specialized in violence against women, girls, boys and adolescents Trained in femicide 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a protocol for the rights of indigenous people It has a protocol for the rights of women, girls, boys and adolescents 	<ul style="list-style-type: none"> Requires training Requires staff Requires infrastructure Requires tools and other material resources Requires budget in general
Prosecution		<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has interpreters of indigenous languages It has a specialized prosecutor's office for violence against women 	<ul style="list-style-type: none"> Requires training Requires staff Requires technological resources Requires tools and other material resources Requires vehicles
Courts	Number of Judges and Magistrates: <ul style="list-style-type: none"> Trained in criminal justice system issues Trained in femicide and violence against women, girls, boys and adolescents Specialized in violence against women, girls, boys and adolescents Specialized in justice for adolescents Certificates in Adolescent Justice Total number of personnel attached to the Human Rights and Gender Equality Unit 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a register of interpreters of indigenous languages It has a protocol for the rights of indigenous people It has a protocol for the rights of women, girls, boys and adolescents It has a human rights and gender equality unit It has a protocol to judge with a gender perspective It has a block scheduling model 	<ul style="list-style-type: none"> Requires training Requires staff Requires technological resources Requires infrastructure Requires budget in general
Expert and Forensic Services	Number of public officials Number of experts: <ul style="list-style-type: none"> Trained in criminal justice system issues Trained in Justice for Adolescents Speak indigenous languages 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a register of interpreters of indigenous languages It has a protocol for the rights of indigenous people It has a protocol for the rights of women, girls, boys and adolescents 	<ul style="list-style-type: none"> Requires training Requires staff Requires technological resources Requires infrastructure Requires tools and other material resources Requires budget in general
Public Defenders	Number of defenders: <ul style="list-style-type: none"> Trained in criminal justice system issues Trained in Justice for Adolescents Speak indigenous languages 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a register of interpreters of indigenous languages It has a protocol for the rights of indigenous people It has a protocol for the rights of women, girls, boys and adolescents It has specialized advocates for adolescents 	<ul style="list-style-type: none"> Requires training Requires personnel and material resources
UMECAS • Adolescents • Adults	Number of civil servants: <ul style="list-style-type: none"> Trained in criminal justice system issues Trained in femicide and violence against women, girls, boys and adolescents 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a register of interpreters of indigenous languages It has a protocol for the rights of indigenous people It has a protocol for the rights of women, girls, boys and adolescents 	<ul style="list-style-type: none"> Requires staff Requires infrastructure Requires tools and other material resources Requires budget in general
Penitentiary Centers	Number of civil servants: <ul style="list-style-type: none"> Custodians Doctors Social workers Psychologists Pediatricians Full-time early childhood specialist Part-time early childhood specialist In administrative functions 	<ul style="list-style-type: none"> It has indicators on the criminal justice system It has a computer system Computer system allows interconnection with other institutions It has a register of interpreters of indigenous languages It has a protocol for the rights of indigenous people It has exclusive centers for women (and number) It has a protocol for women's rights Feminine pads are provided to the prison population Feminine pads are provided free of charge It has a Child Development Center (CENDI) It has a protocol for mothers with girls and boys Physical contact is allowed during visits It has an addiction prevention and care program 	<ul style="list-style-type: none"> Requires training Requires staff Requires infrastructure Requires tools and other material resources Requires budget in general

Table 10. Information compiled by the UASJ on the “institutional strengthening of justice system operators”
(does not include data on Federal Government institutions) (Continued)

Component of the Criminal Justice System	Human Resources in the state	Dichotomous questions (Yes/No) on conditioning factors in the state	Dichotomous questions (Yes/No) on institutional needs in the federal state
Detention centers for adolescents	<p>Number of civil servants:</p> <ul style="list-style-type: none"> • Trained in Justice for Adolescents • Trained in human rights • Trained in femicide and violence against women, girls, boys and adolescents • Custodians • Doctors • Social workers • Psychologists • Pediatricians • Full-time early childhood specialist • Part-time early childhood specialist • In administrative functions 	<ul style="list-style-type: none"> • It has a computer system • Computer system allows interconnection with other institutions • It has a register of interpreters of indigenous languages • It has exclusive centers for women (and number) • It has a protocol for women's rights • Feminine pads are provided to the prison population • Feminine pads are provided free of charge • It has a Child Development Center (CENDI) • Physical contact is allowed during visits • It has an addiction prevention and care program 	<ul style="list-style-type: none"> • Requires training

Source: Own elaboration based on the web page Application of Institutional Strengthening of the Operators of the Justice System of the UASJ | @mexevalua.

agreed in December 2019 in the Plenary Assembly of the National Conference for the Procurement of Justice (CNPJ)³⁹: the creation of a National Statistical System for Justice Procurement (SENAP). According to Agreement XLII/04/2019, the conceptual and methodological coordination of the system would be the responsibility of the Inegi and its implementation —protection, storage and security of the data— by the FGR. Also as agreed **the implementation of the system would be gradual and, initially, it would only include the specific variables necessary for the generation of statistical information.**

Regarding the legal framework (and as an example that inter-institutional coordination can only flow through this framework), in December 2020 it was agreed (XLVI/06/2020) that the Inegi would propose a “regulatory instrument”, that would be reviewed “within the framework of this CNPJ”. In December 2021, the Assembly agreed (XLV/01/2021) to approve the Technical Standard of the National Statistical System for Justice Procurement, which would be submitted for consideration by the Inegi Governing Board.

In short, the overlaps that are identified between the powers of the Secretariat for Citizen Security and Protection (SSPC) and SEGOB in matters of criminal

justice coordination could also occur between the powers of the National Public Security System (and many others) and the National System of Statistical and Geographic Information itself; this especially in terms of the generation of figures on criminal events: criminal incidence, human trafficking, missing persons, violence against women, etc. Such a lack of definition has been pernicious, since it reduces the opportunities for improvement in the quality and proactive accountability of the information that society and governments use to analyze the situation of public security in Mexico.⁴⁰

The Rendering of Accounts of the Superior Court of Justice of Chihuahua

What the Statistics Unit of the Chihuahua Superior Court of Justice has done can be considered good practice in terms of proactive accountability. On their website⁴¹ we can find “graphic reports” by year –summaries of annual work in presentation format–, called Measurable Justice, which can be useful for anyone interested in learning about the work of the court. “Statistical concentrates” are also available —annual data in spreadsheets— on the specific tasks —workload management— of the Judicial Media Unit, the Notification and Execution Unit, the Chambers, the traditional Courts, the Mixed Minor Courts, the Courts by Hearings, the Office of Parties,

³⁹ Agreements of the National Conference of Procurement of Justice (CNPJ). Available at: <http://www.cnpj.gob.mx/Paginas/Acueros.aspx>

⁴⁰ México Evalúa (2020). *Origin Failures 2019*. México Evalúa Centro de Análisis de Políticas Públicas. Available at: <https://www.mexicoevalua.org/mexicoevalua/wp-content/uploads/2019/07/Fallas-de-Origen.pdf>

⁴¹ Statistics Unit. Superior Court of Justice Chihuahua. <http://www.stj.gob.mx/estadistica/index.php>



Ranking

of the progress in the consolidation of the criminal justice system 2021

- **Scope 1.** National Technical Coordination System
- **Scope 2.** Institutional technical coordination system
- **Scope 3.** Comprehensive, Continuous and Public Planning Process
- **Scope 4.** Information registration, processing and reporting systems
- **Scope 5.** Adequate projection and efficient use of financial resources
- **Scope 6.** Publicity, transparency, accountability and citizen participation
- **Scope 7.** Institutional Symmetry

○ Total score

the Institute of Public Defender, the Institute of Psychological and Socioeconomic Studies, the Institute of Alternative Justice, and the Institute of Pre-Trial Services.

In relation to the operation of the accusatory criminal system –part of the process that corresponds to the Court–, the following annual statistical concentrates can be found:

- Crimes in Control Courts.
- Cross-sectional information (from defendants to sentences handed down) on domestic violence.
- Persons accused and resolutions of the Court Specialized in Justice for Adolescents.
- Works and follow-up of the oral trials of the Trial Court.
- Persons charged and resolutions of the Control Courts.
- Precautionary measures issued according to the National Code of Criminal Procedure and the Code of Criminal Procedures of the State of Chihuahua.
- Sentenced individuals and general information on sentence enforcement.

2.7 Institutional Symmetry

‘Institutional symmetry’ is a transversal condition to all the determining factors for the operation of the criminal justice system. It reflects the degree of integration and coordination between the different institutions of the justice sector. **Symmetry mainly implies that there is an exchange of information between the institutions and that there is a high degree of coordination between them.**

After a careful review of what we have discussed in Chapter 2, it could be concluded that such a condition has not yet been achieved, since to date asymmetries persist in planning issues, identification of needs and challenges, budget allocation in conformity with the challenges faced by institutions, information flow and information systems. And these asymmetries occur both horizontally –between the institutions of the same state– and vertically –between different levels of government–. The most affected by this lack of integration are the institutions that represent the parties to the criminal conflict, specifically the public defender’s office and the executive victims’ commissions.

These asymmetries are, in part, a reflection of the underrepresentation of the different actors of the criminal justice system in the national and local coordination mechanisms. In addition, the tendency to weaken the coordination bodies increases the existing asymmetries and reduces the capacity for dialogue of budgetary institutions of smaller size.

In short, the reduction of asymmetries works in favor of the consolidation of the criminal justice system.

2.8 National Ranking of Progress in the Consolidation of the Criminal Justice System

We have seen that the criminal justice system operates transversally, throughout various institutions, and that it depends on a continuous process of adjustment and calibration. For this reason, a constant effort to



strengthen the determinants of the operation is essential to achieve the proper consolidation of the system.

With the National Ranking of Progress in the Consolidation of the Criminal Justice System, we analyze how far each entity is progressing in the construction of the conditions that we describe in this chapter.

Specifically, the ranking weighs the institutional actions that the states have carried out in favor of the consolidation of the criminal justice system, according to their level of development and their degree of formalization. **For this year's measurement, a minimum standard of 1,100 points was established. The ideal standard is 1,200 points.**

In 2021 we observe that the gap between the states with the best conditions for operation (which reflects a greater understanding of the systemic nature and public policy of criminal procedural justice) and the states that haven't finished yet the formation of the elements that promote the system's operation.

In 2018, the difference between the state with the highest score in the ranking and the one with the lowest was 296%. For 2021 this difference is 350%.

Querétaro, due to the consolidation of its Cosmos model, is once again positioned as a benchmark for the formation of elements that facilitate the operation of the system, with 1,012 points in the ranking. Likewise, the non-stop progress of Nuevo León and Coahuila, with 924 and 918 points, respectively, shows the enormous effort made by the authorities and institutions of both states to achieve the consolidation of their systems.

On the other side of the spectrum, we find Morelos, Campeche, Quintana Roo, and Tamaulipas. In all these cases a stagnation of the consolidation process can be observed. **The main obstacle to the consolidation of the system is planning, both at the systemic level—the definition of common goals and strategies—and at the institutional level.** In the same way, a dissociation between planning and operation is noted, the former being a requirement for the budget request, but it is not reflected in the day-to-day of the institutions.

2.9 Main Conclusions

1 Criminal procedural justice must be understood as a system, not just as the sum of its parts. That is, they must have common objectives and goals, but their common challenges and needs must also be identified.

What does it mean in the daily operation to understand the system as... system? In principle, **have effective technical coordination mechanisms and not only political coordination between the leaders of the institutions.** It means having comprehensive and continuous planning processes; registration, systematization, consumption and sharing of information; projection and distribution of financial resources in response to joint needs. It also means transparency, accountability and citizen participation.

2 We do not identify the rationale behind the budget allocations. Its annual variations continue to be erratic; this is a reflection of the absence of planning, identification of challenges, establishment of goals and short and medium-term objectives. In sum, **we do not observe a programmatic structure in the budgeting process that reflects the designing of public policies** capable of responding to citizen demands.

3 **There is a very welcome reversal of the trend of weakening and disappearance of local technical coordination bodies.** We need to insist on their strengthening, including by granting them the necessary powers to effectively coordinate all the system's operators.

4 **The criminal justice system continues to bear the name of system** only by convention, but this nature is not observed in its planning and coordination, flow of information, distribution of resources and construction of coherent strategies to face exogenous pressures and citizen demands.



CHAPTER 3

Enablers

Institutional capacities to guarantee access to justice

MAIN FINDINGS

- **The process of militarization of public security jeopardizes the proper functioning of the criminal justice system** and has reached an unprecedented degree of depth: 94 thousand members of the Armed Forces are part of the National Public Security Strategy. In addition, a presidential decree has been announced that would formally assign the National Guard to the Sedena, which makes the context more complex. The Armed Forces and the National Guard accumulated, respectively, 436 and 504 complaints for human rights violations during 2021, a number that is increasing.
- **The issuance of guidelines for the exercise of prosecutorial discretion and the summary proceedings is a relevant pending** since various Attorney General's Offices still do not have them. This regulatory vacuum could result in the arbitrary use of these figures, to the detriment of the rights of victims and defendants.
- **The rate of operators per 100,000 inhabitants continues to favor prosecutors and police by a wide margin (and increasing).** In contrast, we identified a substantial setback in defenders and judges.
- The adoption of an **institutional management model** by the victims' executive commissions and the defender's offices continues to be an area of opportunity, since they currently operate based on the random assignment of cases, shifts and pre-existing workload.



Our Methodology for Monitoring and Evaluation of the Operation of the Criminal Justice System⁴² contemplates that the institutions that are part of the criminal justice system must provide a response in reasonable quantity and quality, this means each institution must function properly; that is to say, that it complies with a series of *enabling factors* to achieve the desired results. These conditions, which are related to each other, are diverse: legal framework, personnel, infrastructure, information, and communication technologies, as well as an organic structure and optimal management models.

On the one hand, it requires a **complete and functional legal framework**, consistent with the principles of the accusatory system. On the other, there must be sufficient personnel in relation to the needs; motivated and trained to fulfill their specific function. To achieve this, the existence of a **training program** that complies with the pre-established institutional model is needed. Such a program should have objectives and assessments and be delivered by trainers who are part of a certification system. Lastly, ideally there should be a Professional Career Service contemplated in the law and in force in practice, which is incorporated into the processes of entry, training, certification, promotion, and dismissal of officials.

Besides, institutions must have **infrastructure and functional equipment** for the specific tasks they must perform. The foregoing, in synergy with technological solutions appropriate to the needs of each institution. Finally, the **organizational structure and management model** must be flexible, capable of adapting to the conditions and requirements of each context. This requires complete territorial coverage and territorial compatibility with other institutions; job profiles adequately defined and according to the needs; an area for the permanent improvement of the processes and services of each institution, documenting and disseminating good practices and facilitating innovation, as well as functional internal control mechanisms.

In this chapter we will first analyze the main changes and adjustments to the legal framework that governs the operation of the accusatory penal system, to then analyze some elements that may be having a positive or negative impact on its results, such as the sufficiency of personnel and the conditions for their

professionalization, elements that may well condition the equality of arms in the system. Finally, we will formulate some considerations on existing management and criminal investigation models.

3.1 Legal Framework

The criminal justice system (CJS), like any other, is dynamic and is in permanent transformation, although its consolidation phase began six years ago. The social claim against the high levels of violence and impunity has provoked the response of political actors in the form of legislative initiatives to reform the legal framework of the criminal justice system. These reactions, which are supposedly intended to improve the efficiency of the system, have violated the principle of presumption of innocence and revive inquisitive practices that were overcome with the constitutional reform of 2008⁴³.

Unfortunately, some of these attempts have prospered, such as the constitutional reform to article 19 on pretrial detention published on April 19, 2019, which expanded to 17 cases the catalog of crimes for which pretrial detention is mandatory imposed, that is, by mandate of law, to the accused persons.

The motivation for this reform seeks support in the 'puerta giratoria' (revolving door) discourse, which states that the criminal justice system allows detainees to achieve liberty with impunity by being presented before the public prosecutor or before a magistrate judge. However, the data shows another reality: of the cases prosecuted or brought before a magistrate judge during 2021, 86% concluded with a restitution agreement, a conditional suspension of criminal proceedings, a sentence, or a summary proceeding. This implies that almost nine out of 10 cases brought before the courts find a satisfactory response from the system⁴⁴.

As noted in past editions of *Hallazgos*, the 'puerta giratoria' discourse is part of the (false, from our perspective) narrative that the deficiencies of the CJS are associated with its procedural rules, as well as the idea that the rights of the accused person constitute a barrier for the success of the operation of the institutions. This story persists in the current context and continues to fuel reform projects that lower institutional performance

⁴² CIDAC, *Methodology for Monitoring and Evaluation of the Operation of the Criminal Justice System in Mexico*, 2016, Mexico. Available at: http://cidac.org/wp-content/uploads/2016/11/metodologia_seguimiento_web.pdf

⁴³ A clear example of this is the proposal presented to the Senate of the Republic in July 2020 by a group of governors to modify the National Code of Criminal Procedures, which extended the use of pretrial detention, incorporated near flagrante, and allowed the trial court to reclassify the criminal act in ruling, among other aspects that violate the rights of the accused person. This proposal was analyzed in detail in the report *Hallazgos 2020*.

⁴⁴ Data obtained from responses to requests for information. The detail of these data is presented in the Results Chapter.

standards; that are contrary to the human rights of the parties and that fail to address the underlying problem: the quality of justice and public security institutions performance.

It is necessary to make an analysis of the most relevant changes – already in force or in the legislative process – and their possible impact on the operation of the criminal justice system. Below, we describe the initiatives and legislative reforms related to the system that we identified during 2021.

3.1.1 Modification to the National Code of Criminal Proceedings

The constitutional reform of April 2019 led to the most recent regulatory amendment to the National Code of Criminal Procedures (CNPP), published on February 18, 2021. In order to harmonize the legal framework, the crimes included in the 2019 constitutional reform were added to article 167 – which regulates the origin of mandatory pretrial detention: abuse or sexual violence against minors, femicide, house robbery, use of social programs for electoral purposes, corruption in the case of crimes of illicit enrichment and abusive exercise of functions, theft of cargo transport in any of its modalities, crimes related to hydrocarbons, oil or petrochemicals, crimes related to enforced disappearance of persons, and crimes related to firearms and explosives of exclusive use of the Army, Navy and Air Force. This reform to the CNPP allowed the enactment of the constitutional reform of 2019, so that as of February 19, 2021, the authorities began to decree the mandatory pretrial detention for these new criminal acts.

Data shows that at the end of 2020 there were 89,130 people in pretrial detention, the highest figure since 2012, representing 41.6% of the total population deprived of their liberty in penitentiary centers, both in local and federal jurisdiction⁴⁵. At the end of 2021, this figure showed an increase of 3.9%, reaching a total of 92,574 people in pretrial detention.

**AT THE END OF 2020
THERE WERE 89,130
PEOPLE IN PRETRIAL
DETENTION, THE
HIGHEST FIGURE SINCE
2012**

When analyzing the use of this precautionary measure one year after the reform, we distinguish a differentiated behavior according to jurisdiction. For the period from March 2021 to March 2022, people in pretrial detention in the local jurisdiction decreased 2.5%, from 81,464 to 79,415. However, for the federal jurisdiction there was a considerable increase (8.1%), going from 12,323 to 13,321 people.

3.1.2 Reform Project on the Autonomy of Prosecutors

On March 24, 2022, Senator Olga Sánchez Cordero presented a constitutional reform project to the Senate of the Republic to modify fraction IX of article 116 and fraction X of section A of article 122 of the Federal Constitution. Its main objective is to standardize at national level the Attorney General's Office as constitutionally autonomous bodies, as well as to incorporate minimum parameters and general bases for the appointment and removal of their holders. This reform initiative has the following relevant elements⁴⁶:

- Confer constitutional autonomy to the Attorney General's Office at the local level.
- The heads of the Attorney General's Office will be appointed through a bi-instance procedure, in which the congresses and the local executive powers participate: the first will integrate lists of applicants and the second will select a shortlist so that the first, by means of a qualified majority, designates the chair. That is to say, **the procedure mandated by the Attorney General of the Republic will be replicated.**
- Duration of four years in the exercise of the chair position, with the possibility of being ratified by the local Congress for an equal period.
- The local Executive Power may remove the chair only for serious cause and prior absolute majority of the local Congress.

⁴⁵ Calculation made based on data from the National Penitentiary Statistical Information Monthly Notebook of the Decentralized Administrative Body for Prevention and Social Rehabilitation.

⁴⁶ The explanatory statements for the project can be found here: https://infosen.senado.gob.mx/sgsp/gaceta/65/1/2022-03-24-1/assets/documentos/Ini_Morena_Sen_Olga_Fraccion_IX_Art_116_Fraccion_X_Apartado_A_Art_122_CPEUM.pdf



- Establishment of professional and comprehensive career services for entry, training and permanence of public servants that are part of the Attorney General's Office.

In her explanatory statement, the senator refers to the need to grant autonomy to the prosecutor's offices, since the "political and operational dependence of the Prosecutor General on the Executive" subsists, and since said autonomy will guarantee their independence. Also, the need to homogenize the legal nature of the prosecutor's offices in the face of the great diversity of regulations for the prosecutor in the states is mentioned. The following data reflects that diversity:

- Thirteen states follow the regime mandated by the Attorney General of the Republic in terms of constitutional autonomy and appointment procedure.
- Twelve states grant the person in charge of the state Executive Branch the power to initiate the appointment procedure, proposing the head of the Attorney General's Office as the only option, through a shortlist of three or five candidates.
- Five states provide for citizen participation in the appointment procedure or the intervention of multidisciplinary states.
- Finally, three states present particular configurations:
 - In Veracruz, the designation is done by one body: the local Congress.
 - In Campeche, the head of the Executive branch does it, with ratification by the local Congress.
 - For Yucatan, the head of the Executive branch intervenes in the designation together with the local Legislature, even though the State Attorney General's Office is an administrative agency of the Executive Branch.

This constitutional reform project was referred to the Congress Joint Committees on Constitutional Matters and Legislative Studies, Second, and until the date of publication of this report, said committees have not ruled on the project.

3.1.3 General Criteria for the Exercise of Prosecutorial Discretion and Summary Proceedings

The exercise of prosecutorial discretion and the summary proceedings serve the Prosecutor as discretionary tools to depressurize the criminal justice system, reducing costs in terms of human and material resources, and achieving the closure of a case. In both criteria, the procedural code suggests that the attorney general issue rules to regulate these actions, since they represent a large discretionary space to refrain from prosecuting a crime and, to *negotiate* with the defender a sentence.

This space of discretion can be translated, for example, in the Prosecutor agreeing to execute its prosecutorial discretion in exchange for a bribe or that an accused person waives, under torture, his right to a trial. Even though in February 2016 some guidelines for the application of both figures were published, prepared by the National Conference for the Procurement of Justice⁴⁷, to guide the prosecutors in the development of their own regulations, there are still institutions that lack their own rules.

There are signs that the lack of these guidelines may inhibit the use of both figures by prosecutors, as we will show below.

Prosecutorial Discretion

Exercising prosecutorial discretion is a way to end the investigation, it allows a prosecutor to refrain from criminal action, provided that the damage caused to the victim/offended has been guaranteed or restituted.⁴⁸ The procedural code provides for six cases in which prosecutors may apply this discretion, and provides that it must be done based on objective reasons, without discrimination, and following the general criteria issued by the Attorney General. The issuance of these criteria is essential, since they regulate and guide the performance of the prosecutors by establishing, for each case, the requirements that must be considered true or proven to be able to apply a prosecutorial discretion, as well as the form and procedure to be authorized, and the authority to whom the power for authorization is delegated.

Despite the fact that eight years have passed since the CNPP was published, **seven states still lack these criteria**, which makes it difficult to standardize the

⁴⁷ The excerpt from the guidelines, published on February 9 in the *Official Journal of the Federation*, available at: https://www.dof.gob.mx/nota_detalle.php?code=5424771&date=02/09/2016#gsc.tab=0

⁴⁸ Regulated by the CNPP in its articles 256 to 258.

performance of prosecutors in the approval of the exercise of prosecutorial discretion and prevents guaranteeing the performance of relevant actions: ordering production of evidence, the type of forensic experts that will carry out the required proof, determining the risk that the accused person represents for the victim, ensuring the cooperation of the accused person regarding other possible defendants and/or crimes, among other aspects.

Therefore, the absence of these criteria and effective internal control mechanisms can lead prosecutors to grant prosecutorial discretion arbitrarily, violating the rights of the victim or offended party and allowing impunity. For greater clarity, Table 11 compiles a series of general criteria that prosecutors must follow based on regulations issued by the different state Attorney General's Offices.

From the information compiled in Table 12 and from what is reflected in the Results Chapter of this report,

we infer that the **seven states that lack guidelines for exercise of prosecutorial discretion did not use this discretion during 2021**. That is, Aguascalientes, Durango, Sonora, Hidalgo, Michoacán, Tabasco, and Veracruz have 0% exercised discretion during 2021. In contrast, the states that exercised discretion during 2021 do have guidelines that regulate them.

Indeed, the lack of these criteria seems to inhibit its exercise by prosecutors, since they do not have clarity about how to apply it. **This means wasting the benefits of prosecutorial discretion as a tool to reduce the workload of prosecutors and courts**, with the consequent focus of efforts and resources on the prosecution of cases of greater importance. In turn, the lack of these guidelines opens the possibility that prosecutors irregularly agree with defenders to exercise discretion, even though the circumstances of the criminal act do not meet the requirements set forth in the CNPP.

Table 11. Assumptions and Requirements to Exercise Prosecutorial Discretion

Assumptions of fact that allow the application of prosecutorial discretion	Elements that prosecutors must verify to apply it
Crimes without a custodial sentence or a sentence that is less than five years or with an alternative penalty, provided that the crime has been committed without violence.	<ul style="list-style-type: none"> • The maximum penalty of five years includes mitigating circumstances and excludes aggravating circumstances. • The evidence listed in the investigation file allows us to infer that the act was committed without violence. • Previously exhaust the possibility of entering into a restitution agreement or pre-trial diversion.
Negligent or patrimonial crimes committed without violence and without the accused having acted while intoxicated or under the influence of narcotics or the like.	<ul style="list-style-type: none"> • The evidence in the investigation file allows us to infer that the act was committed without violence. • In the file there are no elements on the existence of the state of drunkenness or the influx of substances through examination or opinion. • Previously exhaust the possibility of entering into a restitution agreement or pre-trial diversion.
The accused person suffered serious physical or emotional harm as a result of the crime or contracted a terminal illness.	<ul style="list-style-type: none"> • In the investigation there are opinions on the degree of affectation and the temporality of the physical or emotional damage, or terminal illness. • The healing period of the physical or emotional damage must be greater than the penalty. • The accused must not imply a risk to the safety of the victim or offended.
The penalty to be imposed is immaterial considering the penalty already imposed or that may be imposed for another crime for which the accused person is being prosecuted.	<ul style="list-style-type: none"> • The crime to which the opportunity criterion is intended to be applied does not warrant mandatory pretrial detention. • The accused person has already been sentenced for another crime and must serve a prison sentence. • The accused person is prosecuted for another crime where there is evidence that determines the possibility of obtaining a conviction. • The penalty that is dispensed with is less than another already imposed or in process.
The accused person provides essential and effective information to prosecute a more serious crime than the one charged and undertakes to appear in court.	<ul style="list-style-type: none"> • The accused person assists in the investigation and prosecution of another crime with a penalty higher than the arithmetic mean of the crime charged • The accused person contributes to the investigation and prosecution of the same fact that is accused, with respect to other people and: <ul style="list-style-type: none"> • It generated less affectation to the legal good. • Had a lower degree of participation. • The penalty that corresponds to him/her is attenuated compared to the conduct of other people. • The penalty of other people is aggravated compared to the penalty that corresponds to him/her. • It is verified that the information provided is true, useful, pertinent and sufficient to clarify the facts and is not intended to hinder or delay the investigation. • The accused person expressly accepts and in the presence of his/her defense attorney to declare in the corresponding process about the information provided. • The exercise of criminal action is suspended until the person appears at a hearing to give his/her testimony in the process in which he/she contributes. Subsequently, the Public Prosecutor's Office has a term to decide definitively on the criminal extinction.
If the criminal prosecution is disproportionate or unreasonable due to the causes or circumstances of the commission of the crime.	<ul style="list-style-type: none"> • Continuing with the investigation represents a cost of human, material and financial resources greater than the value of the damage repair determined by opinions. • The crime does not warrant mandatory pretrial detention. • The accused must not imply a risk to the safety of the victim or offended. • Due to the commission of the crime, the accused person lost more than half of his/her assets.

Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.



Table 12. Status of the issuance of general criteria for exercise of prosecutorial discretion and summary proceedings

State	Opportunity Criterion	Plea Agreements
Federation	Yes (agreement A/099/2017)	Yes (A/ 017/ 2015)
Aguascalientes	No, the agreement issued by the then PGR is applied in a complementary way	No, the agreement issued by the then PGR is applied in a complementary way
Baja California	Yes (agreement 01/2017)	Yes (agreement 01/2019)
Baja California Sur	Yes (agreement 06/2016)	Yes (agreement 252/2016)
Campeche	Yes (agreement A/007/2015)	Yes (agreement A/007/2015)
Chiapas	Yes (agreement PGJE/010/2016)	No
Chihuahua	Yes (agreement 01/2017)	Yes (agreement 01/2019)
Ciudad de Mexico	Yes (agreement FGJCDMX/13/2021)	Yes (agreement A/010/2015)
Coahuila	NA	NA
Colima	Yes (agreement of 03/17/2018)	Yes (agreement of 03/17/2018)
Durango	No	No
Guanajuato	Yes (agreements 3/2016 and 7/2016)	Yes (agreement 4/2016)
Guerrero	Yes (agreement FGE/VFINV/A/006/2016)	Yes (FGE/VFINV/A/004/2016)
Hidalgo	No	No
Jalisco	Yes (agreement 04/2016)	Yes (agreement 05/2016)
México	NA	NA
Michoacán	No	Yes (agreement 11/2019)
Morelos	Yes (agreement 13/2015)	Yes (agreement 14/2015)
Nayarit	NA	NA
Nuevo León	Yes (guidelines of 11/11/2020)	Yes (general criteria of 11/30/2020)
Oaxaca	Yes (guidelines of 07/01/2016)	Yes (guidelines of 07/01/2016)
Puebla	Yes (agreement A/013/2016)	Yes (guidelines L/006/2021)
Querétaro	Yes (agreement of 07/01/2019)	Yes (agreement of 07/01/2019)
Quintana Roo	Yes (agreement FGE/08/2020), it only establishes who the power to authorize the application of the opportunity criterion is delegated to	Yes (agreement FGE//09/2020)
San Luis Potosí	Yes (agreement 009/2020)	No
Sinaloa	NA	NA
Sonora	No	Yes (agreements 01/2019 and 02/2019)
Tabasco	No	No
Tamaulipas	NA	NA
Tlaxcala	Yes (agreement of 03/16/2016)	Yes (agreement of 12/30/2016)
Veracruz	No	Yes (agreement 01/2015)
Yucatán	No	Yes (agreement FGE//10/2017)
Zacatecas	Yes (agreement A/02/2015)	Yes (agreement A/03/2015)

NA: The request for information was not answered.

Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

Summary Proceedings

Summary proceedings are a way to end a criminal proceeding early, prior agreement between the accused and prosecutor. For its application it has to be requested by the prosecutor, the victim cannot oppose, and it has to be authorized by the magistrate judge. Thus, the summary proceeding represents obtaining a ruling in a short period of time, with a lower cost for all parties. This in turn allows to decongest the system and give a satisfactory conclusion to a case.

By accepting a summary proceeding, the accused person waives his or her right to an oral trial, admits his or her responsibility for the crime charged and agrees

to be sentenced based on the prosecutor's evidence. The prosecutor requests the imposition of an attenuated sentence as a benefit for the accused: the sentence can be reduced by up to a third of its minimum in the case of intentional crimes, and up to a half of its minimum for negligent crimes.

Regarding the reduction of the imprisonment time, article 202 of the CNPP provides that the prosecutor must observe the guidelines issued by the Prosecutor General, as a control mechanism towards prosecution discretion. Next, we compile a series of criteria that prosecutors must follow when requesting the sanctions, which were obtained from the guidelines already issued by the different state Attorney General's Offices:

- Have a scientific investigation, with legal and evidence sufficiency.
- Thoroughly evaluate the available means of evidence and their availability to be presented at trial, as well as the magnitude of the sanction that could be imposed through an oral trial.
- Consider the seriousness of the conduct: the value of the legal protected right, its degree of affectation, the intentional or non-intentional nature of the criminal conduct, the means used, the form of intervention of the accused person and the circumstances of time, manner, place and occasion of the event.
- Consider the degree of guilt of the accused person: the concrete possibility of behaving in a different way; the motives that prompted his conduct; their relationship with the victim, and the physical, psychological, social, and cultural conditions of the accused person, as well as their belonging to an ethnic group or indigenous people.
- Carry out a risk assessment analysis on the accused person.
- Grant a lesser penalty reduction if...
 - The crime was committed with violence, while intoxicated or under the influence of drugs.
 - The person was convicted of another criminal act.
 - The crime in question warrants mandatory pretrial detention.
- Grant greater penalty reduction if...
 - The person provided information to avoid the commission of another crime or the investigation of other people of higher hierarchy in the criminal structure.
 - The summary proceeding is accepted in the period closest to the order bound over.
 - Inform the victim of the parameters to determine the sentence and a comparison between the sentence requested in the summary proceeding and the one that could be imposed in the trial.
 - Where appropriate, favor the possibility of entering into a restitution agreement or the conditional suspension of criminal proceedings.

Table 13. Use of Summary Proceedings in States that Lack Guidelines for its Application

State	Percentage of Summary Proceedings Application
Aguascalientes	59.0%
Chiapas	66.0%
Durango	29.6%
Hidalgo	19.1%
San Luis Potosí	8.5%
Tabasco	29.1%

Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

At the close of this edition of *Hallazgos*, **six states still lack guidelines for the reduction of the sanctions carried out by prosecutors** (the detail is shown in Table 12). Based on the analysis that we display in the Results Chapter, we can anticipate that only four states that do not have guidelines use summary proceedings below the national average (35.0%), as we show in Table 13.

In contrast, the states that show the least use of summary proceedings at national level, like Veracruz (1.6%), Jalisco (2.2%) and Guerrero (2.3%), have guidelines that were issued in previous years. **This indicates that the existence of general criteria does not condition the application of this figure in practice**, even though its absence means that its application is not standardized and that no formal control mechanisms are foreseen. The foregoing could result in an irregular use of summary proceedings, aimed at pressuring the accused person to renounce their right to a trial, through torture or any type of coercion on the part of the prosecutors.

3.1.4 Implementation of the New Law of the Attorney General of the Republic

As explained in *Hallazgos 2020*, on May 20, 2021, the Law of the Attorney General of the Republic (LFGR) was published, which abrogated the previous Organic Law that gave rise to the Attorney General of the Republic (LOFGR) and that had a broad consensus among specialists, civil society, groups of victims and legislators.

The deficiencies and setbacks of the current law were analyzed in depth in the previous edition. We can summarize them as follows: autonomy is used as a limit to coordination and collaboration with other institutions;



it takes away from the victims the possibility of coordinating an investigation plan with the prosecutor and the right to request the attraction of cases from the local jurisdiction due to inactivity or inefficiency of the competent prosecutor's office. It reduces the powers of the Citizen Council as a mechanism for citizen participation, and focuses on investigating cases as isolated events and not in a context of macrocriminality.

In order to evaluate the implementation of the LFGR to date, it is necessary to review compliance with the deadlines set on its fourth transitory period, which regulates the issuance of crucial regulations for the operation of the FGR.

- **Organic Statute:** The head of the Prosecutor's Office should have issued it in August 2021. In response to our request for information, the FGR reported that it has not yet been issued by the Attorney General. This statute is fundamental, since it would contain the detail of the areas that make up the FGR and the development of the faculties of each of its heads.
- **Professional Career Service Statute:** The Prosecutor General should have issued it in November 2021. It will establish the bases and procedures to implement the Professional Career Service based on the principles of merit, perspective and gender parity and equal opportunities. In response to our request for information, the FGR informed that the issuance of the statute is subject to the prior issuance of the Organic Statute. Therefore, the Professional Career Service will be implemented until it has both statutes: no person has entered it.
- **Justice Procurement Strategic Plan:** the head of the Prosecutor's Office should have issued it in May 2022, to be ruled by the Senate of the Republic. This programmatic instrument will contain the institutional strategy, objectives, goals, and investigative priorities for effective and efficient criminal prosecution. Despite the fact that the twelfth transitory article provides that the opinion of the Citizen Council must be received for its issuance, the same article indicates that the lack of installation of the Council will not be an obstacle to its presentation.

The abrogated Organic Law, published in December 2018, mandated the issuance of a Criminal Prosecution

Plan within a period of one year, as well as a provisional version of it during the 90 days following the entry into force of the law. In response to these deadlines, the Attorney General of the Republic issued the provisional plan on March 14, 2019, and on January 17, 2020 delivered the final plan to the Senate of the Republic, which was turned over to the Justice Commission, but to date, it has yet to dictate on it.

- **Integration of the Citizen Council:** This specialized consultation body would be formed by five people with probity and prestige in the matter, in order to issue their *opinion* on the Strategic Plan for the Procurement of Justice, on the modifications to the structure of the FGR, budgetary and performance issues and regarding the Professional Career Service. The Council can also inform the internal control body in case of probable administrative responsibility. In any case, their opinions or recommendations are not binding on the FGR. The operation of this Council represents a great pending of the abrogated Organic Law. The Senate of the Republic made two public calls in November 2019 and February 2020, in order to form said Council. However, in both there was minimal participation –only four applicants–, which caused both to be deserted.⁴⁹ Until now, the Senate has not started the selection process dictated by the current law more than a year after its entry into force, thus committing a systematic and highly relevant omission.
- **Transition Unit:** in accordance with FGR, **at the end of 2021, the institution no longer has in its organic structure the Transition Unit (UT), in charge of coordinating, implementing, and evaluating the Strategic Transition Plan (PET).**⁵⁰ From the information provided by the FGR, it can be deduced that, when the Organic Law that gave legal origin to the Transition Unit was repealed, it ceased to exist, since it was not incorporated into the transitory provisions of the new law. The Strategic Transition Plan began its implementation in January 2020, and was updated in December of the same year and in March 2021. These adjustments modified the scope of the different projects and their objectives. In the last quarterly report of the Transition Unit (for the period January-March 2021), the progress for each strategic objective is reported: only three have 100% progress; three with progress greater than 50%, and three with progress less than

⁴⁹ As can be seen in this Decree of the Selection Committee of the Council, of September 14: https://infosen.senado.gob.mx/sgsp/gaceta/64/3/2020-09-15-1/assets/documentos/ACUERDO_CONSEJO_CIUDADANO.pdf

⁵⁰ In accordance with the Tenth Transitory Article of the Organic Law of the Attorney General of the Republic.

50%: the Change Management Program (33%), the Information System and Strategic Analysis (18%) and the Professional Career Service (0%)⁵¹

3.1.5 National Guard Incorporation to SEDENA

On June 15, 2021, the President of the Republic expressed his intention to formally bring in the National Guard to the Ministry of National Defense (SEDENA). A year later, in an act to mark the third anniversary of the National Guard, the president pointed out that another constitutional reform was necessary, so that this institution belongs to the SEDENA and not to the Secretary of Security and Citizen Protection (SSPC), as a way to consolidate it and prevent it from being “dismantled” in the future.

On August 9, 2022, and given the impossibility of achieving this change through a constitutional reform (given the configuration of the Congress of the Union), the federal Executive announced that it would issue a decree to **transfer the National Guard to the Sedena**. Subsequently, what happened was the promotion of a reform of secondary laws, approved by the Congress of the Union on September 8, 2022, and which resulted in a decree reforming various federal laws⁵².

This reform grants SEDENA the power to “exercise operational and administrative control” of the National Guard, as well as to issue its “organization, procedures and public service manuals”, and to determine its territorial organization, among others. In turn, the first level of command of the National Guard passes from the head of the SSPC to the head of SEDENA, and its second level of command, the Commander, is now appointed by the Presidency of the Republic, a proposal from SEDENA.

In contrast to the decree issued, the constitutional reform of March 2019, which gave life to the National Guard, clearly stipulated that it should be a civil institution, whose legal nature is to be a decentralized

administrative body of the SSPC. Assigning the National Guard to SEDENA would reverse the current, provisional, and extraordinary use of Armed Forces in public security tasks, and that the same constitutional reform provided for only an initial period of five years –until March 2024–. It would thus become a permanent circumstance⁵³.

In the same constitutional reform, it was established that the heads of the Executive branch in the 32 states had to present a diagnosis and a program to strengthen their state and municipal police forces.⁵⁴ The report *National Guard 3 years of militaristic definition*, prepared by the Observatory of the National Guard, documents that compliance with this obligation has been deficient⁵⁵. For 2020, two states did not present a diagnosis –Baja California and Zacatecas–, five did not present the program –Baja California, Baja California Sur, Jalisco, San Luis Potosí and Zacatecas– and 12 did not provide a budget for the execution of the program⁵⁶. For 2021, again two states did not present their diagnosis –Baja California and Baja California Sur–, three did not present the program –Baja California Sur, Jalisco and San Luis Potosí– and 10 failed to comply with the budget part⁵⁷. This was reported by the Executive Secretariat of the National Public Security System (SESNSP) in response to a request for information (330027622000351). Baja California is the only state that has not presented a single diagnosis so far and, along with Jalisco and San Luis Potosí, it has not presented its strengthening program either. It is also noteworthy that SESNSP lacks any report or follow-up on the progress made so far by the states in the implementation of their strengthening programs.

In the event for the third anniversary, the head of SEDENA, Luis Cresencio Sandoval, indicated that there are currently 118,000 elements of the National Guard deployed throughout the territory, mainly in the municipalities with the highest crime rate. This represents 86.3% progress with respect to the more than 136 thousand elements that were projected as a goal for 2024. The rate at which the state of force of the National Guard has grown, and the fact that most of its elements have a position and a remuneration from the

⁵¹ The Unit’s report is available here: https://www.gob.mx/cms/uploads/attachment/file/637820/Informe_FGR-UT_01-2021.pdf

⁵² On September 9, 2022, the DOF published the Decree that “reforms, adds, and repeals various provisions of the Organic Law of the Federal Public Administration; of the National Guard Law; of the Organic Law of the Mexican Army and Air Force, and of the Law of Promotions and Rewards of the Mexican Army and Air Force, in Matters of the National Guard and Public Security”. Available here: https://www.dof.gob.mx/nota_detalle.php?code=5664065&date=09/09/2022#gsc.tab=0

⁵³ Fifth transitory article of the constitutional reform on the National Guard, published in the Official Journal of the Federation on March 26, 2019.

⁵⁴ Sixth transitory article of the constitutional reform on the National Guard, published in the Official Journal of the Federation on March 26, 2019.

⁵⁵ National Guard Observatory. *National Guard, 3 years of militaristic definition*. July 2022, pp. 8-9.

⁵⁶ Aguascalientes, Baja California Sur, Campeche, Mexico City, Coahuila, Colima, Jalisco, Michoacán, Nuevo León, San Luis Potosí, Veracruz and Yucatán.

⁵⁷ Baja California, Baja California Sur, Coahuila, Jalisco, Michoacán, Nuevo León, Querétaro, San Luis Potosí, Veracruz and Yucatán.



SEDENA or SEMAR budget, are a great indication that in practice it is a military training corporation.

The National Guard reported that as of February 2022, only 30,199 elements had the Single Police Certificate, which represents 29% of the total⁵⁸. To obtain the Single Police Certificate (CUP), it is necessary to pass a section on initial training and evaluations of trust and performance control, and its accreditation is a requirement mandated by the General Law of the National Public Security System for all personnel that join any public security institution.

In any case, the reform to the laws approved on September 8, 2022 institutionalizes the irregular situation that was already observed in practice and, we reiterate, is contrary to the current constitutional design that foresees the National Guard as a public security institution and, therefore, of a civil nature. It is evident that the civilian nature of public security institutions cannot coexist with a reform that granted SEDENA command of the National Guard and the power to develop and execute its operational programs and strategies. It is to be expected that the actions of the National Guard as first responder and as assistant in the investigation of the crime, under the orders of the prosecutor, will be challenged after the aforementioned reform. However, the review of the constitutionality of this reform, which causes a legal antinomy, will take time to reach the federal courts.

3.1.6 Amnesty Law

In April 2020, the Amnesty Law was published, which would benefit people who were under criminal proceedings or already convicted in federal jurisdiction, for abortion crimes; crimes against health⁵⁹ committed by people in poverty or extreme vulnerability, consumers or part of an indigenous or Afro-Mexican community, or out of well-founded fear; for any crime for people part of an indigenous community whose process did not guarantee the right to have an interpreter or a defender with knowledge of their language and culture; for the crime of simple robbery and without violence that does not warrant a sentence of more than four years –a crime

that is not usually presented in the federal jurisdiction–, and for the crime of sedition⁶⁰.

The objective of the law is to benefit people in vulnerable situations who were affected by the punitive force of the State. The amnesty has the effect of extinguishing the criminal action or the sanctions imposed for the crimes listed, leaving the rights of the victims and the action for civil liability safe.

To obtain amnesty, the person concerned must apply to the Amnesty Commission, created on June 18, 2020⁶¹, which has four months to determine its origin and, where appropriate, submit its decision to a federal judge for confirmation. As of June 2022, the Commission has received a total of 1,993 requests. Only 17.5% (348 cases) were filed by women. Of this total, the Commission has already ruled on 1,306 applications (65.5%) and declared its admission in 167 cases, which benefited 102 men (61.1%) and 65 women (38.9%), a small number of people. **Until June 2022, the federal judicial authority has decreed amnesty in favor of 127 people (43.7% women and 56.3% men).**

Practically all the amnesties have been granted for crimes against health, highlighting the modality of transporting marijuana, methamphetamine, heroin and cocaine, as well as the modality of introducing cocaine into the country, crimes that are federal jurisdiction but whose jurisdiction is also shared with states. Even though less than two out of 10 people who have applied for amnesty are women, more than double have managed to obtain it. In turn, the low number of requests for simple robbery (given that these crimes are normally committed in the local jurisdiction) and for crimes committed by people belonging to an indigenous community stand out.

Table 14. Amnesty Requests Per Year

Year	Requests
2020	870
2021	973
2022*	150

*As of June 30, 2022.

Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

⁵⁸ National Guard Observatory. *National Guard, 3 years of militaristic definition*. July 2022, pp. 14.

⁵⁹ In its modality of production, transport, traffic, trade, supply and possession of narcotics, as well as the planting, cultivation or harvesting of marijuana plants, poppy, hallucinogenic mushrooms, peyote or any other with similar effects, in accordance with the provisions of articles 194, sections I and II, 195, 195 Bis and 198 of the current Federal Penal Code.

⁶⁰ Provided that it is not terrorism and that the act has not resulted in the deprivation of life or serious injuries, nor have firearms been used.

⁶¹ https://dof.gob.mx/nota_detalle.php?codigo=5595165&fecha=18/06/2020#gsc.tab=0

Table 15. Amnesty Requests by Type of Crime and Status

Crime	Submitted to the Commission	Not proceeding	Proceeding and under consideration of jurisdictional authority	Benefit granted by jurisdictional authority
Crimes against health related to narcotics	1,386	608	160	124
Offenses outside the cases provided for by the Amnesty Law	526	496	0	0
Crimes committed by persons part of an indigenous community	39	32	3	0
No information from the applicant	35	3	0	0
Simple robbery	7	0	4	3

Source: Prepared by the authors based on the requests for information made and answered | @mexevalua.

At the state level we have little information on the impact that amnesty laws have had on local jurisdiction. At the end of 2021, only six states had an amnesty law: Hidalgo (July 2020), State of Mexico (January 2021), Sinaloa (March 2021), Tlaxcala (May 2021), Durango (July 2021) and Quintana Roo (December 2021). Even though Hidalgo was the first state to have a law on this matter, it was not until March 2021 that the regulation establishing the procedure to be followed was issued, and the decree that created its local commission was issued in November of that year, delays that are the responsibility of the head of the local Executive Power. Durango is in the same case, a state that until now has not had a commission established. The entity that has shown the most significant impact is the State of Mexico, where amnesty has been granted to 2,648 people until July 2022. Almost all correspond to the crime of robbery, and only 11 for crimes against health⁶². In turn, most beneficiaries have been men (94.1%).

Most states already have a legislative initiative underway to issue their amnesty law. Only the states of Chiapas, Jalisco, Querétaro, Sonora and Tabasco lack initiatives. On the other hand, the initiatives presented in Aguascalientes, Chihuahua and Guanajuato failed to advance in their congresses, as they were rejected or ruled negatively by the respective commissions under the idea that they “promote impunity.”⁶³ or that they “free criminals”⁶⁴. In contrast, during 2022 states such as Baja California, Campeche, Nuevo León, and Colima have advanced in the modification of their local constitutions and the issuance of their own laws.

3.1.7 Pre-releases

On August 25, 2021, a decree was published ordering the Ministry of the Interior and the Ministry of Security and Citizen Protection (SSPC) to manage, before the competent authority, requests for the pre-release of convicted persons, as well as to identify people in pretrial detention and people who have been victims of torture⁶⁵. It was established that a Monitoring Committee would oversee the implementation of this decree, establishing its own operating rules, as well as issuing periodic reports on the actions carried out⁶⁶. However, almost a year after the decree was issued, said Committee has not been installed. The foregoing prevents us from being certain about the people who have been able to benefit from this decree in the federal jurisdiction, and from the actions undertaken in coordination with the states.

On September 14, 2021, the Minister of the Interior, Adán Augusto López, reported at a press conference that in conjunction with the SSPC’s Decentralized Administrative Body for Prevention and Social Readaptation (PyRS) they reviewed cases of persons deprived of their liberty who complied with the requirements to be pre-released or to modify their precautionary measure of pretrial detention.

He mentioned that 4,233 cases had been identified in the federal jurisdiction⁶⁷. Regarding local jurisdiction, the minister pointed out that they are working in a coordinated manner so that the states carry out the necessary procedures in order to grant pre-releases or

⁶² Informative Synthesis of the Judiciary of the State of Mexico. “2 thousand 648 PPL accused of robbery are released by amnesty.” (August 1th, 2022). Available at: <https://sintesis.yoporlajusticia.gob.mx/2022/08/01/liberan-por-ammistia-2-mil-648-ppl-acusados-de-robo/>

⁶³ Congress of the State of Chihuahua. “Commission votes negatively for the proposed Amnesty Law for Chihuahua”. April 20, 2022. Available at: <https://www.congresochoihuahua.gob.mx/detalleNota.php?id=6088>

⁶⁴ LJA.MX. “Amnesty Law, in the hands of the Justice Commission of the Congress of Aguascalientes, awaits its approval.” April 25, 2022. Available at: <https://www.lja.mx/2022/04/ley-de-ammistia-en-manos-de-la-comision-de-justicia-esperan-su-aprobacion/>

⁶⁵ Decree available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5627705&fecha=25/08/2021

⁶⁶ Guidelines for the integration and operation of the Committee, available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5629645&fecha=13/09/2021

⁶⁷ Statement on the minister’s conference, available at: <https://www.gob.mx/segob/prensa/labor-coordinada-en-el-gobierno-de-mexico-en-favor-de-poblacion-privada->



modifications to pretrial detention in their jurisdictions, anticipating granting benefits to 681 people deprived of their liberty⁶⁸. However, up to now, the status of the people who had been identified in both local and federal jurisdictions had not been reported.

On the other hand, on August 8, 2022, during his morning conference, the head of the federal Executive acknowledged that there has been little progress in the implementation of this agreement, and that by presidential agreement he will shortly restructure the SSPC, to entrust it with the coordination of the implementation of this agreement and thus achieve “cleaning the prisons so that innocents are released”.

Finally, an unprecedented decree stands out: For a Justice Close to the People, signed by the Judiciary of the Federation with the Government of Mexico City on May 9, 2022, and whose objective is for the Federal Institute of Public Defenders (IFDP) to collaborate with the institutions in the capital, so that federal public defenders intervene in matters of local jurisdiction to bring justice closer to the most vulnerable people⁶⁹. In this context, the IFDP carried out seven brigades during May and June 2022 to interview a total of 932 women deprived of their liberty in the Santa Martha Acatitla women’s prison. Of those interviewed, 552 women requested the representation of the IFDP, and authorization was requested from the Federal Judicial Council to represent 53 of them, initially⁷⁰. Of this initial group, 24 are in pretrial detention and 29 have already been convicted; in turn, 44 women are primary caregivers (mothers), six belong to an indigenous community and seven are older adults⁷¹. At the close of this edition, two women recovered their freedom. They are Alina and Mara: they had already submitted a request for pre-release, the processing of which by the authorities had taken too long⁷².

3.1.8 Judicial Precedents Relevant to the Criminal Justice System

This section presents various jurisprudential and isolated judicial precedents that have been issued by federal courts, both collegiate circuit courts and the Supreme Court of Justice of the Nation (SCJN), which give content, extend, or delimit the sphere of protection in favor of victims, who denounce the commission of a crime and the accused.

These precedents are relevant and transcendent for the daily operation of the criminal justice system. Some materialized during 2021, but we also incorporated into the analysis others that arose in previous years to which it is pertinent to draw attention.

The relevance of these precedents lies in the fact that they give content to the rights that assist the accused, such as the right to be brought immediately before a prosecutor on their arrest, as well as the right to non-self-incrimination. In addition, they also set a limit to the irregular action of the police during the arrest of a person and require the prosecutor a higher evidentiary standard when requesting pretrial detention. Generally, **these criteria demand from the criminal justice system operators higher quality standards in their performance and an adherence to the human rights of the parties.**

Victim Legal Status in Criminal Proceedings

A Federal Collegiate Court indicated that the complainant has the legitimacy to disagree -through the unnamed appeal established in article 258 of the CNPP- before the decision of the Public Prosecutor not to pursue criminal action, even if said person *is not recognized* as a victim in the investigation file⁷³. The court indicated that “understanding the legal status of victim in a limited sense” constitutes an obstacle to the exercise of the right to truth and justice.⁷⁴ According to said court...

de-su-libertad?idiom=es

⁶⁸ The states with the highest number of inmates benefited are Chiapas with 198, Durango with 100, Baja California with 63 and Zacatecas with 57.

⁶⁹ Press release 166/2022 of the Supreme Court of the Nation, of May 9, 2022. <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6888>

⁷⁰ The most representative crimes are kidnapping (19), homicide (9), robbery (8), attempted homicide (4) and human trafficking (3). This was reported by the IFDP in the second session of the “Observatory for the care of persons deprived of their liberty in prisons” held on June 27, 2022.

⁷¹ This was reported by the IFDP in the second session of the “Observatory for the care of persons deprived of their liberty in prisons” held on June 27, 2022.

⁷² Press release 276/2022 of the Supreme Court of the Nation, of August 02, 2022. <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6999>

⁷³ LEGITIMATION TO BRING THE CHALLENGE MANDATED IN ARTICLE 258 OF THE NATIONAL CODE OF CRIMINAL PROCEDURES AGAINST THE DETERMINATION OF PROSECUTORS ABOUT THE NON-EXERCISE OF CRIMINAL ACTION. THE COMPLAINANT HAS IT WHEN THEIR CLAIM IS TO SAFEGUARD THE RIGHT OF ACCESS TO JUSTICE AND THAT THE MECHANISM THAT ACTIVATED IS EXPEDITED. [T.C.C.] Precedent (isolated): I.9o.P.315 P (10a.) Gazette of the Judicial Weekly of the Federation. Book 1, May 2021, Volume III, page 2493.

⁷⁴ Ibid.



The protectionist rationale for the right invoked must be materialized by the authorities of the country, considering the data that is noted in the specific case, in order that the people who may resent an affectation in the enjoyment of the aforementioned human right, directly or indirectly and regardless of whether they are entitled to financial compensation, they can assert their rights in an affordable procedure that grants them real and effective access to justice (...)⁷⁵.

A different Federal Collegiate Court also ruled in a protective sense, when analyzing the appeal by means of which a moral person disagreed with the refusal to be recognized as a victim in an investigation file. Said court decided, citing a binding judicial precedent of the SCJN, that “it is appropriate to apply in favor of the legal person complaining the assumption of substitution of the complaint (...), when he claims an act by means of which he is denied recognition of the quality of victim”⁷⁶.

This contrasts with the decision made in the following case. One person promoted an amparo lawsuit due to the refusal to be recognized as a victim by the prosecutor in an investigation file. The district judge in charge of resolving required the prosecutor to deliver all the records of said file. The Federal Collegiate Court that reviewed said requirement decided (wrongly, from our perspective) that it went “beyond what is strictly necessary” to resolve the conflict in question and that the district judge should resolve without consulting the file⁷⁷. To support its decision, the court invoked a binding judicial precedent of the SCJN that states that “as a general rule” the magistrate judge must resolve the challenge of the victim or the offended party about the non-exercise of criminal action without consulting the

investigation file⁷⁸. The court added that this is “without prejudice to the fact that during the procedural sequel the complainant can justify, with reason, the need to request certain records of the investigation file from the responsible authority”⁷⁹.

This decision and the precedent that derives from it are susceptible to criticism, firstly, because it forces the amparo judge to blindly resolve a matter of which he has no direct or immediate knowledge, and which may have negative repercussions on the victim. In supporting its decision, the court transfers a criterion that is not applicable to the case, since the amparo judge, unlike the magistrate judge, does not know the details related to the criminal investigation nor does he conduct the hearings that have been held until then, so he has incomplete information. Secondly, it is open to criticism because it leaves the victim defenseless who, on the one hand, has not been recognized as such in the investigation file and, on the other, is unable to specify what records must be transferred to the judge to resolve if he grants the protection or not, because he does not have access to the investigation file.

Lastly, within the criminal proceeding against former Governor Javier Duarte de Ochoa, a Federal Collegiate Court denied the status of victim to a civil association whose corporate purpose includes combating corruption and impunity, which led to various isolated precedents. In this ruling, issued in May 2020, the court ruled that to obtain such status it was necessary for the association to demonstrate physical damage, financial loss or impairment of their fundamental rights because of the crime, and that by not doing so, it lacked such character⁸⁰. This decision ignores the fact that the General Law on Victims recognizes the nature of victims of the organizations affected in their *collective* rights, interests, or legal assets, and that is exactly what happens in this case, when the proper public administration is affected by crimes associated with acts of corruption. Unfortunately, there are other amparo trials in which groups of civil society organizations have faced, as in this case, restrictive rulings.

⁷⁵ Ibid.

⁷⁶ SUBSTITUTION OF THE DEFICIENT COMPLAINT IN THE TRIAL FOR AMPARO IN CRIMINAL MATTERS. OPERATES IN FAVOR OF THE LEGAL ENTITY COMPLAINING THAT SEEKS RECOGNITION OF THE QUALITY OF VICTIM OR OFFENDER OF THE CRIME [EXTENSIVE APPLICATION OF ARTICLE 79, SECTION III, INCEPTION B), OF THE LAW OF AMPARO]. [T.C.C.] Precedent (isolated): V.2o.P.A.22 P (10a.) Gazette of the Judicial Weekly of the Federation. Book 4, August 2021, Volume V, page 4935.

⁷⁷ REFUSAL OF THE PUBLIC PROSECUTOR'S OFFICE TO RECOGNIZE THE COMPLAINT AS A VICTIM OF THE CRIME IN THE INVESTIGATION FILE. WHEN IN THE AMPARO TRIAL PROMOTED AGAINST HIM/HER THE DISTRICT JUDGE REQUIRES ALL THE CERTIFICATES THAT ARE PART OF IT, SUCH REQUIREMENT GOES BEYOND WHAT IS STRICTLY NECESSARY TO DISCERN THE CONSTITUTIONAL LITIS. [T.C.C.] Precedent (isolated): XVII.1o.P.A.2 P (11a.), Gazette of the Judicial Weekly of the Federation. Book 7, November 2021, Volume IV, page 3387.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ HUMAN RIGHT TO LIVE IN AN ENVIRONMENT FREE OF CORRUPTION. IT IS NOT VIOLATED BY THE FACT THAT A CIVIL ASSOCIATION THAT HAS THE OBJECT OF COMBATTING IT IS NOT RECOGNIZED AS THE VICTIM OR OFFENDER OF THE CRIME THAT IT REPORTED, BECAUSE IT IS NOT PROVED THAT AS A CONSEQUENCE OF THE CRIME THEY SUFFERED PHYSICAL DAMAGE, FINANCIAL LOSS OR IMPAIRMENT OF THEIR FUNDAMENTAL RIGHTS. [T.C.C.] Precedent (isolated): I.9o.P.255 P (10a.), Gazette of the Judicial Weekly of the Federation. Book 72, November 2019, Volume III, page 2335.



Pretrial Detention

A Federal Collegiate Court issued binding precedent when judging that the imposition of pretrial detention “based on subjective assessments by the Magistrate Judge” is illegal, such as, for example, that the detention was carried out in a different state to which his appearance is sought, that the accused person traveled frequently, or that he had different addresses⁸¹. In addition to this, another binding precedent had already established in 2018 that it is also illegal to justify its imposition solely based on the maximum penalty provided for the criminal act for which the accused person is being investigated⁸². **These binding precedents require prosecutors to present more robust arguments at the hearing to justify the imposition of this exceptional precautionary measure.**

Finally, a binding judicial precedent, issued in May 2022, stands out positively, which establishes that the constitutional term of two years for the maximum duration of pretrial detention applies both to the measure imposed justifiably and unofficially⁸³. Therefore, in both cases, the magistrate judge must, after the term, review it and determine its cessation or extension. In the same sense, an isolated precedent maintains that the courts of first and second hearing maintain the constitutional duty to calculate the duration of pretrial detention, regardless of the obligation of the sentence enforcement judge to calculate the custodial sentence⁸⁴. **Both criteria encourage judges to be aware of the time that the defendants have spent under this deeply restrictive measure,** and once the constitutional term has elapsed, they proceed to its revision.

Availability of the Accused Person

A binding precedent issued by the First Chamber of the SCJN in 2016 stands out⁸⁵, in which it was determined

that when there is a violation of the fundamental right to be brought before the prosecutor without delay, the evidence obtained by the police that is directly related to said unjustified delay is also invalid, or that has been collected as a result of a police investigation not conducted or controlled by the prosecutor. On the contrary, the evidence obtained as a result of arrest in flagrante is not invalid, since this type of violation only affects what is related to the next act that must be carried out when arresting a person: presenting him/her in a timely manner to the prosecutor. **Thus, the SCJN distinguished two moments, the *detention* and the *bringing before the prosecutor*, which each have factual and substantial independence.** This precedent is extremely important, since it guides the evaluation of the police report carried out by magistrate judges.

In addition to this precedent, an isolated thesis from 2019 issued by a Federal Collegiate Court provides that the magistrate judge must also exclude from his evidentiary assessment the self-incriminating statement that an arrested person makes in front of the captors.⁸⁶ This exclusion is intended to guarantee the human right to non-self-incrimination, since any statement by the accused person must be made after a reading of their rights, with knowledge of the facts for which an investigation is being carried out against them and with the presence of a defense attorney. Therefore, the content of the approved police report related to self-incrimination must be excluded.

Finally, a precedent of the First Chamber of the SCJN issued recently, in June 2022, is highlighted, in which it is determined that the police do not have the power to carry out actions, by themselves and without an order from the prosecutor, related to the investigation of the crime, except for the protection of evidence,

⁸¹ JUSTIFIED PRETRIAL DETENTION. THE IMPOSITION OF THIS PRECAUTIONARY MEASURE BASED ON SUBJECTIVE ASSESSMENTS OF THE MAGISTRATE JUDGE IS ILLEGAL. [SCJN] Precedent (judicial): XVII.1o.P.A J/34 P (10th) Gazette of the Judicial Weekly of the Federation. Book 4, August 2021, Volume V, page 4739.

⁸² PRETRIAL DETENTION THE MAXIMUM PENALTY AS THE SOLE REASON TO JUSTIFY ITS IMPOSITION AS A PRECAUTIONARY MEASURE, VIOLATES THE PRINCIPLE OF PRESUMPTION OF INNOCENCE IN ITS SIDE OF THE RULE OF PROCEDURAL TREATMENT, CONTAINED IN ARTICLES 20, SECTION B, FRACTION I, OF THE POLITICAL CONSTITUTION OF THE MEXICAN UNITED STATES AND 7 AND 8 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS. [T.C.C.] Precedent (judicial): VI.2o.P J/2 (10a.), Gazette of the Judicial Weekly of the Federation. Book 60, November 2018, Volume III, page 2077.

⁸³ MANDATORY PRETRIAL DETENTION. ITS DURATION SHOULD BE REVIEWED WITHIN TWO YEARS, REFERRED TO IN ARTICLE 20, SECTION B, FRACTION IX, CONSTITUTIONAL AND, IF APPLICABLE, DETERMINE WHETHER ITS APPLICATION IS CEASED OR PROLONGED. [SCJN] Precedent (judicial): 1a./J. 32/2022 (11a.), Gazette of the Judicial Weekly of the Federation. Book 13, May 2022, Volume III, page 2839.

⁸⁴ PRETRIAL DETENTION THE CONSTITUTIONAL AND LEGAL POWER OF THE CRIMINAL ENFORCEMENT COURTS TO COMPUTE THE CONVICTION AND PRECISELY DETERMINE THE DATE ON WHICH IT WILL BE DECISIONED, DOES NOT EXEMPT THE COURT OF FIRST HEARING OR THE COURT OF APPEALS FROM COMPLYING WITH THEIR DUTY TO COMPUTE THE TIME OF SUCH SENTENCE. [T.C.C.] Precedent (isolated): II.2o.P.109 P (10a.) Gazette of the Judicial Weekly of the Federation. Book 1, May 2021, Volume III, page 2608.

⁸⁵ DELAY IN BRINGING THE ARRESTED IN FLAGRANTE BEFORE THE PUBLIC PROSECUTOR. THE ASSESSMENT OF THE INFORMATIVE REPORT OR OFFICE MADE AVAILABLE TO THE CAPTORS, SHOULD ATTEND TO THE FACTUAL AND SUBSTANTIAL INDEPENDENCE OF THE ARREST AND THE BRINGING BEFORE THE PROSECUTOR. [SCJN] Precedent (judicial): 1a./J. 8/2016 (10a.), Gazette of the Judicial Weekly of the Federation. Book 33, August 2016, Volume II, page 723.

⁸⁶ RIGHT NOT TO SELF-INCRIMINATION. IF THE CAPTORS, BY THEMSELVES AND WITHOUT THE LEADING OF THE PUBLIC PROSECUTOR, HAVE TAKEN THE SELF-INCRIMINATORY STATEMENT OF THE PERSON INVOLVED –CONTAINED IN THE APPROVED POLICE REPORT– IT IS LEGAL FOR THE MAGISTRATE JUDGE, IN HIS DECISION, NOT TO CONSIDER IT AND EXCLUDE IT FROM THE EVIDENCE MATERIAL. T.C.C.] Precedent (isolated): XI.P.26 P (10a.), Gazette of the Judicial Weekly of the Federation. Book 63, February 2019, Volume II, page 2960.

instruments, objects or products of the crime found at the scene of the facts. In the case, the police collected video recordings in which the commission of the crime is recorded, which led to the arrest in flagrante of the accused. These video recordings supported the disclosure before the prosecutor. However, the SCJN judged that the obtaining and analysis of the video recording did not make it impossible to immediately make it available to the prosecutor, and that said acts constitute an investigative procedure that must be preceded and supervised by orders from the prosecutor him/herself. **This precedent sheds light on the scope of police action and on what type of proceedings carried out between the arrest and the availability before the prosecutor could be considered invalid.**

Legal Classification of the Criminal Act

Here we highlight an isolated precedent issued on the following facts: as part of its closing arguments, the prosecutor “incorporated circumstances that he/she did not originally formulate in his/her accusation and that were not reflected in the order to open the oral trial” and, based on this, it reclassified the crime in the closing proceedings⁸⁷. Faced with this, the Court considered that there was an excess on the part of the prosecutor and, therefore, ruled an acquittal. The Federal Collegiate Court that heard the case indicated that the incorporation of “circumstances” not originally formulated in the accusation had been insufficient to rule an acquittal, since...



This is insufficient to consider that there is an absence of accusation or a defect of such relevance that it results in an acquittal, if the crime for which he was originally accused, under the facts that gave rise to the order to open oral trial, subsists in its original form and the real intention of the reclassification was to

complement the conduct and place it in a more serious criminal type, since this only generates a translation of type, not the atypicality⁸⁸.

It is worrisome that the Federal Collegiate Court endorses the inclusion of what were apparently unproven facts in the closing allegations by the prosecutor, and that based on this it proposes the reclassification of the crime. Although the applicable norm (art. 368 of the Code of Criminal Procedures for the State of Mexico) allows the prosecutor to reclassify the crime in the opening or closing arguments, the court itself suggests that any change introduced must be of a technical nature, not factual. **Allowing the prosecutor to “complement the conduct,” without the procedural opportunity for the accused person to distort the “complements”, becomes a violation of due process.**

Finally, various binding precedents of 2020 are highlighted that support the legal reclassification of the criminal act by the magistrate judge when establishing probable cause, regardless of whether or not said modification benefits the accused person⁸⁹. As an example, one judicial precedent maintains that this does not invade the powers of the prosecutor, since the study of criminality is rectified, which is necessary for continuing the investigation for the crime that “really corresponds”, and thus resolve the litigation adequately⁹⁰. It is argued that this does not violate the presumption of innocence, since the same facts that served as the basis for the prosecutor to formulate the accusation subsist, which allows preparing the defense strategy and, where appropriate, challenging the determination. **Recognizing the constitutionality of this type of intervention has the risk of leading the magistrate judge to correct the technical deficiencies of the prosecutor**, which is a characteristic feature of the already abrogated traditional system, in which the judges systematically reclassified the crime and even identified and requested the correction of deficiencies in the formal accusation sheets. From now on, it is relevant to follow up on this jurisdictional intervention in the development of the supplementary investigation and the subsequent accusation by the prosecutor.

⁸⁷ THE CLOSING ARGUMENTS OF THE PROSECUTOR PROPOSED A DIFFERENT LEGAL CLASSIFICATION OF THE ACT AFFECTED AND, IN DOING SO, THEY EXCEEDED BY INCORPORATING CIRCUMSTANCES THAT WERE ORIGINALLY NOT FORMED IN THE ACCUSATION, THIS IS INSUFFICIENT TO RULE AN ACQUITTAL, IF THE CRIME FOR WHICH ORIGINALLY ACCUSED SUBSISTS IN ITS ORIGINAL FORM (REPEALED LEGISLATION OF THE STATE OF MEXICO). [T.C.C.] Precedent (isolated): II.3o.P.95 P (10a.) Gazette of the Judicial Weekly of the Federation. Book 1, May 2021, Volume III, page 2377.

⁸⁸ Ibid.

⁸⁹ These are the binding judicial precedents 1a./J. 31/2020 (10a.) and 1a./J. 29/2020 (10th) of the First Chamber of the SCJN, as well as the PC.I.P J/69 P (10a.) by the Criminal Matters Plenary of the First Circuit.

⁹⁰ ESTABLISHED PROBABLE CAUSE. WHEN RULING IT, THE MAGISTRATE JUDGE MAY MODIFY THE LEGAL CLASSIFICATION OF THE FACTS WITH THE APPEARANCE OF A CRIME CARRIED OUT BY THE PROSECUTION BODY, EVEN IF IT DOES NOT BENEFIT THE DEFENDANT. [T.C.C.] Precedent (judicial): PC.I.P. J/69 P (10a.), Gazette of the Judicial Weekly of the Federation. Book 75, February 2020, Volume II, page 1283.



3.2 Professionalization

3.2.1 Investment of Resources for Training

Even though constant training is essential for institutional strengthening and continuous improvement of the criminal justice system, we observe that the investment of resources has not been made in a differentiated manner, according to the needs of each context, nor aimed at meeting the specific goals and objectives. Therefore, we must conclude that it has not been enough to guarantee the generation of symmetrical capacities, both among the institutions of the justice system and among the states.

According to information from the Evaluation and Transparency Mechanism (MET)⁹¹ regarding the budgetary situation in terms of public security, in 2021 13.8% of the amount agreed in the Contribution Fund for Public Security (FASP) was allocated to a national priority program called Professionalization, Certification and Training, which is only 0.1 % higher than assigned in 2020 (13.7%), but significantly higher than assigned in 2019 (9.3%). This program is formed by two subprograms: Trust Checks, which concentrates 43.9% of the resources, and Professionalization and Training, with 56.1%.

Of the resources available in the FASP, the states that allocated the greatest resources to the Professionalization, Certification, and Training program were Puebla, Michoacán, Nayarit, Tabasco, and Guerrero, with 37.8%, 30.6%, 28.4%, 28.0%, and 22.4%, respectively. In contrast, the states that allocated a lower percentage were Mexico City, Colima and Sinaloa with 0.0%, 3.9% and 7.0%, respectively. Most states present an efficiency in the exercise of this program greater than 95%, except for the cases of Yucatán (88.9%), Tabasco (91.6%), Nuevo León (91.4%), Nayarit (92.3%), Puebla (93.2%) and Sonora (93.4%). In any case, **the MET does not show the information in detail, so it is not possible to identify in which specific actions, programs and projects the resources were invested.** On the one hand, the FASP distribution criteria for 2021 were the same as those adopted for 2020, so it is a distribution of the inertial budget⁹². On the other hand, the criteria for the administration and exercise of the FASP resources for 2021 provide that the states present investment proposals to the SESNSP, with the objectives, goals, scope and required amount of the project⁹³, without this information being available to the public in a systematic way.

Table 16. Distribution of FASP Assigned to Training

State	FASP Total Agreed	Total for professionalization, certification and training	Percentage of investment amounts for training in the FASP 2021 related to the criminal justice system
Aguascalientes	\$ 249,147,110.00	\$ 33,492,846.00	13.4%
Baja California	\$ 366,081,876.25	\$ 63,359,688.97	17.3%
Baja California Sur	\$ 259,940,142.50	\$ 29,312,563.96	11.3%
Campeche	\$ 236,190,721.25	\$ 24,651,738.00	10.4%
Chiapas	\$ 346,501,833.55	\$ 46,671,737.38	13.5%
Chihuahua	\$ 381,211,446.84	\$ 29,789,693.62	7.8%
Mexico City	\$ 593,545,301.25	\$ -	0.0%
Coahuila	\$ 270,708,478.75	\$ 56,765,700.00	21.0%
Colima	\$ 255,385,778.75	\$ 9,955,280.00	3.9%
Durango	\$ 262,435,578.75	\$ 21,898,436.67	8.3%
Guanajuato	\$ 333,300,182.41	\$ 48,194,458.43	14.5%
Guerrero	\$ 283,554,360.00	\$ 63,445,551.00	22.4%
Hidalgo	\$ 254,023,744.00	\$ 36,273,566.42	14.3%
Jalisco	\$ 409,655,034.15	\$ 46,791,867.15	11.4%
State of Mexico	\$ 661,809,185.00	\$ 116,783,074.00	17.6%
Michoacán	\$ 280,615,757.50	\$ 85,960,676.20	30.6%
Morelos	\$ 295,345,627.55	\$ 26,330,709.38	8.9%
Nayarit	\$ 233,981,615.00	\$ 66,334,241.00	28.4%
Nuevo León	\$ 391,424,344.80	\$ 31,736,681.48	8.1%
Oaxaca	\$ 264,941,723.75	\$ 32,908,257.00	12.4%
Puebla	\$ 314,383,841.25	\$ 118,901,212.25	37.8%
Querétaro	\$ 248,561,200.00	\$ 29,840,346.00	12.0%
Quintana Roo	\$ 241,196,471.25	\$ 30,799,267.41	12.8%
San Luis Potosí	\$ 250,376,610.00	\$ 22,837,640.00	9.1%
Sinaloa	\$ 308,724,131.00	\$ 21,522,500.00	7.0%
Sonora	\$ 336,963,976.25	\$ 28,189,798.13	8.4%
Tabasco	\$ 273,135,323.75	\$ 76,424,521.83	28.0%
Tamaulipas	\$ 286,507,927.50	\$ 26,481,957.00	9.2%
Tlaxcala	\$ 204,139,482.50	\$ 24,138,661.41	11.8%
Veracruz	\$ 376,005,019.00	\$ 52,868,169.00	14.1%
Yucatán	\$ 223,008,689.00	\$ 37,101,289.00	16.6%
Zacatecas	\$ 236,263,937.00	\$ 27,765,692.00	11.8%
National	\$ 9,929,066,450.55	\$ 1,367,527,820.69	13.8%

Source: Own preparation with information from the Evaluation and Transparency Mechanism (MET) | @mexevalua.

The fact that more resources have been assigned to this priority program is an indication of the relevance of improving the performance of public servants. However, in addition to the amount of the resource invested, **it is essential to know if the training is effective to improve the knowledge and skills of the operators**, a result that cannot be determined given the lack of information, which prevents a qualitative evaluation of the training quality.

⁹¹ Evaluation and Transparency Mechanism. FASP and Fortaseg budget situation. Available at: <https://met.sesnspp.net/>

⁹² Annex I of Decree 03/XLVI/20 of the National Public Security Council. Available at: https://www.dof.gob.mx/nota_detalle.php?code=5609178&date=12/30/2020#gsc.tab=0

Furthermore, the Security Strengthening Program (Fortaseg), a subsidy for the professionalization, certification, and equipment of police institutions at the municipal level, ceased to exist for the 2021 Federation Expenditure Budget (PEF), which is of great concern. The municipalities that benefited from this program began, in 2021, to seek resources from the Fund for Contributions for the Strengthening of Municipalities and Territorial Demarcations of the Federal District (Fortamun), a fund that, like the FASP, is part of the federalized spending for public security.

The Fortamun has the objective of covering local needs. It prioritizes the fulfillment of its financial obligations to the payment of rights and uses for water, wastewater discharges, modernization of local collection systems, infrastructure maintenance, and attention to needs linked to the public safety of their inhabitants⁹⁴. The distribution of these resources is in direct proportion to the number of inhabitants of each state and, unfortunately, the allocation of resources for 2021 decreased compared to 2020 by 4.6%.

In view of the termination of the Fortaseg subsidy, article 7, section IX, second paragraph of the PEF provided that the National Public Security Council will be the one that "will promote at least 20% of the resources provided" for Fortamun to be dedicated to meeting needs *directly* related to public safety. However, with the information available, it is not possible to determine the percentage of spending invested in public security needs and, more specifically, in activities related to training and capacity building.

The states that had a greater allocation of resources, with respect to the total budget allocated for Fortamun, were the State of Mexico and Veracruz, with 14% and 6.4%, respectively. In contrast, there were states in which less than 1% was assigned, such as Chihuahua, Baja California Sur and Campeche, with 0.6%, 0.7% and 0.8%, respectively.

We must reiterate that there is a lack of information accessible to the public that details the projects on training and professionalization for which the states requested resources from the FASP and Fortamun, as well as their objectives in the short and medium term, their associated indicators and the goals achieved with them. On the one hand, this makes it impossible to know if the training contemplates an initial and a final evaluation, as is optimal. On the other hand, it is not possible to analyze whether the training is related to the skills and knowledge that each competency profile must have, within the institutions that are part of the criminal

Table 17. Fortamun Distribution

State	Total cost	Percentage of total
Aguascalientes	\$ 910,535,311.00	1.1%
Baja California	\$ 2,480,218,982.00	2.9%
Baja California Sur	\$ 585,491,399.00	0.7%
Campeche	\$ 648,439,729.00	0.8%
Chiapas	\$ 2,080,973,609.00	2.4%
Chihuahua	\$ 520,760,840.00	0.6%
Mexico City	\$ 3,702,805,346.00	4.3%
Coahuila	\$ 2,580,916,127.00	3.0%
Colima	\$ 7,108,670,057.00	8.3%
Durango	\$ 1,228,083,114.00	1.4%
Guanajuato	\$ 4,009,683,693.00	4.7%
Guerrero	\$ 2,429,782,096.00	2.8%
Hidalgo	\$ 2,024,533,992.00	2.4%
Jalisco	\$ 5,560,153,976.00	6.5%
State of Mexico	\$ 12,021,680,467.00	14.0%
Michoacán	\$ 3,150,493,647.00	3.7%
Morelos	\$ 1,350,143,739.00	1.6%
Nayarit	\$ 887,515,766.00	1.0%
Nuevo León	\$ 3,618,282,376.00	4.2%
Oaxaca	\$ 2,742,756,136.00	3.2%
Puebla	\$ 4,308,387,965.00	5.0%
Querétaro	\$ 1,428,464,773.00	1.7%
Quintana Roo	\$ 1,198,058,169.00	1.4%
San Luis Potosí	\$ 1,906,811,402.00	2.2%
Sinaloa	\$ 2,064,147,370.00	2.4%
Sonora	\$ 2,078,759,771.00	2.4%
Tabasco	\$ 1,660,907,924.00	1.9%
Tamaulipas	\$ 2,483,595,518.00	2.9%
Tlaxcala	\$ 906,848,678.00	1.1%
Veracruz	\$ 5,534,622,449.00	6.4%
Yucatán	\$ 1,497,916,506.00	1.7%
Zacatecas	\$ 1,085,815,727.00	1.3%
Not geographically distributable	\$ 85,882,139.00	0.1%
Total	\$ 85,882,138,793.00	

Source: Own elaboration with information from the Expenditure Budget of the Federation 2021 | @mexevalua.

justice system. In general, and as in past editions, we do not observe that the resources destined to training keep a comprehensive or systemic logic; its allocation is rather inertial and focused on certain institutions or functions.

3.2.2 Sufficient and Trained Staff

Local Scope

To guarantee access to justice, the personnel must not only be trained, but must also be made up of a sufficient number of individuals to cover the needs of the population. The number of prosecutors, forensic services personnel,

⁹⁴ Expenditure Budget of the Federation 2021. Program strategy, Branch 33. Federal Contributions for the States and Municipalities

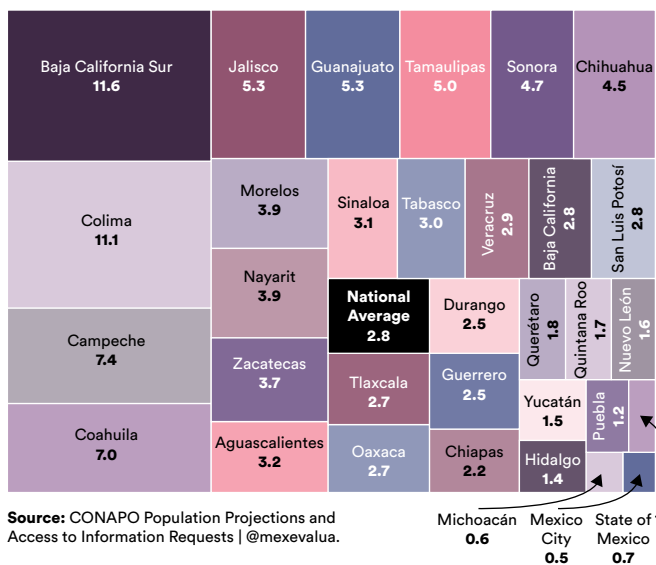


judges, or victim advisors on duty has a significant impact on the system's capacity to serve users and the quality of its response, especially regarding promptness in the procurement an administration of justice.

Although there is no defined standard on the rate of personnel necessary for the operation of the system, there are significant differences in the proportion of operators between one state and another. For *Hallazgos 2021*, we used the Inegi censuses, and the information provided by the institutions based on access to information requests, which provides a more complete picture of the national panorama.

As observed in Graph 12, **the rate of Attorney General's agencies per 100,000 inhabitants reached a countrywide average of 2.8, a reduction of 11.1% compared to 2020.** This rate continues to be heterogeneous at national level, with the states of Mexico City (0.5), Michoacán (0.6) and the State of Mexico (0.7) below the table. On a positive note, Baja California Sur (11.6) remains with the highest number, and Colima (11.1) showed a significant increase of almost three points, followed by Campeche (7.4) and Coahuila (7.0). Important setbacks stand out in Nayarit, Oaxaca and San Luis Potosí, with a reduction of more than 30%. Besides that, Aguascalientes accumulates three consecutive years of decline, with a reduction of 43.6% compared to the previous year. The state with the most significant decrease is Nuevo León, which went from 4.3 to 1.6 agencies per 100,000 inhabitants.

Graph 12. Average Number of Attorney General's Agencies per 100,000 Inhabitants, by State

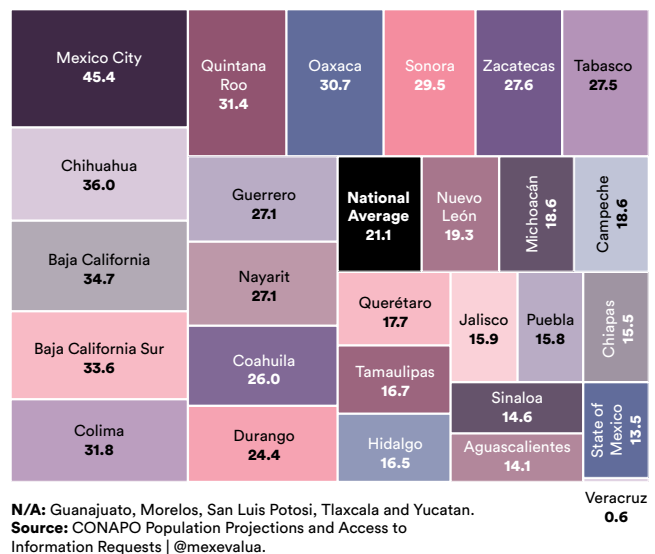


This disparity in rates per 100,000 inhabitants is also verified between institutions and types of operators. **The positions with fewer assigned personnel are, by far, the substantive positions of the precautionary measures and conditional suspension of criminal proceedings supervision units (UMECA), with a rate of less than one.** Then the positions of facilitator (1.1), judges (1.2), legal advisor (1.6) and public defender (1.8) are positioned, with rates that do not exceed two people per 100,000 inhabitants. They are followed by the three operators with the highest numbers nationwide: forensic service personnel (8.0), prosecutors (12.8) and police (21.1).

Likewise, prosecutors, investigative police and forensic services personnel are practically the only positions that showed a significant increase compared to 2020: from 12.7%, 7.0% and 6.4%, respectively. In contrast, the deepest decreases in the rates per 100,000 inhabitants are verified in defenders (-6.0%) and judges (-5.1%).

The most numerous 'position', that of **prosecution or investigative police** with a 7% increase, reached a rate of 21.1 investigators per 100,000 inhabitants. The foregoing, even considering that Guanajuato, Morelos, San Luis Potosí, and Tlaxcala did not report information on their state of force. The states that exhibited the greatest increase in this position were Coahuila (104.9%), Chiapas (21.8%) and Guerrero (8.7%). In contrast, Sinaloa decreased its rate by -45.2%, Zacatecas by -26.3% and Baja California Sur

Graph 13. Average Number of Ministerial Police Officers or Investigators per 100,000 Inhabitants, by State





by -24.3%, as shown in Graph 13. It is noteworthy that in Yucatán the local Prosecutor’s Office does not have investigative police officers, since an agreement from the state government stipulated that they become part of the state’s Secretariat of Public Security.

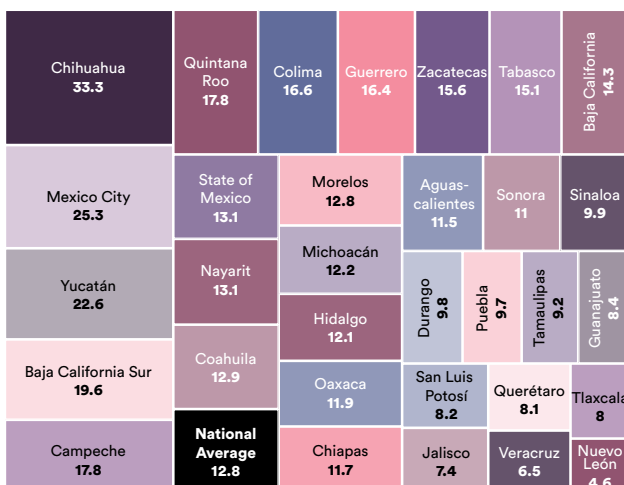
In a positive sense, the 12.7% increase in **prosecutors**, compared to 2020, going from 6.1 to 12.8 for this year, as can be seen in Graph 14. The states that drive this increase are Nuevo León (51.2%), Mexico City (25.0%) and Tabasco (18.8%), while the states that show the greatest decline are Sinaloa (-29.7%) and San Luis Potosí (- 11.8%).

In turn, only an increase in **forensic services personnel** at national level: 6.4% for 2021, with a national average rate of 8.0 experts per 100,000 inhabitants, as indicated in Graph 15. The states with the highest rates are Baja California Sur, Colima, Mexico City and Quintana Roo. On the other side of the spectrum, Puebla, the State of Mexico, Chiapas, Coahuila, and Veracruz are below five experts per 100,000 inhabitants. The states with the greatest decline are Chiapas (-38.1%), Puebla (-27.0%) and Tamaulipas (-10.7%). Even though the forensic services experts oversee acts of investigation and scientific evidence data that are key to the investigations, by 2021 their strengthening is still incipient.

For their part, the **facilitators** –responsible for the application of alternative dispute resolution mechanisms in criminal matters– can be found either in the personnel

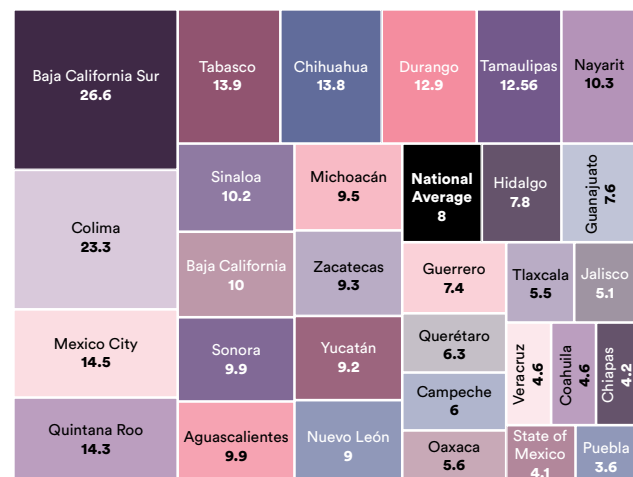
EVEN THOUGH FORENSIC SERVICES EXPERTS ARE IN CHARGE OF CARRYING OUT ACTS OF INVESTIGATION AND SCIENTIFIC EVIDENCE DATA THAT ARE KEY TO THE INVESTIGATIONS, BY 2021 THEIR STRENGTHENING IS STILL INCIPIENT

Graph 14. Average Number of Attorney General’s Agencies per 100,000 inhabitants, by State



Source: CONAPO Population Projections and Access to Information Requests | @mexevalua.

Graph 15. Average Number of Forensic Services Personnel per 100,000 inhabitants, by State



N/A: Morelos and San Luis Potosí.
Source: CONAPO Population Projections and Access to Information Requests | @mexevalua.



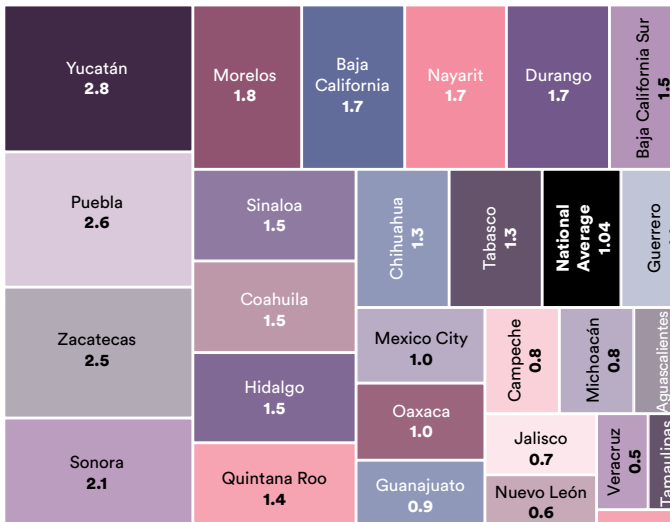
part of the Attorney General’s Office or within the state judiciaries, where, in fact, the smallest number is concentrated. The national average rate of those that are part of the prosecutors is barely 1.1 facilitators per 100,000 inhabitants, as shown in Graph 16. The states with the most personnel are Yucatán, Puebla, Zacatecas and Sonora, while the State of Mexico reported only 0.2 facilitators per 100,000 inhabitants. Nine states do not reach the rate of one.

Only 20 superior courts of justice in the states reported information on the facilitators they have assigned. With an average rate of just 0.5 facilitators per 100,000 inhabitants, as shown in Graph 17. The only states that exceed the rate of one are Chihuahua (1.5), Sonora (1.8) and Quintana Roo (2.2).

Regarding **public defenders**, we identified a decrease compared to 2020: -6.0%. Thus, the national rate is barely 1.8 defenders per 100,000 inhabitants. Quite different rates are observed for this position among the states:

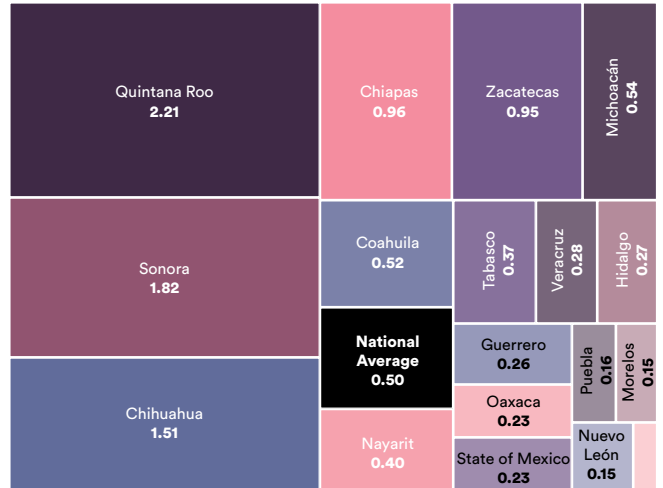
Chiapas, Veracruz, and Puebla do not exceed the rate of one, while Nayarit occupies the highest rate with almost five defenders per 100,000 inhabitants, as can be read in Graph 17. The states with the greatest decline are Querétaro (-17.6%) and San Luis Potosí (-13.9%), while the strongest were Coahuila, Aguascalientes, Puebla, Baja California, and Chiapas. It should be noted that six states did not report information for this period of analysis.

Graph 16. Average Number of Facilitators part of Attorney General’s Offices per 100,000 Inhabitants, by State



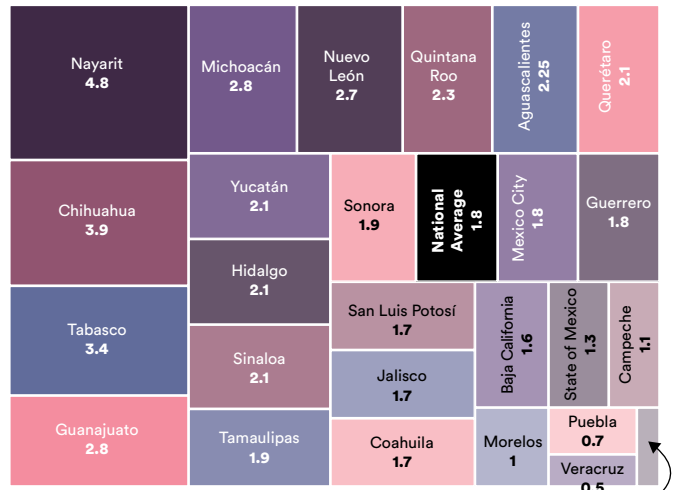
N/A: Chiapas, Colima, Querétaro, San Luis Potosí and Tlaxcala
 Source: CONAPO Population Projections and Access to Information Requests | @mexevalua.

Graph 17. Average Number of Facilitators part of the Judiciary, for every 100,000 Inhabitants, by State



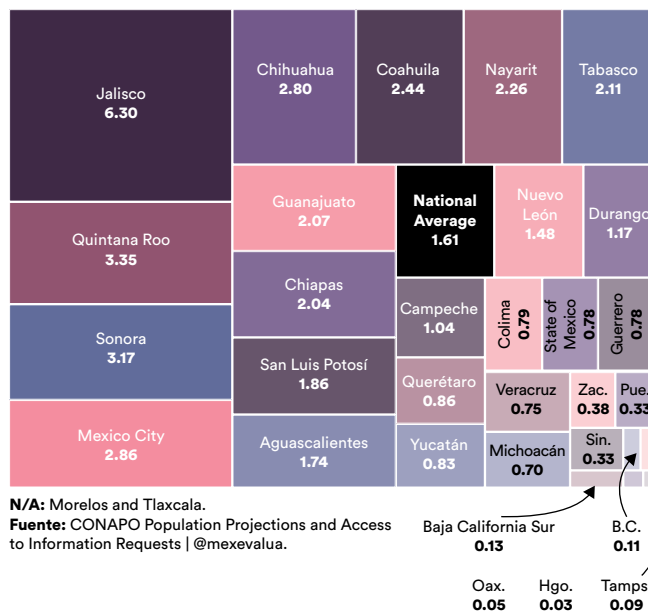
N/A: Aguascalientes, Baja California, Baja California Sur, Campeche, Mexico City, Colima, Guanajuato, Jalisco, Querétaro, San Luis Potosí, Tamaulipas and Yucatán.
 0.0: Sinaloa and Tlaxcala
 Fuente: CONAPO Population Projections and Access to Information Requests | @mexevalua.

Graph 18. Average Number of Public Defenders per 100,000 Inhabitants, by State



N/A: Baja California Sur, Colima, Durango, Oaxaca, Tlaxcala and Zacatecas.
 Fuente: CONAPO Population Projections and Access to Information Requests | @mexevalua.

Graph 19. Average Number of Legal Advisers part of CEAV and Attorney General's Offices, per 100,000 Inhabitants, by State

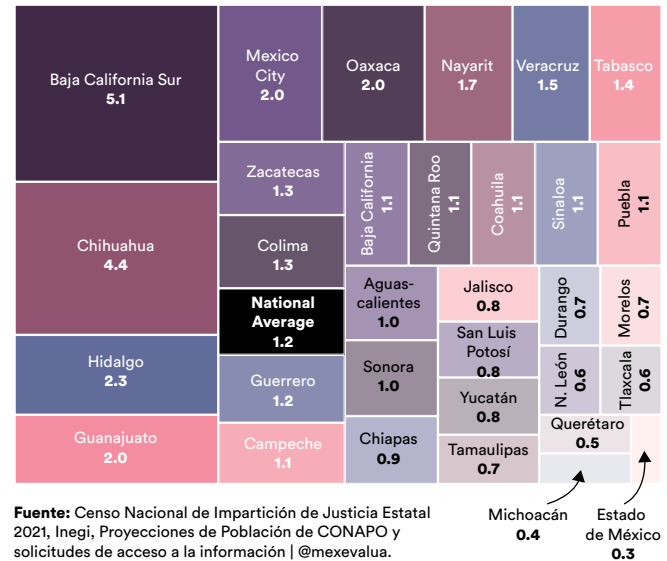


The **victim advocates or legal advisers** may be part of the Attorney General's Offices and/or part of the state victims' executive commissions (CEAV). In addition, some public defender's offices provide for the position of "legal adviser" in their staff, as is the case of Coahuila and Quintana Roo, states that reported in the National Census for the Administration of State Justice, in its 2021 edition, 53 and 20 legal advisers, respectively. However, it is not possible to affirm that these advisers carry out their own functions of advice and represent victims, or if they only provide legal advice in general.

Based on the responses to our requests for information, we discovered that Attorney General's offices have 1,209 advisers nationwide. The states of Campeche, Jalisco, Querétaro, Veracruz, and Yucatán informed us that they do not have the position of victim advisor. The case of Jalisco also stands out, whose Prosecutor's Office reported that, based on article 12 of the General Law on Victims, 469 prosecutors perform the functions of legal advisers in *absence* of advisers available.

On the side of the CEAV there are 717 attached legal advisers. However, 11 states did not report information for the analysis period. If we consider the **legal advisers of both institutions**, we obtain that the rate per 100,000 inhabitants is 1.6, and the states with the

Graph 20. Average Number of Judges in the CJS for Every 100,000 Inhabitants, by State



highest rate, without considering Jalisco, are Quintana Roo and Sonora, as shown in Graph 19.

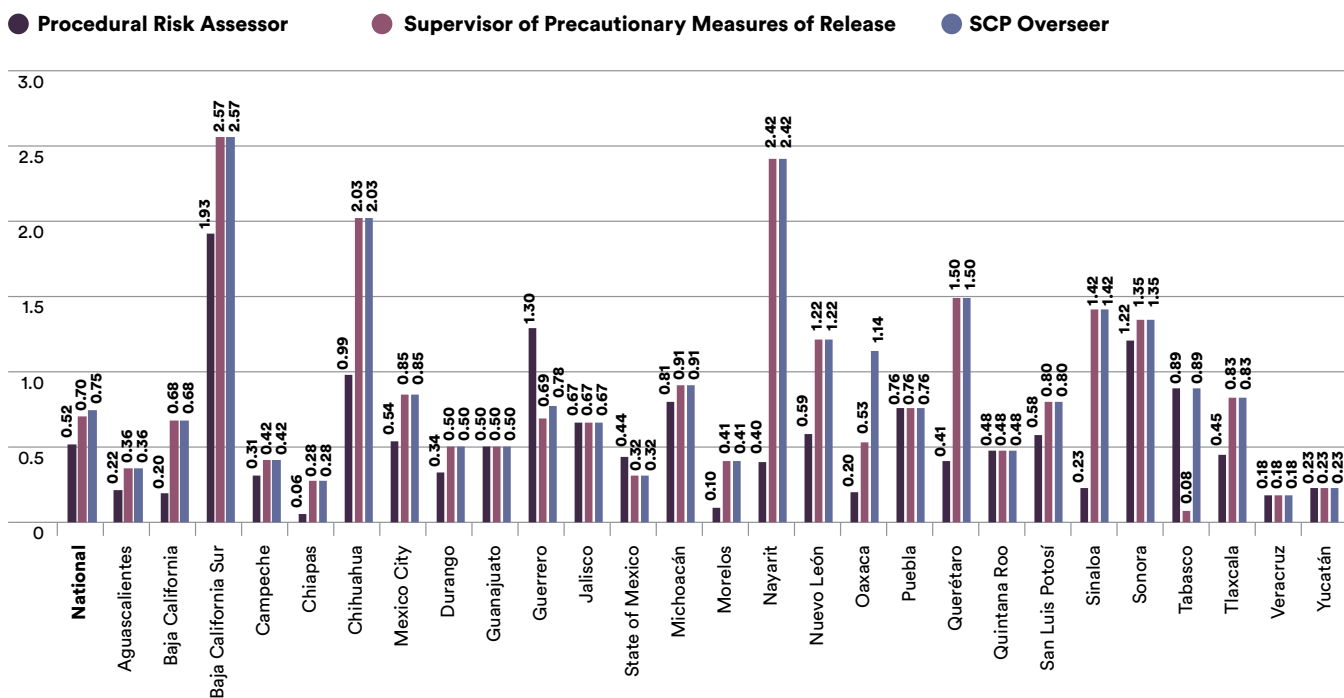
It is necessary to underline that the scarcity of this type of advisers is an obstacle for victims to access free legal guidance and support, which is particularly relevant to achieve effective assistance on their part.

Moreover, the national average rate of **judges in the criminal justice system** for every 100,000 inhabitants showed a decline of 5.1% for 2021, standing at 1.2, which maintains the trend observed from 2019 to 2020. Only Coahuila showed an increase in its rate (33.4%). San Luis Potosí is the state with the most marked decrease (-216.0%) and is among the states with the lowest rate. Mexico City, Michoacán and Querétaro are the three with the lowest rate, as shown in Graph 20. Meanwhile, Baja California Sur (5.1), Chihuahua (4.4) and Hidalgo (2.3) are the best positioned states.

Lastly, Graph 21 presents the rates per 100,000 inhabitants for the **substantive staff of the UMECA**, which carries out functions of procedural risk assessment, supervision of precautionary measures on release and supervision of the conditions derived from a conditional suspension of criminal proceedings. As can be seen, the procedural risk evaluator is the one with the fewest staff, with a rate of barely 0.5 per 100,000 inhabitants. It is followed by the supervisor of precautionary measures (0.7) and the supervisor of the conditional suspension of criminal proceedings (0.75).



Graph 21. Average Substantive Personnel of the UMECAs per 100,000 Inhabitants, by State



Fuente: CONAPO Population Projections and Access to Information Requests | @mexevalua.

Federal Level

Public Defender

The Federal Institute of Public Defenders (IFDP) had 858 defenders, an increase of just one person compared to 2020. The IFDP provides defense services in criminal matters for 43 Criminal Justice Centers of the Federal Judicial Council. Their way of working involves the integration of teams made up of an administrative officer and a legal officer per defender, who collect data or pertinent means of evidence, and assist in hearings, interviews, obtaining videos from surveillance cameras and search for information, among others.

In turn, there is a body of forensic experts that are part of the Forensic Sciences Area (ACF), which barely

Table 18. Defenders

Year	Defenders
2017	558
2018	671
2019	827
2020	857
2021	858

Source: Information requests sent and answered | @mexevalua.

Table 19. Relative Distribution of Specialties in the Federal Public Defenders' Office

Specialties	Relative Distribution
Forensic Science	10.3%
Forensic science with a Focus on Childhood Psychology	3.4%
Forensic Psychology	10.3%
Forensic Psychology and Gender Perspective	3.4%
Psychology and Criminology	3.4%
Legal Medicine	10.3%
Chemistry, Forensic Toxicology and Environmental Crimes	3.4%
Forensic Chemistry, Valuation and Fire and Explosives	3.4%
Criminalistics and Forensic Ballistics	3.4%
Criminalistics, Forensic Valuation and Fingerprinting	3.4%
Criminalistics and Forensic Photography	3.4%
Criminalistics, Graphoscopy, Valuation and Land Transit	3.4%
Graphoscopy, Documentoscopy, Dactyloscopy and Forensic Photography	3.4%
Forensic Photography	3.4%
Ethnology	6.9%
Computer Science and Programming	3.4%
Forensic Acoustics and Phonetics	3.4%
Accounting	3.4%
Civil Engineering and Architecture	3.4%
Physical Anthropology	3.4%
Social Anthropology with a Specialty in Gender Perspective	3.4%
Biology and Genetics	3.4%

Source: Own elaboration based on requests for information | @mexevalua.

increased by one compared to 2020, for a total of 30 experts distributed in 32 specialties. The ACF provides defenders with technical-scientific tools to strengthen their legal strategies.

During 2021, the IFDP handled 67,452 cases, the majority under the accusatory system (57,928), 8,260 under the traditional system, and 1,264 under the adolescent justice system. Its General Bases of Organization and Operation indicate that it is sought that the same person is the one who takes the representation of all the stages of a single process or case, except for the criminal execution procedure, which is attended by people specialized in that matter. In turn, the workload, reportedly, is shared equally by the holders, and a system of reception and random shifting of cases has been established. However, there is no information on the current workload of each defender.

Victims' Executive Commission

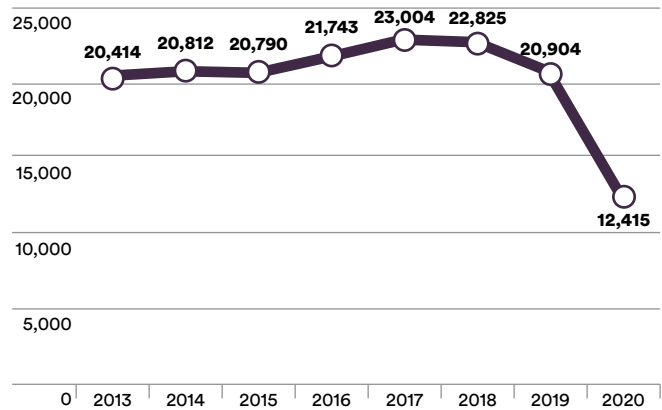
The figure of legal advice is key to ensure that the victims are legally oriented and informed about their rights, as well as represented at each stage of the criminal process. The fulfillment of this right favors that the victims are in equal circumstances or arms to go through a criminal process and that the actions of the prosecutor are reviewed and strengthened by the assistance of the victim. Although it is not possible to maintain that this figure will always have a different position from that of the prosecutor, the truth is always that it must ensure the interest of the victim and safeguard their rights.

For 2021, the Victims' Executive Commission reported a total of 112 legal advisors, barely 10 more than in 2020. Of these, 37 are centralized in Mexico City and the rest in comprehensive service centers throughout the territory. The states with the most advisors are Oaxaca, with six, and Chiapas, Coahuila, Puebla, and Sonora, with four advisors in each state. In turn, the CEAV reported having dealt with 5,648 cases during 2021 –a figure 29.3% higher than that of 2020– and having represented 3,785 victims –38.8% more than in 2020–. This translates into a workload of 50.4 cases per legal advisor and 33.8 victims represented per legal advisor.

Attorney General of the Republic

At the end of 2021, it was reported in the media that a wave of massive layoffs was taking place within the FGR due to budgetary and restructuring issues⁹⁵. However,

Graph 22. Attorney General of the Republic Personnel



Source: National Census of Federal Justice Procurement 2021, Inegi | @mexevalua.

to date the institution has not communicated which positions and how many people were affected by this alleged staff cut. Apart from the above, the total number of people enrolled in the FGR in 2020 was only 12,415, a drastic reduction of 40.6% compared to the previous year 2019, as shown in Graph 22. (The reason for not having more up-to-date figures will be discussed later.)

In response to our request for information, the FGR only reported on the people who were hired during 2021: 887 in administrative positions and 989 in substantive positions. It did not provide us with information about the type of role – prosecutor, forensic expert, investigative police, etc. – that these people perform. The FGR also did not refer to the total substantive personnel that the institution has at the end of 2021. For the only position of this type for which the Prosecutor's Office provided information was that of **facilitator**, profile in charge of carrying out the ADRM. At the end of 2021 there were 84 facilitators, 35 men and 49 women.

Despite the fact that it is part of its general transparency obligations, the FGR also did not report in the National Transparency Platform (PNT) on the total number of its vacancies and occupied positions during 2021. In the last report available on the PNT, for the period April-July 2022, the FGR states that it only had **2,644 positions**, of which 559 are vacant, data that does not correspond with what was reported to the Inegi at the end of 2020, probably due to having reserved or omitted information related to substantive positions. Finally, we reviewed the information available on the open data microsite of the

⁹⁵ El País: "The wave of massive dismissals in the prosecutor's office alerts..." <https://elpais.com/mexico/2022-01-10/la-oleada-de-despidos-en-la-fiscalia-alerta-sobre-el-futuro-de-la-agencia-investigadora.html>



Prosecutor's Office⁹⁶; however, the reports that account for the actions carried out by the institution date from 2018, and the directory of public servants is updated as of June 2019.

In addition to the above, the 2021 National Census of Federal Justice Procurement only allows knowing the detail of the basic tabular data, without all the information collected in open data format which had not been public at the close of this edition. The foregoing prevents us from knowing the territorial distribution of the personnel that are part of the FGR, which tends to adhere to a criterion of population density, rather than to a flexible prioritization policy that responds effectively and promptly to the criminal phenomenon. Despite the limitations of the information, below we present data of interest derived from the census.

Of the total personnel that are part of the institution, 56.5% are men and 43.5% are women: a remarkably similar distribution to that of the previous year. It stands out that women are mostly in low salary ranges –5 thousand to 15 thousand pesos–, while men head the highest, except for the range of 40 to 45 thousand pesos.

Expert Forensic Services

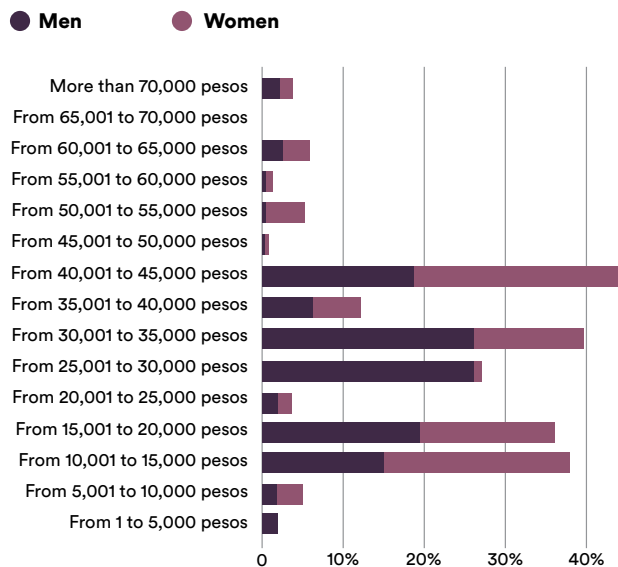
These services provide the technical and scientific inputs to give content to the investigations on which the accusations and defense strategies are built. The specialties that can be used cover a wide spectrum: from forensic medicine to dactyloscopy, genetics, or accounting. Satisfying the demand for justice and reducing impunity inevitably involves the decision to invest heavily in expert forensic services, to strengthen their capacity and provide them with the necessary instruments to process evidence, generate test data and its presentation before the judge.

Table 20. FGR Personnel by Type of Position and Sex

Position	Men	Women	Total
Prosecutors	1,522	1,482	3,004
Secretaries	1,325	800	2,125
Experts	486	513	999
Ministerial Police or Investigators	1,935	790	2,725
Administrative and Support Staff	1,622	1,761	3,383
Other	122	57	179

Source: National Census of Federal Justice Procurement 2021, Inegi | @mexevalua.

Graph 23. Percentage Distribution of FGR Personnel, According to Sex and Income



Source: National Census of Federal Justice Procurement 2021, Inegi | @mexevalua.

Table 21. Forensic Experts by Specialty at Federal Level

Specialty	No. of experts	Specialty	No. of experts
Voice Analysis	18	IT and Telecoms	56
Anthropology	31	Mechanical and electrical	13
Tax Matters	6	Engineering and Architecture	55
Audio and video	32	Forensic Medicine	126
Ballistics	106	Forensic Odontology	11
Accounting	94	Forensic Polygraphy	1
Field Forensics	148	Intellectual property	56
Dactyloscopy	117	Forensic Psychology	103
Environmental Crimes	40	Forensic Chemistry	160
Questioned documents	90	Spoken Portrait	14
Forensic Photography	134	Translation	28
Forensic Genetics	64	Land transit	72
Fires and Explosions	10	Forensic Valuation	61

Source: Own elaboration based on the responses to the requests for information and or the National Census of Federal Justice, 2021 | @mexevalua.

⁹⁶ Available at: <https://transparencia.pgr.gob.mx/es/transparencia/DatosAbiertos>



Table 22. Average Number of Requests for Expert Opinion per Forensic Expert

Specialty	No. of experts	Requests for expert services	Average (requests per expert)
Voice Analysis	18	475	26
Anthropology	31	1,473	48
Tax Matters	6	3,078	513
Audio and video	32	1,575	49
Ballistics	106	19,415	183
Accounting	94	7,062	75
Field Forensics	48	17,566	366
Dactyloscopy	117	23,514	201
Environmental Crimes	40	1,925	48
Questioned documents	90	7,070	79
Forensic Photography	134	42,420	317
Forensic Genetics	64	2,476	39
Fires and Explosions	10	261	26
IT and Telecoms	56	6,224	111
Mechanical and electrical	13	4,022	309
Engineering and Architecture	55	6,818	124
Forensic Medicine	126	40,036	318
Forensic Odontology	11	664	60
Forensic Polygraphy	1	18	18
Intellectual property	56	2,468	44
Forensic Psychology	103	8,019	78
Forensic Chemistry	160	20,503	128
Spoken Portrait	14	879	63
Translation	28	2,229	80
Land transit	72	17,540	244
Forensic Valuation	61	19,727	323
Total	1,546	257,457	-

Source: Own elaboration based on the responses to the requests for information and on the Census of Justice Procurement 2021 | @mexevalua.

These services cannot provide attention to only one of the parties – the prosecutor’s offices. For due process purposes, they must respond to requests from three parties: prosecutors, defenders, and victim advisors.

To the extent that there are solid expert forensic services that provide certainty and confidence to users about the solidity and autonomy of their work, the fabrication of culprits will be avoided and, instead, theories of the case with scientific bases will be used..

At federal level, at the end of 2021 there were 1,646 people dedicated to forensic services. The specialties are distributed as follows:

Additionally, eight elements of the federal ministerial police support the forensic work unit. From this universe of people, we determined the averages (Table 22) regarding the expert services requested by specialty; that is, the average number of requests for an expert opinion that each expert attended, based on the latest available data.

Based on the information we have presented, it is possible to infer that there is a high demand for forensic services for some specialties, which shows the need to reinforce the availability of personnel. A good perspective is provided by the Quality Manual (MC-RD-01) of the General Coordination of Expert Services, issued in October 2016, which provides for quality standards on response times to requests from users of the forensic service.

The manual stipulates that the time to issue expert opinions in cases with a detainee must be less than 48 hours, which coincides with the constitutional term that the prosecutor has to determine the legal situation of the detained person. On the other hand, a period of 15 days is provided for expert opinions in cases of interventions without detainee for the vast majority of specialties, while in the case of more complex specialties -such as accounting, ballistics, environmental, voice analysis, audio and video, forensic medicine, engineering and computer science or telecommunications-, the term is up to 30 days. Given the existing workload, it is positive that the most demanded type of expert opinion (on tax matters) enjoys 30 days for its delivery.

In terms of installed capacity, the General Coordination of Expert Forensic Services reported that it has an amphitheater and only five autopsy tables, nationwide. In turn, it reported that it has 123 laboratories, of which 117 are fixed and one is mobile, almost all of them, 95.6%, in operation.

On the other hand, in matters of storage of corpses and/or human remains, the Coordination reported the following relevant data:

- Number of storage spaces in cold rooms: 77, a figure that has remained constant since 2019. Protected corpses: 70. 100% of the corpses remain as **unidentified**.
- Number of storage spaces in bone libraries: 284. Protected corpses: 284. 100% of the corpses remain as **unidentified**.

It should be reiterated: the forensic experts are specialists responsible for producing and submitting the evidence that will be presented and discussed throughout the criminal process, with emphasis on the oral trial stage. Thus, the public scrutiny and the exercise of contradiction to which their work is subject also promotes accountability for their work. Its services can be activated with a request from the victims themselves or from the accused, not necessarily from the prosecutor.



Currently, they no longer answer, in a vertical logic, to the prosecutor, so their work can even play a role as a counterweight to the theory of the prosecution case. In other words, these experts must perform with technical autonomy in the development of their opinions. This must translate into objective and technical investigations, more shielded against external interference.

National Guard

During the monthly public security report of July 20, 2022, General Luis Rodríguez Bucio, General Commander of the National Guard, reported that the corporation had a state of force of 118,188 elements, of which 105,003 were operational and 92,000 (88%) of these were deployed throughout 266 coordinations. The remaining 12% carry out operations support tasks; for example, in the dispersion of social programs of the Ministry of Well-being and in the work of the National Commission for the Search of Disappeared Persons. It was reported that the National Guard currently has 241 built barracks, while 66 are under construction, 64 are about to start, and another 123 are projected for 2023. The states that house the largest number of barracks are Michoacán (33), Jalisco (30) and Guanajuato (18).

Likewise, in what was published by the SESNSP in a report on the status of the Trust Check and Evaluation Centers, with a cutoff of June 30, 2022⁹⁷, it is noted that 100% of the National Guard staff has been evaluated through trust check: 60% were approved, 37% are waiting to obtain their result and only 2% did not pass the evaluation. On the other hand, only 29% of the National Guard personnel have a certification on the skills and aptitudes necessary to carry out police functions (Single Police Certificate), as detailed in the Legal Framework section. This is a requirement established by the General Law of the National Public Security System to be part of any public security institution.

Table 23. Complaints Filed for Alleged Human Rights Violations

	2020	2021	2022*
Attorney General of the Republic	284	296	161
National Guard	350	504	255
Secretariat of National Defense	359	436	224

* With cutoff of June 2022.

Source: National Human Rights Violation Alert System of the CNDH | @mexevalua.

Finally, since its first year of operation, the National Guard has received complaints for human rights violations, which have increased over time, as we show in Table 23. Due to these probable violations of human rights committed by the National Guard, the National Human Rights Commission (CNDH) has opened a total of 1,109 complaint cases until June 2022.

Even though the Constitution defines the National Guard as a civil corporation⁹⁸, the media has documented that in practice there are at least 79,000 elements that temporarily separated from their functions in the Armed Forces to join the National Guard; that is, it is about almost 80% of the state of strength of the corporation⁹⁹. In addition to the above, in the same aforementioned security report, it was reported that currently 85,310 SEDENA troops are deployed in national territory (83% of their force status), as well as 29,720 SEMAR elements (85% of the total). Of this total number of elements of the Armed Forces deployed, **94,678 are assigned to the National Public Security Strategy**, 10,249 to protect strategic facilities, 2,839 to combat the illicit fuel market and 28,807 to the Migration and Development Plan on the northern and southern borders.

The previous figures exceed by far what was seen in previous six-years terms. As an example, the number of Armed Forces personnel deployed in the territory with public security functions increased by 44.3% compared to the year in which there was the most deployment during the administration of Felipe Calderón.

Judiciary of the Federation

At the end of 2021, the Federal Judiciary reported having 41 Federal Criminal Justice Centers. The states that have more than one center in their territories are: Baja California (3), Mexico City (3), Chiapas (2), Chihuahua (2), State of Mexico (2), Tamaulipas (2) and Veracruz (2).

Nevertheless, the national rate per 100,000 inhabitants of judges at the federal level is barely 0.14, with a total of 170 judges at national level, as shown in Graph 24. The dimension of this rate is related to the lower number of crimes prosecuted in the federal jurisdiction compared to the local jurisdiction, which shows a rate

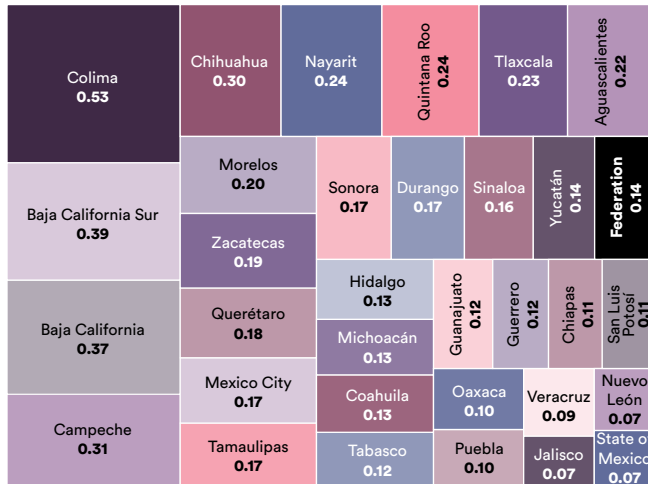
97 Follow-up of evaluations to personnel of Federal Administrative Agencies, available at: <https://www.gob.mx/sesnsp/documentos/documentos-transparencia-cnca>

98 This, despite the fact that, as we indicated in the Legal Framework section, on September 8, 2022 the Senate approved, in general and in particular, the opinion that modifies four laws, so that the SEDENA exercises operational and administrative control of the National Guard. On September 9, the DOF published the Decree that "reforms, adds, and repeals various provisions of the Organic Law of the Federal Public Administration; of the National Guard Law; of the Organic Law of the Mexican Army and Air Force, and of the Law of Promotions and Rewards of the Mexican Army and Air Force, in Matters of the National Guard and Public Security". Available here: https://www.dof.gob.mx/nota_detalle.php?codigo=5664065&fecha=09/09/2022#gsc.tab=0

99 Arturo Ángel. *Animal Político*. "With AMLO, the Army mobilizes 80,000 elements for police work, a record number. November 17th, 2021. <https://www.animalpolitico.com/2021/11/ejercito-amlo-elementos-seguridad-record/#:~:text=M%C3%A1s%20de%2080%20mil%20elementos,a%20las%20fuerzas%20policiales%20locales>



Graph 24. Rate of Judges in Criminal Matters per 100,000 Inhabitants at Federal Level



Source: Own elaboration based on requests for information sent and answered | @mexevalua.

of 3.2 judges per 100,000 inhabitants. The states with the highest rate are Colima, Baja California Sur and Baja California, while those with the lowest rate are the State of Mexico, Nuevo León, Jalisco and Veracruz, below 0.1 judges per 100,000 inhabitants.

Of the 170 judges at federal level, 25.3% (43) are specialized as sentence enforcement judges. Of the total

number of judges, 135 are men (79%) and only 35 are women (21%), which shows a ratio of 4:1.

3.2.3 Reported Training

The professionalization and training of the personnel in charge of providing care to the users of the criminal justice system, procuring and imparting justice, are essential to offer sustainable quality services over time. Specifically, **a training program aimed at the skills and knowledge that each competency profile must have** within institutions is essential to guarantee respect for the fundamental rights of victims and defendants during each stage of the criminal process. In this section we present the number of public servants trained during 2021 on issues related to the criminal justice system.

In Table 24 we count the personnel trained during 2021 within the **Attorney General's Offices** both at the federal and state level.

A total of 19 prosecutor's offices indicated that they had trained their prosecutors, investigative police officers, analysts, expert forensic services personnel, facilitators, and victim advisors during 2021. **This instruction focused mainly on updating issues in the criminal justice system, protocols for the care and investigation of femicide, and alternative dispute resolution mechanisms.** We also note that

Table 24. Trained Personnel in Attorney General's Offices

State	Prosecutor Officer	Ministerial Police	Analyst	Expert Services	Facilitators	Legal Adviser	Total
Federation	10,049	801	0	1,757	0	0	1,2607
Aguascalientes	171	166	6	98	10	NA	451
Baja California Sur	134	230	10	125	No se capacitó	NA	499
Chihuahua	NA	16	NA	NA	NA	NA	16
Coahuila	445	923	20	202	69	31	1,690
Durango	187	442	0	40	4	2	675
Guanajuato	2,070	NR	45	1,315	289	NR	3,359
Guerrero	1,375	860	NE	626	52	NA	2,913
Jalisco	310	1,277	100	NA	65	NA	1,752
State of Mexico	2,881	4,439	646	358	62	47	8,433
Michoacán	4,068	3,279	0	1,483	34	0	8,864
Nayarit	NR	769	NR	NR	NR	NR	769
Nuevo León	322	686	35	1	34	42	1,120
Querétaro	909	564	10	254	NA	NA	1,737
Sonora	123	266	14	141	58	21	623
Tabasco	NR	NR	NR	NR	NR	65	65
Tamaulipas	210	568	NR	NR	NR	NR	1,016
Zacatecas	542	593	5	55	85	7	1,287

NA: Not Applicable (because they do not have that profile in the Attorney General's Office)

NR: Does not answer

Note: A public servant could have received one or more trainings.

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.



Table 25. Trained Personnel in Victim Commissions

State	Legal Adviser	Psychologist	Others	Total
Federation	0	0	0	0
Aguascalientes	76	0	-	76
Campeche	9	1	-	10
Chihuahua	47	40	6	93
Coahuila	13	5	-	18
Durango	16	4	-	20
State of Mexico	584	110	228	922
Michoacán	26	6	2	34
Nayarit	5	2	3	10
Nuevo León	17	0	0	17
Oaxaca	There are no advisors	10	0	10
Puebla	21	5	5	26
Querétaro	19	16	-	35
Quintana Roo	48	6	-	54
San Luis Potosí	NR	51	NA	51
Sonora	10	22	1	33
Veracruz	54	0	-	54
Yucatán	12	38	-	50
Zacatecas	0	3	8	11

NA: Not Applicable (because they do not have that profile in the Attorney General's Office)

NR: Does not answer

Nota: A public servant could have received one or more trainings. In "others" are considered social workers, directors and holders

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.

there has recently been an effort to integrate human rights issues and gender perspective.

In the victims' executive commissions, the training focused on legal advice to the victim; accreditation of damage restitution; comprehensive support for sexual violence against children and adolescents; gender perspective; rights of missing persons; torture; human rights in general; crime theory, and due diligence in the context of a femicide.

It is noteworthy that three state commissions – Baja California Sur, Morelos and Sinaloa– mentioned that during 2021, they did not train legal advisors or psychologists. There were other commissions missing but even though they did answer the question, they did not do so particularly for the year of review or did not differentiate training by type of profile.

The defender's offices focused their training plans on the role of defenders in the CJS, oral proceedings, alternative justice, and the right to an adequate defense. Three defender's offices –Campeche, Nayarit and Tlaxcala– did not provide training to their staff during 2021.

3.2.4 Coverage and Evaluations of Public Security Forces

In 2017, the National Public Security Council approved the Optimum Model of the Police Function (MOFP), which consists of 10 indicators that sought to contribute to focusing the national security strategy by strengthening capacities at the local level. These indicators integrated a national diagnosis on the preventive police in each state, which allowed an approximation to the state they keep and an identification of areas of opportunity. The indicators covered core issues such as the minimum state of force, trust check evaluations, and the Single Police Certificate (CUP). However, the last cut of information available on the progress of the MOFP is from December 2020, which prevents the public from knowing the recent progress obtained by states on these transcendental issues.

Table 26. Trained Personnel in Public Defender's Offices

State	Public Defender	Investigator	Expert Services	Total
Federation	709	NA	1	710
Baja California	92	2	NA	94
Baja California Sur	204	0	0	204
Chiapas	69	NA	NA	69
Chihuahua	210	NA	NA	210
Mexico City	60	NA	2	62
Durango	76	NA	NA	76
Guanajuato	180	19	0	199
Guerrero	97	NA	NA	97
Hidalgo	56	8	NA	64
Jalisco	61	NA	NA	61
State of Mexico	213	NA	8	221
Michoacán	130	0	0	130
Morelos	0	0	0	0
Nuevo León	80	NA	15	95
Oaxaca	55	0	0	55
Puebla	101	NA	NA	101
Querétaro	47	0	NA	47
Quintana Roo	57	0	0	57
San Luis Potosí	70	0	0	70
Sinaloa	3	0	0	3
Sonora	138	0	0	138
Tabasco	115	NA	NA	115
Veracruz	43	NA	NA	43
Yucatán	174	NA	NA	174
Zacatecas	0	0	0	0

NA: Not Applicable (because they do not have that profile in the Attorney General's Office)

Nota: A public servant could have received one or more trainings.

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.



Table 27. Force State of Public Security Institutions

State	Corporation	Strength State by corporation	Total Force State	Rate per thousand inhabitants
Federation	National Guard	101,738	101,738	0.9
Aguascalientes	State Public Security	799	2,792	2.0
	Municipal Public Security	1,993		
Baja California	State Public Security	906	6,523	1.9
	Municipal Public Security	5,617		
Baja California Sur	State Public Security	473	2,253	2.9
	Municipal Public Security	1,780		
Campeche	State Public Security	1,294	1,892	2.0
	Municipal Public Security	598		
Chiapas	State Public Security	5,851	11,448	2.1
	Municipal Public Security	5,597		
Chihuahua	State Public Security	1,828	7,338	2.0
	Municipal Public Security	5,510		
Coahuila	State Public Security	1,880	5,023	1.6
	Municipal Public Security	3,143		
Colima	State Public Security	785	1,875	2.5
	Municipal Public Security	1,090		
Mexico City	State Public Security	37,875	37,875	4.4
Durango	State Public Security	838	2,585	1.4
	Municipal Public Security	1,747		
Guanajuato	State Public Security	3,999	11,771	2.0
	Municipal Public Security	7,772		
Guerrero	State Public Security	3,430	6,624	1.9
	Municipal Public Security	3,194		
Hidalgo	State Public Security	3,279	6,369	2.1
	Municipal Public Security	3,090		
Jalisco	State Public Security	4,721	18,395	2.3
	Municipal Public Security	13,674		
State of Mexico	State Public Security	14,553	37,958	2.3
	Municipal Public Security	23,405		
Michoacán	State Public Security	3,940	7,817	1.7
	Municipal Public Security	3,877		
Morelos	State Public Security	1,151	3,330	1.7
	Municipal Public Security	2,179		
Nayarit	State Public Security	986	2,448	2.0
	Municipal Public Security	1,462		
Nuevo León	State Public Security	5,552	12,802	2.4
	Municipal Public Security	7,250		
Oaxaca	State Public Security	2,231	4,342	1.1
	Municipal Public Security	2,111		
Puebla	State Public Security	4,450	10,563	1.7
	Municipal Public Security	6,113		
Querétaro	State Public Security	728	3,452	1.6
	Municipal Public Security	2,724		
Quintana Roo	State Public Security	1,535	5,092	3.0
	Municipal Public Security	3,557		
San Luis Potosí	State Public Security	2,059	3,838	1.4
	Municipal Public Security	1,779		
Sinaloa	State Public Security	800	4,785	1.6
	Municipal Public Security	3,985		
Sonora	State Public Security	1,292	5,270	1.8
	Municipal Public Security	3,978		
Tabasco	State Public Security	4,277	8,190	3.3
	Municipal Public Security	3,913		
Tamaulipas	State Public Security	4,631	5,175	1.5
	Municipal Public Security	544		



Table 27. Force State of Public Security Institutions (Continued)

State	Corporation	Strength State by corporation	Total Force State	Rate per thousand inhabitants
Tlaxcala	State Public Security	1,399	3,245	2.5
	Municipal Public Security	1,846		
Veracruz	State Public Security	6,604	10,084	1.2
	Municipal Public Security	3,480		
Yucatán	State Public Security	3,184	4,416	2.0
	Municipal Public Security	1,232		
Zacatecas	State Public Security	1,007	1,760	1.1
	Municipal Public Safety	753		

Source: Own elaboration with information from the SESNSP | @mexevalua.

For *Hallazgos 2021* we asked the 32 states and the Federation for information on the state of force at the end of 2021 of their public security corporations, as well as on the elements evaluated in trust check and those certified (CUP). We found significant deficiencies in the information provided.

Only 10 states –Aguascalientes, Baja California Sur, Campeche, Guanajuato, Morelos, Oaxaca, Querétaro, San Luis Potosí, Sinaloa, Sonora– provided us with useful and sufficient information on their state of force. Nine did not submit any information; five classified it as reserved, and one responded that it had no jurisdiction over the required information. Given these limitations, it was not possible to perform an analysis at the end of 2021.

However, from what was published by the SESNSP in a report on the status of the Trust Check and Evaluation Centers as of June 30, 2022¹⁰⁰, it is possible to have an approximation to the state of strength of public security institutions at the three levels of government (Table 27).

From this it can be deduced that at the national level there is an average rate of two police officers per thousand inhabitants, figure that combines elements belonging to the state and municipal corporations. Information from SESNSP shows that the states that report a higher rate are Mexico City (4.4), Tabasco (3.3) and Quintana Roo (3.0). In contrast, Oaxaca and Zacatecas report the lowest rates (1.1), along with Veracruz (1.2). If we only consider state police for the analysis, a national average rate of 0.9 police officers per thousand inhabitants is reached.

Trust Check Assessments

As of June 2022, 92% of the staff of state and municipal public security corporations have satisfactorily passed

their trust check evaluation. However, for only 76% of the payroll, the approved trust check is still valid, which implies a constant challenge for corporations and Trust Check and Evaluation Centers (CECC). Only 5% (18,335) of police personnel did not pass their evaluation.

Table 28 shows the states that face the highest percentages of personnel not approved in this evaluation.

At federal level, the National Guard reports that 60% of its more than 101,000 elements have passed the trust check evaluation, while only 2% have not. **A considerable proportion of evaluations are pending results (the highest at national level): 37%.**

Single Police Certificate

It must be reiterated that, in general, public security institutions did not provide specific information regarding the proportion of their state of force with a Single Police Certificate (CUP). The latest data available in the MOFP reported that, at the state level, 66% of the active preventive police elements (85,861 police officers as of December 2020) had a CUP.

Table 28. States With the Highest Level of Trust Check Non-approval

State	Corporation	Not approved
Guerrero	State Public Security	20%
	Municipal Public Security	28%
Zacatecas	State Public Security	20%
	Municipal Public Security	6%
Tlaxcala	State Public Security	3%
	Municipal Public Security	24%
Tabasco	State Public Security	14%
	Municipal Public Security	7%

Source: Own elaboration with information from the SESNSP | @mexevalua.

¹⁰⁰ Available at: <https://www.gob.mx/sesnsdp/documentos/documentos-transparencia-cnca>

In public versions of the diagnoses that the state governments have presented on compliance with the seventh transitional article of the constitutional reform that gave way to the creation of the National Guard, it was not possible to identify the progress in certification either. The reason: all quantitative information on force state has been classified.

3.3 Institutional Management Models

The management models are the frameworks that serve as a reference so that the different CJS operators can develop their own organization system and work more efficiently. The organizational structure must respond to the management needs of the institutions: how to deal with crime, what criminal acts are considered a priority and how to articulate with the different levels of government.

Each redefinition of the substantive and operational processes corresponds to an adaptation of the administrative and support processes.

In this sense, considering the challenges that the CJS faces regarding the high volume of cases considered to be 'trifle', and also given the presence of criminal phenomena that are extremely harmful to the population, **institutions must implement a decision-making and operating model that allows them to focus their resources, manage workloads, and provide satisfactory and differentiated responses** in the exercise of their function.

These models are so important that we carried out an exploration to identify their existence and typology at national level and by institution. For example, the most widely adopted model in prosecutors' offices, both comprehensively and in different modes of implementation, is the so-called 'three-level' model. The only substantially different one that we could identify is the one that operates in Querétaro, called 'differentiated attention to demand'.

For public defenders and victims' executive committees, we identified certain management documents that

THE FACT THAT ONLY IN SEVEN OUT OF EVERY 100 INVESTIGATION FILES PROBABLE CAUSE WAS FOUND FOR TRIAL DURING 2021 INDICATES THAT THERE IS A DE FACTO PRIORITIZATION THAT GUIDES THE DECISIONS OF PROSECUTORS

formalize their operation, in addition to providing criteria for targeting, distribution of workloads, and even specialization and differentiated attention to cases and / or users to whom they offer their services. However, it is in these institutions where a more conjunctural and reactive operation is observed than proactive and strategic.

3.3.1 Management Models in Prosecutor's Offices

Although some prosecutor's offices have developed management models aimed at achieving an efficient channeling

of cases, they are not articulated with a policy of institutional case prioritization and even less with a criminal policy that integrates the various security and justice institutions. In these terms, its scope is limited, and this lack calls into question the ability of prosecutors to respond correctly to different conflicts and, ultimately, provide justice.

Although there are many circumstances that determine the success of an investigation and the exercise of criminal action, the fact that only in seven out of 100 cases probable cause was found for trial during 2021 indicates that there is a de facto prioritization that guides the prosecutors' decisions. In other words, in fact, it is the prosecutors who decide which issues to pay more attention and resources to.

Indeed, the route that a case from the time it is denounced until its completion responds to subjective, vague, and discretionary factors, such as the will of the authorities, the media attention given to the matter and, in many cases, incentives in the form of corruption. Although the accusatory model contemplates a margin of discretion for prosecutor decision-making and in the administration of justice, this can open spaces for arbitrariness. **Instead of making the operation of the system more flexible and efficient, the paradigm shift in the penal system has not been able to completely break with the inertia of the traditional model, based on the one-on-one management of cases, in an isolated and mechanical way.**



'Three-level' model

The Strategic Case Distribution Model, predominant at subnational level, is also called 'three-level' because an operator is 'placed' on each floor, with their own activities, responsibilities, and goals. However, it is a flexible model, which means that all the operators must collaborate with the other floors and the different operational areas, to promote the obtaining of results in the investigations. Diagram 5 displays the functions and objectives in each one of the floors.

In **Coahuila, Jalisco, Oaxaca, San Luis Potosi, Sonora, Tamaulipas** and **Zacatecas** we identify the application of the three-level model. In **Nuevo León**, the Approved Investigation Model provides for a three-level one, with the incorporation of an Unknown Defendant Unit specialized in the analysis of cases determined under temporary archive. At the same time, **Baja California Sur, Hidalgo,** and **Sonora** reported the execution of the Approved Model of Alternative Dispute Resolution Mechanisms in Criminal Matters and Early Care Units, in accordance with a case assessment protocol.

It should be noted that these models were identified based on the information provided by the institutions. That is, there could be more states that apply one or the other model. For example, in Aguascalientes, Campeche, Hidalgo, Chihuahua, Quintana Roo, and Sinaloa, the state prosecutor's offices refer to the existence of an Early Care Unit, even though they have not promptly reported on the type of management model they operate.

Good practice. The Coahuila State Attorney General's Office bases its operation on the three-level model, with which it regulates the management and assessment of cases. To do so, it makes use of a series of manuals that describe and frame the operation of said model. In the information provided by the local prosecutor's office, general operating manuals for the model and the UAT are identified like for massive processing of cases; early care and decision units with and without detainee; unknown defendant unit, as well as investigation and litigation unit. However, in terms of proper implementation in all representations of the prosecutor's office and among all types of personnel, there are areas of opportunity. The reason: the model is fully functional only in metropolitan areas or close to the central headquarters of the prosecutor's office, while the rest of the regions or coverage areas work with units that cover by themselves all the functions carried out by each of the three floors, which prevents the differentiated treatment of cases.

Differentiated Demand Attention Model

This model makes it possible to distinguish and attend in a differentiated, personalized, specialized, and immediate way the diverse needs of the people who come to a prosecutor's office. It is based on the classification of needs around four groups of crimes or demands. The classification of the demands is carried out by means of an operator called *deciding prosecutor*, which is entrusted with identifying the needs of people, legally and technically, to then turn them over to the areas that will follow up on their investigation file.

Diagram 5. Description of Functions in the Three-Level Model








Phase	Description
Third floor  Investigation and Litigation Unit (UIL)	Proceedings are ordered to identify the accused person and, if this is not achieved, the temporary file of the case is decreed. In case of identifying him/her, support is requested from the investigative police to locate him/her. If the case warrants it, then the case is prosecuted.
Second floor  Massive Case Processing Unit (UTM)	Here the case is received and the investigation continues. If the assumption that there is no crime is updated, the power to refrain from investigating is determined. If there is a crime, the application of an opportunity criterion or its referral to the UIL to continue with the investigation is assessed.
First floor  Early Care Unit (UAT)	Makes the first contact with the victim or offended party and collects the complaint, thus starting the investigation file and raising the necessary records in the computer system. Subsequently, it channels the case either to the Alternative Dispute Resolution Mechanisms (ADRM) unit or to the investigation units. If it is not a crime, it is channeled to other government instances. Provides immediate support to victims through the area of legal medicine or psychology.

Diagram 6. Description of the Differentiated Demand Attention Model

Type of demand	Description
Demand 1 	Applies to property crimes in which the identity of the accused is unknown. The user reports the case, the police go and with an electronic tablet collects a questionnaire that constitutes the complaint and is sent to the <i>central deciding prosecutor</i> (FDC), who integrates an investigation file and channels it to the prosecutor unit closest to the complainant's home (<i>investigative prosecutor</i> , FI). Both representatives of the prosecution, the FDC and the FI, can request support from assistance to victims, doctors or others. The FI will exercise criminal action or may decree the power to refrain from investigating.
Demand 2 	Applies to crimes subject to an agreement between the parties via Alternative Dispute Resolution Mechanisms. The user reports the case and is attended immediately to 1. collect the data, 2. assess the urgency of the case and 3. identify the demand. Once this is done, the user is channeled with an <i>alternative solution prosecutor</i> (FSA), who opens the investigation file and proposes referring the case to the area in charge of carrying out an alternative dispute resolution mechanism, until a restitution agreement is reached.
Demand 3 	Applies to high-impact crimes, mandatory pretrial detention and for which a specialized investigation is required. The procedure with a detained person is as follows: upon making the detained person available, the <i>prosecution prosecutor</i> (FA) is immediately aware of the case and opens an investigation file. The prosecutor is in charge of reading the rights, assigning a defender, certifying the physical integrity, filing a complaint and assigning a legal adviser. The file will start the investigation, which may warn of the need for precautionary measures or the possibility of reaching a pre-trial diversion. The relevance of its judicialization will be analyzed and follow-up will be given until its conclusion.
Demand 4 	Under this scheme, crimes that can be resolved through an alternative dispute resolution mechanism or, if possible, that can be prosecuted (combination of demands 2 and 3) are processed.

Good practice. This model is implemented in the state of Querétaro through the Cosmos Law of 2018. In this application we can verify that beyond creating an organizational model to achieve the consolidation of the criminal justice system in the state, with this law an attempt was made to materialize inter-institutional coordination.

Both models, the three-level model and the Differentiated Demand Attention model, aim to offer **a decision-making scheme with objective and delimited criteria, a specialization of the personnel according to the circumstances of the crime and a workload management.**

These models can be considered aligned with their purpose of organizing, standardizing, and guiding the work of prosecutors, police, forensic experts, and facilitators, to achieve better results. It is precisely based on these results that the models must be assessed, either by the level and degree of complexity of the workload that the staff is absorbing, or by the ability shown to deal with and resolve the cases they are aware of. For this reason, in the Results Chapter we will offer various elements that will allow us to weigh the impact of the management models in the prosecutor's offices.

3.3.2 Attorney General of the Republic

The FGR reported that the Standard Management Model for the operation of the accusatory criminal justice system of the former Attorney General of the Republic (PGR) is still in force, which was prepared in February 2016 by the then Accusatory Criminal Procedural System Implementation Unit. This model only provides for the existence of an Early Attention Unit, which each sub-prosecutor's office and specialized prosecutor's office will have, as well as an Investigation and Litigation Unit whose objective is to carry out investigations "that are not promptly determined," as well as its prosecution. Therefore, **this management model, which has not been reviewed or updated for the operation of the current FGR, only provides for two levels of attention or action**, which are sequential, and does not provide criteria to distinguish by type of case.

3.3.3 Management Models in Victims' Commissions

We were able to determine that most of the victims' executive commissions do not have a model or initiative to standardize the service they provide and optimize the care they provide to users. After inquiring about a comparable tool, the cases in which its existence and operation were recognized were counted. In Table 29 we present the elements that we consider closest to a management model.

Various victims' commissions referred to procedural manuals that regulate their actions, as well as to isolated criteria for assigning cases, normally based on randomness or even on the workload of the teams, without this being a criterion sensitive to the complexity of cases assigned to staff.



Table 29. Management Models in Victims' Commissions

Entity	Model	Description
Coahuila	Case Assignment Model	<ul style="list-style-type: none"> The allocation is made according to the following criteria: 1) by statistical turns, 2) because it is an emblematic case, 3) because the person is in a situation of special vulnerability. The Legal Advice, Immediate Assistance and State Registry of Victims directorates are in charge of integrating the multidisciplinary team that accompanies the person in the situation of victim. It is the teams that have an internal registration format or certificate for greater control of the data, as appropriate in their actions.
Chihuahua Michoacán Sonora	Comprehensive Model of Attention to Victims	<ul style="list-style-type: none"> Lawyers, psychologists, social workers and administrative personnel participate in the different stages, according to the needs of the case and guided by the differential and specialized approach. The allocation of people to attend or represent is distributed equitably, according to those who attend the institution. The assignment of psychological care is made according to the staff load, to ensure a timely and comprehensive service.
Querétaro	Victim care model with an ecological approach	It works through the analysis of the victim's proximal environment and their needs, to establish the necessary mechanism or actions that serve to safeguard their physical and emotional integrity, in a timely manner.
Yucatán	Case prioritization model	<p>For case management, criteria such as...</p> <ul style="list-style-type: none"> Prioritization of cases of a sexual nature in two aspects: 1. to be taken care of by female staff, and 2. to be given priority attention to other crimes, such as property crimes or threats.

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.

3.4 Management Model Implemented in Public Defender's Offices

In these institutions, the absence of management models is evident. It is common to identify organization manuals, procedures, and other administrative regulations as instruments that provide guidelines for the distribution and assignment of cases. However, such internal regulations, even though they determine the functions and attributions of the areas involved, do not specifically define any management model or

differentiated service and action criteria. In any case, in Table 30 we describe some noteworthy efforts in certain states.

In the defender's offices, an effort can be observed to manage cases based on the type of crime and the procedural stage in which a case is, as in Coahuila or Chihuahua. However, the available information leads us to conclude that most of their work and daily operations are carried out reactively, and without a clear assignment or established performance measures.

Table 30. Management Model in Public Defender's Offices

Entity	Model	Description
Baja California Sur	Continuous Improvement Groups (USAID)	Improvement groups are a practice in which a work group, which is part of a larger organization, meets on a voluntary basis to address problems identified in their area of work or the institution in general, recommend solutions and present them to management and, if approved by management, carry out its execution.
Federal Baja California Campeche Guerrero Michoacán Nayarit Quintana Roo Sinaloa Veracruz Zacatecas	Roles, shifts and venues	<p>The allocation is made according to the following criteria:</p> <p>A) Randomly as requests arrive. B) Observing the workload of Public Defenders. C) Based on the number of defenders they have in each region and affiliation. D) According to the jurisdiction that corresponds to the matter.</p>
Chihuahua Coahuila Guanajuato Jalisco Querétaro	Stage of the criminal process or matter of specialization	The distribution of work is done based on the type of crime in question and its complexity, as well as the procedural stage in which a case is located.
Colima State of Mexico	Inter-institutional Management Model	Allows inter-institutional collaboration between different system operators.

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.

Indeed, **both the defender's offices and the commissions for victims lack well-defined management models, which puts them on an unequal footing with respect to state prosecutors**, who have already been able to optimize their processes and results from their models.

3.3.5 Management Model Implemented in the Judiciary

The information collected also makes us see that courts do not recognize the existence of a formalized management model, through which they distribute hearings of different procedural stages, cases and workloads. Instead, reference is made to the existence of manuals of procedures and regulations, such as institutional organic laws. They also refer to the mechanisms and systems for recording information, such as logbooks –above all, of an electronic nature–. In Table 31 we highlight the efforts to manage the operation of these institutions.

Judiciary of the Federation

The PJF reported that the scheduling of hearings and assignment of cases is done automatically and randomly, based on the Comprehensive Case Tracking System (SISE). To assign the hearings, the SISE considers the following criteria: availability of the judges, rooms, pre-existing agenda or workload, and the average duration of the hearings. The latter is determined depending on the type of hearing, the historical average duration, the corresponding federal criminal justice center, the number of persons charged and other criteria.

Table 31. Outstanding Management Models in the Judiciary

Entity	Model	Description
Campeche	Equitable distribution	<ul style="list-style-type: none"> The distribution of audiences is done by means of a shift system. The hearings are distributed equally among the judges, each one hearing a case from the beginning to its conclusion. It is based on the workload and daily schedule of the judges.
San Luis Potosí	Operational management model	<ul style="list-style-type: none"> This instrument describes temporality and those responsible for each procedure. Defines guidelines and criteria for customer service, legal proceedings, and oral hearings.

Source: Own elaboration based on requests for information and publicly available information | @mexevalua.

Despite its automation, the SISE allows the 'manual' modification of the judging person who has been initially assigned to take cognizance of a hearing, if it is still pending. The substitute judge is also chosen manually, and a reason for the change must be entered into the system. In turn, the SISE makes it possible to generate a statistical report on the workload per federal criminal justice center and per district judge, regardless of their role as judges in each case.

3.4 Forensic Services

The expert forensic services that the Prosecutor Office uses as assistants in the investigation of crime are vital to achieve solid, scientific, technical criminal investigations and with effective results for criminal prosecution. The result of each opinion or act of investigation carried out by the forensic service areas or units depends on the technologies and information systems they have, as well as the available infrastructure and the processes they follow. In this section we will present an overview of the status of these services in the country.

To know the institutional capacities in terms of expert and forensic services, we collected the following information from the prosecutor's offices of the 32 states:

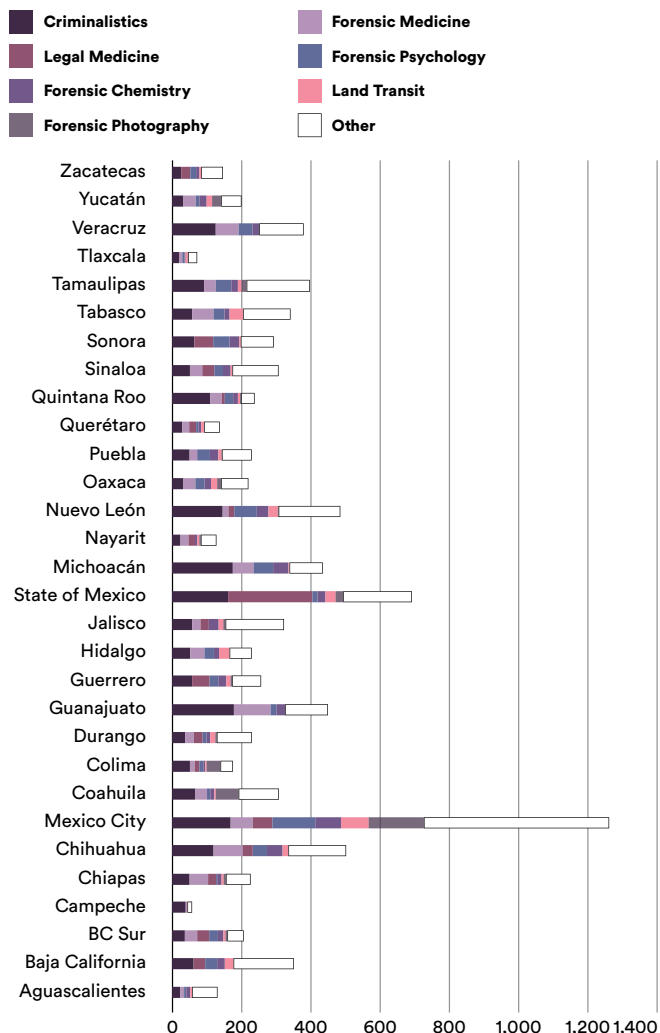
- 29 prosecutor's offices reported having a **genetic information database or records**.
- 20 reported having an **information registration and processing system**. However, they did not indicate that any generated statistical information, but they do continue to use Excel spreadsheets to integrate their statistical reports.
- 13 reported having indicators for the **tracing, monitoring and evaluation** of their work.
- 17 reported delivering **reports or statistical information on performance and results**, periodically.
- 17 reported having **inter-institutional collaboration mechanisms**.
- 19 reported having **protocols for the treatment of human remains and corpses**.
- Two reported having a **formalized management model** and six with **case assignment mechanisms**.
- 11 reported having an **organization and operation manual**.



This first approach suggests that there persists a *medium development* in terms of installed capacities. The greatest progress is shown in the development of databases or registries of genetic information, which went from 22 in 2020 to 27 by 2021. However, the existence of protocols for the treatment of human remains and corpses increased by only one unit, compared to the previous period, despite the fact that there must be a follow-up of them at national level. Moreover, we observe that most of the institutions periodically report statistical information –monthly, quarterly, semi-annually–; but there is no procedure to obtain them directly from their information registry systems.

However, even when some institutions reported that they have, or are in the process of having, planning and following-up mechanisms –such as organization

Graph 25. Distribution of Forensic Specialties



Source: Own elaboration based on requests for information | @mexevalua.

manuals and indicators–, there are various prosecutor’s and attorney’s offices that do not contemplate them, which puts the decision making to achieve goals and objectives at risk. In the same sense, we identified that less than a third of the states say they have a system for recording and processing information.

Table 32. Nationwide Amphitheatres

Mexico City	43	Colima	4
Tabasco	21	Querétaro	4
Veracruz	21	Tlaxcala	4
State of Mexico	19	Aguascalientes	3
Puebla	17	Coahuila	3
Michoacán	10	Durango	3
Jalisco	9	Hidalgo	3
Zacatecas	9	Nuevo León	3
Baja California Sur	7	Tamaulipas	3
Chiapas	6	Nayarit	2
Guanajuato	6	Sinaloa	2
Quintana Roo	6	Sonora	2
San Luis Potosí	5	Oaxaca	1
Campeche	4	Yucatán	1
Chihuahua	4		

Source: Own elaboration based on requests for information sent and answered | @mexevalua.

Table 33. Laboratories Nationwide

State	Total laboratories	Number of fixed laboratories	Number of mobile laboratories
National	370	329	42
Tamaulipas	74	74	0
Guerrero	30	16	14
Veracruz	26	26	0
Zacatecas	21	20	1
San Luis Potosí	20	20	0
Nuevo León	20	20	0
Tabasco	19	5	14
Mexico City	15	15	0
State of Mexico	15	9	6
Puebla	14	14	1
Nayarit	14	9	5
Aguascalientes	13	13	0
Hidalgo	13	13	0
Colima	11	11	0
Morelos	9	9	0
Oaxaca	8	8	0
Jalisco	7	7	0
Querétaro	7	7	0
Baja California	6	6	0
Michoacán	6	6	0
Chiapas	6	6	0
Coahuila	5	5	0
Durango	5	5	0
Sinaloa	3	2	1
Chihuahua	2	2	0
Tlaxcala	1	1	0

Source: Own elaboration based on requests for information sent and answered | @mexevalua.

Table 34. Autopsy Tables Nationwide

Yucatán	232	Zacatecas	13
Tamaulipas	97	Mexico City	12
Sinaloa	46	Jalisco	12
State of Mexico	44	Querétaro	11
San Luis Potosí	37	Michoacán	11
Chiapas	33	Quintana Roo	10
Morelos	31	Veracruz	10
Sonora	30	Durango	10
Puebla	23	Tabasco	8
Coahuila	17	Hidalgo	7
Guerrero	16	Chihuahua	7
Campeche	15	Aguascalientes	6
Oaxaca	15	Baja California Sur	4
Baja California	15	Colima	4
Tlaxcala	15		

Source: Own elaboration based on requests for information sent and answered | @mexevalua.

In any case, the prosecutor's offices with the greatest development of installed capacities are those of Querétaro and Sonora. At the next level of development are Baja California Sur, Guanajuato, Jalisco, Sinaloa and Veracruz and, far behind, the prosecutor's offices of Zacatecas and Tamaulipas, which reported less installed capacity.

Regarding specialization, based on what the areas of expert and forensic services reported to us, we infer the distribution that we show in Graph 25.

Lastly, in terms of installed capacity, the various areas of expert and forensic services provided us with data on the number of amphitheatres, autopsy tables, and laboratories existing nationwide, as well as the number and type of storage spaces for corpses and their status –identified or unidentified– that they kept at the end of 2021.

Table 35. Type and Number of Storage Spaces

State	Cold chambers			Bone libraries			Other equipment		
	Number of spaces	Total number of corpses protected	Proportion of unidentified corpses preserved	Number of spaces	Total number of corpses protected	Proportion of unidentified corpses preserved	Number of spaces	Total number of corpses protected	Proportion of unidentified corpses preserved
National	3,118	3,359	90	2,461	11,150	100	686	561	82
Jalisco	631	757	10	311	0	NA	0	0	NA
Quintana Roo	300	701	100	91	91	100	NA	0	NA
Tamaulipas	283	45	100	NA	0	NA	NA	0	NA
Sinaloa	257	110	100	240	76	100	0	0	NA
Chihuahua	232	508	97	340	482	100	0	0	NA
Hidalgo	227	103	5	NA	0	NA	0	0	NA
Guanajuato	221	0	NA	420	0	NA	NA	0	NA
Veracruz	198	3,176	49	0	0	NA	0	0	NA
Nuevo León	180	38	92	0	0	NA	248	248	75
Zacatecas	160	2,638	33	200	106	100	0	0	NA
Baja California Sur	140	28	71	70	16	100	NA	0	NA
State of Mexico	110	44	100	200	11	100	110	44	100
San Luis Potosí	105	261	100	0	0	NA	0	0	NA
Querétaro	96	215	50	124	6	50	0	0	NA
Tabasco	96	69	100	100	6	100	NA	0	NA
Colima	80	80	75	300	58	85	0	0	NA
Chiapas	70	29	100	100	68	100	NA	0	NA
Michoacán	70	0	NA	100	95	100	0	0	NA
Durango	57	0	NA	80	15	100	0	0	NA
Campeche	41	0	NA	20	3	100	0	0	NA
Puebla	33	178	87	240	166	99	310	251	85
Nayarit	32	22	96	55	10	100	0	0	NA
Aguascalientes	28	40	100	0	0	NA	0	0	NA
Sonora	21	21	100	0	0	NA	0	0	NA
Yucatán	20	48	13	45	0	NA	0	0	NA
Coahuila	4	7	-	400	10,015	100	0	0	NA
Tlaxcala	4	40	80	1	32	100	0	0	NA
Oaxaca	1	15	100	0	0	NA	18	18	100

NA: Does not apply.

Source: Own elaboration based on requests for information sent and answered | @mexevalua.



In general, there is no significant progress or increase in these capacities, while there is an overcrowding of 7.7% in the storage of corpses, considering the existing spaces and nine out of 10 remain 'unidentified' at the end of 2021, which is worrying. Tables 32, 33 and 34 show this information in detail.

Laboratories at national level have only increased by 15 since 2019, and the amphitheaters show a little increase, from 167 to 176 since 2019. The number of autopsy tables has only increased by 15 units since 2019, going from 705 to 730 at the end of 2021.

Finally, Baja California, Mexico City, Guerrero, and Morelos did not provide information on the status of storage of corpses and their identification status. At national level there are 3,118 spaces in cold rooms, a capacity exceeded by 7.7%, while the ossuary (a collection or meeting of bones) is exceeded by more

than 400%, an overcrowding that is verified mainly in the state of Coahuila. It is worrying that 90.1% of the corpses stored at the end of 2021 remain unidentified.

3.5 Investigation Support Staff in Victims' Commissions and Defender's Offices

Although the victims and the accused have the right to provide independent evidence to strengthen their theory of the case, in practice this is conditioned by the human and technical resources available to the victims' executive commissions (CEAV) and public defenders.

As the data presented in this section suggests, in general the CEAVs lack the personnel to provide evidence to the criminal process to reinforce the accusation or, where

Table 36. Substantive Personnel of the CEEAV by State

State	Psychology	Social work	Doctor	Nursing	Criminology	Anthropology
National	216	105	8	4	1	1
Aguascalientes	1	1	1	-	-	-
Baja California						
Baja California Sur						
Campeche	1	-	-	-	-	-
Chiapas						
Chihuahua	48	22	-	-	-	-
Mexico City						
Coahuila	7	2	-	-	-	-
Colima	3	3	-	-	-	-
Durango	4	2	1	-	-	-
Guanajuato	-	1	-	-	-	-
Guerrero	4	2	-	-	-	-
Hidalgo ¹						
Jalisco	4	3	3	-	-	-
State of Mexico	45	27	-	-	-	-
Michoacán	8	6	-	-	-	-
Morelos ²	4	-	-	-	-	-
Nayarit	2	1	-	-	-	-
Nuevo León	4	3	-	1	1	-
Oaxaca						
Puebla	5	9	1	3	-	1
Querétaro	15	3	2	-	-	-
Quintana Roo	14	-	-	-	-	-
San Luis Potosí	19	11	-	-	-	-
Sinaloa ³	1	1	-	-	-	-
Sonora						
Tabasco						
Tamaulipas						
Tlaxcala						
Veracruz	15	4	-	-	-	-
Yucatán	12	4	-	-	-	-
Zacatecas						

¹ Reported that CEEAV is in the process of integration.

² Reported that the "legal advisors are attached to the Morelos State Attorney General's Office."

³ Reported that there were no legal advisors during 2021.

Did not respond to the request for information

Source: Own elaboration based on requests for information | @mexevalua.

appropriate, reorient it. In contrast, some defender's offices, the minority, already have investigators or forensic services personnel, and even specific resources to hire the necessary expert opinions. However, most of these institutions lack investigative support personnel to ensure that victims and defendants can actively participate in the criminal process. If this situation prevails, the victims and defendants will continue to resort to contracting private services to obtain legal representation and a technical investigation that allows them to access justice.

On the one hand, the information provided by the victims' executive commissions (CEAV) shows that, at the national level, we have a rate of only one legal adviser attached to the CEAVs for every 100,000 inhabitants. In terms of workload, the average number of victims represented by legal advisor is 157 (details of this information can be found in the Results Chapter of this report). The support that these personnel can

receive is crucial to guarantee and protect the rights of the victims or offended.

Virtually all the CEAVs have psychology and social work staff to, on the one hand, provide containment or psychological care and detect the need for protection measures, and on the other, follow up on specialized treatment and supervise that the attention required by the victims is granted. In contrast, only five CEAVs reported having their own medical personnel in charge of the medical assessment of the victims and the issuance of a diagnosis. In commissions where there is this type of staff, their proportion is much lower compared to psychology and social work staff.

Lastly, only two CEAVs indicated that they had some type of specialized personnel to support crime investigation: Nuevo León has an expert in criminology, while Puebla has one in anthropology. In turn, no commission reported having personnel assigned to crime investigation, as a

Table 37. Substantive Staff of Public Defenders by State

State	Investigation	Psychology	Forensic Medicine	Criminalistics	Translator or interpreter	Social work	Chemistry
Nacional	33	25	7	16	1	2	2
Aguascalientes							
Baja California	2	1	-	-	-	-	-
Baja California Sur	-	-	-	-	-	-	-
Campeche	-	-	-	-	-	-	-
Chiapas	-	-	-	-	-	-	-
Chihuahua	-	1	-	-	1	-	-
Mexico City	-	-	-	-	-	-	-
Coahuila	-	-	-	-	-	-	-
Colima							
Durango	-	-	-	-	-	-	-
Guanajuato	17	4	4	4	-	1	-
Guerrero	-	-	-	-	-	-	-
Hidalgo	2	3	1	-	-	-	2
Jalisco	-	-	-	-	-	1	-
State of Mexico	-	8	-	-	-	-	-
Michoacán	-	-	-	-	-	-	-
Morelos	-	1	1	-	-	-	-
Nayarit	-	-	-	-	-	-	-
Nuevo León	-	7	1	12	-	-	-
Oaxaca	-	-	-	-	-	-	-
Puebla	-	-	-	-	-	-	-
Querétaro	4	-	-	-	-	-	-
Quintana Roo	-	-	-	-	-	-	-
San Luis Potosí	7	-	-	-	-	-	-
Sinaloa	-	-	-	-	-	-	-
Sonora	-	-	-	-	-	-	-
Tabasco	-	-	-	-	-	-	-
Tamaulipas	-	-	-	-	-	-	-
Tlaxcala	-	-	-	-	-	-	-
Veracruz	-	-	-	-	-	-	-
Yucatán	-	-	-	-	-	-	-
Zacatecas	1	-	-	-	-	-	-

Did not respond to the request for information

Source: Own elaboration based on requests for information | @mexevalua



position equivalent to the ministerial police. This shows that CEAVs practically do not have their own forensic or investigative services personnel that allow legal advisors to fully exploit the figure of *coadyuvancia* (adjuvant) with the prosecutor, without depending on the will and availability of prosecutors.

Besides, a solid defense strategy requires the support of auxiliary areas, such as forensic service personnel and investigation personnel, who provide the necessary and sufficient means of proof to prove the theory of the case adopted. Although the situation of the public defender's offices shows an improvement in the availability of this type of personnel in comparison with the victims' commissions, few defenders' offices have this type of personnel within their ranks.

The data provided by the defenders' offices show that, at national level, we have a rate of barely 2.1 defenders per 100,000 inhabitants. In terms of workload, the average number of cases represented by a public defender reaches 271 (the details of this information can also be consulted in the Results Chapter of this report). However, only six public defender's offices, Baja California, Guanajuato, Hidalgo, Querétaro, San Luis Potosí and Zacatecas, reported having personnel assigned to the investigation of the crime. Also, only Baja California, Chihuahua, Guanajuato, Hidalgo, Morelos and Nuevo León have expert personnel in psychology. Few defenders' offices have specialized personnel in criminalistics, forensic medicine, and chemistry. In the case of the State of Mexico, the defenders' office reported having forensic personnel in various specialties –legal medicine, criminology, valuation, psychology, social work, among others–, without specifying the number of experts for each one. The same happens with Morelos.

On a positive note, Guanajuato stands out, because the Criminal Public Defender Office has a specific coordination of forensic services and other defense investigators. **This indicates that there are isolated efforts by the defenders' offices to institutionalize support for investigation.** Querétaro Public Defender's Office reported that it has a specific budget item for "the hiring of external experts specialized in the matters required in criminal proceedings, thereby guaranteeing the quality of the defendants' defense."

In contrast, the Institute of the Public Defender of Guerrero indicated that the "investigative functions are carried out by the public defenders themselves," a situation shared by most of the country's defenders' offices. Leaving the absolute burden of supporting a theory of the case to defenders, and through their own means, creates highly adverse contexts.

3.6 Prison System

The penitentiary system established through the National Criminal Execution Law is based on respect for the human rights of persons deprived of their liberty and its objective is aimed at achieving their social reintegration, while guaranteeing a dignified life and safe for them. The first obstacle facing the materialization of this objective is the lack of adequate infrastructure and spaces within the penitentiary centers that guarantee access to health services, educational programs, places of recreation to practice some sport or physical activity, and job training.

At the same time, great challenges persist in the availability of services and programs necessary to guarantee the moral, physical, sexual and psychological integrity of persons deprived of liberty, as well as adequate food, access to drinking water, mental health services, among others. This section details the current situation of the centers, both federal and state, as well as the custodians that these centers have, and the number of judges specialized in the enforcement of sanctions.

It should be noted that matters related to the size and characteristics of the population deprived of their liberty in penitentiary centers, and their convicted or prosecuted status (under pretrial detention), will be presented in the Results Chapter of this edition.

Prison Conditions

Mexico has 281 state penitentiary centers and 19 federal centers. At the end of 2021, the population deprived of their liberty amounts to 222,369 people, an increase of almost 4% compared to 2020. At federal level there is an overpopulation of 2.8%, and at state level the overpopulation present in the penitentiary centers of the State of Mexico (136.7%), Morelos (88.1%), Nayarit (81%) and Durango (74%) stands out, cases in which there are hardly any dignified living conditions for persons deprived of liberty.

Every year, the National Human Rights Commission (CNDH) prepares the National Diagnosis of Penitentiary Supervision (DNSP), which aims to present the conditions in the penitentiary system, both at state and federal levels. This evaluation includes five main indicators:

1. **Aspects that guarantee the physical, psychological, and moral integrity of the person deprived of liberty:** attention to these people in conditions of isolation, their distribution in relation to the capacity of the center, prevention of human rights violations and follow up in case of detection, referral of complaints of probable

violations of human rights, and center operation supervision by the owner.

- Aspects that guarantee a decent stay:** food, material conditions and hygiene of kitchen and/or dining rooms, material conditions and hygiene of facilities in the medical area, material conditions and hygiene of facilities for communication with the outside, material conditions and hygiene of workshops and/or sports areas, existence, and capacity of facilities necessary for the operation of the center.
- Governance conditions:** absence of authority functions in the hands of persons deprived of their liberty in the center (self-government/co-government), training of prison staff, non-existence of illegal activities, non-existence of charges (extortion and/or bribes), regulations governing the center (regulations, manuals, guidelines and applicable provisions; their dissemination and updating) and procedure for the imposition of disciplinary sanctions.
- Social reintegration:** sports activities, work and training activities, classification of persons deprived of liberty, integration of the technical-legal file, integration and operation of the technical committee, organization, and records for compliance with the activities plan, separation between defendants and convicted, and connection of the person deprived of liberty with society.

Groups of people deprived of liberty with specific needs: care for women and/or minors who live with them, and care for people living with HIV/AIDS.

Table 38. Main Irregularities in Prisons

Irregularity	State Centers	Centros federales
Poor separation between defendants and sentenced	88.5%	35.7%
Insufficiency in the channels for the referral of complaints of probable violations of human rights	86.7%	71.4%
Insufficiency of security and custody personnel in relation to the number of people deprived of liberty	82.8%	85.7%
Lack of material conditions and hygiene in the facilities	77.7%	21.4%
Insufficiency or non-existence of facilities necessary for the operation of the center	66.5%	7.1%

Source: Own elaboration based on the information of the National Diagnosis of Penitentiary Supervision 2021 of the National Human Rights Commission | @mexevalua.

The 2021 DNSP findings at the state level reflect worrisome conditions in state and federal centers evaluated. Table 38 shows the irregularities with the highest incidence identified in the diagnosis.

Even though these are the most pressing challenges, the insufficiency and non-existence of work, training, educational and sports activities also affects most state centers and, to a lesser extent, the Federal Social

Table 39. Scores Assigned to Federal Corrections in the DNSP, 2021

Penitentiary Center	Operation Scheme	Qualification 2021
CEFERESO No. 1 Altiplano, State of Mexico	GF	7.2
CEFERESO No. 4 Northwest, Nayarit	GF	8.0
CEFERESO No. 5 East, Veracruz	GF	7.9
CEFERESO No. 7 Northwest, Durango	GF	6.8
CEFERESO No. 8 Northwest, Sinaloa	GF	8.1
CEFERESO No. 11, CPS Sonora	CPS	6.7
CEFERESO No. 12, CPS Guanajuato	CPS	8.1
CEFERESO No. 13, CPS Oaxaca	CPS	7.5
CEFERESO No. 14, CPS Durango	CPS	7.3
CEFERESO No. 15, CPS Chiapas	CPS	7.6
Women's CEFERESO No. 16, CPS Morelos	CPS	8.5
CEFERESO No. 17, CPS Michoacán	CPS	7.7
CEFERESO No. 18, CPS Coahuila	CPS	7.2
CEFERESO, Morelos	GF	7.6

FG: Federal Government

CPS: Contract of services

Source: Own elaboration based on the information of the National Diagnosis of Penitentiary Supervision 2021 of the National Human Rights Commission | @mexevalua.

Table 40. Scores Assigned to State Corrections in the DNSP, 2021

Entity	Qualification 2021	Entity	Qualification 2021
Aguascalientes	6.6	Morelos	7
Baja California	5.9	Nayarit	5.2
Baja California Sur	6.9	Nuevo León	6.6
Campeche	5.9	Oaxaca	5.7
Coahuila	6.5	Puebla	5.2
Colima	6.9	Querétaro	7.7
Chiapas	6	Quintana Roo	6
Chihuahua	7.8	San Luis Potosí	6.7
Mexico City	7.3	Sinaloa	5.5
Durango	6	Sonora	5.5
Guanajuato	6.8	Tabasco	4.2
Guerrero	5.1	Tamaulipas	5.7
Hidalgo	4.5	Tlaxcala	7.6
Jalisco	7	Veracruz	6.4
State of Mexico	6.4	Yucatán	6.9
Michoacán	6.1	Zacatecas	5.1

Source: Own elaboration based on the information of the National Diagnosis of Penitentiary Supervision 2021 of the National Human Rights Commission | @mexevalua.



Readaptation Centers (CEFRESOS), who could benefit in these aspects due to their current underemployment. Tables 39 and 40 present the global rating that the federal penitentiary centers and the states received.

In 2021, the average rating for state corrections is 6.2; the diagnosis shows that Chihuahua, Querétaro, and Tlaxcala are the states that received the highest qualifications, while Guerrero, Hidalgo, Zacatecas, and Tabasco registered the lowest. In contrast, the CEFRESOs average a rating of 7.6, with the women's Cefereso from Morelos as the best rated.

Sufficiency of Personnel

The National Criminal Execution Law establishes that prison custody is a function that falls on the prison authority, which consists of safeguarding the life, order and security of persons deprived of their liberty, visitors and staff assigned to prisons, among other aspects. All this while unrestrictedly observing the human rights of persons deprived of their liberty, visitors, and center staff.

To comply with the functions and all the others established by law, it is important that there is a balance between the number of security and custody personnel, and the number of persons deprived of liberty whom they must monitor and safeguard in their physical integrity. Table 41 shows a breakdown of the number of persons deprived of liberty and the number of custodians by state.

Thus, we have 206,309 people deprived of their liberty in state centers and 21,171 custodians. On average, in the states there are 14 people deprived of liberty supervised by each custodian. The foregoing meets the recommendations of the National Human Rights Commission, in relation to the fact that there must be a maximum number of 20 inmates for each custodian; however, the states of Campeche, Hidalgo, Quintana Roo, Sonora, and Tamaulipas exceeded that number.

Sentence Enforcement Judges

The sentence enforcement judges are the specialized judicial authorities of the federal or local jurisdiction competent to resolve controversies in matters of criminal execution, as well as the powers provided for in the National Criminal Execution Law (LNEP).

To attend to matters of federal jurisdiction, there are 43 sentence enforcement judges nationwide at the end of 2021, which is equivalent to **663.3 cases for each judge**, considering the population deprived of

Table 41. Number of Persons Deprived of Liberty by Custodian in Each State

Entity	Total number of persons deprived of liberty by entity (common and federal jurisdiction)	Total number of custodians by state	Number of persons deprived of liberty by custodian
Aguascalientes	2,025	152	13
Baja California	12,847	970	13
Baja California Sur	1,188	247	5
Campeche	1,183	40	30
Coahuila	3,719	190	20
Colima	1,272	242	5
Chiapas	4,682	1,402	3
Chihuahua	8,879	1,465	6
Mexico City	25,758	2,906	9
Durango	3,944	355	11
Guanajuato	7,244	1,048	7
Guerrero	4,244	434	10
Hidalgo	4,732	144	33
Jalisco	13,244	2,141	6
State of Mexico	33,918	1,969	17
Michoacán	6,033	1,314	5
Morelos	3,851	494	8
Nayarit	2,123	192	11
Nuevo León	9,107	1,104	8
Oaxaca	4,092	427	10
Puebla	8,753	701	12
Querétaro	2,918	482	6
Quintana Roo	3,388	107	32
San Luis Potosí	2,544	431	6
Sinaloa	4,375	310	14
Sonora	9,924	130	76
Tabasco	4,394	782	6
Tamaulipas	4,059	161	25
Tlaxcala	979	128	8
Veracruz	7,183	562	13
Yucatán	1,376	141	10
Zacatecas	2,331	0	-

Source: Own elaboration based on the information from the Monthly Notebook of National Penitentiary Statistical Information and the requests for information sent | @mexevalua.

liberty in federal jurisdiction, both in state and federal centers. Moreover, in matters of local jurisdiction, the proportion of persons deprived of liberty per sentence enforcement judge depends on each of the states, as shown in Table 42.

We observe that the states in which there is a greater number of persons deprived of liberty by sentence enforcement judge are Baja California (2,250), Nayarit (2,093) and Sonora (1,932). In contrast, the states in which there is a smaller proportion between them are Jalisco (79) and San Luis Potosí (107). The data indicates that the incorporation of this specialized jurisdictional

Table 42. Number of People Deprived of Liberty per Sentence Enforcement Judge in Each State

Entity	Number of persons deprived of liberty by entity (common jurisdiction)	Judges specialized in execution of measures	Number of persons deprived of liberty by sentence enforcement judge
Aguascalientes	1,866		
Baja California	11,249	5	2,250
Baja California Sur	1,045		
Campeche	1,106		
Coahuila	3,702	3	1,234
Colima	920		
Chiapas	4,477	4	1,119
Chihuahua	7,926	17	466
Mexico City	23,133	32	723
Durango	3,890	3	1,297
Guanajuato	32,688		
Guerrero	6,890		
Hidalgo	3,510	7	501
Jalisco	4,418	56	79
State of Mexico	11,771	17	692
Michoacán	5,013	7	716
Morelos	3,550	3	1,183
Nayarit	2,093	1	2,093
Nuevo León	8,463	8	1,058
Oaxaca	3,998	9	444
Puebla	7,883	25	315
Querétaro	2,662	4	666
Quintana Roo	3,033	10	303
San Luis Potosí	2,346	22	107
Sinaloa	3,570	4	893
Sonora	9,662	5	1,932
Tabasco	4,334	6	722
Tamaulipas	3,547		
Tlaxcala	784		
Veracruz	6,906	9	767
Yucatán	1,325	3	442
Zacatecas	1,678	4	420

Did not respond to the request for information

Fuente: Own elaboration based on the information from the Monthly Notebook of National Penitentiary Statistical Information and the requests for information sent | @mexevalua.

position has been differentiated for each state, even though they all had the same time to implement the LNEP and have sufficient and trained personnel to attend to the demands and claims of people deprived of their liberty.

3.7 Main Conclusions

About the Legal Framework

- Expansion of the catalog of crimes that allow mandatory pretrial detention** coincides with an increase of almost 4% in the number of people deprived of their liberty under this precautionary measure, during the first year of entry into force of the amendment to article 19 of the Constitution – March 2021 – March 2022). This increase is concentrated in the federal jurisdiction. This is a distortion of the principle of presumption of innocence for the criminal justice system.
- Various local prosecutor's offices still lack guidelines for the exercise of prosecutorial discretion and sanctions reduction due to summary proceedings.** This regulatory gap can give way to an arbitrary and heterogeneous use of these figures by prosecutors, or to the inhibition of their use, at least for the exercise of prosecutorial discretion.
- The non-compliance with the transitory provisions foreseen for the implementation of the new Law of the Attorney General of the Republic causes alarm.** The Organic Statute, which would regulate the detail of the areas that make up the FGR and its functions, should have been issued in 2021. This omission hinders the implementation of the Professional Career Service in the institution. On top of this, the Transition Unit from PGR to FGR was extinguished, as it was not contemplated within the transitory provisions of the new law, leaving the transition process incomplete. Finally, the selection process for the Citizen Council of the FGR has not been initiated by the Senate.

The process of militarization of public security continues to exacerbate, with a record of more than 94,000 members of the Armed Forces participating in the National Public Security Strategy. This context is exacerbated by the presidential announcement that a decree will be issued ordering the incorporation of the National Guard to the SERENA, despite the constitutionality problems that this entails.



About Sufficient and Trained Staff

1. **There is still a lack of systematized information on the exercise of the resources received by the states and municipalities through the FASP and the Fortamun**, which makes it impossible to know, in the case of FASP, what are the results of the programs in which it was invested, and in the case of Fortamun, what part of the budget was actually invested in public security.
2. **Prosecutor's Offices per 100,000 inhabitants decreased by 11%**, while the rates of operators per 100,000 inhabitants showed slight setbacks, except for the case of prosecutors (15% increase) and investigative police (0.2%). The positions with less personnel continue to be the substantive personnel of the UMECAs, legal advisors and public defenders.
3. At national level, **92% of state and municipal corporations have a passing result in their trust check evaluations**; however, only 76% is valid. In contrast, 5% (18 thousand items) did not pass their evaluation. Despite having these data, there is no available and updated information on the state of force that has a Single Police Certificate, which at the end of 2020 amounted to only 66% coverage.

About the Institutional Management Models

1. **Prosecutor's Offices have the greatest progress in adopting well-defined management models**, with criteria for differentiated attention of cases. However, the FGR reported that it continues to manage its function based on a limited and rigid model, which was incorporated in 2016 from the entry into force of the accusatory criminal justice system.
2. **The CEAVs and public defenders, in general, do not have management models**, and provide their services based on random case assignment, pre-existing caseload, jurisdiction and/or case notoriety. The foregoing plays seriously against the strengthening of the performance of these institutions.



CHAPTER 4

Results

The performance of the criminal justice system

MAIN FINDINGS

- At the close of 2021, **the local law crime that registered the greatest increase compared to the previous year was rape**, with 28.1%.
- **Only 17 states opened an investigation file on 100% of the lawsuits and/or complaints presented.** Sinaloa, Querétaro, Chiapas, and Aguascalientes are close, but below the national average. In contrast, Nuevo León attracts attention, which reported 56.2% of investigation files opened with respect to the total number of lawsuits and complaints, and Sonora, where only 57.1% were opened.
- **The temporary file is the main form of early determination of investigations**, and the Alternative Dispute Resolution Mechanisms (ADRM) continue to be wasted, since they attend only 8.14% of the cases.
- From the total number of investigations opened, the 5% rate where judges issued a finding of probable cause is maintained.
- Two out of every 10 people accused under pretrial detention concluded their processes by **conviction**.
- At the end of 2021, there were 4,904 people deprived of liberty without a sentence for more than two years: 4,569 were men (93.2%) and 335 women (6.8%).
- In prisons, both state and federal, we were able to observe that, throughout the 2012-2021 period, the average percentage of women awaiting sentencing (49.3%) has been higher than that of men (39.6%).



For this *Hallazgos 2021* we have updated the usual methodology for measuring results in the criminal justice system. The objective: to improve the design of the indicators that evaluate the function of each of the public agencies that intervene in the procedural sequel, without underestimating the systemic approach, which requires a joint and coherent vision of these State agencies.

As we have already pointed out, what is expected is to have criteria for prioritizing cases (and, consequently, public resources) to deal with complex issues through more demanding solutions, such as oral trials. On the other hand, it is desirable that fewer complex cases be dealt with through more agile, less expensive and less punitive solutions.

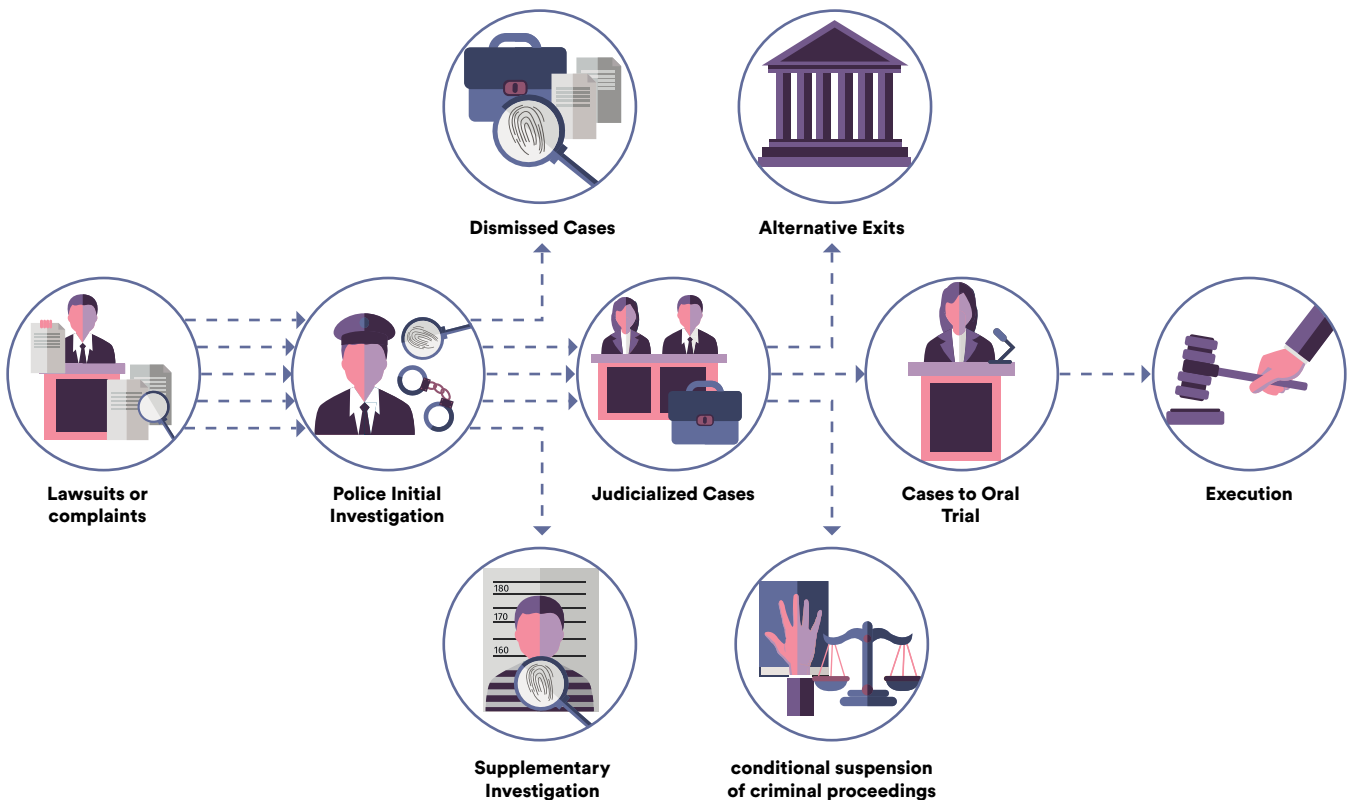
However, inactivity, lack of response and uncertainty about what is expected in each case are factors that, in addition to reflecting institutional inefficiencies, affect the population in the exercise of their rights.

Diagram 7 illustrates the multiple relationships that exist both between institutions and between the different procedural stages that make up the processing of a criminal case. As can be seen, the logic of the system is residual, so the number of cases that go to the following stages must be less and the time they take depends, essentially, on what the operators decide in the previous stage.

Another way of looking at it: the interaction between the institutions of the sector is extremely close, so the design of indicators must necessarily be approached with a systemic approach.

And with this overall view, we start the chapter by addressing the criminal context, to later analyze each of the relevant procedural moments: beginning of the investigation, exercise of criminal action, resolution of cases in the courts and situation of penitentiary institutions. Finally, we will describe the impact all this has on the population's rights exercise.

Scheme 7. Flow of Results in the Procedural Sequel



4.1 Crime Rate

Crime Rate is understood as the “alleged occurrence of crimes registered in preliminary investigations or opened investigation files, reported by the Attorney General’s Offices of the states, in the case of crimes of local jurisdiction, while, for federal crimes, by the Attorney General of the Republic (FGR)”¹⁰¹.

However, restricting the measurement of the crime rate to previous investigations or investigation files opened – data provided by the Executive Secretariat of the National Public Security System (SESNSP) – would provide a partial information framework, which would tend to underestimate the measure in that crimes occur in the country. For this reason, a comprehensive evaluation must contrast such results with those generated by the National Survey of Victimization and Perception of Public Safety (ENVIPE) of Inegi.

Data from ENVIPE allows “estimating the crime rate, the characteristics of the crime, the victims, and the context of victimization, as well as obtaining information on the perception of public safety, performance, and experiences with institutions.” in charge of public security and criminal justice in the country”¹⁰²

Local Jurisdiction

As can be seen in Graph 26, in 2020, after the start of the health contingency caused by covid-19, the crime rate data from the local jurisdiction revealed a reduction of 11.1% compared to the previous year, due, in partly, to the confinements implemented as a measure to reduce contagion. This was a significant setback to the upward trend followed by the crime rate in the country since more disaggregated public data became available, that is, since 2015: the average percentage of annual variation for the period from 2015 to 2019 had been of 5.7%.

Despite such a significant decrease with respect to the total number of investigation files opened during 2020, **there were crimes such as gender violence, drug dealing, domestic violence and human trafficking that registered increases of 27.4%, 9.2%, 4.7% and 1.5%, respectively.** Other local jurisdiction crimes, such as kidnapping (-37.4%), transportation theft (-25%), home robbery (-23%), vehicle theft (-22.4%) and business robbery (-19.4%), registered the most prominent decreases.

Graph 26. Local Jurisdiction Crime Rate

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	1,657,804	NA	683.08	55,260.13	4,541.93
2016	1,761,830	6.3%	717.85	58,727.67	4,826.93
2017	1,939,497	10.1%	781.79	64,649.9	5,313.69
2018	1,989,931	2.6%	793.89	66,331.03	5,451.87
2019	2,071,164	4.1%	818.14	69,038.8	5,674.42
2020	1,841,188	-11.1%	720.38	61,372.93	5,044.35
2021	2,044,122	11.0%	792.46	68,137.4	5,600.33

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 27. Local Jurisdiction Crime Rate for Rape

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	12,619	NA	5.2	420.63	34.57
2016	13,539	7.30%	5.52	451.3	37.09
2017	13,520	-0.10%	5.45	450.67	37.04
2018	15,322	13.30%	6.11	510.73	41.98
2019	17,342	13.20%	6.85	578.07	47.51
2020	16,544	-4.60%	6.47	551.47	45.33
2021	21,189	28.10%	8.21	706.3	58.05

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

In striking contrast, the data for 2021 on the local jurisdiction crime rate recovered the upward trend, with an increase of 11%. In other words, if in 2020 there were an average of 5,044 crimes per day for which an investigation file was opened, by 2021, on average, 5,600 crimes were reported daily.

Among the crimes that registered a greater increase with respect to the previous year is, first of all, **rape**, with an increase of 28.1%, a peak that exceeded the highest average annual variation percentage on record, 13.2%, corresponding to the period between 2018 and 2019. In fact, except for Tlaxcala (which reported a decrease of 34.2%), all the states registered increases in this crime, which went from the lowest in San Luis Potosí, 0.5%, to the highest in Coahuila, 88.6%, followed by Guanajuato (57.5%), Mexico City (47.5%) and the State of Mexico (43%).

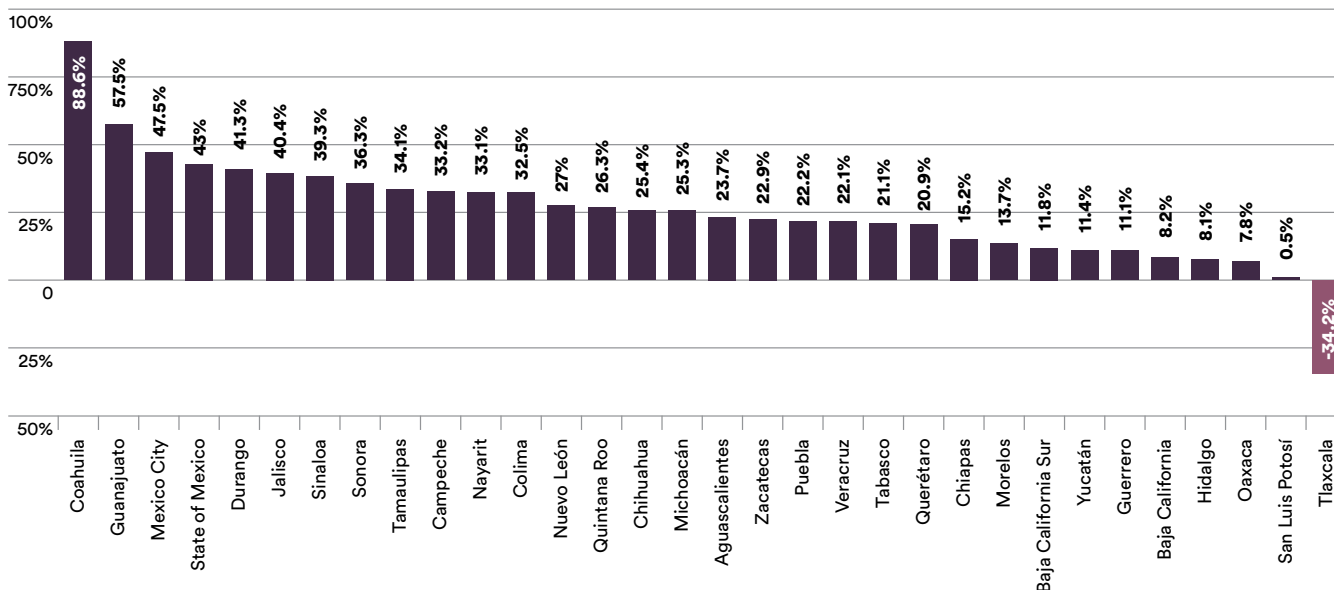
Second, is **domestic violence**, which registered a national increase of 15.3%, which implied a rate of 98

¹⁰¹ Executive Secretariat of the National Public Security System (SESNSP). Retrieved from: <https://www.gob.mx/sesnsnp/acciones-y-programas/incidencia-delictiva-299891?state=published> (Consultado en agosto de 2022).

¹⁰² National Institute of Statistics and Geography (National Survey of Victimization and Perception of Public Safety). Retrieved from: <https://www.inegi.org.mx/programas/envipe/2021/> (Consultado en agosto de 2022).



Graph 28. Rape Percentage Variation Registered by Attorney General's Offices of the States



Source: Own elaboration based on SESNSP data | @mexevalua.

crimes per 100,000 inhabitants by 2021, or an average of 695 cases on which an investigation file was opened in the country daily. Except for the states of Chiapas (-11.2%), Puebla (-4.5%), Colima (-1.8%), Morelos (-0.2%) and Michoacán (-0.2%), the rest of the states registered increases compared to the previous year, but Campeche stands out, with an exponential increase of 597.8%, and Tlaxcala, with an increase of 333.3%.

In third place, both **human trafficking** and **theft in transportation**, either individually or collectively, two crimes in which the legal right affected is completely different, but which registered a similar increase at national level, of 12%.

The annual daily average for human trafficking was 1.7 investigation files initiated, while for transportation theft it was 85.7. In human trafficking, increasing percentage variations have been observed since 2018, with 2019 being the year with the highest record: 40.8%.

Fourthly, the crimes of **extortion** and of **injuries**, whose increases compared to 2020 were 10%, even though both registered significant decreases during the year the health emergency began. Both crimes have followed a

Graph 29. Local Jurisdiction Crime Rate for Domestic Violence

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	127,424	NA	52.5	4,247.47	349.11
2016	153,893	20.8%	62.7	5,129.77	421.62
2017	169,579	10.2%	68.36	5,652.63	464.6
2018	180,187	6.3%	71.89	6,006.23	493.66
2019	210,188	16.6%	83.03	7,006.27	575.86
2020	220,031	4.7%	86.09	7,334.37	602.82
2021	253,739	15.3%	98.37	8,457.97	695.18

¹ Calculation made based on CONAPO data.

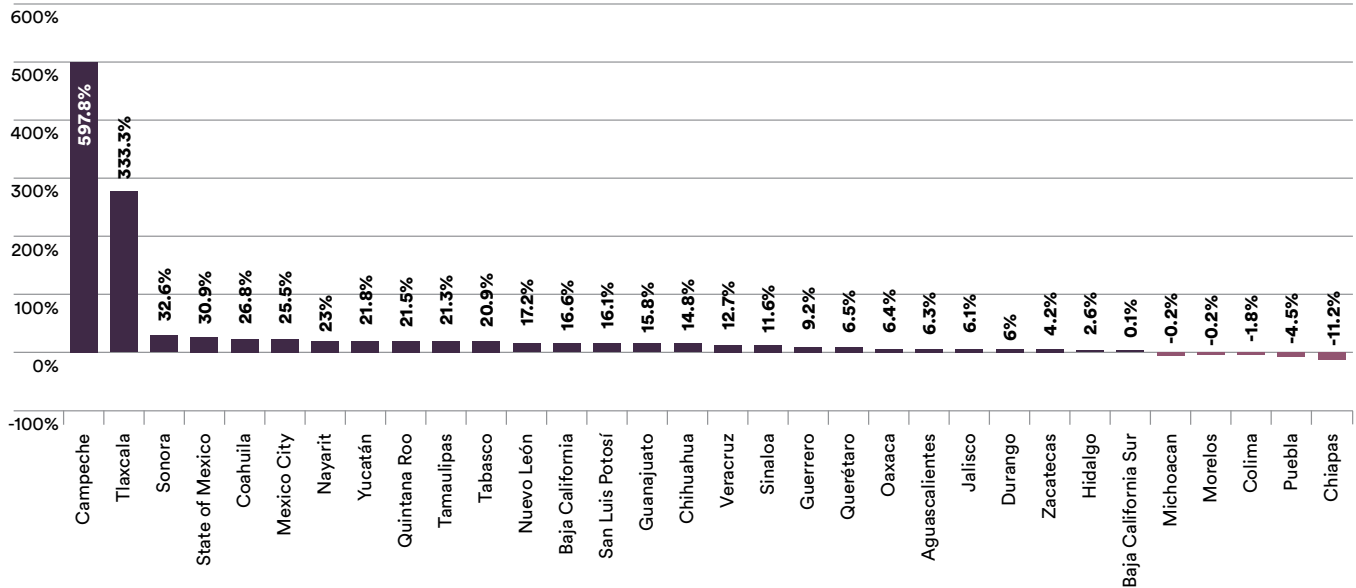
Source: Own elaboration based on SESNSP data | @mexevalua.

seasonal pattern, that is, their mean and variance have been constant over time, which makes it possible to point out that the rates per 100,000 inhabitants, in the case of extortion, have remained constant from 2015 to 2021.

Now, in crimes where the **State has a reinforced duty of protection**,¹⁰³ such as **intentional homicide**, a slight gradual decrease can be observed. However, if we analyze the data by state, we observe an increase in

¹⁰³ Through this approach, we seek to differentiate criminal phenomena that require greater reinforced protection of rights due to the legal rights that were affected – such as life, liberty, sexual integrity – from trifle crimes. For further reference, it is possible to consult the *Observatories of Hearings and Judicial Resolutions* that we have developed from Mexico Evalúa. Available at: <https://www.mexicoevalua.org/hallazgos-2020-calidad-de-la-justicia/>

Graph 30. Percentage Variation of Domestic Violence Registered by Attorney General's Offices of the States



Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 31. Local Jurisdiction Crime Rate for Human Trafficking

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	415	NA	0.17	13.83	1.14
2016	383	-7.7%	0.16	12.77	1.05
2017	304	-20.6%	0.12	10.13	0.83
2018	387	27.3%	0.15	12.9	1.06
2019	545	40.8%	0.22	18.17	1.49
2020	553	1.5%	0.22	18.43	1.52
2021	621	12.3%	0.24	20.7	1.7

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 33. Local Jurisdiction Crime Rate for Extortion

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	6,008	NA	2.48	200.27	16.46
2016	5,732	-4.6%	2.34	191.07	15.7
2017	6,143	7.2%	2.48	204.77	16.83
2018	6,721	9.4%	2.68	224.03	18.41
2019	8,734	30.0%	3.45	291.13	23.93
2020	7,960	-8.9%	3.11	265.33	21.81
2021	8,827	10.9%	3.42	294.23	24.18

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 32. Local Jurisdiction Crime Rate for Theft in Transportation

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	31,050	NA	12.79	1,035	85.07
2016	22,731	-26.8%	9.26	757.7	62.28
2017	32,858	44.6%	13.24	1,095.27	90.02
2018	37,264	13.4%	14.87	1,242.13	102.09
2019	37,047	-0.6%	14.63	1,234.9	101.5
2020	27,784	-25.0%	10.87	926.13	76.12
2021	31,290	12.6%	12.13	1,043	85.73

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 34. Local Jurisdiction Crime Rate for Injuries

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	207,116	NA	85.34	6,903.87	567.44
2016	197,305	-4.7%	80.39	6,576.83	540.56
2017	204,882	3.8%	82.59	6,829.4	561.32
2018	198,537	-3.1%	79.21	6,617.9	543.94
2019	210,546	6.0%	83.17	7,018.2	576.84
2020	182,000	-13.6%	71.21	6,066.67	498.63
2021	200,958	10.4%	77.91	6,698.6	550.57

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.



the number of investigation files initiated for intentional homicide in five states: Zacatecas, Morelos, Nayarit, Sonora and Nuevo León, with 43.2%, 29.1%, 26.4%, 20.4% and 18.4%, respectively. Those where decreases were registered were Coahuila (-29.4%), Tabasco (-23.4%), Baja California Sur (-22.6%), Sinaloa (-20.6%) and Yucatán (-19.2%).

In contrast to intentional homicides, **femicide**, another crime where the State has a reinforced duty of protection, have followed an upward trend. The year with the highest percentage variation recorded since disaggregated information is available is 2016, with

47.3%. If the trajectory of 2015 is compared to 2021, an increase of 134.4% is observed.

In other words, if in 2016 there were an average of 1.1 femicides per day for which an investigation file was initiated, by 2021, 2.6 femicides were reported daily. The states that registered the highest increases in terms of victims of femicide were Aguascalientes, Campeche, Baja California Sur, Guanajuato, and Quintana Roo, with 200%, 200%, 75%, 70%, and 66.7%, respectively. On the other hand, the states with the most pronounced decreases were Tamaulipas (-66.7%), Baja California (-37.5%), Nayarit (-33.3%) and Morelos (-31.4%).

Graph 35. Local Jurisdiction Crime Rate for Intentional Homicide

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	16,120	NA	6.64	537.33	44.16
2016	20,149	25.0%	8.21	671.63	55.2
2017	25,035	24.2%	10.09	834.5	68.59
2018	29,097	16.2%	11.61	969.9	79.72
2019	29,482	1.3%	11.65	982.73	80.77
2020	28,830	-2.2%	11.28	961	78.99
2021	28,262	-2.0%	10.96	942.07	77.43

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

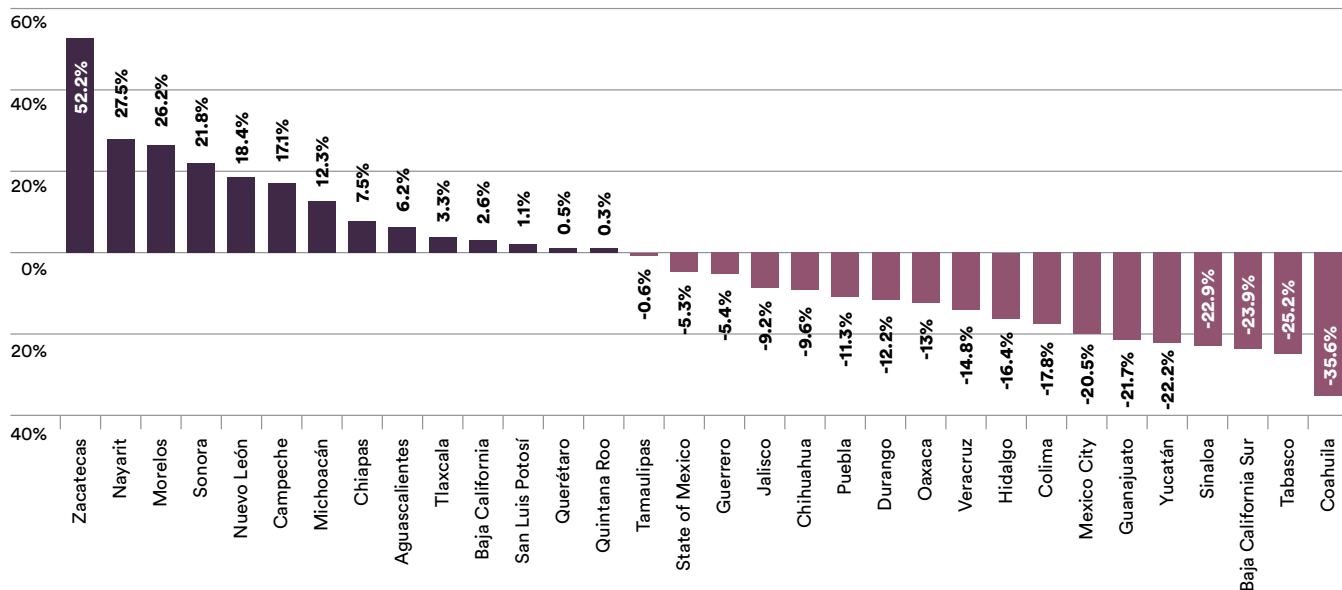
Graph 37. Local Jurisdiction Crime Rate for Femicide

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2015	412	NA	0.33	13.73	1.13
2016	607	47.3%	0.48	20.23	1.66
2017	742	22.2%	0.59	24.73	2.03
2018	896	20.8%	0.7	29.87	2.45
2019	947	5.7%	0.73	31.57	2.59
2020	949	0.2%	0.73	31.63	2.6
2021	966	1.8%	0.73	32.2	2.65

¹ Calculation made based on CONAPO data.

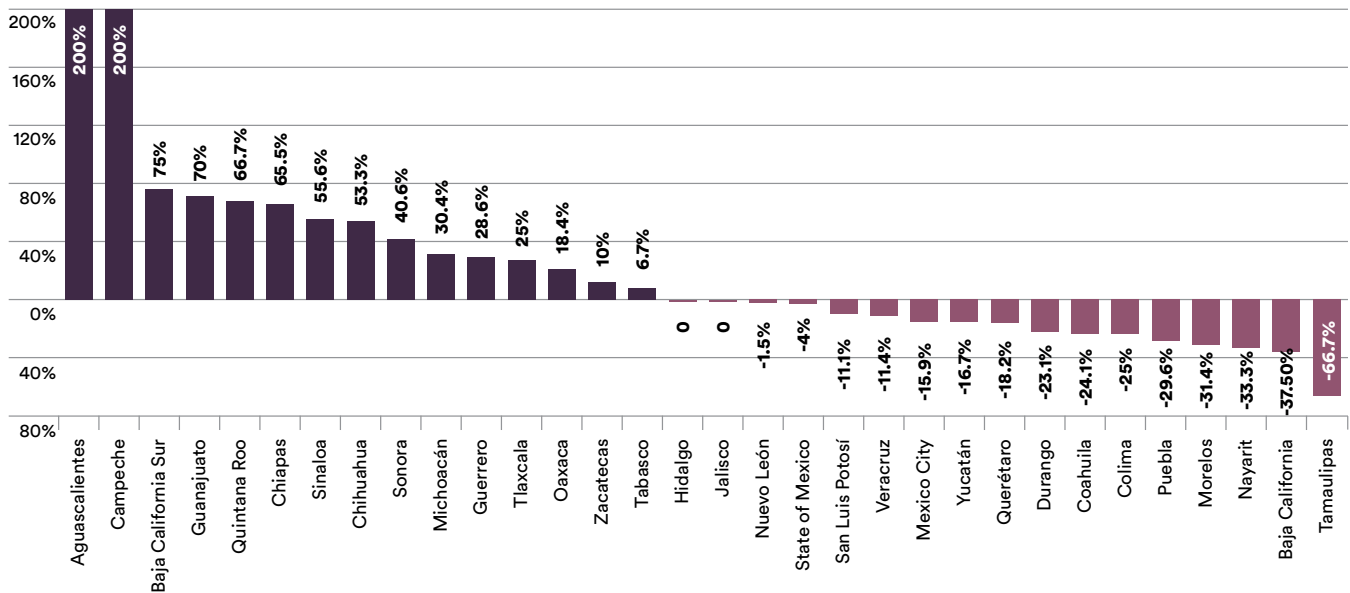
Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 36. Percentage Variation of Victims for Intentional Homicide Registered by Attorney General's Offices of the States



Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 38. Percentage Variation of Victims of Femicide Registered by Attorney General's Offices of the States



Source: Own elaboration based on SESNSP data | @mexevalua.

Federal Jurisdiction

Except for the period between 2017-2018, where we found an average percentage of annual upward variation of 15.1%, for federal crimes we observed recurring drops in the number of investigation files initiated by the FGR. For 2021 they were reduced by 1.1%, while for 2020 there was a reduction of 20.2%.

The foregoing can also be understood as follows: at the end of 2021, the FGR initiated a daily average of 212.7 investigation files, 96.6 less than at the end of the

Graph 39. Federal Jurisdiction Crime Rate

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2012	125,328	NA	53.59	4,177.6	343.36
2013	98,189	-21.7%	41.45	3,272.97	269.01
2014	98,059	-0.1%	40.88	3,268.63	268.65
2015	95,727	-2.4%	39.44	3,190.9	262.27
2016	85,213	-11.0%	34.72	2,840.43	233.46
2017	96,035	12.7%	38.71	3,201.17	263.11
2018	112,917	17.6%	45.05	3,763.9	309.36
2019	98,396	-12.9%	38.87	3,279.87	269.58
2020	78,482	-20.2%	30.71	2,616.07	215.02
2021	77,637	-1.1%	30.1	2,587.9	212.7

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 40. Federal Jurisdiction Crime Rate for Theft of Hydrocarbons

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2019	10,464	NA	4.13	348.8	28.67
2020	5,939	-43.2%	2.32	197.97	16.27
2021	6,155	3.6%	2.39	205.17	16.86

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.

Graph 41. Federal Jurisdiction Crime Rate for Crimes Committed by Public Officials

Year	Total investigation files opened	Annual variation	Rate per 100 thousand inhabitants ¹	Monthly daily average	Annual daily average
2012	3,755	NA	1.61	125.17	10.29
2013	3,672	-2.2%	1.55	122.4	10.06
2014	4,952	34.9%	2.06	165.07	13.57
2015	4,580	-7.5%	1.89	152.67	12.55
2016	4,575	-0.1%	1.86	152.5	12.53
2017	3,602	-21.3%	1.45	120.07	9.87
2018	2,331	-35.3%	0.93	77.7	6.39
2019	4,751	103.8%	1.88	158.37	13.02
2020	3,831	-19.4%	1.5	127.7	10.5
2021	4,172	8.9%	1.62	139.07	11.43

¹ Calculation made based on CONAPO data.

Source: Own elaboration based on SESNSP data | @mexevalua.



previous federal administration, in 2018 (which could suggest federal resistance to investigate and prosecute the crimes of its competence).

Among the crimes of the federal jurisdiction that are often referred to in public conversation is the **hydrocarbon theft**. For 2021, a decrease of 3.6% is observed with respect to 2020, which, in turn, was preceded by another of 43.2% in 2020, compared with 2019. At the end of 2021, an average of 16.8 investigation files for hydrocarbon theft were initiated daily, 11.8 less than at the beginning of the present administration, in 2019.

Other federal crimes that frequently arouse the interest of public opinion are those committed by public officials, such as **improper exercise of public function, authority abuse** or **misuse of attributions and faculties**, among others.

At the beginning of the present federal administration, an increase of 103.8% was observed compared to 2018, to later show a drop of 19.14%. At the end of 2021, an increase of 8.9% was registered, which is equivalent to saying that the FGR opened an average of 11.4 investigation files daily for this type of crime, although it should be noted that it has not been the highest on record: that corresponds to 2014, with 13.5 daily files on average.

4.2 Trust in the Criminal Justice System

Another key aspect in the context of the criminal justice system is the way in which the population perceives “public security, institutional performance, victimization at home and personal victimization,” as described in ENVIPE.¹⁰⁴ As we have pointed out, the crime rate reported by the SESNSP is constructed from facts with the appearance of a crime of which the prosecutor became aware in the various offices of the state prosecutors, through the opening of an investigation file, either by denunciation or lawsuit, or by the fact that one or more people were detained in flagrante by some authority or civilian while an act with the appearance of a crime was carried out.

Up to now we have characterized only those cases that reach the authorities because people decide to come

forward and denounce them. But what happens with those cases where the facts were not reported? What were the reasons why people decided not to do so? How many crimes really affect the population as a whole? And even what happens with those cases where a complaint was made but the authority decided not to initiate an investigation file? All are relevant questions, which have motivated us throughout the editions of *Hallazgos* to monitor the results of the dark figure obtained from the ENVIPE.

During the period between 2013-2020¹⁰⁵, the average percentage of the dark figure at national level has been 93.2%. It has not been able to be reduced in a statistically significant way. At state level, considering the same period of time, the average percentage of the lowest dark figure has been reported in Baja California Sur, 87.5%, while the highest has been located in Guerrero, 97.1%. At the end of 2020, the states that were above the national dark figure were Guerrero (97.3%), Sinaloa (95.6%), Zacatecas (95%), Sonora (94.9%), Quintana Roo (94.8%), Puebla (94.7%), San Luis Potosí (94.5%), Tlaxcala (94.3%), Yucatán (94.1%) and Nayarit (94%).

In general terms, for 2020 figures were obtained statistically higher than the estimate made in 2019 by ENVIPE. First, **it was estimated that only 10.1% of all crimes that occurred in the country were reported**. The states that registered a higher –and statistically significant– proportion of reported crimes were Baja California (15%), Campeche (14.7%), Coahuila (13.1%), Colima (12.4%) and Baja California Sur (12.1%). In contrast, states such as Sonora (7.5%), Yucatán (7.3%), San Luis Potosí (6.9%), Sinaloa (6.1%) and Guerrero (4.8%) registered proportions below the national figure.

Secondly, of the 10.1% obtained at national level, only for 66.9% of such cases did the prosecutor initiate an investigation file, that is, in approximately seven out of 10. The states that registered a higher proportion were Guanajuato, Yucatán, and San Luis Potosí, where in eight out of 10 cases the prosecutor decided to initiate an investigation file. In Baja California Sur, Colima, Tabasco, Oaxaca, Sinaloa, the State of Mexico, and Tamaulipas, this happened in seven out of 10 cases.

Among the reasons why the criminal justice system is aware (or not) of criminal acts that affect the population as a whole, multiple variables can be considered, such

¹⁰⁴ National Institute of Statistics and Geography (Inegi). Retrieved from: <https://www.inegi.org.mx/programas/envipe/2021/> (Consultado en Agosto de 2022).

¹⁰⁵ According to Inegi, the dark figure is the set of “criminal acts that are not reported to the prosecutor, or are not the subject of an investigation file and, consequently, do not appear in any statistics”

as the degree of trust in authority or how feasible it is, in the estimates of a person, to find an optimal solution through the institutions of justice. Even less complex incentives may come into play, such as the practical possibility of cashing in on an insurance policy.

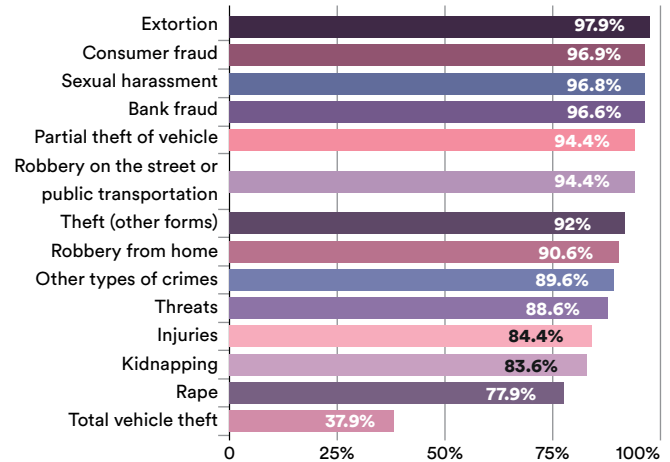
At national level, it is estimated that the crimes most likely to be included in the dark figure are **extortion** -which was not reported in 97.9% of the cases- **consumer fraud** -not reported in 96.9% of the cases- and **sexual harassment** -not reported in 96.8% of the cases-. In contrast, **total vehicle theft** is not reported in 37.9%, the lowest dark figure compared to all the crimes contemplated (Graph 43).

Graph 42. National dark figure versus states

	Dark Figure									
	100%	95.00% - 99.90%	90.00% - 94.90%	85.00% - 89.90%	80.00% - 84.90%					
National	93.8%	92.8%	93.7%	93.6%	93.2%	93.2%	92.4%	93.3%		
Aguascalientes	91.2%	92.9%	92.0%	92.7%	89.4%	90.0%	90.8%	93.3%		
Baja California	89.9%	90.3%	89.5%	92.2%	89.2%	89.5%	91.3%	89.8%		
BC Sur	83.6%	88.4%	87.6%	86.8%	85.7%	87.3%	89.3%	90.9%		
Campeche	92.0%	89.2%	90.4%	90.6%	89.6%	88.4%	91.0%	91.5%		
Coahuila	91.5%	89.7%	91.2%	91.9%	93.2%	92.4%	92.6%	92.7%		
Colima	85.7%	90.3%	89.9%	91.2%	88.3%	91.9%	84.5%	90.7%		
Chiapas	91.8%	96.1%	93.0%	94.3%	93.8%	91.5%	90.2%	93.2%		
Chihuahua	88.4%	90.6%	90.4%	92.0%	90.9%	91.2%	87.7%	92.8%		
Mexico City	93.3%	91.6%	94.7%	93.8%	93.4%	94.0%	94.0%	92.6%		
Durango	90.6%	94.0%	90.1%	92.2%	90.8%	91.1%	92.9%	92.4%		
Guanajuato	94.5%	93.4%	93.7%	91.7%	92.4%	94.2%	90.2%	92.0%		
Guerrero	96.7%	95.8%	97.5%	98.3%	96.8%	98.0%	96.1%	97.3%		
Hidalgo	93.5%	87.2%	89.7%	91.6%	89.0%	91.7%	90.4%	93.7%		
Jalisco	93.3%	94.8%	94.2%	93.2%	92.7%	91.8%	91.2%	92.9%		
State of Mexico	96.0%	93.6%	95.4%	94.6%	94.8%	93.6%	92.6%	93.5%		
Michoacán	94.0%	93.6%	92.9%	93.8%	92.7%	92.8%	95.0%	93.6%		
Morelos	91.7%	92.7%	92.6%	94.2%	93.3%	93.9%	93.2%	93.4%		
Nayarit	91.5%	93.0%	89.3%	91.7%	94.7%	91.6%	90.0%	94.0%		
Nuevo León	93.3%	92.9%	92.8%	93.7%	93.9%	91.6%	92.9%	92.0%		
Oaxaca	94.8%	93.3%	94.4%	94.6%	91.3%	95.2%	95.2%	92.1%		
Puebla	94.3%	93.2%	92.3%	94.9%	93.2%	91.6%	91.3%	94.7%		
Querétaro	92.3%	90.1%	90.1%	91.9%	90.5%	91.8%	89.8%	92.6%		
Quintana Roo	89.9%	91.1%	88.5%	90.1%	91.7%	91.3%	91.1%	94.8%		
San Luis Potosí	94.1%	96.5%	93.6%	92.9%	93.1%	94.7%	93.6%	94.5%		
Sinaloa	92.2%	92.3%	92.3%	92.9%	93.7%	96.3%	94.5%	95.6%		
Sonora	89.0%	87.9%	93.0%	94.2%	93.0%	92.9%	92.1%	94.9%		
Tabasco	92.1%	90.6%	93.6%	92.2%	91.9%	93.0%	90.2%	93.7%		
Tamaulipas	95.2%	91.9%	94.6%	95.4%	96.4%	94.1%	94.0%	93.9%		
Tlaxcala	90.3%	92.0%	94.2%	94.4%	93.3%	94.3%	93.6%	94.3%		
Veracruz	94.9%	91.6%	94.8%	92.8%	92.3%	95.6%	93.4%	93.4%		
Yucatán	89.6%	94.6%	90.7%	91.3%	90.4%	92.5%	92.6%	94.1%		
Zacatecas	93.0%	94.8%	92.2%	92.4%	94.5%	93.9%	92.7%	95.0%		
	2013	2014	2015	2016	2017	2018	2019	2020		

Source: Own elaboration based on data from ENVIPE | @mexevalua.

Graph 43. National Dark Figure by Type of Crime



Source: Own elaboration based on data from ENVIPE 2021 | @mexevalua.

ENVIPE also distinguishes factors that feed the non-reporting of a crime that are more directly attributable to the authority, such as fear of extortion by it, the fact of considering that it is a waste of time, or that the procedures are usually long and difficult, or previous experience of a hostile attitude on the part of the authority.

There are also factors not attributable to the authority: people consider the crime is of little importance, the fact that they may not have sufficient evidence, and even fear of the aggressor. At national level, seven out of 10 reasons for non-reporting are attributable to the authority (67.9%), while three out of 10 are not (32.1%).

In Graph 44 we show these proportions at state level, grouping them according to the sex of the victims. The reasons for not reporting are to a greater extent attributable to authority in both women and men, with exceptions: Guerrero, Hidalgo, Yucatán, and Zacatecas, for women; Quintana Roo, for men. The proportions skyrocket in Mexico City and the State of Mexico, where eight out of 10 men do not report for reasons attributable to authority, and such is the case for seven out of 10 women.

On the other hand, it is revealing that one of the main reasons why prosecutors decide not to initiate an investigation file is the fact that **they did not have sufficient evidence** (32.5%), a hostile attitude and/or lack of interest on the part of the authority (28.5%) and what was denounced was not considered a crime (14.1%).



Graph 44. Main reasons why the crime was not reported to the authority

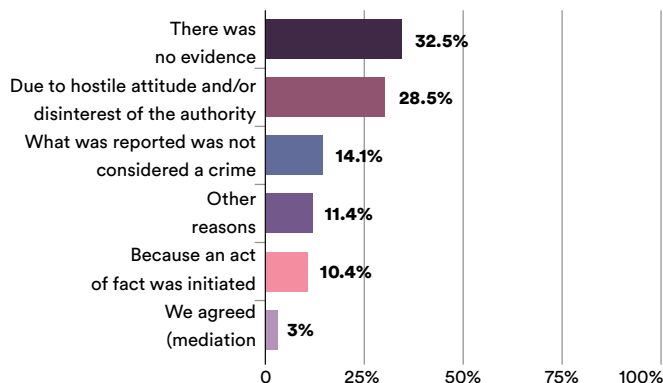
State	Men		Women	
	Attributable to authority	Not attributable to authority	Attributable to authority	Not attributable to authority
Aguascalientes	55.9%	44.1%	61.3%	38.7%
Baja California	52.8%	47.2%	68.0%	32.0%
Baja California Sur	57.8%	42.2%	74.4%	25.6%
Campeche	57.5%	42.5%	59.5%	40.5%
Coahuila	57.4%	42.6%	57.0%	43.0%
Colima	60.9%	39.1%	65.5%	34.5%
Chiapas	58.9%	41.1%	59.7%	40.3%
Chihuahua	68.0%	32.0%	62.2%	37.8%
Mexico City	80.1%	19.9%	73.5%	26.5%
Durango	72.7%	27.3%	56.8%	43.2%
Guanajuato	63.8%	36.2%	54.6%	45.4%
Guerrero	59.3%	40.7%	48.2%	51.8%
Hidalgo	63.4%	36.6%	50.2%	49.8%
Jalisco	73.7%	26.3%	59.2%	40.8%
State of Mexico	83.8%	16.2%	73.6%	26.4%
Michoacán	62.9%	37.1%	62.4%	37.6%
Morelos	74.0%	26.0%	63.6%	36.4%
Nayarit	64.6%	35.4%	65.7%	34.3%
Nuevo León	73.6%	26.4%	55.1%	44.9%
Oaxaca	61.5%	38.5%	55.6%	44.4%
Puebla	69.8%	30.2%	67.0%	33.0%
Querétaro	63.4%	36.6%	56.6%	43.4%
Quintana Roo	48.7%	51.3%	69.8%	30.2%
San Luis Potosí	57.7%	42.3%	56.1%	43.9%
Sinaloa	64.8%	35.2%	51.6%	48.4%
Sonora	77.0%	23.0%	55.9%	44.1%
Tabasco	61.7%	38.3%	61.2%	38.8%
Tamaulipas	66.5%	33.5%	52.3%	47.7%
Tlaxcala	65.9%	34.1%	60.2%	39.8%
Veracruz	64.8%	35.2%	53.1%	46.9%
Yucatán	61.3%	38.7%	49.9%	50.1%
Zacatecas	56.0%	44.0%	45.9%	54.1%

Source: Own elaboration based on data from ENVIPE 2021 | @mexevalua.

It is revealing because victims frequently report that during their stay in the Attorney General's Offices they are asked to present evidence of the facts they denounce, mainly names and surnames of the denounced persons and witnesses, or addresses for the location of persons of interest in the investigation, videos or photographs related to the facts or their consequences, among other aspects that reflect that **the authority requires the procedural motivation from the victims to act in the investigation and prosecution of crimes.**

At state level and, again, grouping the victims by sex, not having sufficient evidence stands out as a reason for not initiating a file in Nuevo León (64.3%) and Tlaxcala (48.9%)

Graph 45. Reasons Why, at National Level, Prosecutors Decided Not to Initiate an Investigation File



Source: Own elaboration based on data from ENVIPE 2021 | @mexevalua.

in the group of men, while in the case of women, it stands out in Querétaro (65.2%) and Baja California (52.8%).

Hostile attitude and/or manifest disinterest on the part of the authority stands out with the highest frequencies, for men, in San Luis Potosí (99%), Sinaloa (98.8%), Yucatán (98.7%), Baja California (98.5%), Guerrero (98.4%), Sonora (98.1%), Oaxaca (97.3%) and Nayarit (95.6%), while, for women, it does so in the states of Yucatan (98.9%), Morelos (98.8%), Tabasco (98.4%) and Zacatecas (97.8%).

Finally, the fact that what was denounced was not considered a crime stands out in the states of Chihuahua (33.8%) and Quintana Roo (39.4%) for men, while, for women, it stands out notoriously in Sonora (98.4%), although it falls in Tlaxcala (36.1%) and Campeche (32.7%).

The greater the distance of the population from criminal justice bodies to report the crime and resolve their criminal conflicts, the less is the possibility of State institutions to influence their security and peaceful coexistence.

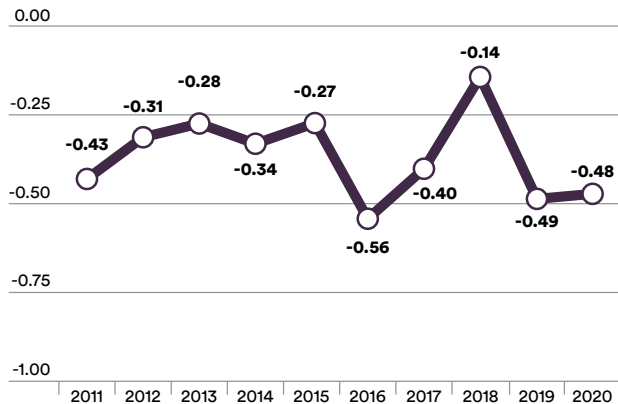
4.2.1 Trust in the Criminal Justice System Index

This index measures the variability that exists in the average percentage of estimated net trust during the period between 2011 and 2020, by state and public institution, based on standard deviation units¹⁰⁶, either

¹⁰⁶ The standard deviation is the square root of the variance. For its part, variance is another measure of dispersion that measures the variability of a data set with respect to its mean.



Graph 46. National Index of Trust Towards the Authorities of the Criminal Justice System in the states



Source: Own elaboration based on data from ENVIPE (2011-2021) | @mexevalua.

for the Army, Navy, National Guard, Attorney General of the Republic, judges, prosecutors, state police and municipal police¹⁰⁷.

Graph 46 shows that, at national level, the variability has been consistently negative in the average percentage of estimated trust during the period from 2011 to 2020. This contrasts with what has happened with the average percentage of trust in states such as Nuevo León, Yucatán, Zacatecas, and Aguascalientes, where the variability has remained positive.

In 2020, at national level, the average percentage was 39.4%, so the index shows a variability of -0.48 units. However, the authorities with the greatest confidence at national level –considered within the survey– were the Navy (-0.16 below the national average, which was 84.4%), the Army (-0.18 below the national average, which was 77.8%) and the National Guard (-0.19 below the national average, which was 69.4%), while those institutions with the least trust were judges (-0.51 below the national average, which was 22.5%) and prosecutors (-0.66 below the national average, which was 17.6%).

For its part, the index of trust towards the criminal justice system authorities by state shows contrasting results with respect to those obtained at national level. For the period between 2011-2020, the states that produced the best results were Nuevo León (1.5 above its state average, which was 48.8%), Yucatán (1.4 above its state average,

which was 49.6%), Zacatecas (1.2 above its state average, which was 44%) and Aguascalientes (one above its state average, which was 39.9%). The states that produced the worst results were Mexico City (-2.2 below its state average, which was 17%), the State of Mexico (-1.7 below its state average, which was 12.3%) and Chihuahua (-1.1 below its state average, which was 21.8%).

In the analysis by type of authority, at state level, a dominant pattern can be observed: the institutions that report the best confidence are the Navy, the Army and the National Guard, while the worst are both judges and prosecutors.

4.3 Criminal Procedure Pipeline 2021

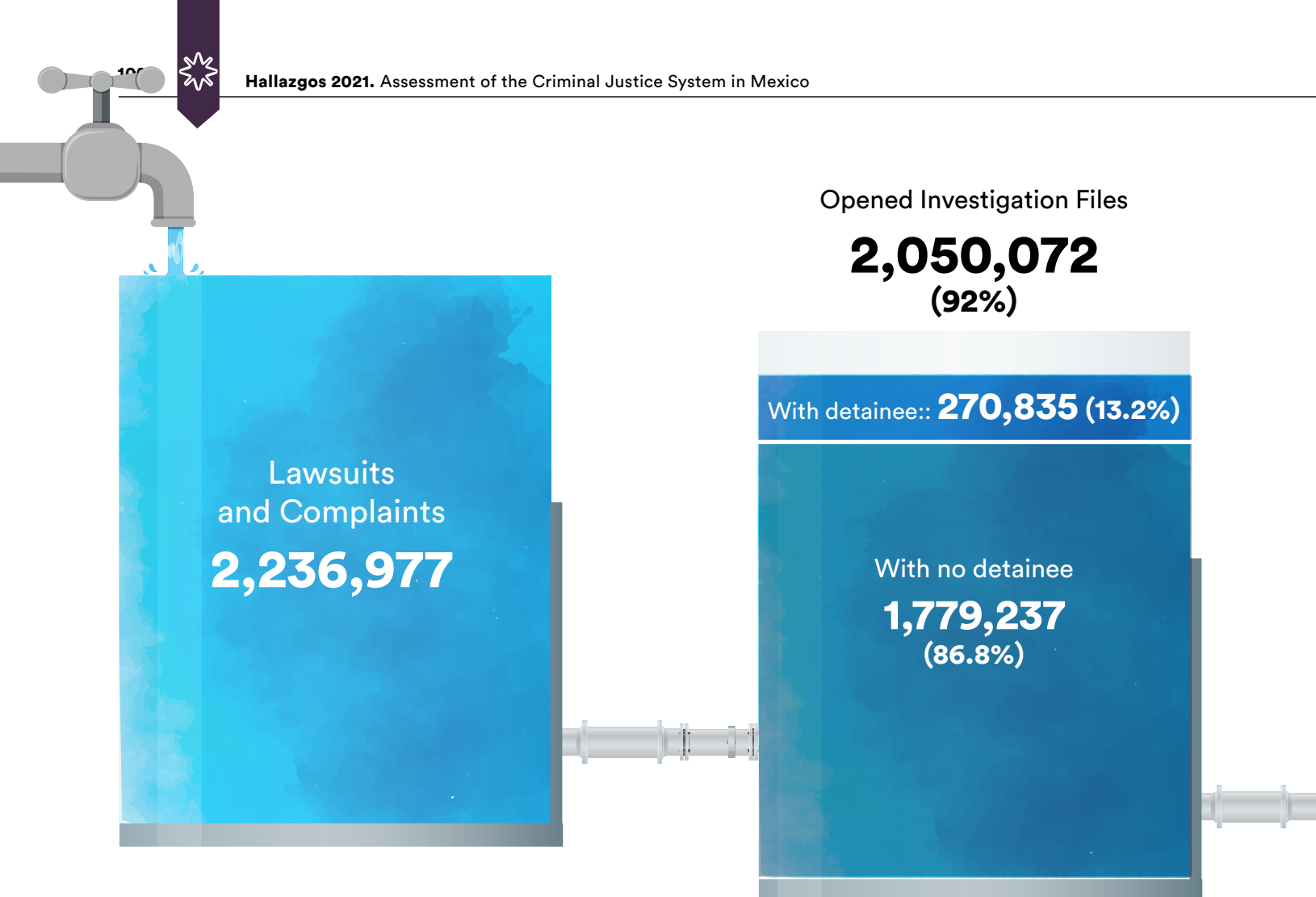
In this section we will analyze the results of all the institutions involved in the criminal process. In previous editions of *Hallazgos*, this analysis was carried out based on the public information available in the Monitoring and Evaluation Model (MES) of the Consolidation of the Criminal Justice System. **For this exercise, we carried out disaggregated public information requests to enable the traceability of the cases from the beginning of the process until its conclusion**, in such a way that it is possible to compare the data and have a greater consistency between the different sources of information.

The Procedural Pipeline shows that **investigations initiated in flagrante represent 13.2% of investigations**; however, these are the investigations with the greatest probability of being brought before the judicial authority for resolution, while the investigations initiated without a detainee tend to remain pending in the prosecutor's offices.

The temporary file is the main form of early determination of investigations, and the Alternative Dispute Resolution Mechanisms (ADRM) continue to be wasted, since they are applied in only 8.14% of the cases. From the total number of investigations opened, the 5% rate where judges issued a finding of probable cause is maintained.

In order to deepen the analysis of the data provided in the Procedural Pipeline, below, we will detail the data provided by the criminal justice system bodies.

¹⁰⁷ The index is obtained from integrating the results of the point estimators calculated –with 95% trust– for such institutions based on the data from Inegi's ENVIPE for each year. Net trust is the result of the difference between the sum of the variables "high trust" plus "some trust" minus "little trust" plus "not at all trust" (since it is an ordinal categorical variable). Once such residues are obtained, which can have both a positive and negative value, it is standardized using the Z-score method by state and public institution, and then proceed to obtain the standard deviations for each year.



Source: Monitoring and Evaluation Model in the Consolidation of the Criminal Justice System, SEGOB <https://mes.segob.gob.mx/> Investigations Opened in January 2020 to December 2020

Disclaimer: The information reported by the Monitoring and Evaluation Model includes files in the investigation process with a lag, for this, additional information on files in process for years prior to 2020 was obtained from the National Census of Justice

Technical notes: The variable "Procedures derived from investigation files" is the result of the sum of derivatives, determinations, dismissals by the magistrate judge, established probable cause and in investigation process

4.3.1 Investigation Opening

We identified a minimal variation between the data provided directly by state authorities from our public information requests and the data available in the Monitoring and Evaluation Model during the measurement year. According to what was directly reported by the authorities, **2,236,977 lawsuits and complaints were received in the country**, while the Monitoring and Evaluation Model registered a difference of 8,835 below, since it recorded a total of 2,228,142.

Similarly, the Monitoring and Evaluation Model shows that, during 2021, 2,058,536 investigation files were opened, while the responses to requests for public information were 2,050,129; a minimal difference. Based on these data, we can state that **an investigation file**

was opened for 91.6% of the total lawsuits and complaints filed, during 2021 at national level. This is, in nine out of 10 cases.

Graph 47 shows that in only 17 states an investigation file was opened on 100% of the lawsuits and/or complaints presented. Sinaloa, Queretaro¹⁰⁸, Chiapas and Aguascalientes are close to the national average, but at the opposite extreme, Nuevo León stands out, which reported 56.2% of investigation files opened regarding the total number of lawsuits and complaints, as well as Sonora, where only 57.1% were opened (ie, one in two).

One hypothesis as to why this occurs is that the population goes to law enforcement agencies to denounce acts even though they do not constitute crimes themselves (it can be, for example, conflicts of a civil, agrarian or commercial

¹⁰⁸ It is worth mentioning that the state reported that the difference between the number of lawsuits and complaints regarding the number of investigation files is strictly due to the fact that each file can refer to more than one lawsuit or complaint. In this sense, they state that all complaints are translated into investigation files, to later define their attention.



Criminal Procedure Pipeline 2021

Procedures derived from the investigation files opened

3,061,744
(100%)

In the investigation process (Prior to established probable cause)

1,528,467
(49.9%)

Established probable cause

65,216
(2.1%)

Determinations

1,188,524
(38.8%)

Temporary File

585,531
(49.3%)

Resolved
119,411
(48.1%)

In process
128,868
(51.9%)

- Accumulation **10,442** (0.9%)
- Prosecutorial Discretion **44,591** (3.8%)
- Refrain from Investigating **55,677** (4.7%)
- Incompetence **71,920** (6.1%)
- Other conclusion **77,681** (6.5%)
- No Exercise Criminal Action **342,682** (28.8%)

Alternative solutions (Court)
50,811 (0.64%)

- OEMASC In process **16,685** (32.8%)
- OEMASC Results **2,209** (4.3%)
- Conditional suspension of criminal proceedings **31,917** (62.8%)

Summary Proceedings
32,671 (0.41%)

- In process **2,406** (18.1%)
- Resolved **30,265** (92.6%)

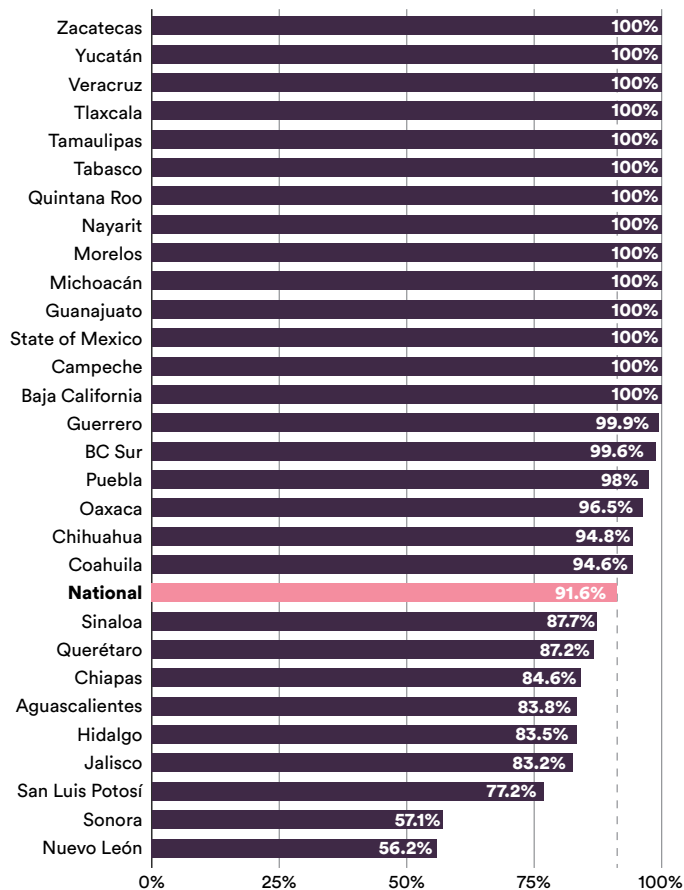
Oral Trial
13,543 (0.17%)

- In process **6,272** (46.3%)
- Resolved **7,271** (53.7%)

Derived ADRM (Court)
248,279 (8.1%)



Graph 47. Rate of Investigation Files Opened by State



Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutor's Offices of the states | @mexevalua.

nature). This may partly explain the fact that a file is not opened, but in a context in which 93.3% of crimes are not reported for reasons mainly attributable to the authority, the risk of impunity that could be updated in the first stage of criminal proceedings cannot be ignored.

To exemplify this problem, let us analyze the following scenarios:

- In a hypothetical situation A, a person who goes to the Attorney General's Office to file a complaint, which is received, and an investigation file is opened. The prosecutor who is attending informs him/her at that moment that the investigation will not continue, because the facts narrated do not constitute a crime. It also informs him/her that he/she can go to court to disagree with this decision, in accordance with article 258 of the National Code of Criminal Procedures (CNPP) and delivers this determination in writing.

- In another hypothetical situation, B, the person goes to the Attorney General's Office to file a complaint, which is received, but an investigation file is not initiated. Because these are not criminal acts, the prosecutor officer provides a record of the facts, but does not inform him/her that this document does not mean that an investigation will be initiated (or not initiated).

In situation A, the investigation file is initiated and concluded immediately with a determination of abstention from investigation provided for by the CNPP in article 253. The person who went to the justice system had an immediate response about what will happen with the investigation and information about the possibility of non-conformity. In situation B, the user assumes that he has already informed the authority of the fact that he considered a crime, and that the latter will carry out the investigation and pertinent actions. Possibly, later, after going to various institutions, he/she will be informed that the document he/she received does not imply that the fact denounced will be investigated.

It is understandable that the workload in the Attorney General's office requires maximizing often scarce resources, which is why investigations are not initiated in all cases. However, it is important to remember that, according to ENVIPE, the criminal justice system barely knows about 6.7% of the crimes reported by the population as a whole; therefore, designing attention models that expedite preliminary decisions, prioritizing the needs of the user population, will tend to promote a system that responds transparently and immediately, and can significantly improve the population's trust in its operation and effectiveness.

If these conditions are considered, and added to the increase in the crime rate, it would be expected that the authorities consider the reorganization and strengthening of their operational areas, as they are the ones that receive the impact in terms of workload. Let us see if there are any signs that this has happened.

During 2021, more than a third of the states reduced the number of public prosecutors compared to the previous year: Sinaloa (-29.6%), San Luis Potosí (-11.8%), Michoacán (-5%), Baja California Sur (-4.3%), Chihuahua (-3.2%), Colima (-3%), Chiapas (-3%), Zacatecas (-1.9%), Tlaxcala (-1.8%), Querétaro (-1.6%), Yucatán (-0.8%) and Coahuila (-0.2%).

Slightly more than half of the states invested in increasing the number of prosecutor officers: Nuevo

León (51.2%), Mexico City (25%), Tabasco (18.8%), Campeche (10.9%), Guerrero (9.6%), Veracruz (8.8%), Nayarit (8.7%), Baja California (7.9%), Sonora (7.2%), Guanajuato (4.1%), Jalisco (3.6%), Hidalgo (2.8%), Tamaulipas (2.5%), Puebla (2.3%), Aguascalientes (1.2%) and Oaxaca (1%). Finally, the states that did not register changes in the number of prosecutors were Durango, Morelos and Quintana Roo.

Thus, **at national level, the average number of investigation files initiated and managed by prosecutor officers went from 132 in 2020 to 169 in 2021** (an increase of 27.5%). The percentage variation

Table 43. Variation in the Workload of Prosecutors

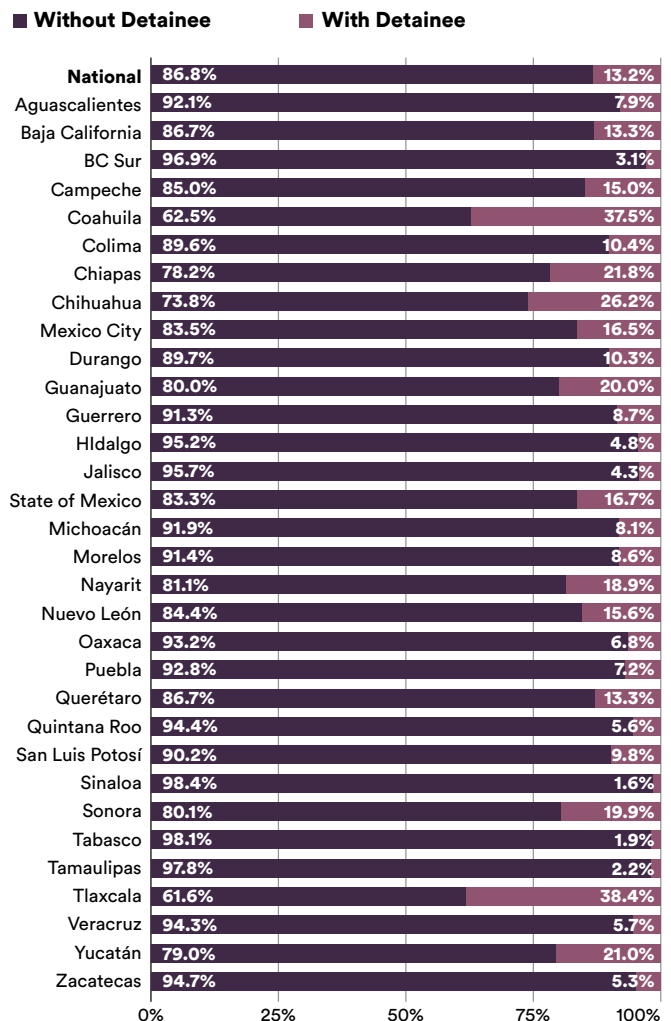
State	2021			
	Number of officers	Absolute number of investigation files	Workload	Percentage change
National	15,668	2,645,930	169	27.56%
Aguascalientes	159	35,645	224.18	4.67%
Baja California	502	171,951	342.53	72.81%
Baja California Sur	153	18,677	122.07	7.00%
Campeche	172	5,611	32.62	152.44%
Chiapas	637	17,130	26.89	2.31%
Chihuahua	1,214	72,998	60.13	12.92%
Mexico City	2,198	461,701	210.06	86.35%
Coahuila	396	56,045	141.53	15.94%
Colima	126	28,368	225.14	15.37%
Durango	176	29,479	167.49	13.28%
Guanajuato	502	134,626	268.18	5.20%
Guerrero	569	24,628	43.28	-5.91%
Hidalgo	360	46,464	129.07	9.48%
Jalisco	599	128,585	214.67	-1.99%
State of Mexico	2,207	389,493	176.48	-47.36%
Michoacán	562	46,877	83.41	7.61%
Morelos	251	42,301	168.53	4.47%
Nayarit	162	5,072	31.31	12.00%
Nuevo León	251	384,776	1,532.97	222.33%
Oaxaca	469	41,585	88.67	5.33%
Puebla	610	75,141	123.18	15.46%
Querétaro	179	53,945	301.37	5.43%
Quintana Roo	298	47,753	160.24	17.18%
San Luis Potosí	224	51,070	227.99	26.42%
Sinaloa	301	27,386	90.98	62.86%
Sonora	325	37,301	114.77	11.86%
Tabasco	372	48,175	129.5	-9.95%
Tamaulipas	320	36,636	114.49	12.17%
Tlaxcala	106	4,527	42.71	11.38%
Veracruz	529	88,308	166.93	2.36%
Yucatán	492	8,565	17.41	2.59%
Zacatecas	247	25,111	101.66	12.65%

Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutors' Offices of the states | @mexevalua.

of the workload indicator in Campeche is striking, which had an increase of 152.4%¹⁰⁹.

According to data from the Attorney General's offices, of the total number of investigation files opened in 2021, **86.8% were opened without a detained person, while 13.2% with one or more detained persons.** The states with the highest rate of opened investigations with one or more people arrested –whether in flagrante or in an urgent case– were Tlaxcala (38.4%), Coahuila (37.5%), Chihuahua (26.2%), Colima (21.8%) and Yucatan (21%). In contrast, the states with the lowest rates were Tamaulipas (2.2%), Tabasco (1.9%), and Sinaloa (1.6%).

Graph 48. Rate of Investigation Files Initiated Without a Detainee Versus With a Detainee



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

¹⁰⁹ Regarding the drop registered in the State of Mexico (-47.3%), the indicator must be considered with caution, since there is no consistency between the data reported by the Prosecutor's Office itself, both through requests for access to information and in the National Census of State Justice Procurement (CNPJE) of the Inegi.



Already in previous editions of *Hallazgos* we have pointed out that the complexity of the investigation of a crime increases when a file is started without a person in custody. And if the arrest occurred in flagrante there is a greater possibility of collecting material evidence in the place of the facts and testimonies; there may also be a greater willingness of the victims or offended to provide information. In cases in which this does not occur, it is likely that the period between the moment of the facts and the complaint makes the collection of evidence and testimonies more complex, therefore more resources, time, and greater collaboration from the victim are required to provide information that allows integrating lines of investigation.

It would then be expected that the states with the highest number of cases initiated without a detained person have a higher rate of cases in process. But this is not the case, as we show in Graph 49: Zacatecas, Tabasco, and Sinaloa have a high number of investigation files initiated without a detainee, but a lower rate of pending cases than in other states with similar conditions, such as Jalisco, Guerrero, Hidalgo, and Tamaulipas.

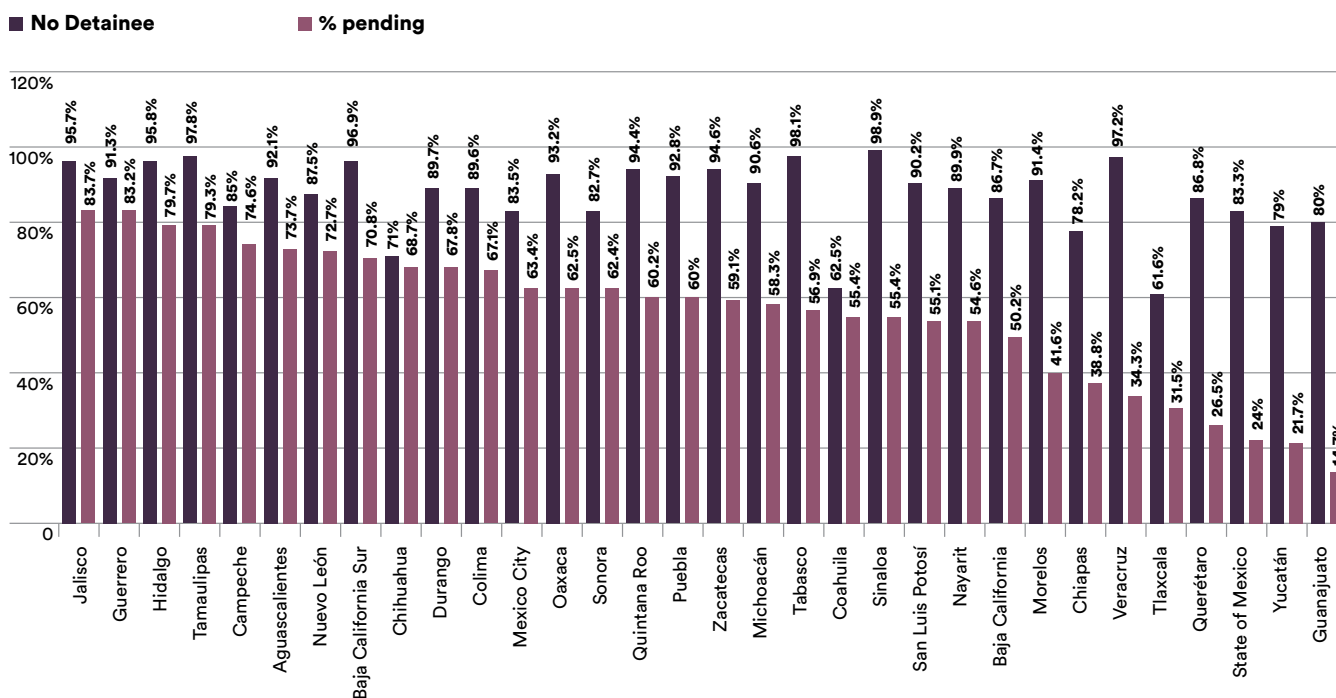
What cases are considered pending? Those on which, regardless of the initiation date of the file, no solution has been issued by the attorney general's office,

either because it has not yet been submitted to the judicial authority to determine whether to continue with the investigation, or because it will be concluded by some exit provided by law. At the beginning of the investigation, the prosecutor officers have the power to dictate some determinations that the CNPP foresees as forms of termination of the investigation, which we show in Diagram 8.

Once any of these forms of termination of the investigation have been issued, the case is no longer considered pending, since it already had a formal response from the ministerial authority, although this may be subject to review by a magistrate judge.

Within these forms of early determination by prosecutor officers, it is also necessary to consider those cases that are no longer dealt with because they are not within their jurisdiction or, even, because they accumulate in other investigations. Nevertheless, **the largest proportion is concentrated in the temporary file and the non-exercise of criminal action.** Some states, such as Querétaro, Guanajuato, Sinaloa, Yucatán, and Puebla, conclude more than 60% of investigations through these means, while Durango, Campeche, Jalisco, Tamaulipas, and Guerrero make use of these in less than 10% of cases (Graph 50).

Graph 49. Cases Initiated Without a Detainee and Percentage of Cases in Process

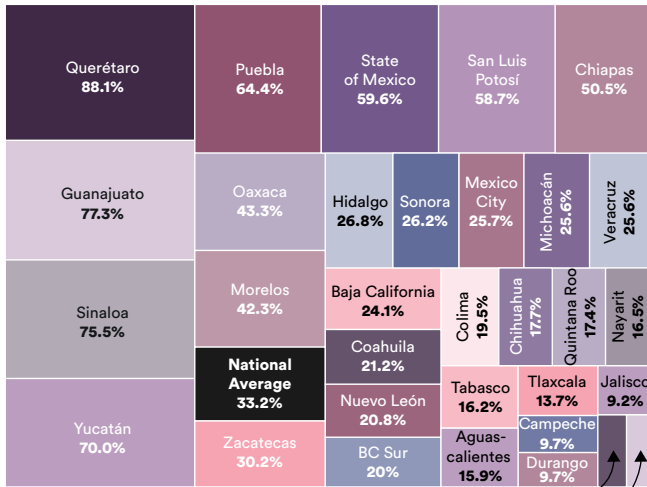


Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Scheme 8. Investigation Termination Forms

Refrain from investigating	Temporary File	No exercise of criminal action	Prosecutorial Discretion
<ul style="list-style-type: none"> • Art. 253 of the CNPP • Facts do not constitute a crime • The criminal action or criminal responsibility was extinguished • It can be reviewed by the judicial authority 	<ul style="list-style-type: none"> • Art. 254 of the CNPP • There is no background, sufficient data or elements from which lines of investigation can be established • Remains until investigation can be continued • It can be reviewed by the judicial authority 	<ul style="list-style-type: none"> • Art. 255 of the CNPP • Due to compliance with grounds for dismissal • Requires authorization from the Attorney General or whoever he delegates this power to • Closes the possibility of reopening the investigation for the same facts • It can be reviewed by the judicial authority 	<ul style="list-style-type: none"> • Art. 256 of the CNPP • Requires that damages have been restituted or guaranteed to be paid to the victim • Does not proceed in crimes such as crimes against the free development of personality, domestic violence, tax crimes or those that seriously affect the public interest • Requires authorization from the Attorney General or whoever he delegates this power to • It can be reviewed by the judicial authority

Graph 50. Prosecutors Determinations

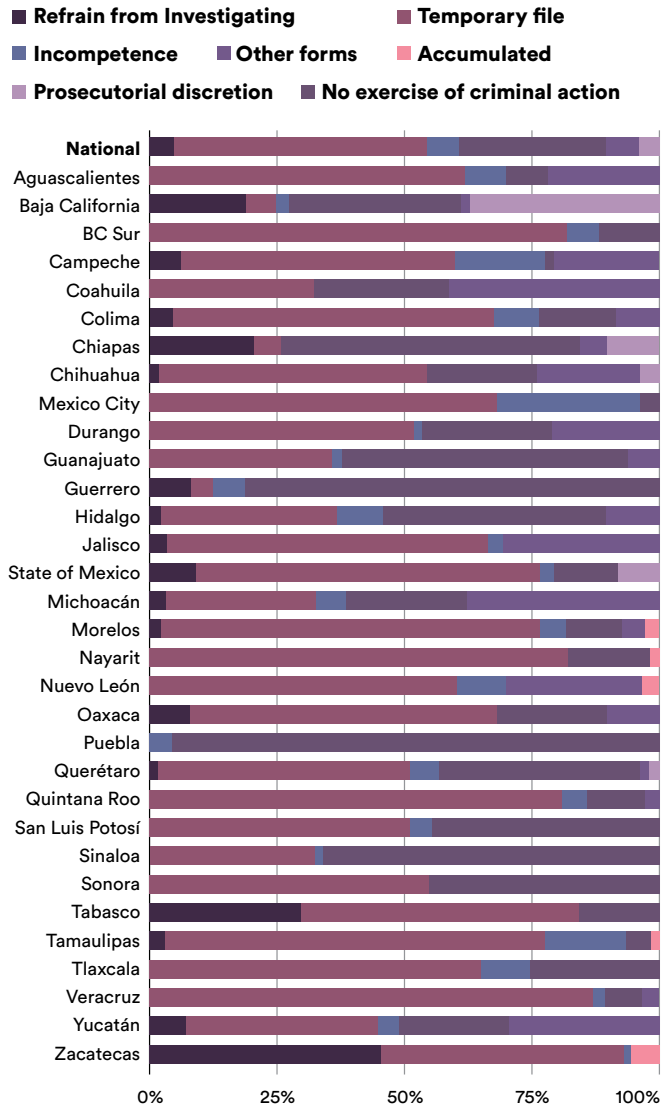


Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutor's Offices of the states | @mexevalua.

In the same sense, the FGR, at the end of 2020, reported a determination rate of 42.8% regarding the total investigation files managed, while for the total of prior investigations it reported a determination rate of 72.8 %.

As we have said, the temporary file is one of the most used determinations (one out of every two files), followed

Graph 51. Rate of Determinations in Prosecution Headquarters



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

by not exercising criminal action (three out of 10). In the case of FGR¹¹⁰ On the other hand, six out of 10 cases were determined by not taking criminal action, while two out of 10 were through temporary files. And it is important to take this information into account, since the possibility of attending to the largest proportion of cases early provides better conditions for the concentration of resources in the cases that are more likely to prosper in the investigation and prosecution.

¹¹⁰ In a transition process like the one expected at federal level, it was necessary to make inventory of cases transparent, as well as the criteria for their attention, in order to avoid the risk of not bringing criminal proceedings or concluding cases involving violations of human rights and/or corruption cases, among others. However, such an inventory and such criteria were not published by the FGR, despite having been provided in its Organic Law.



Now, if we follow this logic, those states that determine more than the national average (33.2%) of the investigations early through these faculties of closing the investigation, such as Querétaro (88.1%), Guanajuato (77.3%), Sinaloa (75.5%), Yucatán (70.3%) and Puebla (64.4%), should have better conditions to show the highest resolution rates in prosecution headquarters. Indeed, it is verified: Querétaro (90%), Guanajuato (90%), Sinaloa (71.1%), Yucatán (78.3%) and Puebla (57.9%). Graph 52 shows it in detail.

In this context, the nature of the temporary file is to be a legal mechanism through which prosecutors' offices can manage the workload, in such a way that they can focus efforts more strategically. The temporary file does not definitively conclude the investigation; it can be resumed when more elements are available to clarify the facts and prosecute the crime.

However, for the temporary file to be used as an effective case management tool, and not as a means of impunity, the following elements must be minimally considered:

- Periodic review mechanisms must be in place to analyze viable cases of reactivation.
- Analysis of patterns and context must be carried out on an ongoing basis, to feed investigations with greater impact.

- Transparent supervision mechanisms are necessary, to guarantee that the cases are found in the assumption provided by the legislation.

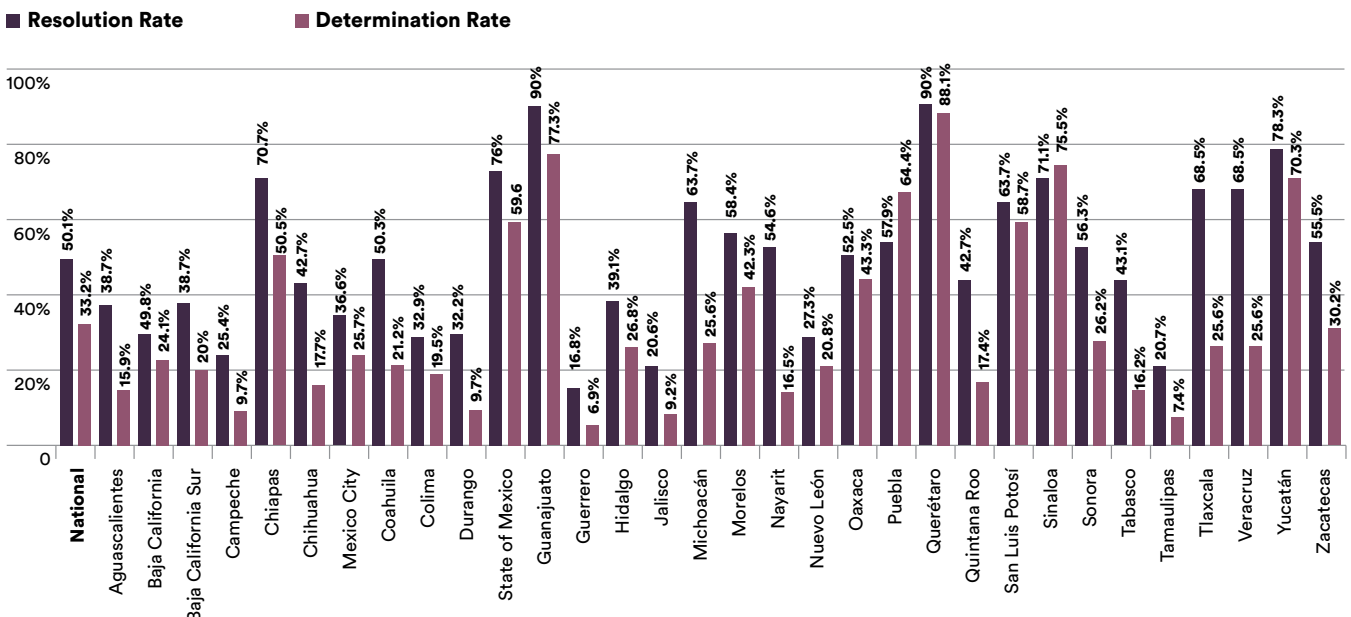
It is important to develop risk analysis, aimed at guaranteeing the safety of victims and/or offended parties in cases that warrant it.

Under the logic that we have proposed, the attorney general's offices with a high percentage of cases on temporary file could have a better opportunity to concentrate their efforts on solving the rest of the cases.

In any case, the determination of temporary file is a decision that must be notified to the victim, who could go to the authority and disagree with it. However, since this type of determination does not 'close' the investigation (and a pending investigation does not offer the victim the opportunity to resort to the judicial authority to review their status), the temporary file can cause more uncertainty around the situation in which the investigation is found, to the identification of the responsible persons and to the possibility of damage restitution.

Preventing the temporary file from becoming a 'false' closing mechanism and indiscriminate investigations implies recovering its qualities as a legal figure that can help manage public resources and measuring its use in context with the results in the rest of the investigations.

Graph 52. Resolution Rate Versus Determination in Prosecution Headquarters



Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutor's Offices of the states | @mexevalua.

4.3.2 Restitution Agreement in the Prosecution Headquarters

Once the investigation has begun (if it has not been concluded by the determinations that we have already analyzed), it is possible to implement the Alternative Dispute Resolution Mechanisms (ADRM), aimed at reaching a restitution agreement between the victim and the person accused of crime. For this to happen, the case in question must meet certain requirements established in the CNPP, which, in turn, specifies the cases that are not likely to be resolved through such mechanisms. Shown in Scheme 9.

The use of the ADRM allows the solution of the criminal conflict to be expedited in the appropriate cases and, above all, expedites the restitution of the victim's damage, putting his needs at the center as well as the real possibilities on the part of the accused person to fulfill the obligations to which he/she is committed. In addition to this, these mechanisms allow the criminal justice system user population to find an optimal solution to the problems they pose, being participants in the process in a proactive and purposeful manner.

In 2021, at national level, eight out of 10 restitution agreements entered into at prosecution headquarters were fulfilled. The State of Mexico (100%), Michoacán (99.8%), Veracruz (99.4%), Jalisco (98.6%), Sinaloa (97.9%), Querétaro (96.5%), Guanajuato (95%) and Baja California (93.9%), where the average proportion was nine out of 10. In contrast, Quintana Roo (52%) and Baja California Sur (27.4%) are the states with the lowest rates of compliance with the restitution agreement at the prosecution headquarters.

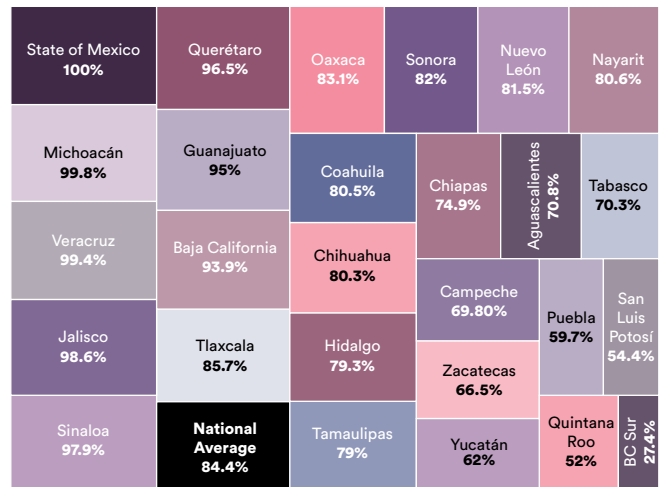
For its part, the FGR, at the end of 2020, reported a compliance rate of 30.8%, which in 2019 was 27.3%, which represented an increase of at least three percentage units.

Scheme 9. Cases and Conditions for the Origin of the ADRM

Proceeds	Does not proceed
Crimes that are prosecuted by complaint or forgiveness proceeds	If the accused person previously entered into agreements for acts that correspond to the same intentional crimes
Culpable crimes	Domestic violence or equivalent
Property crimes committed without violence	If the accused person previously breached an agreement unless they have been acquitted

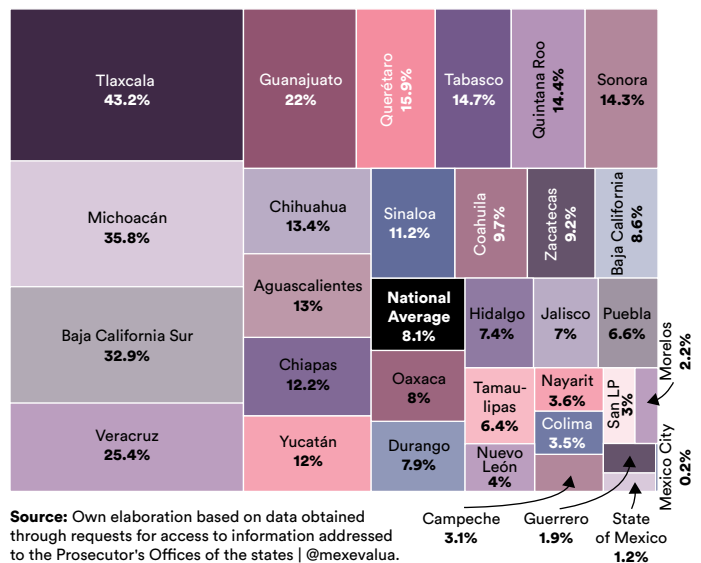
In 2021, at national level, 8.1% of the cases admitted to the attorney general's offices were referred to the specialized organizations in ADRM for their solution, a proportion that represents an increase of one percentage unit, given that in 2020 the 6.9% of the cases admitted to the prosecutor's offices/prosecutor's offices were referred to be resolved by the ADRM.

Graph 53. Compliance Rate of Restitution Agreements in Prosecution Headquarters by State



Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutor's Offices of the states | @mexevalua.

Graph 54. Rate of Investigation Files Referred to Alternative Dispute Resolution Mechanisms



Source: Own elaboration based on data obtained through requests for access to information addressed to the Prosecutor's Offices of the states | @mexevalua.

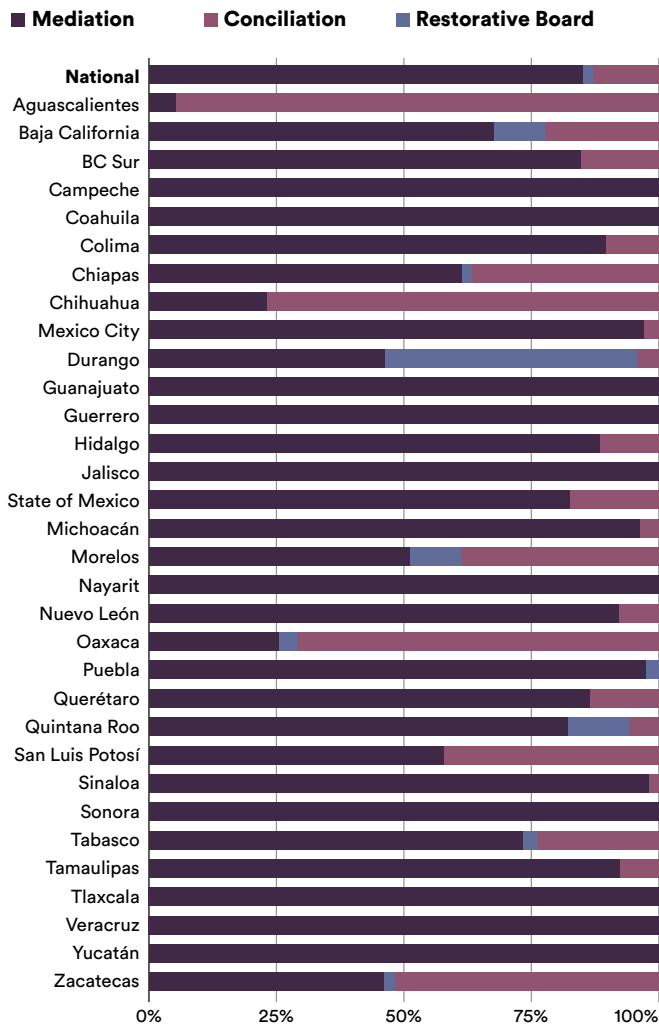


However, we see significant setbacks in states such as Nayarit –where -71.6% was referred to ADRM, compared to the previous year–, Jalisco –which reduced the number of cases referred to 50.8%– Baja California Sur –with a reduction of 46.1%–, Morelos –40.4%– and Tlaxcala – with a reduction of 32.7%–, among others.

In contrast, Graph 54 shows that Chihuahua, Campeche, Quintana Roo and the State of Mexico significantly increased the number of cases that were submitted for resolution through the ADRM, compared to the previous year.

The restitution agreements are reached mainly through the intervention of specialized personnel in the facilitation of ADRM, dedicated to mediation, conciliation

Graph 55. Types of Alternative Dispute Resolution Mechanisms Derived from Investigation Files Initiated



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

and the restorative meeting. The most widely used mechanism for solving cases is mediation, which in 2021 represented 89.6% of the mechanisms used in the country, while conciliation was implemented in 8.9% of cases and the restorative board in 1.5%.

Graph 55 shows that states such as Aguascalientes, Chihuahua and Oaxaca stand out in the use of conciliation, in a greater proportion than mediation, for conflict resolution.

The possible underutilization of the ADRM for the solution of cases is striking, since the strategic criminal prosecution that is expected from the Attorney General’s Offices will be difficult to put into practice if agile and efficient case solutions are not optimized during the first moments of the investigation.

4.3.3 Victim Attention and Counseling

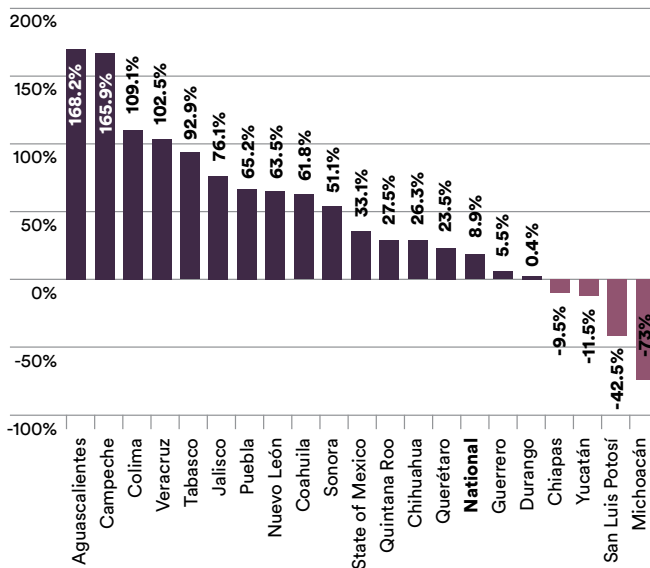
Up to now we have analyzed the different ways in which prosecutors can provide solutions to cases presented to them by victims through lawsuits or complaints. However, if it were one of the forms of termination of the investigation, such as temporary filing, it is possible that the user requires legal guidance to present their disagreement with the prosecutor’s decision, or may require such guidance to know the benefits of the ADRM, the alternative solution proposals that allow you to have a more agile restitution of the damage or the way to reduce the solution time through conditional suspension of criminal proceedings or summary proceedings.

Thus, the legal advice provided through the State Victims’ Executive Commissions (CEEAV) is essential to guarantee the constitutional rights of victims, from the very beginning of the investigation. From 2020 to 2021, there was an 8.9% increase in the population served by CEEAVs at national level. The states of Aguascalientes, Campeche, Colima, and Veracruz stand out, which registered increases of 168.2%, 165.9%, 109.1% and 102.5%, respectively. On the contrary, the decrease in people attended in Michoacán (-73%), San Luis Potosí (-42.5%), Yucatán (-11.5%) and Chiapas (-9.5%) is worrisome.

Although the indicators in the procedural sequel are focused on the solution of cases, **faced with the current crisis in terms of human rights, it is convenient to focus on always guaranteeing the rights of victims and, especially, at the beginning of the investigation.** It must be considered that during the first acts of investigation the possibility of collecting



Graph 56. Percentage Variation of People Attended by CEEAVs



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

evidence data, information and material indications that allow the clarification of the facts, as well as the opportunity to integrate the victims in the knowledge of what occurred, in such a way that their right to truth and justice is guaranteed might be conditioned.

In this sense, a good part of the State's capacity to guarantee, protect and respect the rights of victims is developed mainly through legal advisor for direct and indirect victims in criminal proceedings.

Table 44, which displays data provided by the CEEAVs of 17 states, shows that the need for legal advice has grown rapidly. During 2020, at national level, legal advisory personnel represented 16.2% fewer people who were victims of crime, compared to 2019. However, by 2021 the demand for representation resumed its upward trend, as it increased by 49.2%. The cases of Aguascalientes, Colima, Durango, Guerrero, Nuevo León and Puebla, are outstanding as at the end of 2021 there were increases of 168.1%, 252.7%, 133.4%, 315%, 90.6% and 838.5%, respectively.

For its part, the workload of the Federation Victims' Executive Commission, in terms of victims of federal crimes represented by legal advisor, has also followed an upward trend. At the end of 2021, it registered an increase of 21.5%: it went from 27.8 victims in 2020 to 33.8 in 2021.

Active legal representation allows victims to have adequate protection measures during the preliminary investigation. Likewise, during criminal proceedings they guarantee precautionary measures that protect them; ensure that the imputation formulation considers all relevant facts; that established probable cause considers the same way all evidence that is relevant to the victim, in addition to its importance in the inclusion of evidence for the imposition of restitution of the damage during the accusation. This, coupled with **a gender and intersectionality approach that is adopted mainly by counseling for victims, knowing closely the characteristics and conditions of vulnerability of the people it represents.**

However, from what we show in Table 44, it is difficult to sustain a minimally adequate performance while attending to 978.4 people in a situation of victims as in the case of Querétaro, for example, or 546.1 in the case of Sonora, 418.3 in Durango and 410.1 in Nuevo León.

We clarify that the above figures refer to the number of people in the situation of victims who are represented by each legal advisor. However, looking at the number of cases, the average number of investigation files in the country for each prosecutor for 2021 was 127, while for legal advisory personnel the average number of cases was 255.9, as shown in Table 45.

Table 44. Workload: Crime Victims Represented by Legal Advisor in Criminal Proceedings

State Name	2019	2020	2021
National	125.3	105	156.7
Aguascalientes	60.7	44.3	118.8
Campeche	509.6	177	51.1
Chiapas	0.6	0.5	3.2
Chihuahua	48.2	72.3	93.1
Coahuila	31.9	53.6	88.7
Colima	65.7	52.5	185.2
Durango	219.5	179.2	418.3
Guerrero	97.5	53.7	222.9
State of Mexico	72.3	76.4	142.3
Michoacán	387.3	219.9	217.9
Nuevo León	146.2	215.1	410.1
Puebla	NA	17.4	163.3
Querétaro	833.5	791.9	978.4
Quintana Roo	81.4	67	78.9
San Luis Potosí	136.9	142.7	142
Sonora	424.7	379.3	546.1
Yucatán	240	144	160

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



These data account for a workload that is difficult to manage on the part of the legal advisory staff for victims, which makes it difficult to comply with the constitutional and international obligations of the Mexican State to respect, protect and guarantee the rights of victims, among which is the restitution of the damage that, as we will see later, is not guaranteed in all the states of the country.

For its part, in the Federation Victims' Executive Commission, the workload of cases handled by a legal advisor, for 2021, was 50.4, which implied an increase of 13% compared to the previous year, when the workload of work was 44.6 cases handled by a legal advisor.

At this point, it is necessary to remember that the General Law of Victims stipulates that the rights of crime victims and victims of human rights violations must be guaranteed, "especially the right to assistance, protection, attention, truth, justice, comprehensive restitution, due diligence and all other rights"¹¹¹ enshrined in the Constitution. For this reason, it is essential to review the workload related to human rights violations (Table 46).

The states with the highest number of victims treated for human rights violations were Tabasco (18), Michoacán (9.3) and Veracruz (6.4), well above the national average, which is 1.4 people.

It is equally important to focus the work of legal advisors when assisting victims in their entry into the National Registry of Victims (RNV), so that they are able to receive the attention established by the General Law on Victims. For this reason, Table 47 gives an account of the percentage variation of victims who received support from the RNV after the management of legal advice from the CEEAVs.

It is striking that Durango decreased care and support for victims by 100% compared to the previous year, while the rest of the CEEAVs report an increase, verifiable especially in Morelos, where it was 274%. In the case of Yucatán, there was a 100% increase in RNV support and care for women, although it decreased by the same percentage for men. In general terms, there was no percentage variation with respect to the number of people benefited in the last year.

Regarding the Federation Executive Victims' Commission, for 2021 the damage restitution rate was 32.3%, a lower percentage than the rate obtained in 2020 (57.5%) and 2019 (45.4%).

Table 45. Workload: Cases Handled by a Legal Advisor

State Name	2019	2020	2021
National	167.4	172.3	255.9
Aguascalientes	60.7	44.3	118.8
Campeche	509.6	177	562.2
Chiapas	0.6	0.5	3.2
Chihuahua	431.2	829.3	1108.9
Coahuila	24.4	34	70.9
Colima	118.7	280.5	899.3
Durango	220.6	179.4	420.1
Guerrero	288.6	170.7	222.9
Jalisco	141.9	29.7	49.1
State of Mexico	72.3	107	142.3
Michoacán	367.6	206	290.2
Nuevo León	161.7	149.3	393.5
Puebla	NA	25.6	104.8
Querétaro	995.8	874.1	980.2
Quintana Roo	82.9	68.2	79.2
San Luis Potosí	245.4	420	534.4
Sonora	455.5	346.8	419.1
Yucatán	36	36	36

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Table 46. Workload: Victims of Human Rights Violations, Represented by a Legal Advisor

State Name	2019	2020	2021
National	1.8	2	1.4
Campeche	3.6	5.3	0.4
Chihuahua	0.5	0.9	0.3
Coahuila	0.9	0.8	0.7
Colima	9.3	1.4	1.7
Durango	0.5	0.3	1.3
Jalisco	3.3	0.8	2.4
State of Mexico	0	0.1	0.5
Michoacán	5.8	2.6	9.3
Nayarit	1.3	2.4	3.2
Nuevo León	3	2.7	1.7
Puebla	NA	0.1	0.8
Querétaro	0	0	1.3
Quintana Roo	3.2	3.9	0.6
San Luis Potosí	0.9	0.4	0.8
Tabasco	0	0	18
Veracruz	23.5	12.1	6.4
Yucatan	0.9	0.1	0.6

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

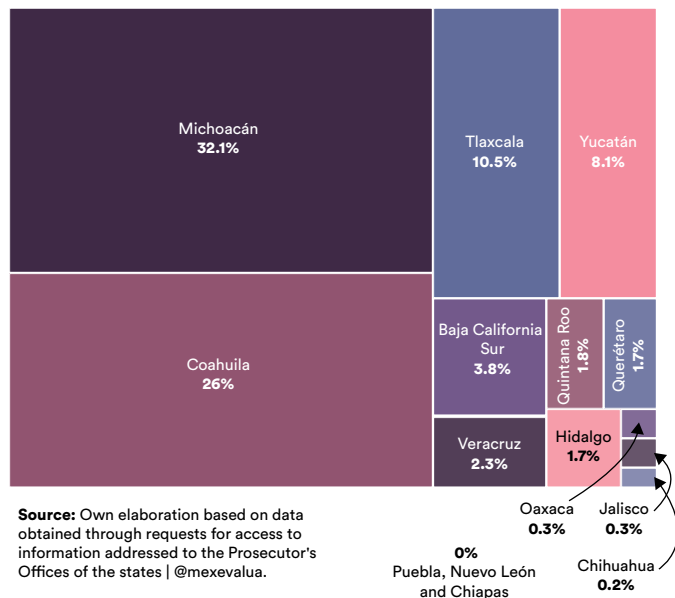
¹¹¹ General Law on Victims, Art. 2, section I, available at: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGV.pdf>

Table 47. Percentage Variation of Victims Who Received Support from the National Registry of Victims

State Name	Percentage change for men	Percentage change for women	Overall percentage change
Chihuahua	28.1%	17.8%	22.4%
Durango	-100%	-100%	-100%
Jalisco	14.5%	12.6%	13.5%
Morelos	353%	250.2%	274%
Nuevo León	-1.8%	8.7%	4.8%
Quintana Roo	287.5%	159.1%	193.3%
Veracruz	92%	58.8%	65.3%
Yucatán	-100%	100%	0

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 57. Damage Restitution Rate at Prosecution Headquarters by State



In view of the previous conditions in the work of the legal advisory staff for the victims, compliance with the main recommendations and sentences regarding human rights violations is becoming more complex. These recommendations have focused on rights during the investigation; therefore, it is essential to have the attention of specialized technical personnel.

However, the importance of these personnel goes further, since they also promote the procedural progress of the investigations, by intervening in the proposal of alternatives to expedite the resolution of disputes. In

other words, the work of the legal counselor for victims can have a positive impact on the ministerial congestion rate. It must then be perceived as an ally in the search for the most optimal solutions for the cases.

At prosecution headquarters, for the states in which we were able to have data, the highest damage restitution rate was reported in Michoacán (32.1%), while the lowest corresponded to Puebla, Nuevo León and Chiapas, where of the total None of the people registered in certain investigation folders received restitution for the damage, at the end of 2021.

4.3.4 Prosecution Congestion Rate

This rate refers to the number of cases that are being processed in the attorney general's offices; that is to say, to those on which no determination has been registered.

Since the use of the forms of termination affects the number of cases that are open or pending, their indiscriminate use may have the sole purpose of reducing the current workload, and not precisely prioritizing the needs of the victims or reaching an optimal solution. For this reason, the study of early terminations, mainly the temporary file, is relevant.

In 2021, at national level, a prosecution congestion rate of 49.9% was registered, while in the previous year one of 55.4% was registered. Thus, an important reduction of 5.5% is identified. In 2020, the states with the highest rate of prosecution congestion were Nuevo León (90.2%), Guerrero (86.6%), Tamaulipas (79.0%), Hidalgo (78.1%) and Puebla (76.0%). In all of them, the rate decreased in 2021, as can be seen in Graph 58. Only Tamaulipas minimally increased its prosecution congestion rate, registering 79.3% for 2021.

Although this change can be judged as positive, in its interpretation it is important to consider two factors:

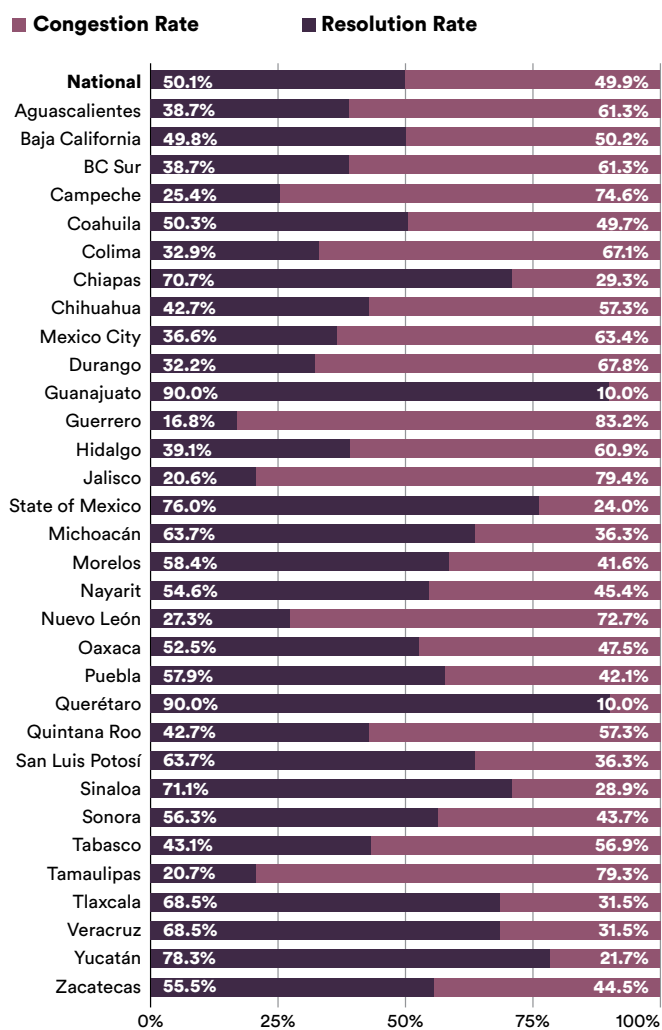
1. The reduction of sanitary restrictions caused by the Covid-19 pandemic facilitated the reincorporation of public personnel to their functions, and
2. The previous year the calculation of the prosecution congestion rate was prepared based on the Monitoring and Evaluation Model records, and for this year we prepared it based on the information provided directly by the attorney general's offices.

Finally, it is relevant to point out that the phenomenon of congestion of cases, or of cases in process, should be studied considering the way in which the work in



the attorney general’s offices is organized through their management models, since it is possible that the design of these affects the agility with which cases are dealt with and responses are given. On the other hand, it is necessary to focus on the role that the monitoring and control mechanisms are called to have on the use of the different forms of early termination of the investigation, especially in the temporary archive. Under certain conditions, they can become transparent, timely and suitable tools to solve cases more efficiently.

Graph 58. Congestion Rate Versus Resolution Rate at Prosecution Headquarters



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

4.3.5 Judicialization

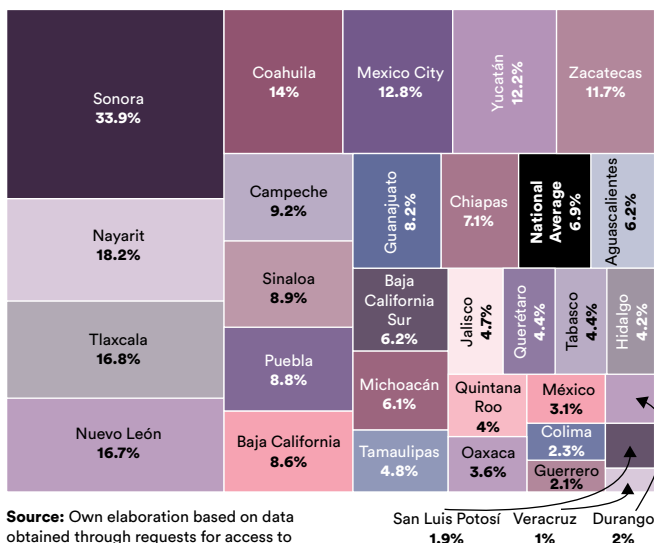
When the prosecutors decide to take the investigations before the judicial authority, it is because, for the most part, they consider that they have sufficient elements to formulate charges and continue with the criminal prosecution.

Graph 59 shows that, at national level, at the end of 2021 the prosecution rate was 6.9%. The state with the highest rate was Sonora, with 33.9% (in other words, three out of 10 investigation files were prosecuted), while the lowest is observed in Veracruz (1%).

Indeed, the case of Sonora is remarkable; however, it must be considered that in that state seven out of 10 accused persons are brought to trial in flagrante. All in all, the entity with a rate closest to Sonora is more than 10 percentage points below –Nayarit, with 18.2%. Sonora is an entity that should be analyzed with greater attention based on the enablers and conditions of its criminal justice system, especially regarding its case management model, which allows it to have a prosecution congestion rate below the national average (43.7%) and provide solutions to cases through early determinations and ADRMs.

Additionally, states such as Guanajuato, Querétaro, and Yucatán, have the highest prosecution congestion rates. This aspect shows the importance of analyzing the results from a systemic approach, and of putting each indicator in perspective, to seek a better understanding of the results and their impact.

Graph 59. Prosecution Rate by State



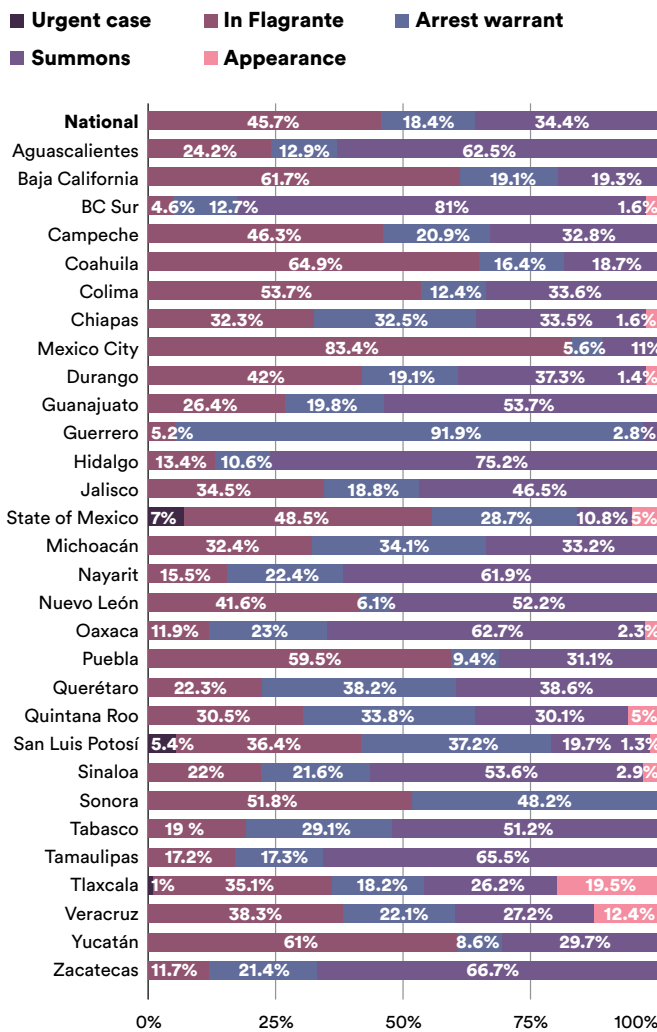
Source: Own elaboration based on data obtained through requests for access to information addressed to both the Prosecutor’s Offices and the Superior Courts of Justice of the states | @mexevalua.



4.3.6 Ways of Conducting Criminal Proceedings

The judicialization of the investigations is carried out mainly through hearings of **detention control**, since 45.7% of the cases –four out of 10– are initiated through an arrest in flagrante. The **summon of the accused person** for the imputation formulation occurs to a lesser extent –34.4%, or three out of every 10–. The cases that are brought before the judicial authority through the execution of an **arrest warrant** represent 18.4% of the total, while the **appearance** represents less than 1%.

Graph 60. Ways of conducting criminal proceedings in court



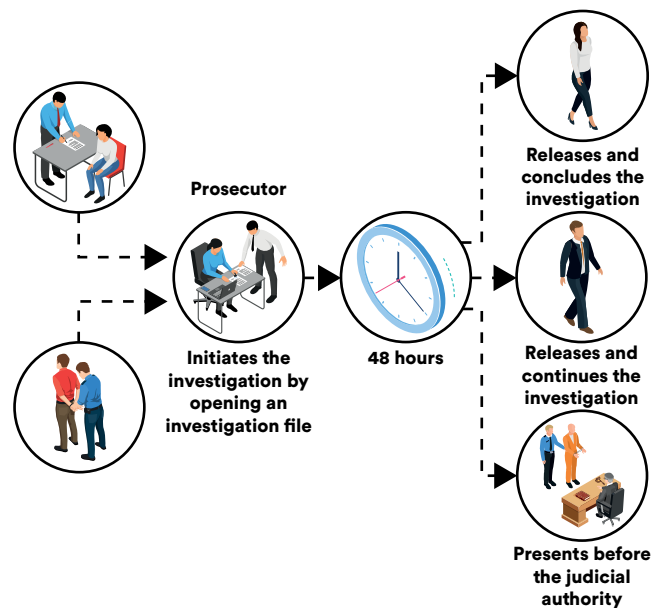
Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

As for the federal courts, except for the Federal Criminal Justice Center of Baja California Sur and the one in Mexico City (Reclusorio Oriente), the highest proportions are also concentrated in flagrante. At federal level, seven out of 10 judicial files are brought to criminal proceedings by flagrante, while one in 10 do so by arrest warrant or summons.

Before analyzing the information in Graph 61, it is necessary to remember that the initiation of an investigation with a detained person requires that the prosecution authority make decisions in the most efficient way, since, on the one hand, it has up to 48 hours to decide if the person is released and whether or not to continue with the investigation (including calling them later); on the other, if sufficient information is gathered within this period, it is in a position to present the investigation before the judicial authority and request that the detained person be linked to the process. We summarize it in Diagram 10.

The figures in Graph 61 show us that most of the cases that come before the judicial authority are those in which the attorney general's offices/prosecutors had at their disposal people detained in flagrante¹¹². Mexico City is the entity with the highest proportion of cases initiated in this way (83.4%), followed by Coahuila (64.9%).

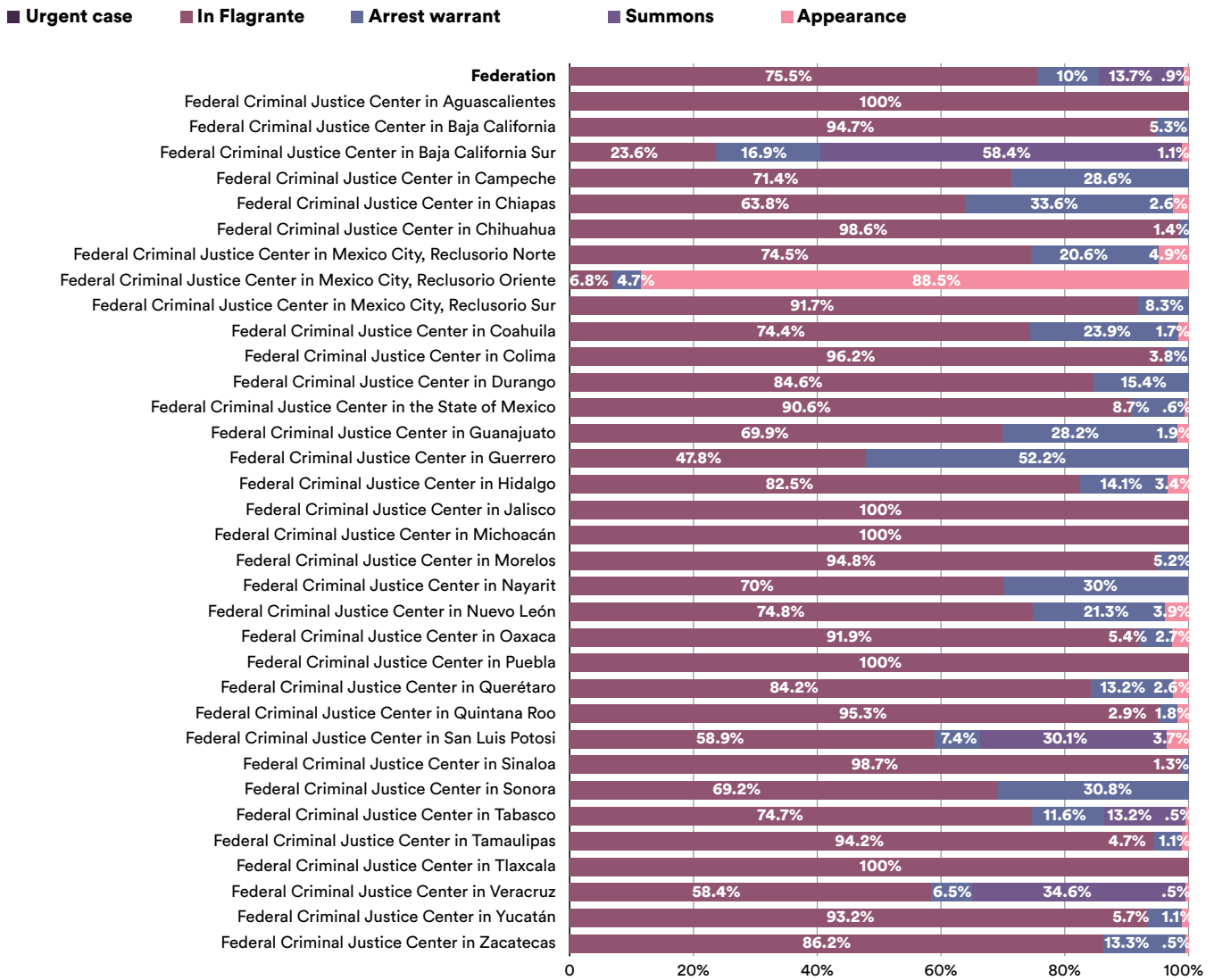
Scheme 10. Investigation at Prosecution headquarters



¹¹² Flagrante, in general terms, implies that the person was detained at the time the events with the appearance of the crime occurred –or immediately after–, it was indicated by the victim and/or objects resulting from the crime were found. For further reference, see cases of in flagrante established in art. 141 of the CNPP



Graph 61. Forms of Conducting Criminal Proceedings in Court by Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



It is striking that Mexico City has a rate of pending cases of 63.4% (which is above the national average of 49.9%), unlike Coahuila, whose prosecution congestion rate is 47.9%. That is, both states prosecute investigations with a person arrested in flagrante, but only in Coahuila is possible to observe that attention to these cases does not reduce attention to the rest of the cases and maintains a prosecution congestion rate below the national average.

Guerrero is another notable case: 91.9% of the cases are brought before the judicial authority through arrest warrants; that is, nine out of 10. However, it must be considered that 83.2% of the cases in this entity are being processed, so it is to be expected that the prosecution rate will be 2.1%.

4.3.7 Judicial Review of Detention Lawfulness

We will deal here with the examination carried out by the judicial authority regarding the circumstances and reasons that motivated the deprivation of liberty of a person, with the purpose of ensuring that the provisions of the law are complied with.

During 2021, in 15.2% of the cases nationwide, magistrate judges found that the detention did not comply with the law and, consequently, they were decreed as illegal detentions.

This figure shows a significant improvement, since in 2020 there was a rate of 25.8% of arrests on which illegality was issued.

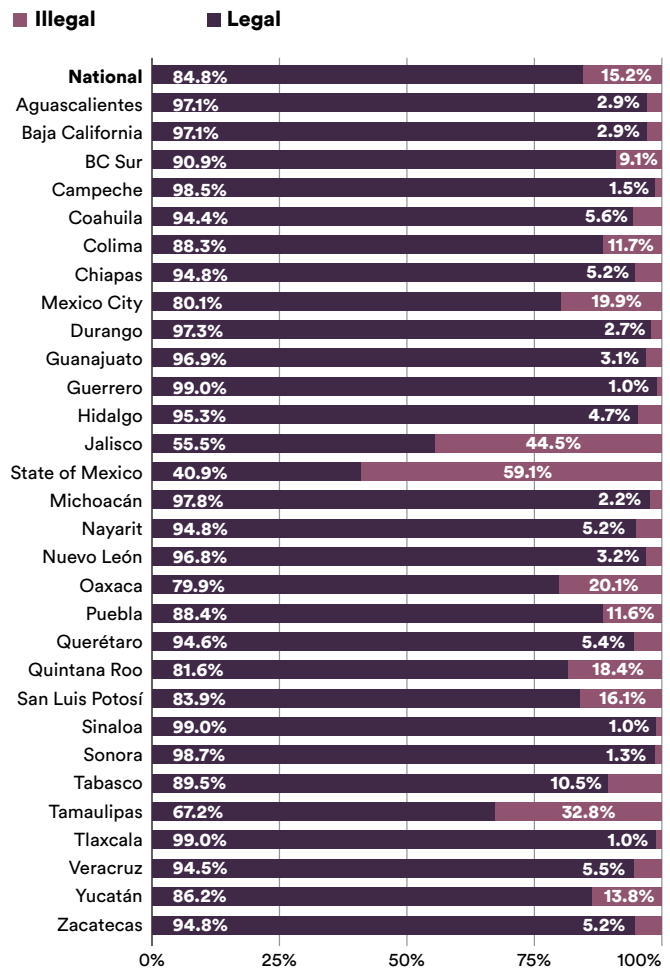
Graph 62 shows that the state with the highest proportion of cases in which the illegality of the detention was decreed is the State of Mexico, with 59.1% of cases –six out of 10–. Similarly, Jalisco presents one of the highest rates, with 44.5%, and Tamaulipas is in third place, with a rate of 32.8%.

Regarding the federal courts, the Federal Criminal Justice Center in Tlaxcala stands out, where 100% of the arrests in flagrante were declared illegal, followed by the Federal Criminal Justice Centers of Campeche and San Luis Potosí, where the proportion reaches 40%.

4.3.8 Release During the Investigation

For the first time for *Hallazgos* we seek to make an analysis of the circumstances in which detainees are

Graph 62. Determination Type in Stop Checks of Criminal Cases Involving Adults Detained in Flagrante or Urgent Cases



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



Graph 63. Determination Type in Stop Checks of Criminal Cases Involving Adults Detained in Flagrante or Urgent Cases by Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

released while they are at the disposal of the prosecution authority, mainly when they are released within 48 hours of the initial investigation, and the attorney/prosecutor's office indicates that it will continue with the investigation until it is determined whether it will be brought before the judicial authority (without an arrestee) or whether it will be concluded in some other way.

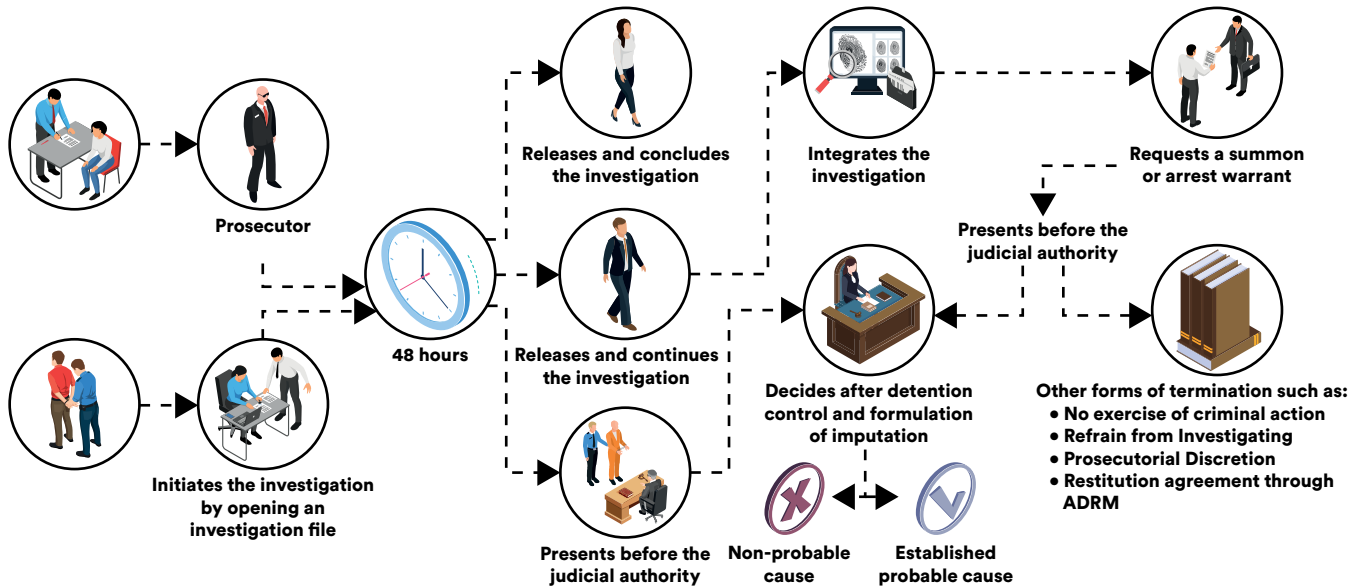
Diagram 11 describes the case whereby the person is released, and the investigation continues (highlighted in a red circle).

It is common for the population to perceive that people arrested during the commission of a crime are released without consequences and remain

unpunished. This perception can be reinforced if, indeed, the detainees are released without continuing with the investigation of the crime and punishing the person responsible, in addition to damage restitution to the victims.

Article 140 of the CNPP establishes that in cases in which the crime does not warrant mandatory pretrial detention, or the prosecutor does not intend to justify that this precautionary measure is required, then the release of the accused person can be decided with measures of protection, in addition to anticipating what is necessary so that the victim is not approached, the investigation is not hindered and the accused person appears as many times as required.

Scheme 11. Ways of Conducting Criminal Proceedings



To contextualize this legal assumption, it is important to remember that the capacity of prosecutors is limited to investigate and prosecute all crimes with the same intensity, especially in cases that, as noted above, involve various actions within a period of time of 48 hours. In this sense, it is understandable the need to prioritize the cases that need to be brought before the judicial authority, and those in which the investigation can continue without being subject to a strict time limit.

What Table 48 shows is that not all prosecutor's offices continue with the investigations once the detainees are released.

From the information provided by 12 prosecutors on this aspect, it is known that in Hidalgo and Nayarit investigations continue after the detainee has been released in 55.8% and 42.1% of cases, respectively.

In Oaxaca (85.4%), Mexico City (85.9%) or Baja California Sur (90.9%), investigations continue to a greater extent, although they are not in the situation of states such as San Luis Potosí, Quintana Roo, Nuevo León, and Durango, in which the investigation is followed up in 100% of the cases.

Freedom during the investigation can constitute an effective mechanism for the application of prioritization criteria that lead to a more strategic and efficient criminal prosecution in the use of resources. However, if the investigation does not continue with the detained person released and the facts are not clarified (as happens

Table 48. Data from Investigation Files that Involved People Detained in Flagrante, for Whom Their Release Was Decreed During the Investigation

Entity Name	Number of investigation files in which the investigation was continued, after the release was decreed in accordance with article 140 of the CNPP	Number of investigation files in which release was decreed during the investigation in accordance with article 140 of the CNPP	Investigation rate	Post-release non-investigation rate
BC Sur	10	11	90.9%	9.1%
Chihuahua	13,985	14,001	99.9%	0.1%
State of Mexico	3,773	4,390	85.9%	14.1%
Durango	776	776	100%	0%
Hidalgo	1,090	1,953	55.8%	44.2%
Nayarit	8	19	42.1%	57.9%
Nuevo León	2,255	2,255	100%	0%
Oaxaca	2,028	2,374	85.4%	14.6%
Puebla	0	842	0%	100%
Querétaro	6,262	6,905	90.7%	9.3%
Quintana Roo	2,950	2,950	100%	0%
San Luis Potosí	1,485	1,485	100%	0%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



in most attorney general's offices), the perception of impunity is redoubled.

As we said, this analysis includes information provided by 12 attorney general's offices. It seeks to highlight a practice that can explain the high rates of prosecution congestion, as well as the low prosecution rates in cases in which a person is not detained. In any case, it is relevant to carry out a more in-depth and frequent analysis of this way of following up the investigations.

4.3.9 Established Probable Cause

Established probable cause is a resolution by the judicial authority that allows the prosecutor's offices to continue with the criminal prosecution of the crime, once the accused person has been informed of the facts (that is, the accusation has been formulated), and if data have been presented allowing the presumption that the criminal act occurred and that the accused person participated.

This decision will be made by the judicial authority on the cases that have been presented in flagrante, arrest warrant, urgent case, and summons. Scheme 12 describes this process.

2.14% are established probable cause. This figure also represents an improvement over 2020, when it was 2.5%. Once this 2.14% of the investigations reach this stage of the criminal process, the chance that the person or persons accused of the crime will face the criminal process is 87.4%.

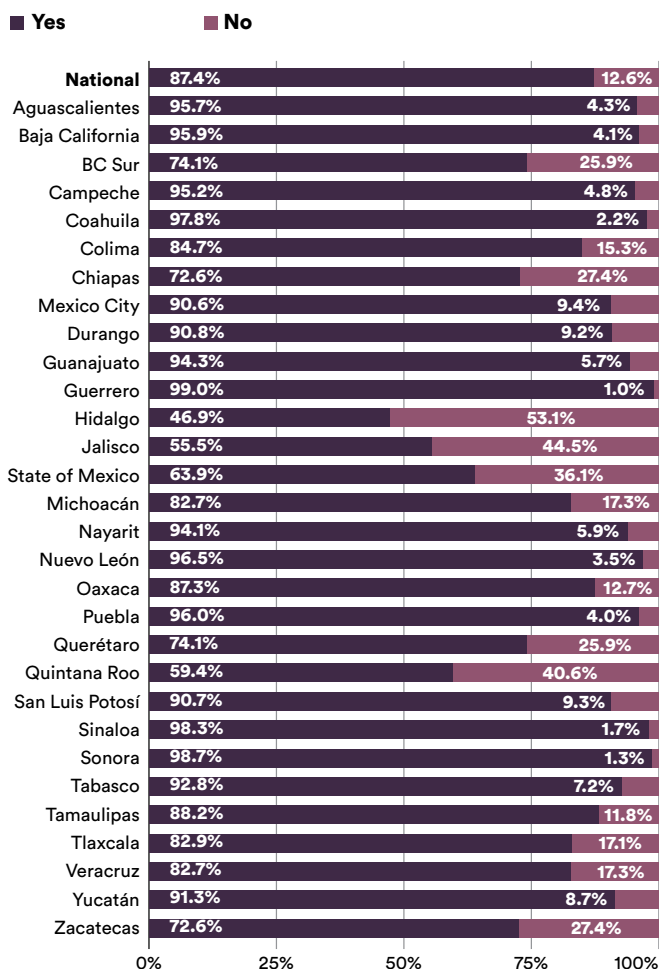
This means that at national level, 12.6% of the cases that reach this hearing do not continue the process, by denying established probable cause.

The entity with the lowest rate of established probable cause is Hidalgo (46.9%). Jalisco is the second with the lowest rate (55.5%), and the entity with the third lowest rate is Quintana Roo (59.4%).

At federal level¹¹³, in a similar way to what was reported by the local Courts, the proportion of established probable cause was almost nine out of 10.

However, the cases of the Federal Criminal Justice Centers of both Guerrero and San Luis Potosí stand out, where the proportion is lower in contrast to what was reported by the rest of the states: only six out of 10 accused persons had established probable cause.

Graph 64. Rates of Established Probable Cause Ruled by Magistrate Judges of the Superior Courts of Justice



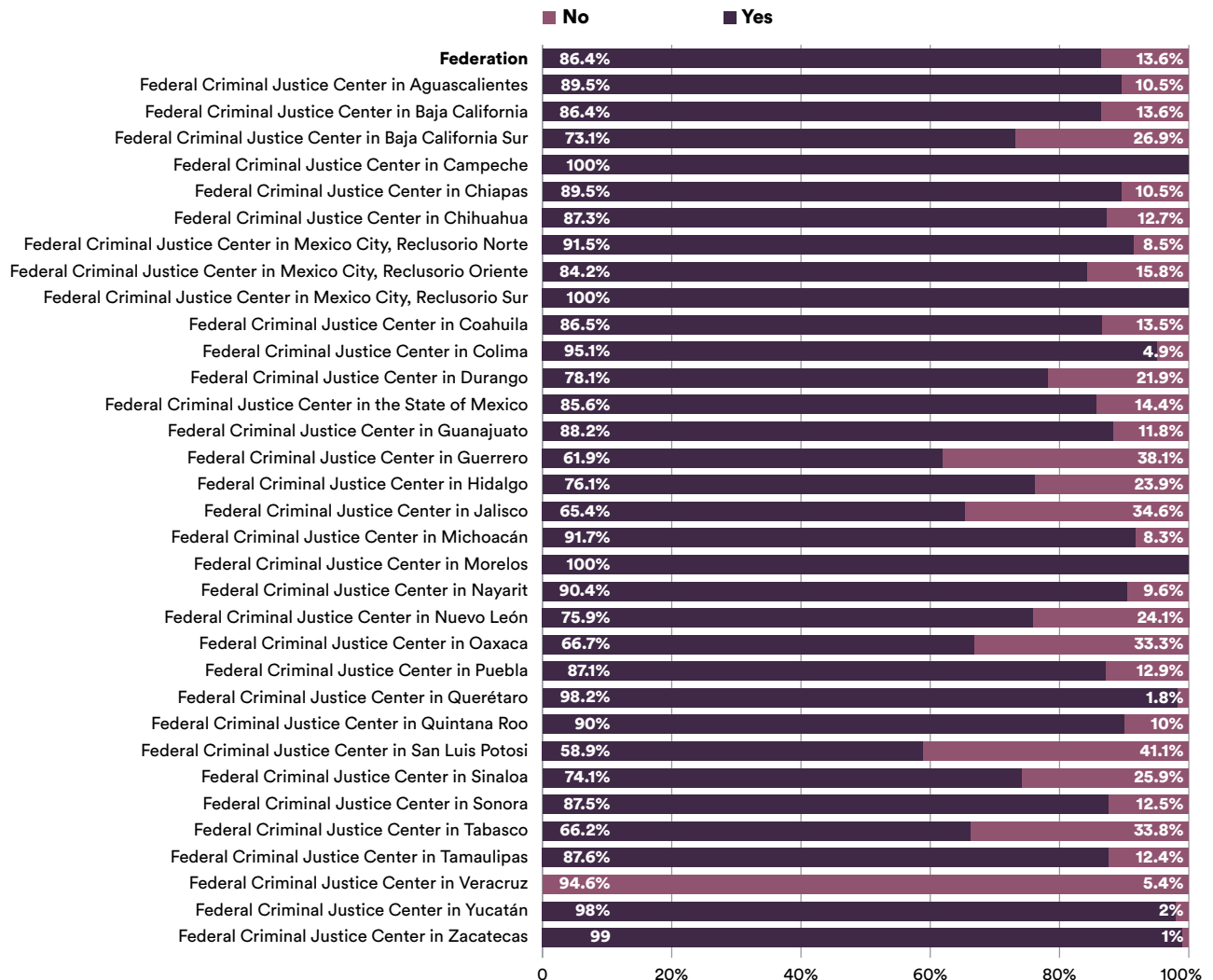
Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

It must be clarified that the established probable cause does not represent an indicator of effectiveness, since it is not a resolution that resolves the case. However, it can be considered as a context indicator on the solidity of the judicialized investigations, the work of preparing the hearings by the prosecutor's offices and, in the same way, it can inform about the proactivity in the work of the defender.

At national level, the Superior Courts of Justice, to a greater extent, rule established probable cause to accused persons (regardless of their sex) for the crimes of robbery, drug dealing, domestic violence and injuries.

¹¹³ The analysis of the data from the Federal Criminal Justice Centers is restricted to criminal cases entered from January 1 to December 31, 2021, due to the fact that the Federal Judicial Council (CJF) does not keep records in ordered databases of the entire universe of delayed criminal cases.

Graph 65. Rates of Established Probable Cause Ordered by Magistrate Judges of Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

The fact is in itself remarkable, since it reflects that they do it to a greater extent for common criminal crimes, than in those where the State has a reinforced duty of protection, such as homicide, kidnapping, rape, sexual abuse, among others. In this sense, it strikes us that a crime such as breach of food assistance obligations reaches an established probable cause rate of 2.2% at national level, while for threats, dispossession, and fraud, when the defendants are women, it does so at 3.2%, 3% and 2.9%, respectively.

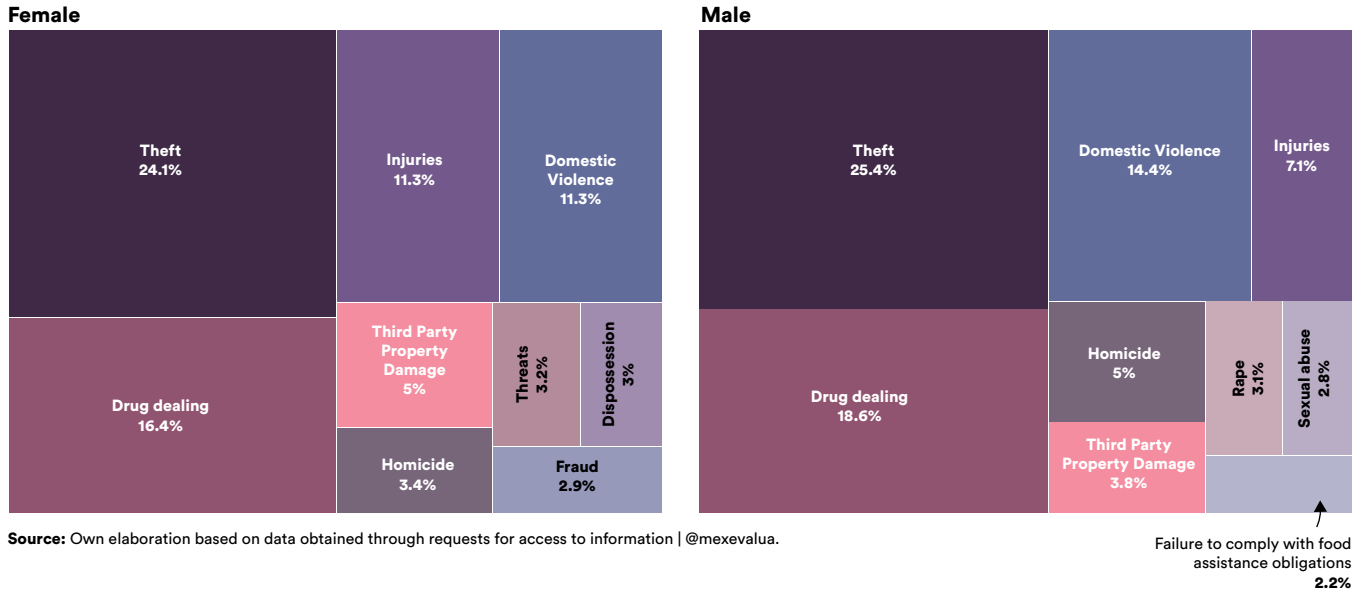
In the federal Criminal Justice Centers, where the accused have an established probable cause for crimes under federal jurisdiction, the crimes of carrying, trafficking,

or storing prohibited weapons, carrying firearms for use exclusive to the army, possession of cartridges for the exclusive use of the army, drug dealing (both in terms of trade and/or supply and transportation) and, to a lesser extent, illegal transportation of immigrants stand out.

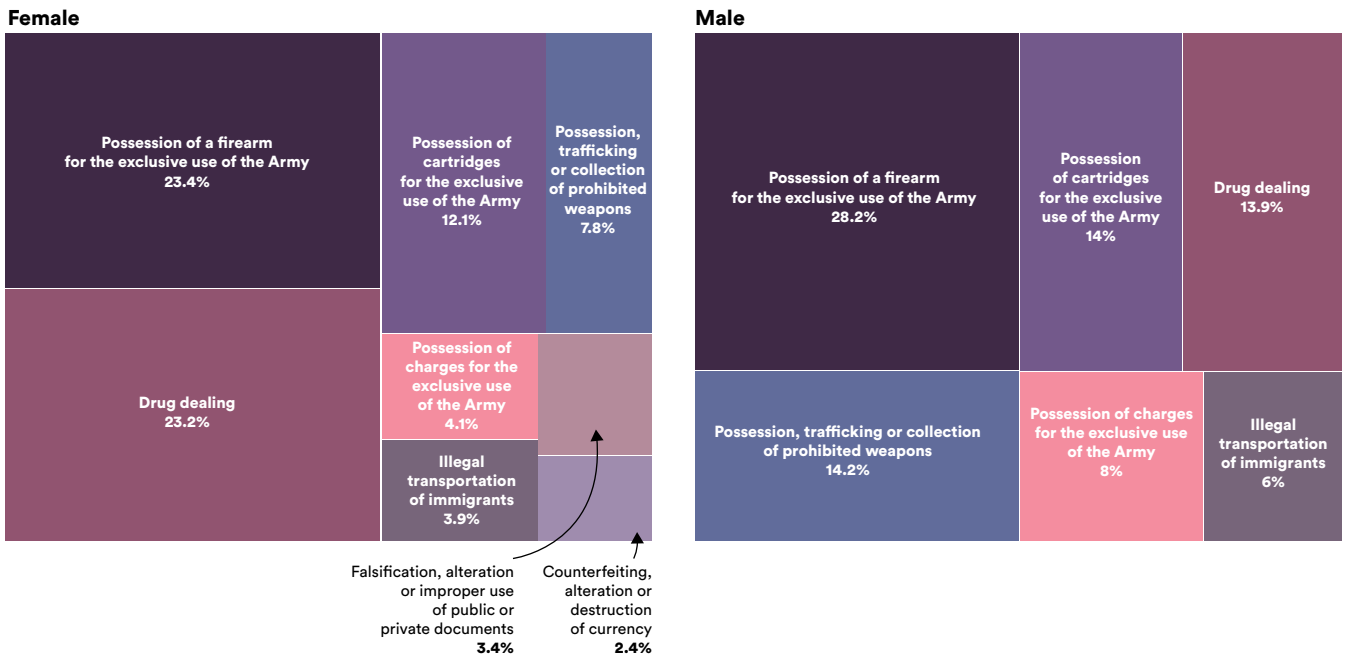
It should be reiterated that the judicial decision of non-probable cause is not entirely attributable to the performance of the defender, whether public or private. However, it should also be noted that the public defenders at national level has registered a sustained increase in the rate of established probable cause. In 2019, the rate of established probable cause was 71.6%; in 2020 it was 76.7%, and in 2021 it was 80.5%.



Graph 66. Type of Crimes for Which Persons Accused by Superior Courts of Justice Had Established Probable Cause



Graph 67. Type of Crimes for Which People Accused by Federal Criminal Justice Centers Had Established Probable Cause



Although the established probable cause, as an indicator of context, is positive for the attorneys/prosecutors, it is not so in the case of defenders, which generally tend to seek that the dismissal of the cases.¹¹⁴

Table 49 shows states in which public defenders reduced the rate of established probable cause, such as Tabasco, which went from a rate of 94.2% in 2020 to a rate of 64.3% in 2021. Yucatan registered a significant

¹¹⁴ There will be cases in which defenders do not focus on seeking the non-probable cause, but rather on reaching an alternative exit or a summary proceedings.



Table 49. Established Probable Cause Rate of Accused Persons Represented by Public Defenders, According to Their Sex (2019-2021)

Entity Name	2019			2020			2021		
	Established probable cause rate for men	Established probable cause rate for women	Established probable cause rate	Established probable cause rate for men	Established probable cause rate for women	Established probable cause rate	Established probable cause rate for men	Established probable cause rate for women	Established probable cause rate
National	66.4%	69.7%	71.6%	71.3%	75.5%	76.7%	79.1%	80.7%	80.5%
Aguascalientes	NA	NA	94.5%	93.2%	88.0%	92.8%	98.0%	95.8%	97.8%
Baja California	96.1%	92.1%	95.9%	96.2%	94.7%	96.1%	96.2%	96.3%	96.2%
Baja California Sur	NA	NA	NA	NA	NA	NA	67.2%	80.0%	68.0%
Campeche	90.7%	100%	91.5%	96.3%	91.7%	95.9%	95.4%	72.0%	93.3%
Chiapas	73.9%	78.3%	74.1%	92.7%	59.3%	91.4%	91.4%	96.3%	91.6%
Chihuahua	NA	NA	92.9%	NA	NA	85.2%	85.9%	78.1%	85.1%
Mexico City	84.4%	92.8%	85.4%	86.8%	93.4%	87.9%	90.2%	94.7%	90.8%
Guanajuato	NA	NA	NA	NA	NA	NA	95.8%	92.2%	95.4%
Guerrero	87.9%	74.2%	86.4%	72.8%	84.3%	87.3%	73.0%	70.7%	72.7%
Hidalgo	76.0%	75.0%	75.9%	89.0%	79.5%	87.6%	100%	100%	89.1%
Jalisco	NA	NA	92.5%	NA	NA	95.5%	NA	NA	77.3%
Morelos	NA	NA	79.4%	NA	NA	84.9%	77.3%	89.7%	78.1%
Nayarit	97.7%	91.2%	97.2%	97.9%	94.8%	97.6%	97.2%	90.8%	96.5%
Nuevo León	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%
Puebla	94.6%	94.3%	94.6%	81.0%	82.1%	81.1%	92.8%	93.8%	92.9%
Querétaro	NA	NA	94.5%	NA	NA	97.2%	96.6%	88.8%	96.1%
Quintana Roo	86.8%	80.2%	86.3%	93.7%	89.5%	93.4%	91.1%	84.9%	90.7%
San Luis Potosí	12.4%	18.9%	12.9%	20.4%	29.7%	21.2%	72.6%	76.2%	72.9%
Sinaloa	NA	NA	82.3%	NA	NA	93.0%	92.8%	95.8%	94.1%
Sonora	NA	NA	98.9%	NA	NA	99.2%	NA	NA	99.0%
Tabasco	84.1%	92.5%	84.3%	94.2%	85.7%	94.1%	67.5%	100.0%	64.3%
Tamaulipas	NA	NA	NA	NA	NA	NA	82.6%	68.1%	80.8%
Tlaxcala	NA	NA	NA	NA	NA	NA	89.5%	64.5%	87.3%
Veracruz	NA	NA	71.3%	NA	NA	92.5%	97.0%	90.8%	96.3%
Yucatán	88.2%	93.0%	88.5%	84.8%	93.5%	85.4%	42.1%	62.3%	43.7%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

reduction: 43.7% in 2021, when in 2020 it exhibited an established probable cause rate of 85.4%.

In *Hallazgos 2020* the rate of non-probable cause of the public defender of San Luis Potosí was reported as remarkable. Well, now we have identified that the rate of established probable cause went from 21.2% in 2020 to 72.9% in 2021, which places San Luis Potosí as the state with the greatest increase in established probable cause of the accused persons represented by public defenders.

For its part, the federal Public Defender's Office has maintained a stable rate of established probable cause. During 2019 it was 87.6%; in 2020 of 87.4%, and in 2021 of 86.3%.

Similarly, in *Hallazgos 2020* we point out that the incidence of defenders in the judicial decision on established probable cause may be conditioned by the opportunity with which he/she hears the case and the

time he/she has to prepare, among other factors directly related with the number of cases that each public defender can handle.

Contrary to expectations, the average number of cases represented by each public defender in San Luis Potosí decreased compared to the previous year. While in 2020 each defender represented 96.4 cases, by 2021 there were 81.6. Thus, during 2021, more represented people had established probable cause compared to the previous year, when a lower workload was reported.

For its part, in the federal Public Defender's Office, the average number of cases represented by each defender, at the end of 2021, amounted to 67.1, which means an increase of 33.9% compared to the previous year (50.7).

Once again, it is important to put defenders from Nuevo León in the spotlight, the state that assigns the largest number of cases to each defender (1,165, on



Table 50. Workload: Cases Represented by A Public Defender, According to The Sex of The Accused (2019-2021)

State Name	2019	2020	2021
National	244.0	227.4	279.8
Baja California	993.7	901.6	967.8
Campeche	NA	NA	66.0
Chiapas	167.8	156.9	145.8
Chihuahua	127.9	131.7	187.0
Mexico City	162.5	128.6	163.0
Guanajuato	190.8	200.3	318.7
Guerrero	32.9	30.6	43.9
Hidalgo	132.5	92.3	168.8
Jalisco	524.0	709.0	485.8
Morelos	193.2	223.9	188.1
Nayarit	88.3	99.2	91.4
Nuevo León	1,063.2	1,083.1	1,350.7
Puebla	146.1	123.1	154.6
Querétaro	40.3	49.0	54.9
Quintana Roo	42.4	41.1	67.3
San Luis Potosí	288.9	96.4	81.6
Sinaloa	221.3	107.3	62.7
Sonora	165.0	192.4	209.5
Tabasco	78.9	60.4	215.5
Tamaulipas	NA	NA	26.2
Tlaxcala	NA	NA	108.8
Veracruz	232.5	138.9	193.5
Yucatán	18.6	15.9	18.5

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

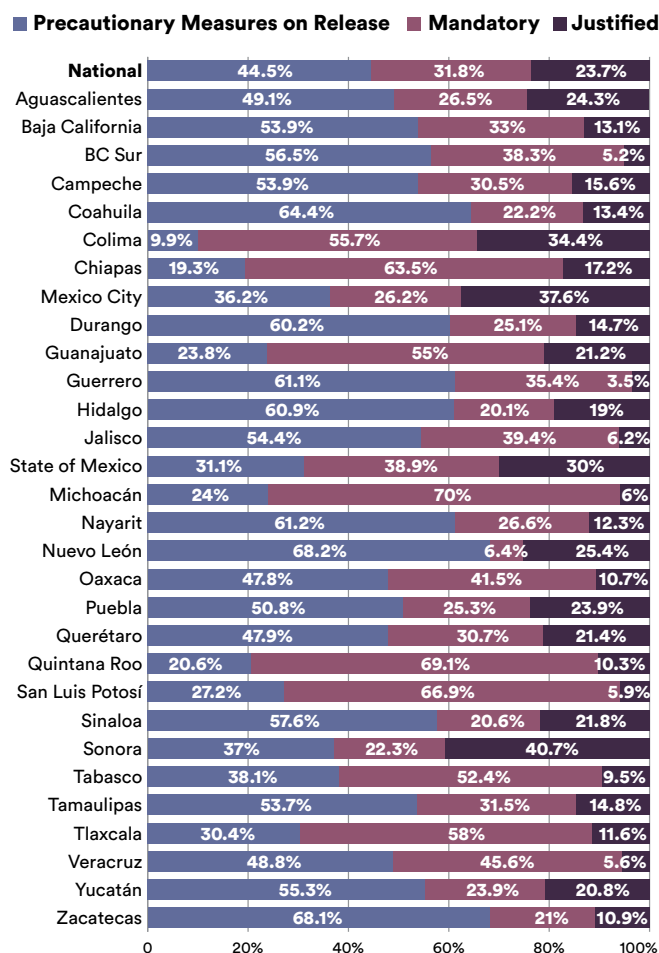
average, during the last three years). At the end of 2021, defenders significantly increased the workload indicator (24.7%), which confirms an upward trend: since 2019 it has been the highest rate of cases assigned by each defender in the country.

Compliance with the right to quality defense of the accused, and the quality with which it is provided from the public function, undoubtedly reveal the solidity of the criminal justice system, since **prosecutor's offices, in part, strengthen their investigation and criminal prosecution standards to the extent that they find a prepared defender, proactive and capable of guaranteeing access to justice for the accused who does not have a private defender**

4.3.10 Precautionary Measures

After established probable cause, the next decision with the most impact in the initial hearing is the way in which the accused person will face the process. That

Graph 68. Type of Precautionary Measures Imposed On Persons with Established Probable Cause By Superior Courts Of Justice

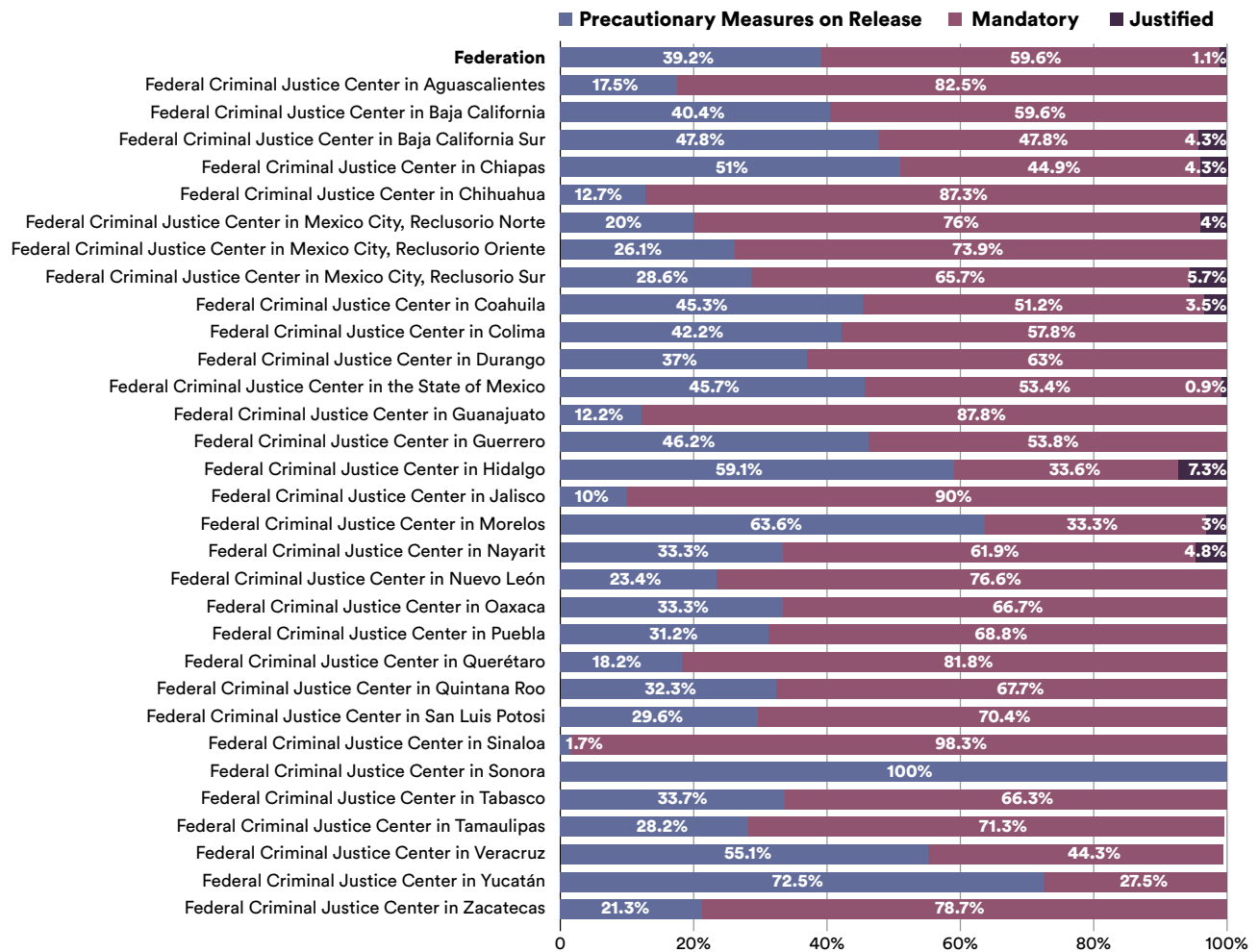


Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

is, if the accused person will be able to continue with his/her activities in liberty, or will have to wait for the development of the criminal process deprived of his/her liberty, under the precautionary measure of pretrial detention.

Article 19 of the Constitution dictates that precautionary measures are imposed by the judicial authority to guarantee the presence of the accused in criminal proceedings, protect the investigation and guarantee the safety of victims and witnesses. For its part, the CNPP establishes that precautionary measures must be imposed by the judging person, considering criteria of minimum intervention according to the conditions of each accused, and in no case may it impose them

Graph 69. Type of Precautionary Measures Imposed on Persons with Established Probable Cause by Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

without taking into account the object or purpose of these (article 156).

As evidenced by Graph 68, in Mexico precautionary measures are imposed in greater proportion in liberty (44.5%). To a lesser extent, they do so to persons charged in pretrial detention –three out of 10 people– and justified –two out of 10–. The states of Coahuila, Durango, Guerrero, Nayarit, Nuevo León and Zacatecas stand out, where the proportion of precautionary measures imposed in liberty reaches six out of every 10 accused persons.

At federal level, on the contrary, mandatory pretrial detention was imposed more frequently: three out of five accused persons, while precautionary measures on release registered a lower proportion: four out of 10.

Pretrial Detention

Given that, at this point in the process, the accused person is still under investigation to determine whether or not he/she participated in the crime, his/her deprivation of liberty through the use of pretrial detention greatly affects the development of his/her life. Therefore, the use of pretrial detention must be a decision studied responsibly by the judicial authority and be submitted to a debate between the parties.

It is striking, then, that states such as Michoacán (78.1%) and Guanajuato (76.2%) make such widespread use of pretrial detention. No less worrying are the cases of Chiapas (62%), Mexico City (62.8%), Colima (66.6%), State of Mexico (61.9%), Quintana Roo (69%) San Luis Potosí (67%) and Tlaxcala. (67.6%).



To better understand the figures mentioned, it is important to point out that for the judicial authority to decide the best way to use the various precautionary measures in each case, it should consider that both article 19 of the Constitution and the CNPP (art. 167) establish a list of crimes for which, without mediating debate (or informally), pretrial detention should be imposed. If the crimes are outside of these assumptions, pretrial detention can be imposed if it is requested and justified by the prosecutor.

As we have mentioned, Michoacán (78.1%) and Guanajuato (76.2%) show the highest rates of pretrial detention; however, Graph 70 shows that such states make use of pretrial detention in a greater proportion in cases where the law provides for it to be imposed unofficially.

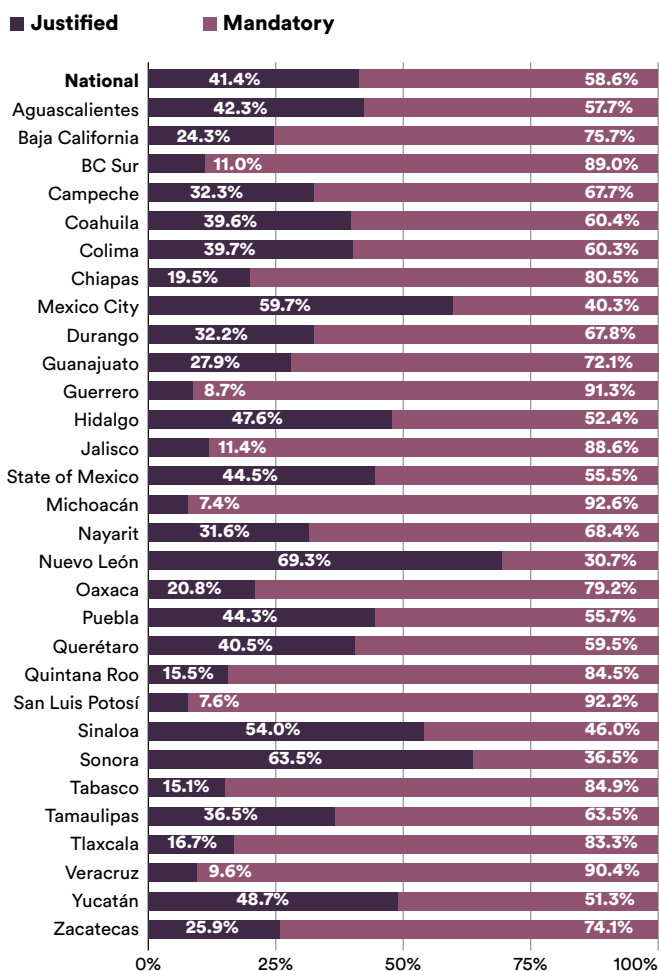
On the contrary, in cases such as Nuevo León (69.3%), Sonora (63.5%) and Mexico City (59.7%), where the pretrial detention rate is made up to a greater extent of justified pretrial detention (that is, in six out of 10 cases), it can be inferred that it is used there, to a greater extent, as a last resort.

In the federal Criminal Justice Centers, the pattern is clear: 98.6% of the people accused of crimes subject to pretrial detention were mandatory, while 1.4% were justified. For this reason, the case of the federal Criminal Justice Center of Hidalgo stands out, where the proportion of justified pretrial detention was the highest in the country, at the end of 2021: 15.2%.

In any case, the indiscriminate use of pretrial detention can affect the quality of access to justice when it affects the decision-making of the accused person, who to recover his/her liberty can submit to procedural solutions that are not beneficial and distort the veracity of the facts.

On the other hand, the figures in Table 51 show that, at national level, 19.8% of the cases of people who are in justified pretrial detention are resolved by conditional suspension of criminal proceedings, that is, two out of every 10. This is an alternative exit to the trial, which supposes the liberty of the accused person while he/she meets certain conditions imposed by the judicial authority for a determined period, which are supervised by the Units of Precautionary Measures (UMECA), with an extension of six months and up to three years. If in these cases the viable solution allows the person to comply with the conditions in liberty, it is contradictory and improbable that, in the procedural debate on the need for the precautionary measure, pretrial detention

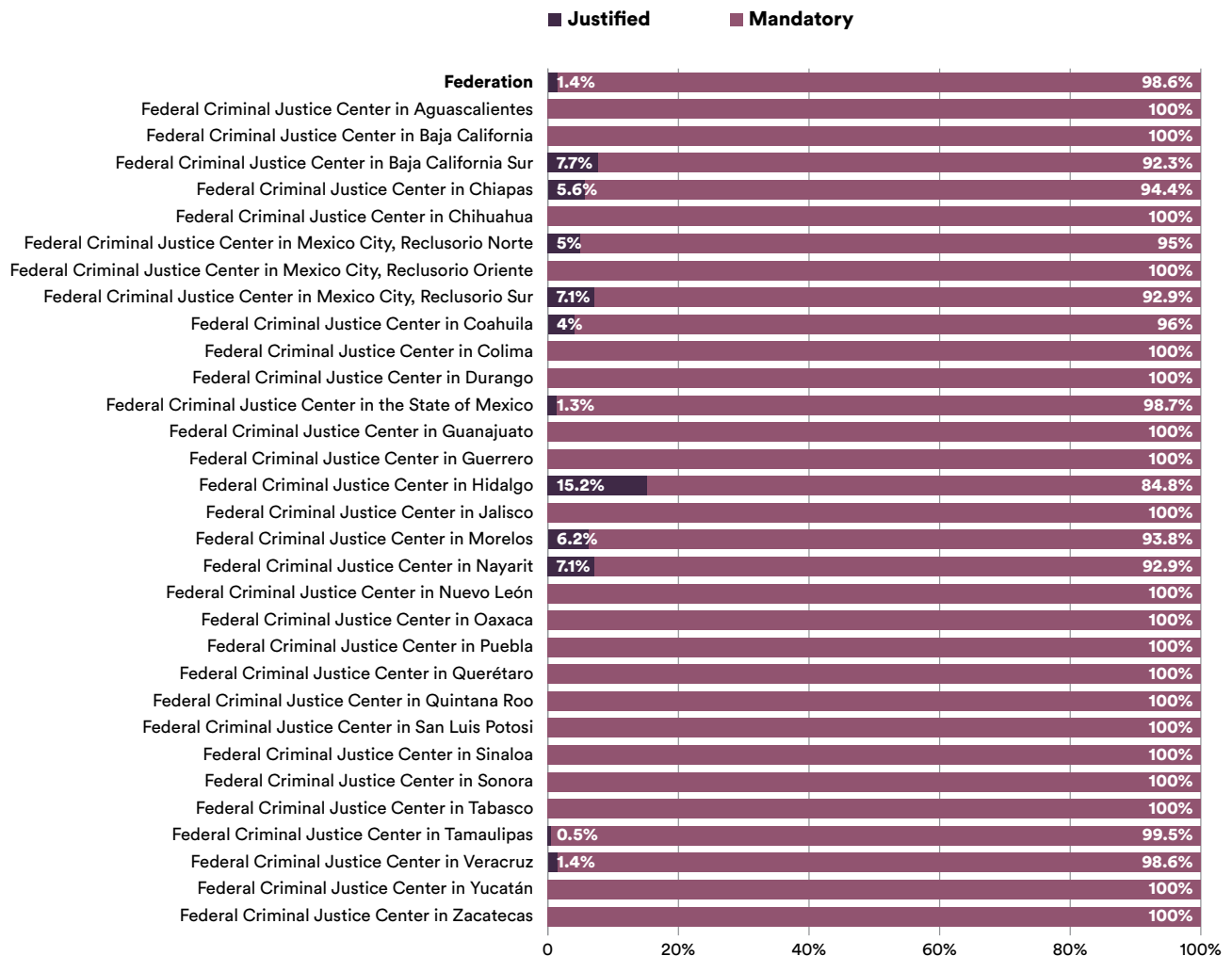
Graph 70. Type of Pretrial Detention Imposed by Magistrate Judges



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

**THE USE OF PRETRIAL
DETENTION MUST BE A
DECISION STUDIED RESPONSIBLY
BY THE JUDICIAL AUTHORITY,
AND BE SUBMITTED TO A DEBATE
BETWEEN THE PARTIES**

Graph 71. Type of Pretrial Detention Imposed by Magistrate Judges In Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

had been imposed because no other measure could avoid the risks to the process that were presented in that case.

In this circumstance are San Luis Potosí (100%), Tlaxcala (100%), Puebla (83.6%), Jalisco (78.1%), Michoacán (76%), Guanajuato (52.2%), Tamaulipas (50%), Durango (46.2%), Yucatan (44.8%), Oaxaca (40%), Nayarit (40%), Tabasco (36.8%), Campeche (33.3%), Sinaloa (25.3%), Baja California Sur (25%), Nuevo León (23.8%) and Coahuila (20.5%), states that at the end of 2021 were above the national percentage (19.8%).

Although this situation occurs in cases in which the law establishes that, to impose pretrial detention, a debate must be mediated, the contradiction is found in the legislation itself, since it visualizes **the partiality of the**

analyzes carried out by the legislative authorities when considering the extension of the catalog of crimes susceptible to pretrial detention, even though an alternate exit is allowed.

At national level, at the end of 2021, four out of 10 people charged under justified pretrial detention were for robbery, while two out of 10 for drug dealing. Regarding mandatory pretrial detention, three out of 10 were for robbery, while one in 10 was for domestic violence, drug dealing and homicide. These proportions reflect that custodial measures are mostly used for common criminal cases, but not for so-called serious crimes or crimes with a high social impact.

In contrast, at federal level, four out of 10 people charged under justified pretrial detention were for crimes against



Table 51. Form of Resolution of Criminal Cases that Involved Accused Persons Under Pretrial Detention

Entity Name	Mandatory Pretrial Detention						Justified Pretrial Detention					
	Restitution agreement	Conditional Suspension of Criminal Proceedings	Prosecutorial Discretion	Acquittal in oral trial	Conviction in oral trial	Conviction in summary proceedings	Restitution agreement	Conditional Suspension of Criminal Proceedings	Prosecutorial Discretion	Acquittal in oral trial	Conviction in oral trial	Conviction in summary proceedings
National	4.7%	30.9%	0.1%	0.8%	8.8%	54.8%	6.4%	19.8%	0.1%	0.2%	10.4%	63.1%
Aguascalientes	10.5%	11.6%	0.0%	0.0%	0.0%	77.9%	9.3%	18.1%	0.0%	0.0%	0.0%	72.5%
Baja California	5.2%	3.6%	0.0%	0.5%	3.8%	86.8%	15.8%	11.7%	0.0%	0.3%	1.3%	70.9%
Baja California Sur	7.6%	6.7%	0.5%	3.8%	15.2%	66.2%	12.5%	25.0%	0.0%	4.2%	4.2%	54.2%
Campeche	0.0%	57.8%	0.0%	0.0%	0.0%	42.2%	11.1%	33.3%	0.0%	0.0%	0.0%	55.6%
Chiapas	0.7%	6.2%	0.0%	0.0%	2.8%	90.3%	1.2%	5.8%	0.0%	0.0%	2.3%	90.7%
Mexico City	2.1%	31.8%	0.3%	0.0%	0.0%	65.7%	1.3%	8.0%	0.5%	0.0%	0.0%	90.2%
Coahuila	17.4%	32.6%	0.1%	0.5%	3.3%	46.1%	10.3%	20.5%	0.0%	0.5%	0.2%	68.5%
Colima	19.4%	30.2%	0.0%	0.8%	1.6%	48.1%	17.3%	15.3%	0.0%	6.1%	9.2%	52.0%
Durango	2.4%	39.4%	0.0%	0.0%	0.0%	58.3%	7.7%	46.2%	0.0%	0.0%	0.0%	46.2%
State of Mexico	5.4%	2.6%	0.0%	0.5%	13.1%	78.5%	3.9%	3.6%	0.0%	0.2%	41.6%	50.7%
Guanajuato	3.5%	69.9%	0.1%	0.4%	0.6%	25.5%	35.4%	52.2%	0.1%	0.4%	1.7%	10.2%
Guerrero	0.0%	17.6%	0.0%	0.0%	76.5%	5.9%	50.0%	0.0%	0.0%	0.0%	50.0%	0.0%
Hidalgo	8.3%	26.7%	0.0%	1.7%	6.7%	56.7%	48.3%	13.8%	0.0%	0.0%	4.6%	33.3%
Jalisco	32.2%	40.3%	0.0%	0.0%	0.0%	27.5%	12.5%	78.1%	0.0%	0.0%	0.0%	9.4%
Michoacán	0.0%	69.8%	0.0%	0.0%	0.0%	30.2%	0.0%	76.0%	0.0%	0.0%	0.0%	24.0%
Nayarit	12.2%	36.7%	0.0%	0.0%	0.0%	51.1%	10.8%	83.6%	0.0%	0.2%	0.3%	5.1%
Nuevo León	0.4%	29.0%	0.0%	0.0%	65.2%	5.3%	0.2%	23.8%	0.2%	0.0%	31.2%	44.7%
Oaxaca	4.5%	9.1%	0.0%	1.5%	4.5%	80.3%	12.0%	40.0%	0.0%	0.0%	0.0%	48.0%
Puebla	4.1%	79.8%	0.0%	1.9%	4.3%	9.9%	10.8%	83.6%	0.0%	0.2%	0.3%	5.1%
Querétaro	3.3%	24.5%	0.0%	3.1%	7.4%	61.7%	12.6%	27.3%	0.0%	0.4%	2.2%	57.6%
Quintana Roo	3.2%	8.3%	0.0%	0.0%	1.9%	86.5%	13.3%	46.7%	0.0%	0.0%	6.7%	33.3%
San Luis Potosí	5.3%	72.8%	0.0%	2.6%	2.6%	16.7%	0.0%	100%	0.0%	0.0%	0.0%	0.0%
Sinaloa	2.9%	3.8%	0.0%	0.4%	31.1%	61.8%	7.3%	25.3%	0.0%	0.0%	13.9%	53.5%
Sonora	2.0%	0.0%	0.0%	1.0%	5.9%	91.1%	3.3%	0.7%	0.0%	0.2%	3.4%	92.3%
Tabasco	2.2%	15.9%	0.0%	0.9%	15.6%	65.3%	18.4%	36.8%	0.0%	0.0%	1.3%	43.4%
Tamaulipas	0.0%	16.7%	0.0%	10.0%	6.7%	66.7%	2.8%	50.0%	0.0%	2.8%	0.0%	44.4%
Tlaxcala	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100%	0.0%	0.0%	0.0%	0.0%
Veracruz	14.3%	57.1%	0.0%	0.0%	14.3%	14.3%	100%	0.0%	0.0%	0.0%	0.0%	0.0%
Yucatán	5.9%	22.3%	0.5%	9.0%	23.0%	39.4%	11.7%	44.8%	0.0%	0.6%	14.7%	28.2%
Zacatecas	16.3%	11.6%	0.0%	2.3%	14.0%	55.8%	35.5%	6.5%	0.0%	0.0%	6.5%	51.6%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

the media, while almost two out of 10 for falsification, alteration, or misuse of public or private documents, and one in every 10 for crimes against the environment. Regarding mandatory pretrial detention, one in two people charged was for crimes related to carrying or possession of firearms, cartridges and chargers for the exclusive use of the Army.

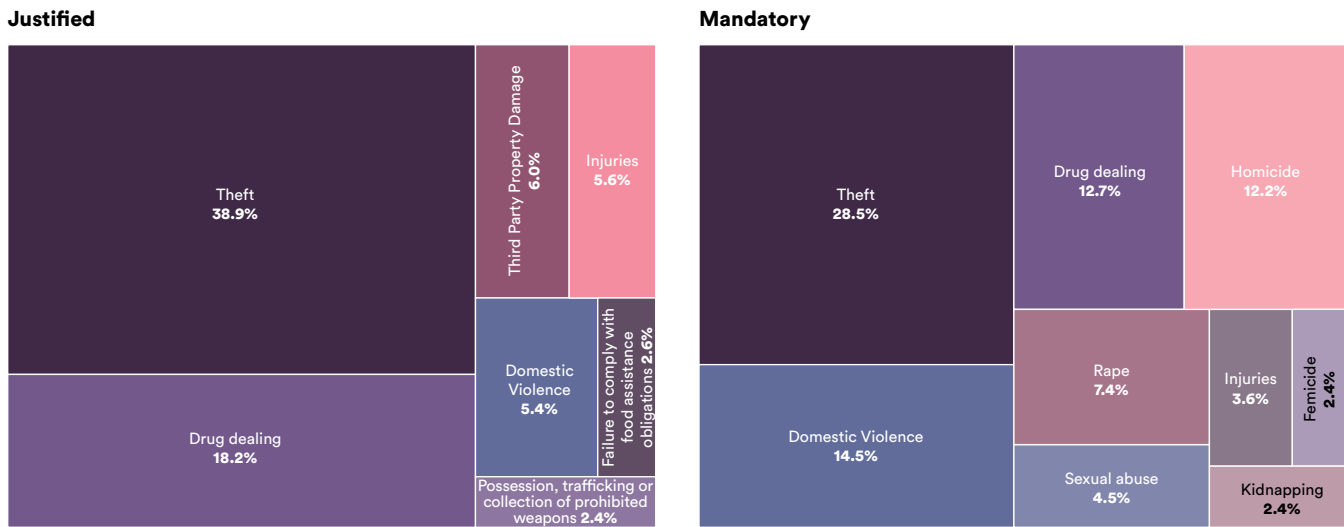
However, the legislation does not contemplate a case-by-case analysis, but the presence of the judicial authority to analyze and resolve each case should allow the development of a more individualized analysis. In

these cases, it is assumed that judges impose pretrial detention because it is duly justified by the prosecutor's offices.

The contradictory thing is that, in the same way, they authorize the conditional suspension of criminal proceedings, in which they assume that the released accused person will comply with the conditions imposed on him, although at a time they considered that he could not comply with precautionary measures on release while his responsibility or participation in the crime was resolved.

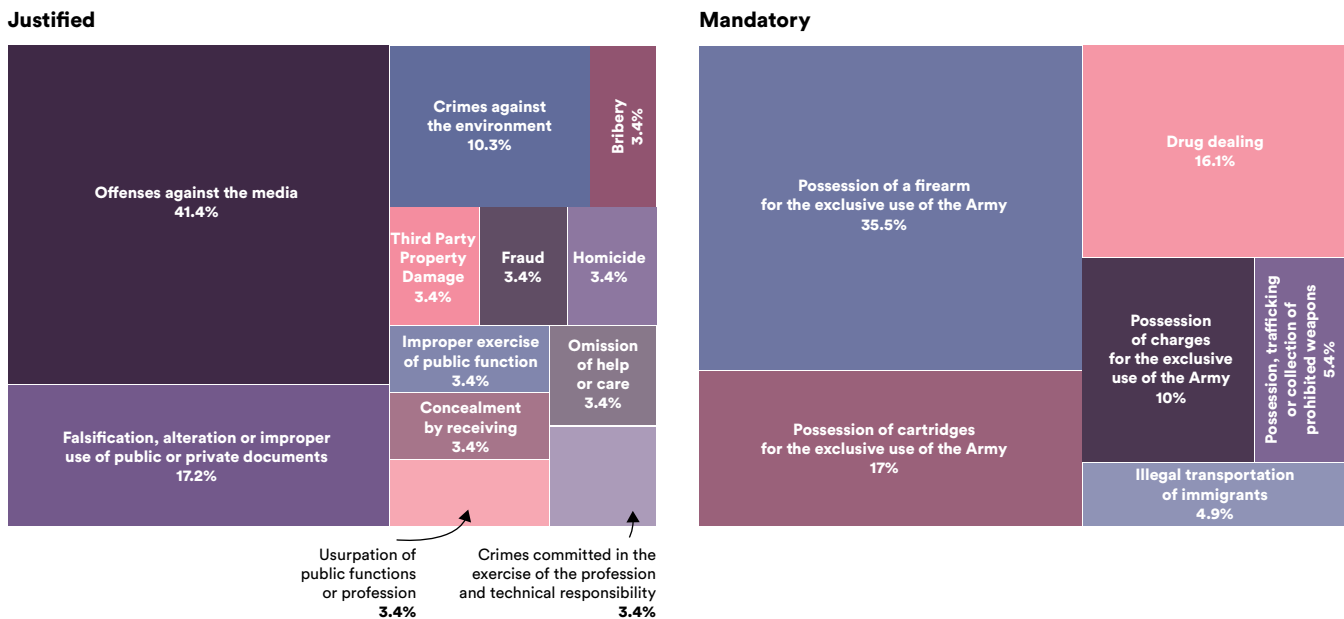


Graph 72. Types of Crimes for Which Pretrial Detention Was Imposed by the Superior Courts of Justice



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 73. Types of Crimes for Which Pretrial Detention Was Imposed by the Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through the request for access to information | @mexevalua.

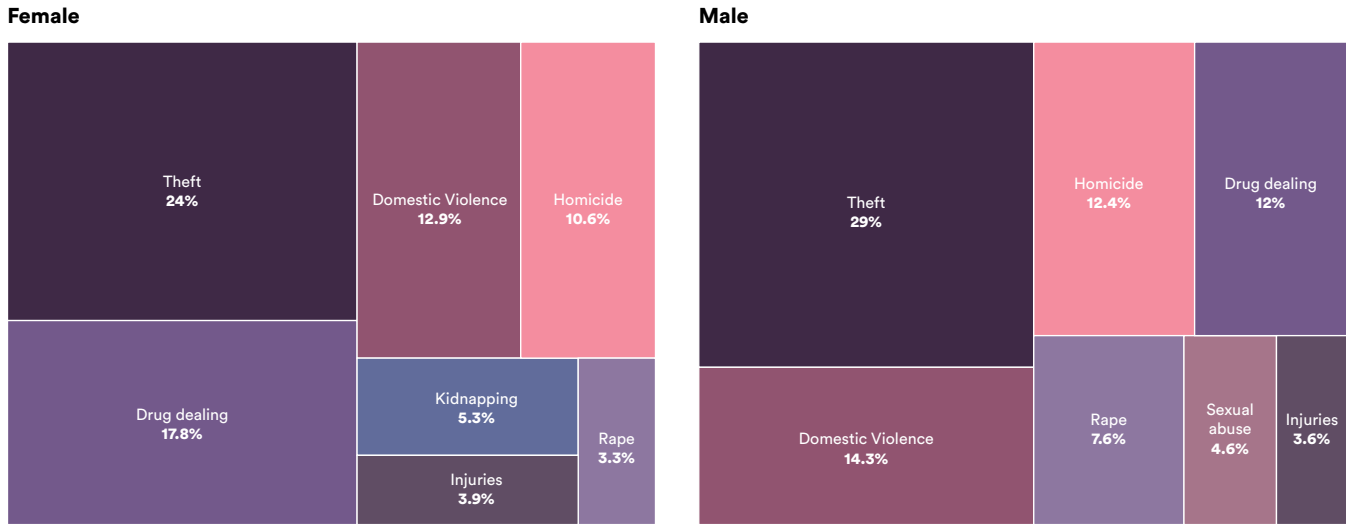
At national level, at the end of 2021 we discovered that two out of 10 accused women were placed in mandatory pretrial detention for crimes such as drug dealing and robbery, while one in 10 was for domestic violence and homicide. In a lesser proportion, but relevant, is kidnapping, which reaches a percentage of 5.3%. In the case of men, the crime of rape stands out, which barely

reaches a percentage of 7.6%, despite being the crime whose incidence increased the most compared to the previous year: 28.1%.

At national level, it can also be seen that the median duration of criminal proceedings involving defendants under pretrial detention tends to be, in the case of



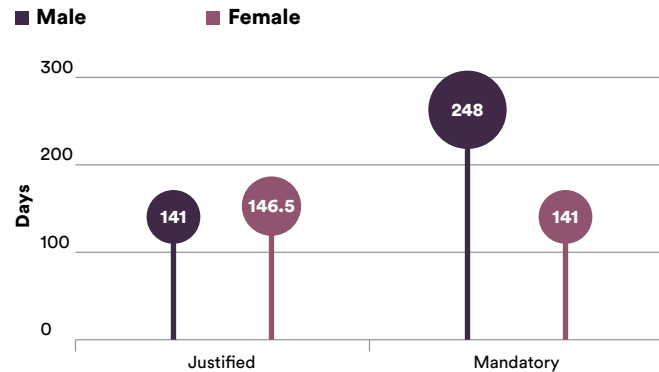
Graph 74. Types of Crimes for Which Mandatory Pretrial Detention Was Imposed by the Superior Courts of Justice



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

mandatory, 248 days for men, while it is 141 calendar days for women. In the case of justified, the range for both is between 141-147 calendar days. This is important, because it allows us to identify that the median duration tends to be less than the 730 days established as the limit for a person to remain deprived of his/her liberty without a sentence.

Graph 75. Median Duration of Criminal Proceedings with Defendants Under Pretrial Detention, Regardless of the Way the Process Is Concluded



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

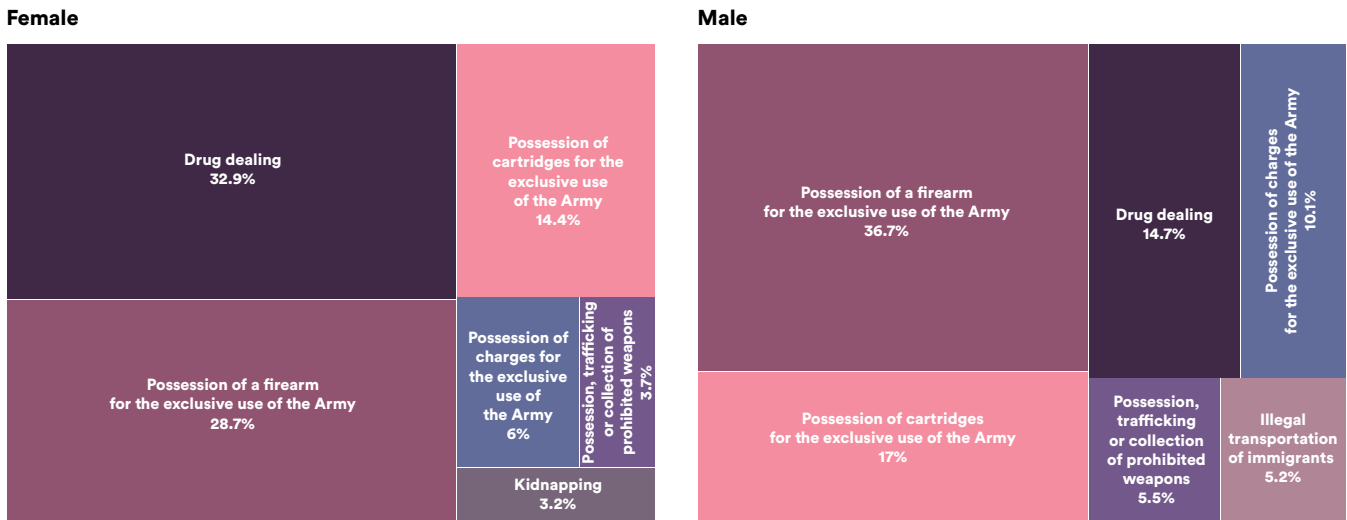
In federal Criminal Justice Centers, the types of crimes for which mandatory pretrial detention is imposed are, to a greater extent, associated with the carrying and/or possession of weapons, cartridges, or chargers for the exclusive use of the Army. Practically it was imposed in one of two defendants. In particular, the crime of kidnapping in the case of women is noteworthy, which, despite being a tiny proportion, reaches 3.2%, since, as we will see later, women tend to spend more time than men awaiting a sentence.

As we mentioned above, the Federal Judicial Council only reported data on criminal cases handled from January 1 to December 31, 2021, without including a lag. For this reason, it is highly probable that the data on the median duration of criminal proceedings that involved defendants under pretrial detention in federal Criminal Justice Centers are underestimated.

These data show an indiscriminate use of pretrial detention, and lead to questions being raised about its influence on the fact that the accused agree to waive their right to an oral trial and submit to a summary proceeding, while in fact accepting their participation in order to obtain a reduction in sentence. This happened during 2021, at national level, in 63.1% of the cases of justified pretrial detention and in 54.8% of the cases of mandatory pretrial detention.

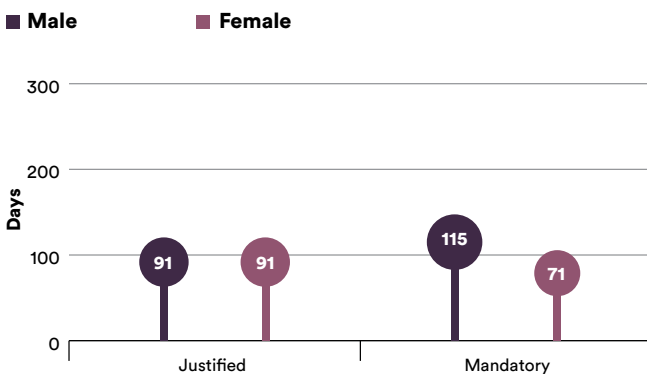


Graph 76. Types of Crimes for Which Mandatory Pretrial Detention Was Imposed by the Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 77. Median duration of criminal proceedings with defendants under pretrial detention, regardless of the way the process is concluded, in federal Criminal Justice Centers



Source: Own elaboration based on data obtained through the request for access to information | @mexevalua.

Procedural Risk Assessment

In addition to the cases in which mandatory pretrial detention will be imposed, there are those where the procedural legislation establishes that any of the

precautionary measures that the judicial authority deems necessary to guarantee –as previously explained, the appearance of the accused person, the safety of the victims and witnesses and the development of the investigation– which require a specific analysis for the decision to use them. Again, **the law requires that the judicial authority apply criteria of minimum intervention, aimed at fulfilling its purpose.**

To this end, the criminal justice system provides that the authorities supervising precautionary measures and conditional suspension of criminal proceedings, formally framed in the Units of Precautionary Measures, prepare an analysis of the environment of the accused, to identify to what extent there is a risk that they steals, harms victims and witnesses or otherwise obstructs the investigation. This information is brought to the parties in the process, so that the debate on precautionary measures is nourished based on information collected and verified by an authority other than those that have a position of defense or prosecution in the criminal process.

Based on data obtained from the Precautionary Measures Units (UMECA), it is evident that precautionary measure decisions are currently made without a risk assessment in 76% of cases, since the precautionary measure units report that only 23.9% of the people who supervise with a precautionary measure have a risk assessment.



Based on these data, it is worth drawing attention to the information with which the decision of precautionary measures other than pretrial detention is made; since without information on what is the specific risk that is sought to be precautionary, it is possible that precautionary measures are used without a causal reasoning, between the risk that is sought to be avoided and the measure that could address it.

Table 52 reflects that, at national level, the precautionary measure that is imposed most frequently –other than

imprisonment– is periodic appearance (18.9%), followed by the prohibition to meet with certain people (9.6%) and the prohibition to attend to certain meetings or places (8.8%).

Based on these data, it is lawful to question the real information with which the decision to impose precautionary measures other than pretrial detention is made. That is, if the specific risk that is sought to be protected is not known, it is possible that these measures are used without causal reasoning.

Table 52. Type of Precautionary Measures Imposed on Adults with Established Probable Cause by Magistrate Judges

Entity Name	Periodic appearance	Economic guarantee Display	Garnishment	Account freeze	Prohibition to leave the country	Submit to care or supervision	Prohibition of attending certain meetings or places	Prohibition to meet certain people	Immediate removal from home	Temporary suspension of office	Temporary suspension of certain professional activity	Electronic pagers	Home protection	Pretrial Detention	Release without imposition
National	18.9%	4.3%	0.2%	0.1%	4.3%	2.1%	8.8%	9.6%	1.3%	0.1%	0.1%	2.3%	1.6%	43.6%	2.9%
Aguascalientes	20.5%	1.5%	0.0%	0.0%	16.5%	0.9%	12.1%	14.2%	1.6%	0.0%	0.1%	0.0%	0.1%	32.4%	0.0%
Baja California	24.0%	3.4%	0.0%	0.0%	1.5%	0.8%	12.9%	12.8%	2.4%	0.0%	0.0%	0.2%	0.1%	42.0%	0.0%
BC Sur	19.8%	0.1%	0.1%	0.1%	7.6%	0.4%	8.3%	11.9%	0.1%	0.0%	0.1%	0.0%	0.0%	27.5%	24.1%
Campeche	24.8%	0.5%	0.2%	0.2%	15.3%	4.9%	6.4%	10.8%	0.5%	0.0%	0.2%	0.0%	0.0%	31.0%	0.5%
Chiapas	10.2%	3.1%	0.2%	0.1%	6.7%	2.9%	5.9%	7.6%	0.7%	0.0%	0.0%	0.0%	0.6%	62.0%	0.1%
Mexico City	33.0%	0.1%	0.0%	0.0%	0.2%	0.3%	2.7%	0.8%	0.0%	0.0%	0.0%	0.0%	0.1%	62.8%	0.0%
Coahuila	26.3%	3.8%	0.1%	0.0%	2.9%	0.6%	6.0%	7.2%	0.9%	0.0%	0.0%	1.9%	0.6%	25.1%	24.6%
Colima	4.2%	1.1%	0.2%	0.0%	1.1%	0.6%	2.2%	2.2%	0.8%	0.0%	0.0%	0.0%	0.0%	66.6%	20.9%
Durango	17.1%	15.5%	0.3%	0.4%	11.7%	10.0%	12.8%	12.9%	2.0%	0.1%	0.0%	0.0%	0.0%	16.5%	0.4%
State of Mexico	15.5%	12.7%	0.0%	0.0%	1.5%	0.6%	2.5%	4.6%	0.3%	0.1%	0.0%	0.1%	0.0%	61.9%	0.0%
Guanajuato	5.3%	0.0%	0.2%	0.1%	0.1%	0.3%	2.6%	1.3%	0.0%	0.0%	0.0%	13.8%	0.0%	76.2%	0.0%
Guerrero	30.1%	1.8%	0.1%	0.3%	9.0%	2.0%	10.3%	15.7%	2.1%	0.0%	0.3%	0.0%	0.1%	28.3%	0.0%
Hidalgo	11.7%	1.0%	0.1%	0.1%	5.0%	8.1%	11.1%	14.9%	0.7%	0.2%	0.3%	0.2%	0.2%	24.2%	22.3%
Jalisco	11.4%	6.2%	4.0%	1.3%	8.1%	2.9%	11.9%	14.8%	2.4%	0.2%	0.3%	0.1%	0.2%	35.0%	1.1%
Michoacán	5.6%	0.0%	0.0%	0.0%	2.3%	0.9%	4.0%	8.9%	0.0%	0.0%	0.0%	0.0%	0.2%	78.1%	0.0%
Nayarit	19.4%	20.7%	0.0%	0.0%	4.0%	1.7%	15.3%	15.2%	3.5%	0.0%	0.2%	0.0%	0.1%	19.7%	0.0%
Nuevo León	22.6%	0.0%	0.0%	0.0%	1.2%	3.2%	17.7%	17.9%	3.7%	0.1%	0.1%	0.5%	8.5%	24.5%	0.0%
Oaxaca	12.7%	0.9%	0.3%	0.8%	3.6%	2.7%	12.7%	16.6%	2.1%	0.1%	0.3%	0.3%	0.4%	36.4%	10.2%
Puebla	22.3%	11.8%	0.1%	0.0%	9.5%	1.6%	3.6%	7.8%	1.2%	0.2%	0.2%	0.0%	0.2%	38.8%	2.6%
Querétaro	5.8%	2.7%	0.0%	0.0%	1.1%	2.7%	24.3%	24.7%	0.0%	0.2%	0.0%	0.1%	0.0%	37.7%	0.6%
Quintana Roo	11.7%	3.3%	0.7%	0.7%	5.1%	0.5%	1.9%	3.5%	0.6%	0.1%	0.1%	0.4%	0.4%	69.0%	2.0%
San Luis Potosí	4.7%	0.7%	0.4%	0.1%	0.4%	4.9%	5.0%	10.8%	0.4%	0.0%	0.0%	0.0%	0.4%	67.0%	5.2%
Sinaloa	18.3%	0.9%	0.0%	0.1%	16.6%	9.1%	14.6%	16.8%	1.1%	0.0%	0.1%	0.0%	0.1%	22.4%	0.0%
Sonora	18.9%	12.7%	0.0%	0.0%	13.8%	2.1%	4.7%	6.0%	0.4%	0.0%	0.1%	0.0%	0.1%	41.4%	0.0%
Tabasco	6.7%	0.8%	0.0%	0.0%	1.3%	1.5%	8.4%	14.0%	1.5%	0.1%	0.0%	0.5%	0.6%	42.4%	22.1%
Tamaulipas	15.4%	4.8%	1.5%	0.0%	10.4%	2.8%	7.5%	14.0%	0.4%	0.7%	0.3%	0.0%	0.3%	42.0%	0.0%
Tlaxcala	23.9%	1.4%	0.0%	0.0%	1.4%	0.0%	4.2%	1.4%	0.0%	0.0%	0.0%	0.0%	0.0%	67.6%	0.0%
Veracruz	25.2%	9.3%	2.2%	0.7%	1.8%	0.8%	4.6%	8.0%	0.3%	0.3%	0.0%	0.0%	0.0%	45.7%	1.3%
Yucatán	19.4%	9.8%	0.4%	0.5%	19.0%	13.2%	3.0%	4.1%	0.2%	0.2%	0.1%	4.6%	1.4%	20.8%	3.4%
Zacatecas	12.3%	1.0%	0.6%	0.1%	2.5%	0.8%	16.7%	29.7%	0.2%	0.0%	0.3%	0.0%	0.0%	35.1%	0.6%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



At national level, the precautionary measure that is imposed most frequently –other than imprisonment– is **regular appearance** (18.9%), followed **by the prohibition to meet with certain people** (9.6%) and the **prohibition to attend to certain meetings or places** (8.8%). We can infer, then, that periodic appearance is imposed to a greater extent because it allows the supervisory authority to meet periodically with the accused person and, consequently, ensure that they remain in the place of trial. This circumstance is consistent with what was shown in Graph 78: the main procedural risk identified by the Precautionary Measures Units is that the accused person escapes from the action of justice, either leaving the place of the trial (flight) or remaining in the same, but without appearing at the hearings to which he/she is required.

It is important to bear in mind that these risk assessments are not the basis for decision-making on the imposition of the measures, nor do they oblige the parties or the judicial authority to take them into account. Nevertheless, **they represent a valuable resource to ensure that the decision on the liberty of individuals is made free of prejudices, based on previously verified and analyzed data and factual circumstances.**

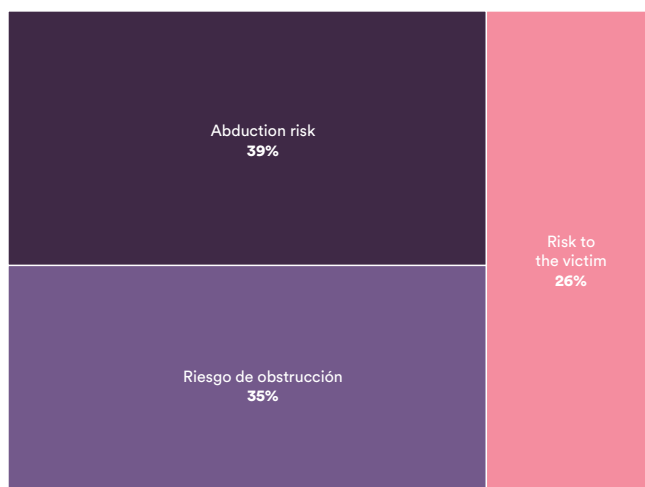
In this context, the work of defenders is important to provide the judicial authority with the necessary information to demonstrate that the risk indicated by the attorney/prosecutor's office is, where appropriate,

disproportionate and there are factual circumstances that prove it, or that according to the conditions of the person who represents the identified risks, they can be handled on liberty with less restrictive precautionary measures than those proposed by the attorney/prosecutors.

At national level, the figures show that public defenders have decreased their success rate in obtaining precautionary measures on release. This may be due, in part, to the increase in judicialized cases of mandatory pretrial detention, or else, to the fact that their efforts are mainly focused on achieving non-probable cause, rather than the precautionary measure. At national level, during 2019, the average percentage of precautionary measures on release imposed was 89.4%, while that of pretrial detention was 10.6%. In 2020, the average percentage did not register a significant variation: 90.2% of precautionary measures on release *versus* 9.8% pretrial detention. However, by 2021, the average percentage of precautionary measures at liberty imposed dropped to 66.8%, while the average percentage of pretrial detention increased to 33.2%.

Although there may be various explanations, it is important to highlight the importance for defenders that the represented person is not deprived of his/her liberty during the process. If the accused person is released, he/she has a greater opportunity to participate in the defense strategy, greater possibilities of providing

Graph 78. Procedural Risks Identified by the Precautionary Measures Units



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

NATIONWIDE, THE FIGURES SHOW THAT THE PUBLIC DEFENDERS HAVE DECREASED THEIR SUCCESS RATE IN OBTAINING PRECAUTIONARY MEASURES ON RELEASE



Table 53. Types of Precautionary Measures Imposed on Persons Represented by Public Defenders

Entity Name	2019						2020					
	% of men accused under precautionary measures on release	% of women accused under precautionary measures on release	% of people accused under precautionary measures on release	% of men accused under pretrial detention	% of women accused under pretrial detention	% of people accused under pretrial detention	% of men accused under precautionary measures on release	% of women accused under precautionary measures on release	% of people accused under precautionary measures on release	% of men accused under pretrial detention	% of women accused under pretrial detention	% of people accused under pretrial detention
National	60.9%	71.0%	89.4%	39.1%	29.0%	10.6%	63.2%	67.7%	90.2%	36.8%	32.2%	9.8%
Baja California	58.8%	60.3%	58.9%	41.2%	39.7%	41.1%	64.3%	63.7%	64.3%	35.7%	36.3%	35.7%
BC Sur	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Campeche	62.7%	100%	64.6%	37.3%	0.0%	35.4%	45.1%	89.5%	50.3%	54.9%	10.5%	49.7%
Chiapas	18.6%	23.5%	18.8%	81.4%	76.5%	81.2%	11.4%	36.4%	12.2%	88.6%	63.6%	87.8%
Chihuahua	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Mexico City	41.7%	62.5%	43.0%	58.3%	37.5%	57.0%	37.9%	36.5%	37.8%	62.1%	63.5%	62.2%
Guanajuato	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Guerrero	45.0%	64.6%	47.3%	55.0%	35.4%	52.7%	51.3%	46.0%	50.5%	48.7%	54.0%	49.5%
Hidalgo	41.7%	51.8%	43.8%	58.3%	48.2%	56.3%	46.6%	37.7%	45.3%	53.4%	62.3%	54.7%
Jalisco	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Morelos	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Nayarit	66.6%	74.4%	67.3%	33.4%	25.6%	32.7%	52.2%	68.5%	53.5%	47.8%	31.5%	46.5%
Nuevo León	85.0%	85.0%	85.0%	15.0%	15.0%	15.0%	85.0%	85.0%	85.0%	15.0%	15.0%	15.0%
Puebla	86.9%	86.5%	86.9%	13.1%	13.5%	13.1%	62.3%	61.5%	62.2%	37.7%	38.5%	37.8%
Querétaro	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Quintana Roo	31.2%	41.7%	32.0%	68.8%	58.3%	68.0%	18.2%	40.0%	18.0%	81.8%	60.0%	80.7%
San Luis Potosí	0.0%	0.0%	0.0%	100%	100%	100%	87.5%	84.4%	87.2%	12.5%	15.6%	12.8%
Sinaloa	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Tabasco	55.3%	30.0%	54.9%	44.9%	70.0%	45.2%	10.5%	100.0%	10.8%	89.5%	0.0%	85.1%
Tamaulipas	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Tlaxcala	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Veracruz	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Yucatán	52.0%	68.7%	53.4%	48.0%	31.3%	46.6%	46.9%	80.5%	49.3%	53.1%	19.5%	50.7%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

evidence and reduces the costs of defenders, since periodic visits and commute to prisons are not necessary.

Specifically in the precautionary measure, defenders must mainly question the causality between the risk indicated by the attorneys/prosecutors and the precautionary measure requested to address it, either because it is excessive, disproportionate and seeks to punish the person represented in advance, or because it does not have a procedural purpose, among other aspects. For this reason, it is important to know what the identified risk is in the specific case, and to propose to the judicial authority alternative precautionary measures with which the identified risks can be protected.

In Graph 79 we show the procedural risks identified in each state, excluding the Precautionary Measures Units that did not provide information in this regard.

The data shows that the procedural risk identified in the first place is that of **abduction or non-appearance of the accused persons**, followed by **hindering the investigation** or obstruction and, finally, **risk to victims**.

Although these data do not represent all the cases with precautionary measures, **it is striking that the risk to victims is the least identified**, especially if one considers that crimes of domestic violence and injuries



are the ones with the highest incidence, after robbery and drug dealing.

For all the above, it is important to resume the function of legal advice for victims to request adequate precautionary measures and, in more structural terms, **it is valuable to review whether the risk assessments prepared by the Precautionary Measures Units apply a human rights and gender approach.**

4.3.11 Procedural Continuity

Once the investigation is prosecuted, the criminal case can find various forms of conclusion. The main one, once the cases are in court, is the **summary proceedings**, as shown in Table 54.

In the federal Criminal Justice Centers, there are two prominent forms of resolution reached in court in the first hearing: conditional suspension of criminal proceedings (23.4%) and the conviction in summary proceedings (70.7%); the rest correspond to other forms.

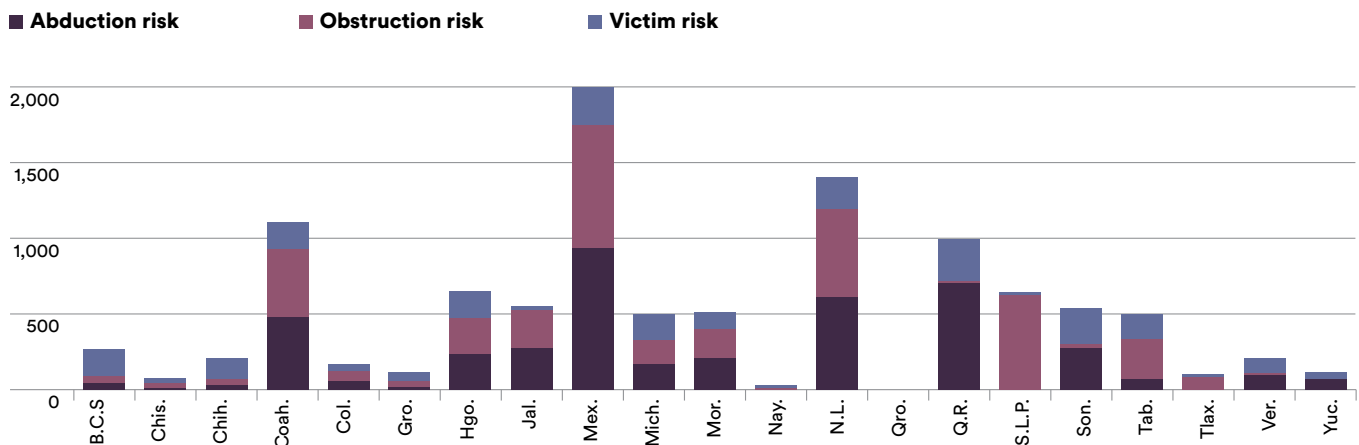
The Federal Criminal Justice Center of Morelos stands out, where 14.8% of the criminal cases handled at the end of 2021 were dismissed due to prescription of the criminal action.

Restitution Agreement in Court

To order the analysis, it is necessary firstly to highlight the proportion of cases resolved by restitution agreement, once the investigation has already been prosecuted.

2021					
% of men accused under precautionary measures on release	% of women accused under precautionary measures on release	% of people accused under precautionary measures on release	% of men accused under pretrial detention	% of women accused under pretrial detention	% of people accused under pretrial detention
65.7%	78.0%	66.8%	34.3%	22.0%	33.2%
62.3%	63.2%	62.4%	37.7%	36.8%	37.6%
55.2%	93.8%	57.2%	44.8%	6.3%	42.8%
75.8%	80.0%	76.1%	24.2%	20.0%	23.9%
15.5%	28.6%	15.7%	84.5%	71.4%	84.3%
95.1%	96.7%	95.2%	4.9%	3.3%	4.8%
33.1%	82.3%	38.3%	66.9%	17.7%	61.7%
54.7%	79.3%	57.2%	45.3%	20.7%	42.8%
58.8%	55.7%	58.3%	41.2%	44.3%	41.7%
63.0%	61.3%	62.6%	37.0%	38.7%	37.4%
NA	NA	83.9%	NA	NA	16.1%
59.4%	70.2%	60.3%	40.6%	29.8%	39.7%
63.2%	78.0%	64.5%	36.8%	22.0%	35.5%
85.0%	85.0%	85.0%	15.0%	15.0%	15.0%
67.0%	79.8%	68.4%	33.0%	20.2%	31.6%
37.6%	48.9%	38.3%	62.4%	51.1%	61.7%
19.2%	28.8%	19.8%	80.8%	71.2%	80.2%
72.2%	73.9%	72.3%	27.8%	26.1%	27.7%
63.1%	37.3%	56.1%	36.9%	62.7%	43.9%
21.9%	60.0%	14.1%	78.1%	40.0%	85.9%
31.9%	46.7%	33.8%	68.1%	53.3%	66.2%
43.6%	47.4%	43.9%	56.4%	52.6%	56.1%
42.0%	65.3%	46.6%	58.0%	34.7%	53.4%
48.0%	69.2%	49.4%	52.0%	30.8%	50.6%

Graph 79. Procedural Risks Identified by Precautionary Measures Units



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



Table 54. Form of Resolution of Criminal Cases Involving Accused Adults

Entity Name	Restitution agreement	Conditional Suspension of Criminal Proceedings	Prosecutorial Discretion	Acquittal in oral trial	Conviction in oral trial	Conviction in summary proceedings	Illegality of detention	Incompetence	Non-probable cause
National	7.5%	33.6%	0.1%	2.0%	7.8%	35.0%	6.4%	0.3%	7.2%
Aguascalientes	15.5%	12.3%	0.0%	0.0%	0.0%	59.0%	3.0%	0.2%	10.1%
Baja California	9.6%	12.4%	0.0%	0.4%	2.5%	66.9%	0.4%	0.1%	7.6%
Baja California Sur	20.5%	27.1%	0.2%	2.9%	8.1%	28.2%	0.5%	0.0%	12.6%
Campeche	11.4%	39.0%	0.0%	0.0%	0.0%	29.3%	1.6%	0.8%	17.9%
Chiapas	3.1%	6.2%	1.5%	0.0%	2.8%	66.0%	10.2%	1.5%	8.6%
Mexico City	3.0%	36.6%	0.2%	2.0%	8.4%	37.0%	0.7%	0.0%	12.1%
Coahuila	15.3%	42.9%	0.0%	0.4%	1.3%	35.1%	0.3%	0.5%	4.2%
Colima	17.1%	36.5%	0.0%	1.6%	3.4%	29.4%	7.7%	0.4%	3.8%
Durango	7.7%	56.0%	0.0%	0.0%	0.0%	29.6%	2.5%	3.6%	0.6%
State of Mexico	3.4%	4.4%	0.0%	13.9%	16.6%	43.4%	16.2%	0.3%	1.7%
Guanajuato	9.5%	62.2%	0.1%	0.3%	0.8%	20.8%	2.6%	0.7%	3.1%
Guerrero	4.7%	14.0%	0.0%	4.7%	72.1%	2.3%	0.0%	0.0%	2.3%
Hidalgo	34.3%	37.5%	0.0%	0.8%	2.9%	19.1%	0.0%	5.3%	0.0%
Jalisco	6.3%	12.2%	0.0%	0.0%	0.0%	2.2%	58.5%	0.7%	20.1%
Michoacán	0.0%	50.5%	0.0%	0.0%	0.0%	10.5%	4.7%	0.0%	34.3%
Nayarit	14.9%	51.5%	0.0%	0.0%	0.1%	22.8%	1.1%	0.0%	9.5%
Nuevo León	0.1%	55.1%	0.1%	0.0%	20.0%	15.5%	2.6%	0.2%	6.4%
Oaxaca	11.8%	15.6%	0.0%	6.0%	1.1%	35.1%	14.5%	3.0%	12.9%
Puebla	25.9%	48.2%	0.0%	0.4%	0.9%	3.2%	14.8%	0.2%	6.4%
Querétaro	5.8%	44.3%	2.3%	1.3%	3.8%	38.3%	1.0%	0.1%	3.2%
Quintana Roo	11.6%	9.6%	0.0%	0.0%	1.6%	30.3%	34.1%	1.0%	11.6%
San Luis Potosí	5.6%	48.3%	0.0%	2.7%	3.4%	8.5%	11.2%	0.5%	19.9%
Sinaloa	8.4%	59.3%	0.0%	0.5%	6.5%	21.7%	0.3%	0.1%	3.2%
Sonora	3.9%	1.9%	0.0%	0.4%	3.4%	88.2%	0.3%	0.1%	1.8%
Tabasco	4.9%	44.3%	0.0%	0.4%	6.2%	29.1%	0.9%	0.6%	13.5%
Tamaulipas	20.3%	28.5%	0.0%	1.7%	2.0%	13.3%	0.0%	2.0%	32.2%
Tlaxcala	30.2%	15.6%	0.0%	0.4%	2.3%	9.5%	0.2%	0.0%	41.8%
Veracruz	48.1%	13.2%	0.0%	0.0%	1.6%	1.6%	5.4%	1.6%	28.7%
Yucatán	20.5%	30.9%	0.2%	3.2%	9.8%	17.8%	11.5%	0.4%	5.7%
Zacatecas	48.2%	27.2%	0.0%	0.7%	2.5%	15.0%	6.5%	0.0%	0.0%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

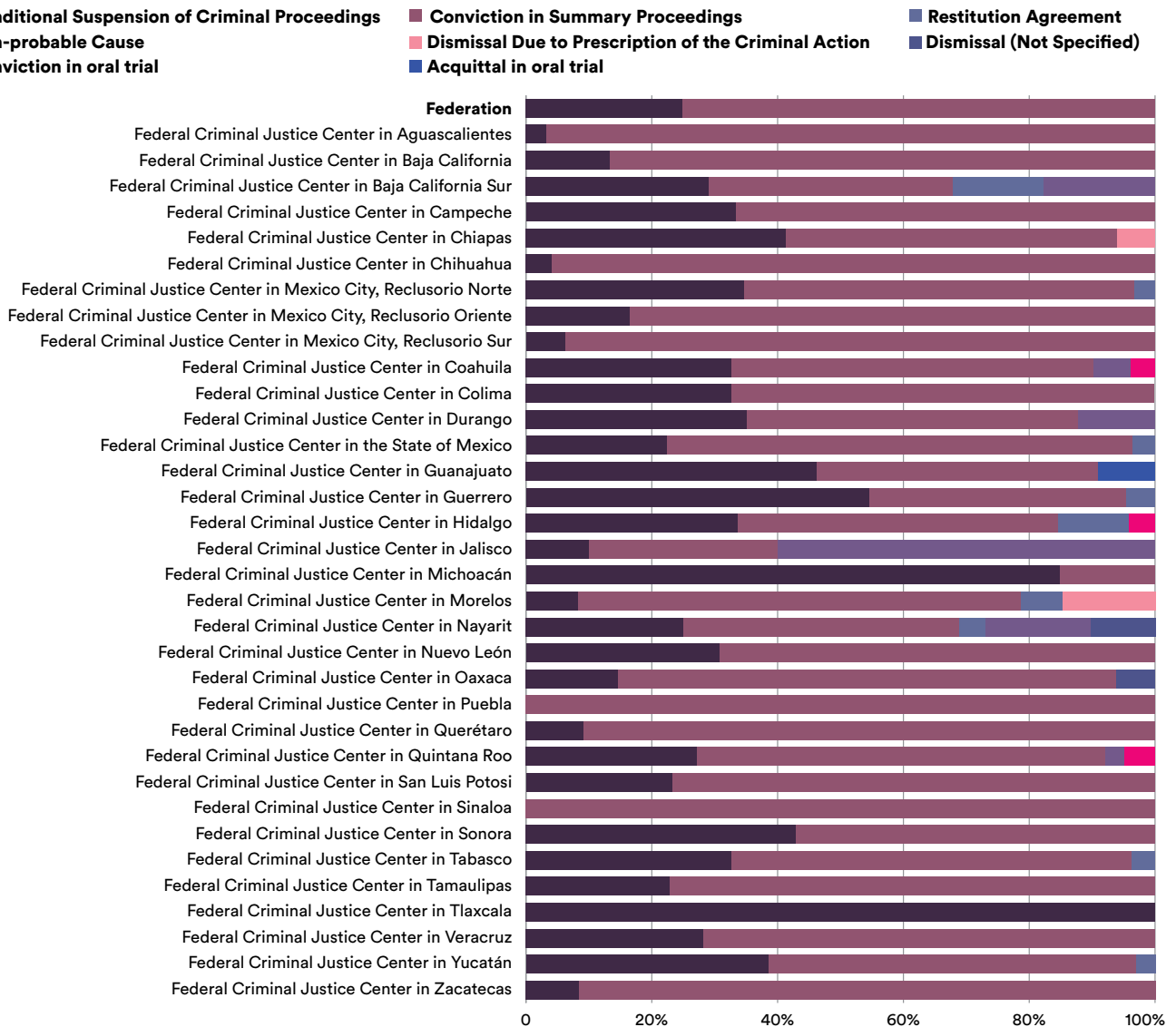
Before we pointed out the importance of the ADRM at the beginning of the investigation, since they allow a more agile and less expensive solution to be given to the victims and the accused, in addition to guaranteeing the restitution of the damage more promptly. However, if a solution is not achieved in this way, in the cases in which it proceeds, the judicial authority can invite the victim and accused person to assess the use of ADRM to conclude a restitution agreement.

What is to be expected is that 100% of the restitution agreements are not reached by the ADRM bodies at

prosecution headquarters, and that a minimum of cases have to be prosecuted, and such an agreement is reached once the investigation is before the judges.

Once again, ideally, from the point of view of the efficient use of resources, this proportion of cases should be minimal, since prosecution imposes an additional workload on the prosecutor's office, since it is necessary to prepare an initial hearing to formulate imputation, request established probable cause and the imposition of precautionary measures. In addition to this, holding

Graph 80. Form of Resolution of Criminal Cases that Involved Defendants in Federal Criminal Justice Centers



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

a hearing requires administrative procedures, the presence of the judicial authority, defenders, and legal counselors for victims.

In this sense, it is striking that states such as Zacatecas and Veracruz resolve 48.2% and 48.1% of cases, respectively, by restitution agreement in court. As we pointed out before, Zacatecas referred 9.4% of the cases to ADRM, while Veracruz referred 10.5%. These figures reflect that both states make greater use of ADRM in court, which implies an underutilization of the resources of the MASC body in the attorney/prosecutor's office.

Although to a lesser extent, this problem could be verified in Hidalgo, where 34.3% of the cases initiated by restitution agreement are resolved, and also in Tlaxcala (30.2%), Puebla (25.9%), Yucatán (20.5%), Baja California South (20.5%) and Tamaulipas (20.3%).

It is true that the law allows the conclusion of a restitution agreement at any time before an order to open the oral trial is issued. In addition, the legal cases in which this solution is viable are generally clear, so in order to achieve a timely alternative solution, the intervention of specialized personnel is essential, which,



with the correct techniques, can lead the parties to find the best way out.

We reiterate: the prosecution of investigations that could find a solution through a restitution agreement in its early stages not only generates the costs; it also delays the resolution of the criminal dispute and the restitution of the damage for the victims. Added to this, it can undermine the possibility of strategically managing the workload in the prosecutor's offices, since the efforts of the agents of the prosecutor's offices are "diverted" in cases that do not merit greater investigative or litigation skills, since they are limited to provide alternative solutions.

Conditional Suspension of Criminal Proceedings

The CNPP, in its article 191, defines the conditional suspension of criminal proceedings as an approach that the prosecutor's office or the accused person can make regarding a detailed payment plan for the restitution of the damage and compliance with the conditions provided by the procedural law, which "guarantee an effective protection of the rights of the victim or offended and that, if fulfilled, may lead to the extinction of the criminal action."

In the section on pretrial detention, we mentioned that during 2021 criminal cases were dismissed that could well have been managed through the imposition of various conditions derived from the conditional suspension of criminal proceedings. Table 54 shows that, after the summary proceeding, this is the most common form of resolution of causes (33.6% of cases).

In fact, according to ENPOL data, at national level it is observed that only two out of 10 defendants were offered by their defense lawyers –whether public or private– to resolve their cases by restitution of the damage to the victim (conditional suspension of criminal proceedings). However, at state level, the case of Querétaro stands out, where the proportion is higher both for men (64.2%) and women (40.8%), in contrast to the rest of the states.

The Precautionary Measures Units are the authorities in charge of supervising these alternate exits, as provided for in article 176 of the CNPP. The units indicate that, at national level, the most frequent crimes for which they are supervising accused persons with this alternate exit are domestic violence (67.4%), robbery (14.8%), injuries (9.5%) and property damage (1.9%).

The most frequently imposed conditions, according to information from the units themselves, are to live in a certain place (section I of art. 195), to submit

Table 55. Percentage of Conditional Suspension of Criminal Proceedings Offer as Alternative Exit

State Name	Men		Women	
	Yes	No	Yes	No
Aguascalientes	34.7%	65.3%	31.9%	68.1%
Baja California	24.1%	75.9%	21.2%	78.8%
Baja California Sur	34.7%	65.3%	33.3%	66.7%
Campeche	40%	60%	29.4%	70.6%
Chiapas	19.8%	80.2%	23.3%	76.7%
Chihuahua	30.6%	69.4%	21.6%	78.4%
Mexico City	9.2%	90.8%	26.1%	73.9%
Coahuila	31.5%	68.5%	28.6%	71.4%
Colima	17.8%	82.2%	23.1%	76.9%
Durango	20.8%	79.2%	32.3%	67.7%
State of Mexico	19.8%	80.2%	21.1%	78.9%
Guanajuato	39.2%	60.8%	40.8%	59.2%
Guerrero	17.3%	82.7%	20.7%	79.3%
Hidalgo	45.5%	54.5%	39.6%	60.4%
Jalisco	25.6%	74.4%	21.1%	78.9%
Michoacán	17.6%	82.4%	21.5%	78.9%
Morelos	21.8%	78.2%	10.1%	89.9%
Nayarit	11.5%	88.5%	36%	64%
Nuevo León	22.7%	77.3%	20.1%	79.9%
Oaxaca	25.9%	74.1%	16%	84%
Puebla	32.5%	67.5%	27.3%	72.7%
Querétaro	64.2%	35.8%	40.8%	59.2%
Quintana Roo	37.3%	62.7%	28.9%	71.1%
San Luis Potosí	39.4%	60.6%	43%	57%
Sinaloa	18.1%	81.9%	23%	77%
Sonora	18.9%	81.1%	25.8%	74.2%
Tabasco	26.2%	73.8%	13.8%	86.2%
Tamaulipas	12.5%	87.5%	16.3%	83.7%
Tlaxcala	48.5%	51.5%	32.3%	67.7%
Veracruz	22.3%	77.7%	19.3%	80.7%
Yucatán	43.3%	56.7%	31.2%	68.8%
Zacatecas	28.2%	71.8%	27.3%	72.7%

Source: Own elaboration based on ENPOL 2021 data | @mexevalua.

to surveillance determined by the judicial authority (section IX of art. 195) and to frequent or stop frequenting certain places or people (section III of art. 195).

It is noteworthy that CNPP points out that judicial authority can impose any other condition that it considers protecting the rights of the victim in an effective manner (section XIV of art. 195). Therefore, it is remarkable that despite the fact that this alternative exit is imposed to a greater extent in cases of domestic violence, conditions that guarantee the safety of the victims are not taken into account, as are any other re-victimizing act. Moreover: the condition related to compliance with the duties of a food debtor (fraction XIII) is the penultimate in the frequency of use.



Although it is possible that the condition related to section II is imposed in order for the accused person to stop seeing the victim, it may not be enough in a dynamic of domestic violence.

In addition to the above, the Precautionary Measures Units report that 27% of the cases do not comply with the conditions imposed. Those that are most frequently breached are those contemplated in section I –live in a certain place–, section IX –submit to surveillance determined by the judicial authority– and section VII –submit to medical or psychological treatment, preferably in public institutions.

These figures invite us to reflect, at least, on this sequence of events: 1. conditional suspension of criminal proceedings is the most common solution in the criminal justice system; 2. this alternate exit is applied mainly in cases of domestic violence; 3. Victims of domestic violence are mainly women, and 4. 70% of the country has an alert on gender violence against women.

Considering the above, it is highly recommended to promote the conversation between the supervisory authorities of precautionary measures, the prosecutor's offices and the courts to **ensure that alternative exits prioritize the needs of the victims, beyond the rate of completion of cases**. It is necessary to consider which are the cases in which it is applied most frequently, which are the circumstances in which its compliance is encouraged and, mainly, how the rights of the victims are effectively protected.

Summary Proceedings and Oral Trial

We have seen at the beginning of this section that the most frequent way of resolving cases is the summary proceeding. It is a less complex solution than holding an oral trial, although it is not simple. It requires that the accused waive his/her right to an oral trial, acknowledge his/her responsibility for the crime for which he/she is accused, and agree to be sentenced based on the evidence available to the prosecutors' offices and that were used to present the accusation. The latter must in any case have a solid investigation that supports their accusation.

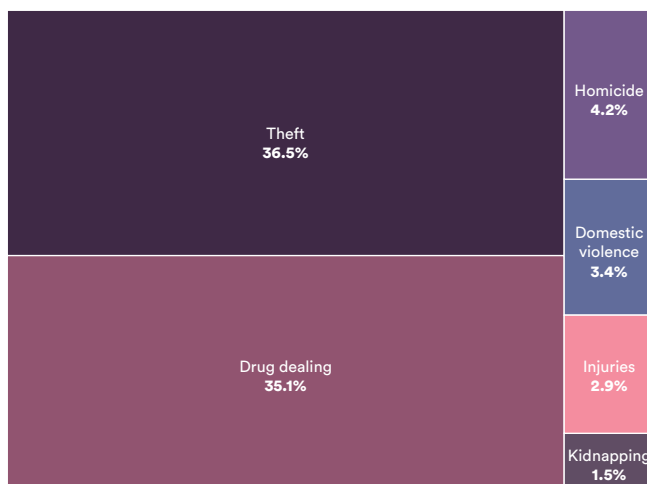
The figures show that the most frequent crimes resolved by means of a summary proceeding are both drug dealing and robbery, regardless of the sex of the accused. At national level, at the end of 2021, three out of 10 cases involving accused women, whether for the crime of drug dealing or robbery, were resolved through a summary proceeding, with a median duration of the criminal process of 137 days.

For men, the proportions were two out of 10 in the case of drug dealing, and four out of 10 for theft, with a median duration of the criminal process of 154 days.

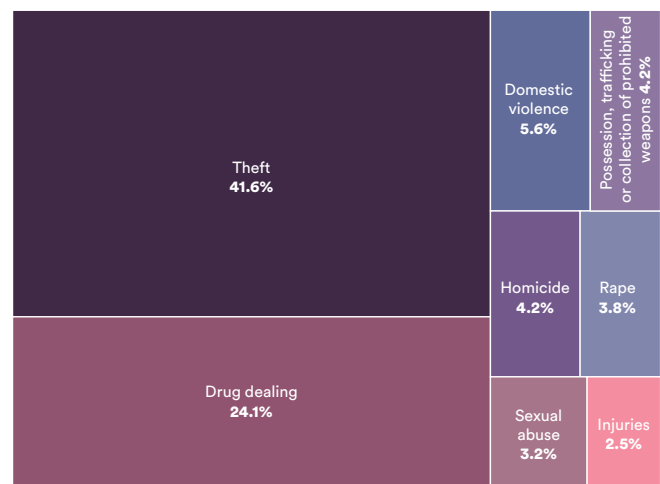
Kidnapping among women is noteworthy, where although it reaches a marginal proportion (1.5%, according to ENPOL), at national level four out of 10 women felt pressured to opt for a summary proceeding. However, in states such as Campeche (66.7%), the State of Mexico (67.8%), Guerrero (60.2%), Oaxaca (69.2%), Querétaro

Graph 81. Types of Crimes for Which Criminal Proceedings Were Concluded by Means of a Conviction in a Summary Proceeding, by Sex

Female



Male



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



Table 56. Offer Percentage of Summary Proceedings As An Early Form of Resolution of The Criminal Process

State Name	Men		Women	
	Yes	No	Yes	No
Aguascalientes	38.2%	61.8%	40%	60%
Baja California	30.9%	69.1%	34.5%	65.5%
Baja California Sur	38.3%	61.7%	6.5%	93.5%
Campeche	40.2%	59.8%	66.7%	33.3%
Chiapas	55.8%	44.2%	49.2%	50.8%
Chihuahua	34.4%	65.6%	46.9%	53.1%
Mexico City	30.4%	69.6%	43.1%	56.9%
Coahuila	38.4%	61.6%	56.3%	43.7%
Colima	48.3%	51.7%	71.4%	28.6%
Durango	17.8%	82.2%	7.4%	92.6%
State of Mexico	55.6%	44.4%	67.8%	32.2%
Guanajuato	42.4%	57.6%	42.2%	57.8%
Guerrero	45.9%	54.1%	60.2%	39.8%
Hidalgo	46.1%	53.9%	53.2%	48.8%
Jalisco	27%	73%	31.4%	68.6%
Michoacán	31.6%	68.4%	51.3%	48.7%
Morelos	42.5%	57.5%	59.1%	40.9%
Nayarit	36.2%	63.8%	40.9%	59.1%
Nuevo León	44.6%	55.4%	44.6%	55.4%
Oaxaca	38.1%	61.9%	69.2%	30.8%
Puebla	47.6%	52.4%	52.6%	47.4%
Querétaro	41.9%	58.1%	63%	37%
Quintana Roo	40%	60%	38.8%	61.2%
San Luis Potosí	38.9%	61.1%	42.7%	57.3%
Sinaloa	28.7%	71.3%	32.3%	67.7%
Sonora	45%	55%	49.9%	50.1%
Tabasco	48.7%	51.3%	68.3%	31.7%
Tamaulipas	31.8%	68.2%	30.5%	69.5%
Tlaxcala	29.7%	70.3%	55.6%	44.4%
Veracruz	37.8%	62.2%	28.2%	71.8%
Yucatán	41.6%	58.4%	83.2%	16.8%
Zacatecas	41%	59%	67.4%	32.6%

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

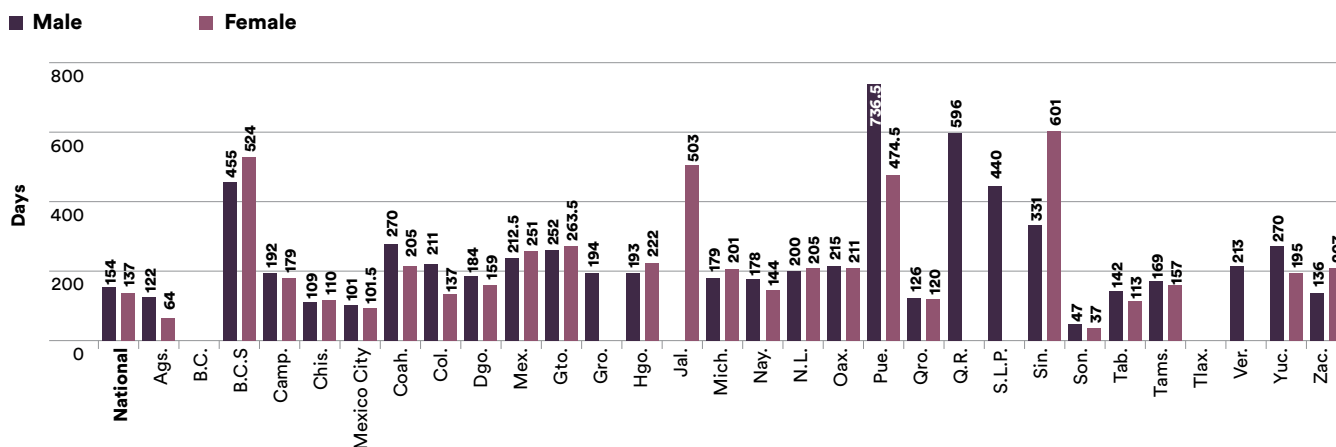
(63%), Tabasco (68.3%) and Zacatecas (67.4%), the proportion reaches six out of 10, and even more, as in Colima (71.4%) and Yucatán (83.2%).

In this context, at national level, at the end of 2021, three out of 10 cases involving accused women, whether for the crime of drug dealing or robbery, were resolved through a summary proceeding, with a duration of the criminal process of 137 days. For men, the proportions were two out of 10 in the case of drug dealing and four out of 10 in the case of robbery, with a median duration of the criminal process of 154 days.

In the federal Criminal Justice Centers, it is observed that, as we have already indicated, in both men and women the crimes for which criminal proceedings are most frequently concluded through judgments of conviction in summary proceedings are related to carrying and/or possession of weapons, cartridges and chargers for the exclusive use of the Army. To a lesser extent, they are related to drug dealing –whether in its form of trade, supply, or transportation–.

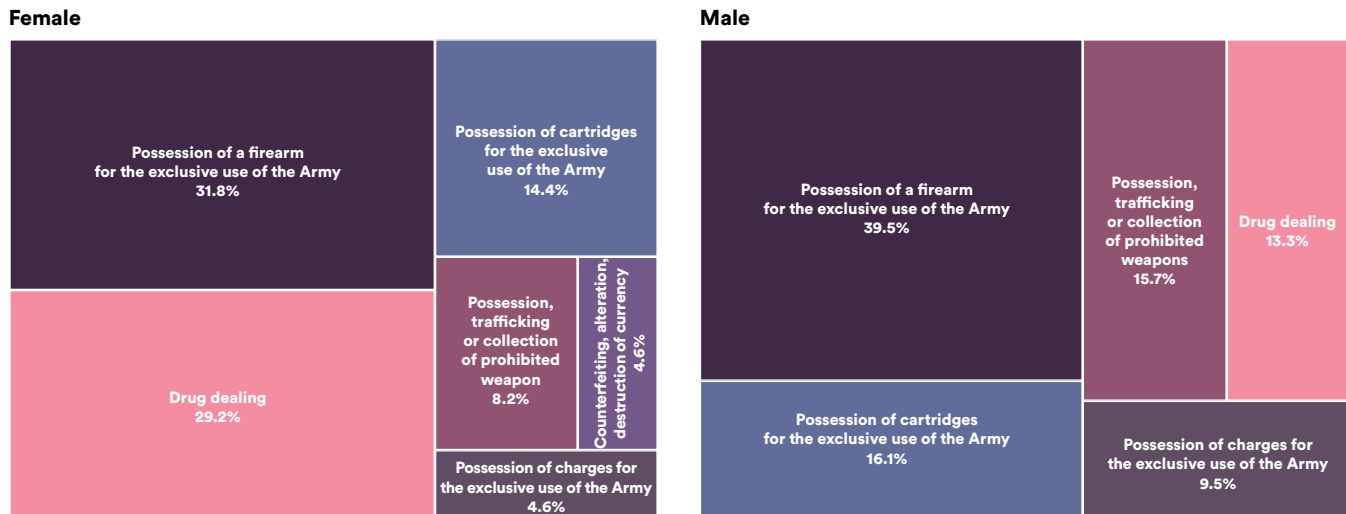
On the other hand, the cases that are resolved to a greater extent by oral trial are those related to the crimes of drug dealing, robbery and homicide. At national level at the end of 2021, in crimes imputed to women, three out of 10 cases of robbery were resolved by means of a conviction in an oral trial, while one of every 10 for drug dealing had that outcome, with a median duration of the criminal process of 369 days. For men, the proportions were three out of 10 in the case of robbery and one out of 10 in the case of homicide, with a median length of criminal proceedings of 358 days.

Graph 82. Median Duration of Criminal Proceedings Concluded by Conviction in Summary Proceedings



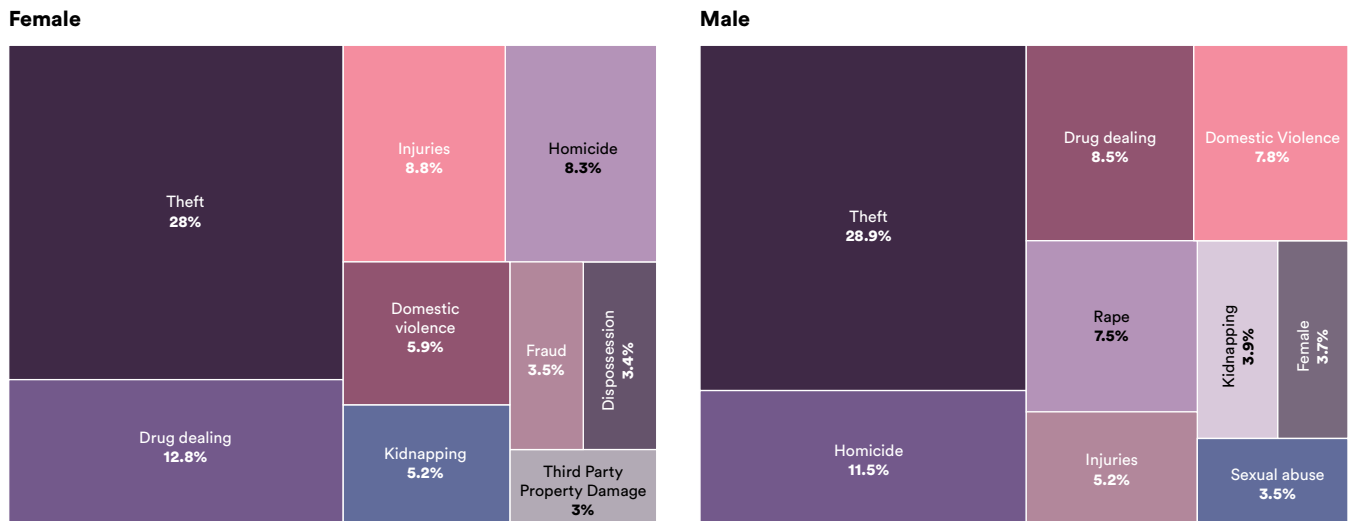
Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 83. Types of Crimes for Which Criminal Proceedings Were Concluded by Means of a Conviction in a summary proceeding, by Sex



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 84. Types of Crimes for Which Criminal Proceedings Were Concluded by Means of a Conviction in an Oral Trial, by Sex



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

In the federal Criminal Justice Centers, for women, almost seven out of 10 criminal proceedings concluded by conviction were for drug dealing –whether in its form of trade or supply, or transportation–. For men, almost one in two for carrying a firearm for the exclusive use of the Army.

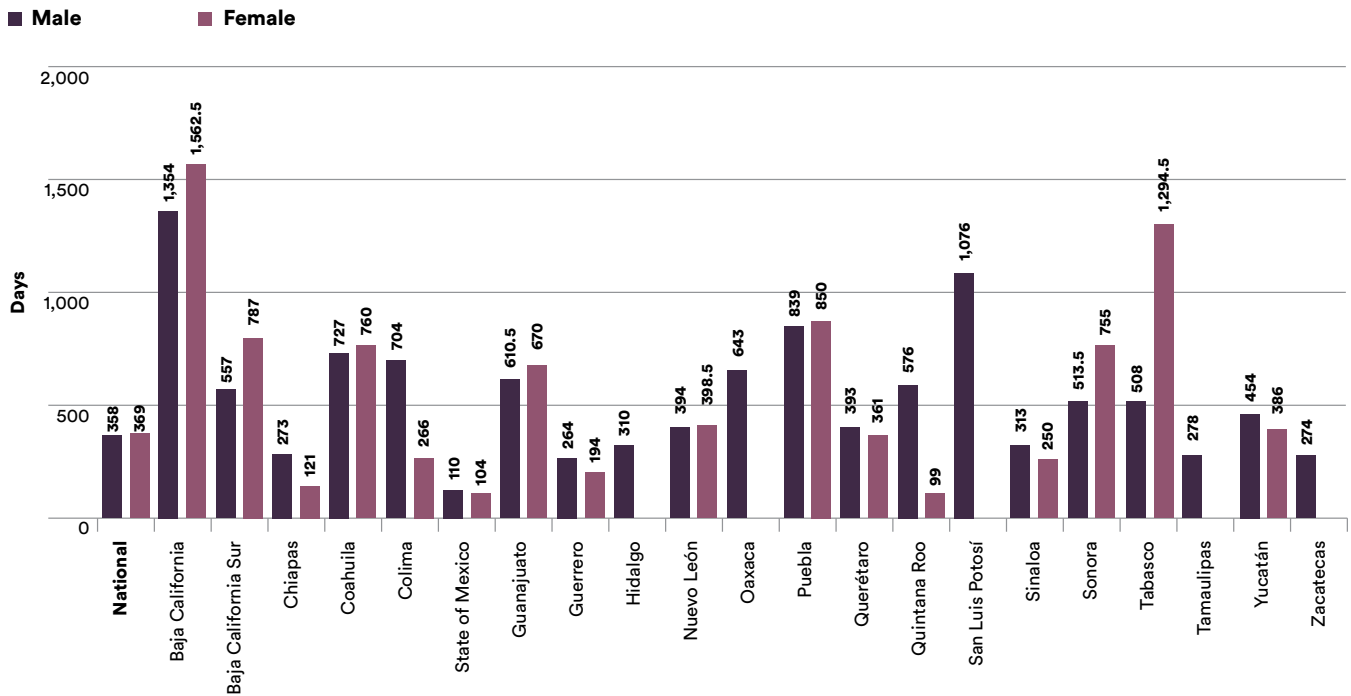
What we have just shown is that, in general terms, **prosecutors' offices do not carry out prioritization exercises: they process investigations in the**

same way, with the same resources and efforts.

It is evident that the crimes that can be solved by conditional suspension of criminal proceedings or restitution agreements, such as robbery and drug dealing, are solved by more complex means such as summary proceedings or the oral trial. On the other hand, crimes such as domestic violence, intentional homicide, femicide or kidnapping are those with the lowest resolution rate through these media. And this occurs even in a context in which high homicide rates

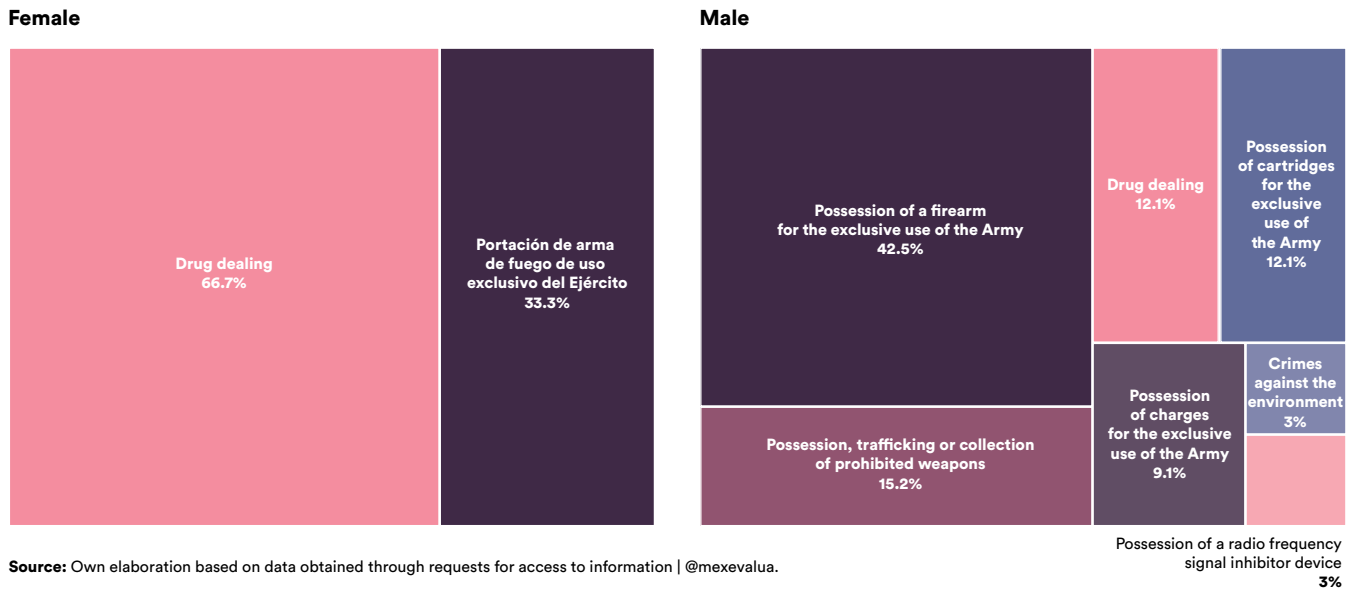


Graph 85. Median Duration of Criminal Proceedings Concluded by Conviction in Oral Trials



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Graph 86. Types of Crimes for Which Criminal Proceedings Were Concluded by Conviction in an Oral Trial, by Sex



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

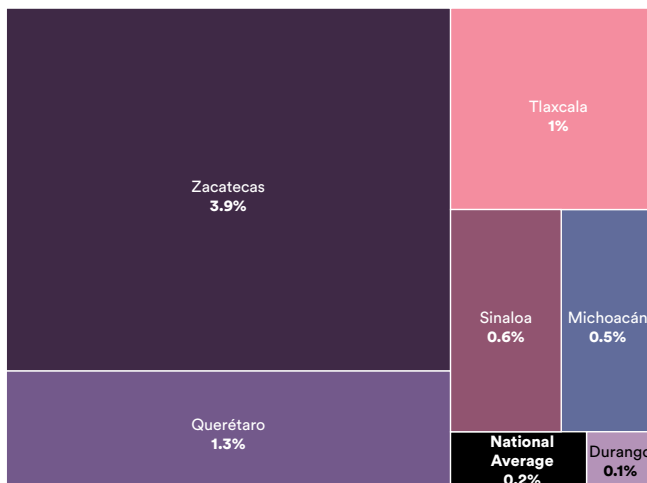
have led prosecutors to a forensic crisis, recognized by the Mexican State, and in which there are high rates of family violence, femicides, disappearances, and sexual violence that have motivated the declaration of Gender Violence Alerts against women.

In fact, at the beginning of our analysis of crime rate we highlighted the 28.1% increase in rape, the data provided by forensic services show that the rate of special expert interventions requested by the authority –referred to in article 275 of the CNPP – have not increased proportionally. These interventions must be carried out on people who have been sexually assaulted or when the nature of the criminal act warrants it; therefore, an interdisciplinary team must be integrated with professionals trained in victim attention, to concentrate in a single session, the interviews that are required for the preparation of the respective opinion.

We observe that the highest frequency of these special interventions occurs in Zacatecas (3.9%), followed by Querétaro (1.3%) and Tlaxcala (1%), while other states, such as San Luis Potosí, Quintana Roo, Nuevo León, Nayarit, Hidalgo, Coahuila, Chihuahua, Baja California and Aguascalientes, register a null proportion, despite the growth in the percentage of variation of the crime of rape in such states.

In any case, it should be noted that the problem is not in the resolution of cases through summary proceedings.

Graph 87. Rate of Special Forensic Interventions Requested by the Authority, With Respect to the Total Admitted

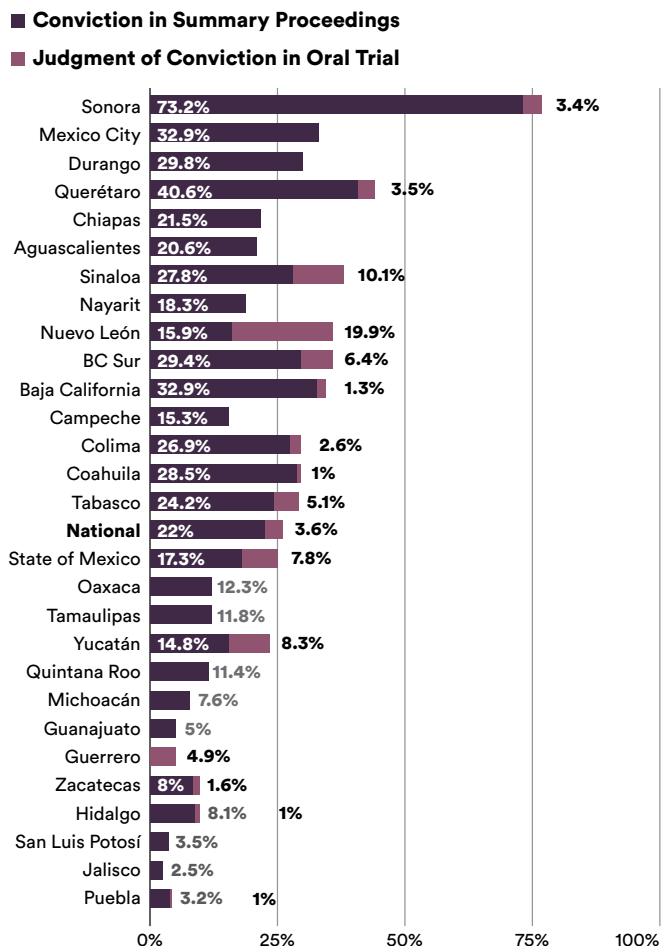


Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

Rather, it lies in the lack of strategy in the use of these solutions, with which the attention of complex criminal phenomena that significantly affect the life, sexual freedom and development of women and men in the community could be prioritized.

Graph 88 shows that, at national level, at the end of 2021, two out of every 10 people sentenced under pretrial detention concluded their criminal proceedings by conviction. Sonora registers the highest rate of judgments of conviction through a summary proceeding –seven out of 10–, while Michoacán, Guanajuato, Guerrero, Zacatecas, Hidalgo, San Luis Potosí, Jalisco, and Puebla show proportions of less than 10%. It is striking that in Sinaloa and Nuevo León the judgments of conviction reached are more frequent through

Graph 88. Conviction Rate of Adults Accused Under Pretrial Detention by Superior Courts of Justice



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



oral proceedings, with rates of 10.1% and 19.9%, respectively.

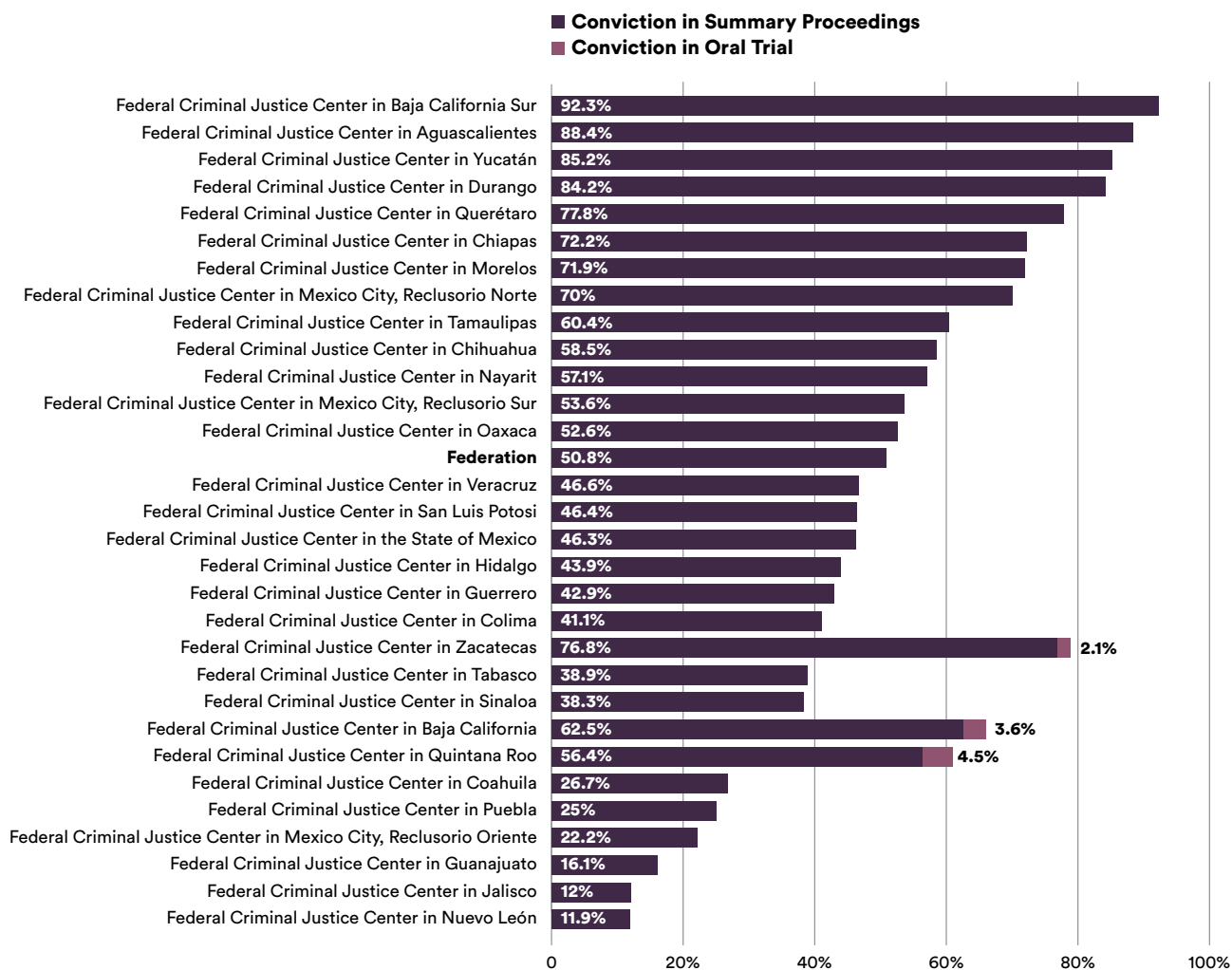
At federal level, a contrasting situation occurs. Again, the data used here corresponds to criminal cases handled from January 1 to December 31, 2021, since data on delayed cases was not reported. At this level, five out of 10 of the people charged under pretrial detention concluded their criminal proceedings by conviction. But cases such as Durango, Yucatán, Aguascalientes, and Baja California Sur stand out, where the proportion was even higher, eight out of 10.

Decision-making by attorneys/prosecutors regarding the crimes on which they will focus the greatest efforts and resources, and on those that they will seek to solve through the most agile solutions, undoubtedly has

technical and legal bases, but they are mainly political. The definition of criminal prosecution policies that make it possible to see where the priorities of the attorney general's offices are located, and which are the cases that require the greatest effort, is key to ensuring that the right of access to justice is being guaranteed and protected.

Criminal prosecution policies must allow prosecutors to define their objectives regarding the main problems of the population, and attending to the criminal phenomena that affect them most significantly. Although robbery and drug dealing are crimes that affect the community, they can be solved by more agile alternative solutions, in such a way that efforts are concentrated on prosecuting more complex criminal phenomena.

Graph 89. Conviction Rate of Persons Charged Under Pretrial Detention by Federal Criminal Justice Centers



Damage Restitution

The restitution of the damage is a right of the victims recognized in the Constitution. However, the administrative records provided by CEEAVs show that this right is not always guaranteed.

Table 57 shows that, in Chiapas, Chihuahua, the State of Mexico, Quintana Roo, Sonora, and Veracruz, the rate of damage restitution for victims who are represented by CEEAV legal advisors has increased, although it is not 100%. That, although an improvement is observed, not all the victims see the damage restitution in these states.

On the other hand, San Luis Potosí reduced its damage restitution rate compared to the previous year by 25.8%, in the same way as Yucatán, whose decrease was 12.3%. **The states that guaranteed at the end of 2021 the right of damage restitution to the victims in 100% of the cases were Coahuila, Durango, Puebla and Querétaro.**

4.3.12 Court Congestion

Court congestion rate points to the number of cases not resolved by any of the solutions that have been analyzed up to now, regardless of the date the criminal case was filed. **In the country, in one year 39.5% of the cases filed are resolved and 60.5% remain pending.**

Sonora is the entity that registers the highest rate of resolution of cases in the country (64.8%) and, consequently, the lowest rate of court congestion

Table 57. Rate of People Who Had Damage Restitution Due to the Direct Intervention of CEEAVS

Entity Name	2019	2020	2021
Chiapas	37.1%	36.3%	41.7%
Chihuahua	58.1%	52.6%	72.4%
Coahuila	100%	100%	100%
Durango	100%	100%	100%
State of Mexico	7,445%	34.4%	40.1%
Puebla	0.0%	35.3%	100%
Querétaro	100%	100%	100%
Quintana Roo	46.2%	59.5%	83.3%
San Luis Potosí	89.5%	75.8%	50.0%
Sonora	67.1%	10.6%	38.5%
Veracruz	23.5%	70.8%	92.2%
Yucatán	18.5%	33.3%	2.1%
Zacatecas	50.0%	64.0%	36.4%

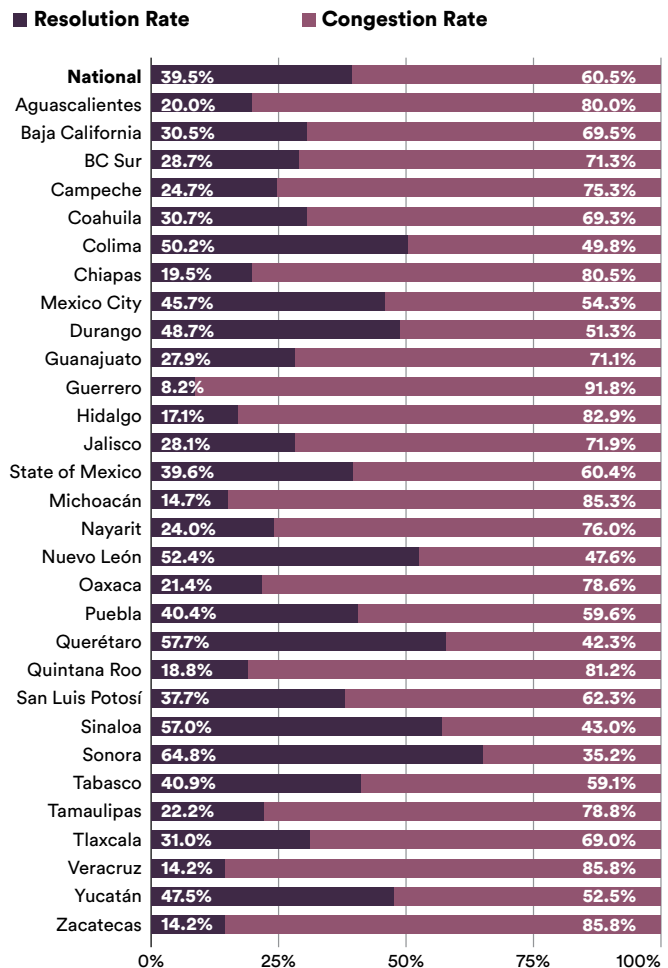
Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

(35.2%). In contrast, the entity with the highest court congestion rate is Guerrero (91.8% of cases), despite the fact that its prosecution rate is 2.1%. In the same way, Veracruz has a prosecution rate of 1% and registers a court congestion rate of 85.8%.

The foregoing allows us to infer that there is a certain correlation between the implementation of case management and prioritization mechanisms oriented by a criminal prosecution policy, and the agility with which these are resolved in prosecution and judicial headquarters, by virtue of the fact that these indicators have behaved positively, as is the case of Sonora, one of several states that have published and implemented strategic criminal prosecution policies.

It is important to note that prosecution congestion rate was calculated based on the universe of criminal

Graph 90. Congestion Rate Versus Resolution Rate in Court



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



cases handled during 2021. However, when dealing with backlogged cases, the figures show that the superior courts of justice dedicate great efforts to combat backlog, given that at the national level there is a 56.9% resolution rate of backlog combat.

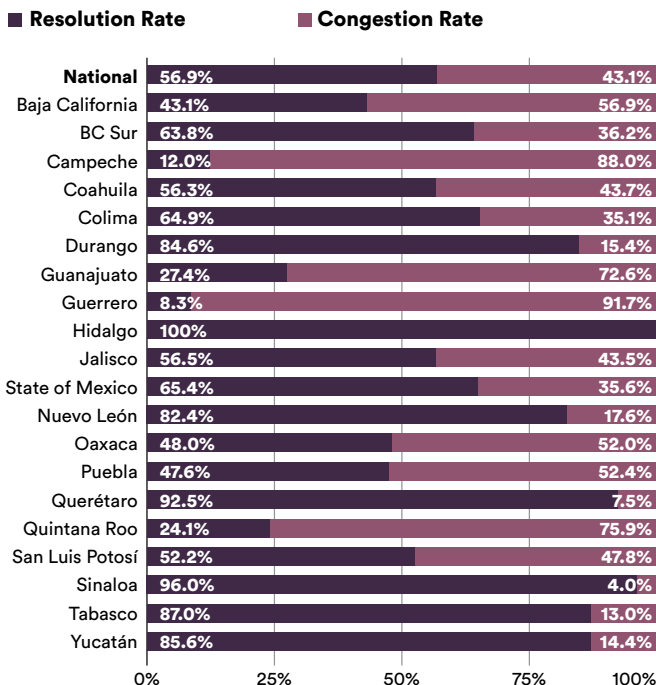
These types of indicators can reflect problems in the administration of the courts and/or hearings, deferral of hearings, work overload of judicial personnel or delays in terms of the work carried out by the prosecutor’s offices in the supplementary investigation stage. However, it is necessary for the courts to analyze the specific situation in detail, to define effective improvement actions.

In the resolution of delayed cases, the entity that stands out is Hidalgo, which has a resolution rate of 100%, but also Sinaloa, which has dealt with 96% of the delayed cases. For its part, in Guerrero the rate of resolution in court is not enough to ‘remedy’ the prosecution congestion, which is very high: 91.7%, with Campeche in second place, with 88%.

These efforts in court are appreciable, but we must reaffirm what promotes agility in the resolution of cases is the management of the workload from the prosecutor’s offices. If the cases are prioritized according to the procedural path they will follow, alternate exits and summary proceedings can be promoted from the very beginning. In this way, the number of cases in which, due to their nature, the solutions are more complex and require more time, is ‘limited’. This is illustrated in Graph 92.

However, a direct consequence of court congestion has to do with the duration of criminal proceedings, for which specific prioritization policies could also be required in courts. In the block of 200 to 400 days there are crimes with different levels of complexity, such as

Graph 91. Congestion Rate Versus Resolution Rate of Backlog Combat in Courts

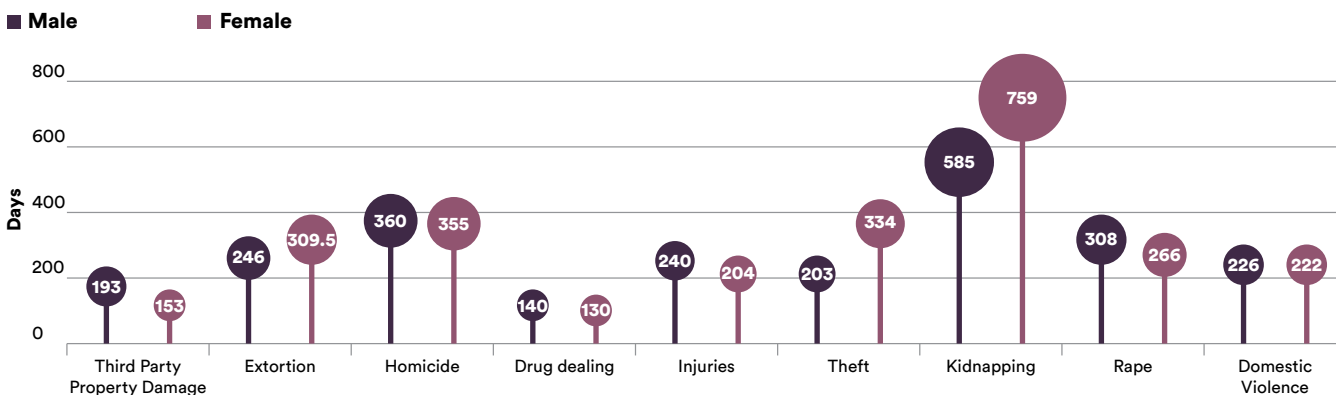


Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

rape and robbery, or homicide and injuries. Crimes such as kidnapping are out of the median, with proceedings lasting from 585 to 759 days, although it is important to remember that they represent less than 10% of the cases that are resolved in oral proceedings.

The problem is focused on the fact that the different criminal phenomena, with different complexity, require

Graph 92. Median Duration of Criminal Proceedings Concluded for Different Crimes, Regardless of the Form of Resolution



Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.



a similar time to the criminal justice system. Efficiency in the use of resources means, then, solving less complex cases in less time.

4.3.13 Penitentiary Centers

We do not observe a strengthening of public policies aimed at promoting the development conditions of the population in prisons. The Constitution establishes the need for social reintegration of this population, but the conditions do not favor it. In the period 2015 to 2018 there was a downward trend in the prison population. However, as of 2019, the year in which the catalog of crimes subject to mandatory pretrial detention was expanded, the trend has been upwards: 1.5% in 2019; 6.6% in 2020 and 3.8% in 2021.

In any case, during the 2012-2021 period, people who are deprived of liberty without a sentence have represented, on average, 40.1%, while the percentage of convicted people has been 59.8%.

Another way of describing the conditions: in 2017 a downward trend began (-3.1%) in the percentage of overcrowding in state prisons. By 2021, this trend was reversed, with an increase of 2.8% (Table 59). The state with the highest overpopulation is the State of Mexico, with 136.7% at the end of 2021, followed by Morelos, Nayarit and Durango, with 88.1%, 81% and 74%, respectively.

In federal penitentiary centers the opposite phenomenon is observed: at the end of 2021 they present a rate of **underpopulation** average of -67.2%, with CEFERESO no. 1 of the Altiplano with the lowest underpopulation rate (-39.8%). For their part, all prisons under service provision contracts (CPS) are below their capacity, with an average percentage of -35.7%.

The overcrowding in these centers fosters conditions that violate the human rights of persons deprived of liberty. It is counterproductive not only for the implementation of public policies on social reinsertion, but also for those linked to crime prevention and access to justice.

If throughout this chapter we have pointed out that the lack of strategic criminal prosecution encourages the

THE STATE WITH THE HIGHEST OVERPOPULATION IS THE STATE OF MEXICO, WITH 136.7% AT THE END OF 2021, FOLLOWED BY MORELOS, NAYARIT AND DURANGO, WITH 88.1%, 81% AND 74%, RESPECTIVELY.

Table 58. National Penitentiary Statistical Information

Year	Total number of people deprived of their liberty ¹	Annual variation	Rate per 100 thousand inhabitants ²	People processed			Convicted People			Overpopulation Percentage
				Absolute frequency	Relative frequency	Percentage change	Absolute frequency	Relative frequency	Percentage change	
2012	239,089	NA	102.23	98,414	41.2%	NA	140,675	58.8%	NA	23.3%
2013	246,334	3.0%	103.98	103,589	42.1%	5.3%	142,745	57.9%	1.5%	24.4%
2014	255,638	3.8%	106.57	107,295	42.0%	3.6%	148,343	58.0%	3.9%	25.9%
2015	247,488	-3.2%	101.97	102,740	41.5%	-4.2%	144,748	58.5%	-2.4%	18.9%
2016	217,868	-12.0%	88.77	82,579	37.9%	-19.6%	135,289	62.1%	-6.5%	3.1%
2017	204,617	-6.1%	82.48	78,919	38.6%	-4.4%	125,698	61.4%	-7.1%	-3.1%
2018	197,988	-3.2%	78.99	75,030	37.9%	-4.9%	122,958	62.1%	-2.2%	-8.7%
2019	200,936	1.5%	79.37	75,287	37.5%	0.3%	125,649	62.5%	2.2%	-7.0%
2020	214,231	6.6%	83.82	89,130	41.6%	18.4%	125,101	58.4%	-0.4%	-1.0%
2021	222,369	3.8%	86.21	92,574	41.6%	3.9%	129,795	58.4%	3.8%	2.8%

¹ People deprived of their liberty from both Federal and State penitentiary centers were included.

² Calculation made based on CONAPO data.

Source: Own elaboration based on SSPC data | @mexevalua.



Table 59. Percentage of Overcrowding in State Prisons

State	Overpopulation %		150 - 200		50 - 99		-1 (-50)		-51 (-100)	
	100 - 149	150 - 200	100 - 149	150 - 200	50 - 99	0 - 49	-1 (-50)	-51 (-100)	-51 (-100)	-100 (-150)
State of Mexico	68.5	94.3	144.3	169.6	94.0	102.7	109.9	108.3	127.1	136.7
Nayarit	81.6	120.9	140.2	150.7	104.5	62	74.7	72.6	79.4	81
Hidalgo	66.3	84.1	108.1	92.1	67.2	71.5	74.8	22.1	24.9	32.6
Morelos	55.6	70.9	81.0	79.1	67.2	67.6	57.9	62.4	77.4	88.1
Durango	-4.9	38.8	52.6	67.2	32.0	64.9	81.6	71.9	80.7	74
Jalisco	75.4	70.8	80.5	71.6	52.8	40.4	35.1	31.4	0.2	-0.4
Puebla	40.1	51.6	58.8	47.7	24.8	9.7	17.4	25.7	34.2	37.5
Quintana Roo	19.2	40.8	55.2	56.6	37.0	22.5	3.3	13.1	25.4	31.8
Tabasco	51.4	38.8	39.5	19.1	14.1	19.1	20.9	22.8	32	39.7
Guerrero	44.0	61.7	57.2	47.7	24.9	15.1	8.8	19.4	21.9	22.8
Mexico City	86.4	80.4	75.3	50.9	29.4	15.9	-6.7	-10.8	-5.5	-7.1
Sonora	64.0	64.1	50.5	36.8	4.7	-0.3	-9.2	-1.7	7.8	24.2
Chihuahua	7.3	21.8	3.9	8.8	5.3	15	14.7	9.2	15.1	21.4
Nuevo León	43.2	23.8	23.9	7.6	-2.1	-2	2.1	-26.3	-8.5	4.4
Veracruz	14.3	14.4	18.6	8.4	0.8	-1.6	-6.4	-13.4	-8.1	3.4
Chiapas	49.2	46.5	46.7	31.4	-1.0	-13	-25.6	-14.9	-0.7	1.6
Aguascalientes	11.1	-5.2	6.6	12.2	-31.5	-37.9	-31.8	-13.5	-4.8	12
Oaxaca	-4.7	-8.9	1.8	4.7	-6.7	-16.5	-19	-33.5	-3.4	0.5
Coahuila	-16.7	-7.8	0.7	-7.6	-29.1	-35.1	-39.4	-31.1	7.9	31.9
San Luis Potosí	-1.6	5.9	8.0	-2.4	-16.0	-22.6	-22.9	-20.3	-13.8	-16.9
Baja California	8.4	10.5	9.7	5.6	-13.0	-21.7	-22.3	-19.3	-22.7	-20
BC Sur	-2.4	4.0	14.5	6.2	-10.6	-26.1	-31.3	-25.8	-29.4	-26.5
Guanajuato	-30.1	-29.1	-25.1	-22.8	-21.2	-16.2	-8.5	1.1	10.6	19.9
Querétaro	-9.5	-4.1	-13.4	-32.5	-38.7	-36.5	-30.6	-24.9	-15.9	-15.7
Sinaloa	-10.3	5.5	14.2	6.6	-17.6	-27.2	-32.9	-32.5	-32.5	-33.9
Campeche	-17.7	-16.7	-13.1	-16.4	-22.4	-23.3	-31.4	-29.9	-28.5	-33.6
Tlaxcala	-27.4	-18.5	-13.3	-12.9	-30.8	-40.9	-42.5	-28.3	-16	-7.6
Tamaulipas	-11.3	-14.8	-8.1	-4.7	-18.8	-28.3	-34.4	-46.3	-43.9	-40.7
Zacatecas	-54.2	-48.5	-39.9	-29.4	-30.9	-22.1	-21.7	-18.1	-10.3	-5.1
Michoacán	-41.9	-42.9	-33.5	-39.5	-48.2	-39.7	-38	-33.4	-26	-24.1
Colima	11.3	7.1	5.5	-18.7	-32.0	-47.6	-58	-61	-62.6	-64.4
Yucatán	-13.8	-17.7	-38.4	-47.5	-51.8	-54	-56.7	-55.8	-57.6	-54.4
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021

Source: Own elaboration based on SSPC data | @mexevalua.

indiscriminate use of pretrial detention, now we show another of its direct repercussions: the overcrowding of prisons. At the end of 2021 there were at least 4,904 people who remained deprived of their liberty for more than 730 days without sentence; that is, two years: 76% under mandatory pretrial detention and the remaining 24% under justified pretrial detention. Both for men and women, seven out of 10 are (or were) under the mandatory modality. The states that concentrated the highest absolute frequencies of people in pretrial detention in these circumstances were Baja California, the State of Mexico, Guanajuato, Nuevo León, and Puebla.

Finally, between 2012 and 2021, the average percentage of men deprived of their liberty without sentence for **local jurisdiction crimes** (38%) has been lower by almost 10 percentage units than that of women in the same condition (47.7%). At the end of 2021, in general terms, it can be noted that one in two women deprived of their liberty remained without a sentence, while the proportion for men was four out of 10.

Regarding the procedural status of persons deprived of liberty for crimes of the **federal jurisdiction**, even higher percentages are observed to the detriment of women. There, at the end of 2021, six out of 10 women deprived of their liberty were awaiting sentencing, while only four out of 10 men were under the same condition.

What is happening in Baja California Sur, Michoacán, Oaxaca and Tlaxcala is striking, where the proportion of women deprived of liberty

Table 60. Percentage of Overcrowding in Federal Penitentiary Centers

Center	Overpopulation %		50 - 100		0 - 49		-1 (-50)		-51 (-100)											
	50 - 100	100 - 150	50 - 100	100 - 150	0 - 49	0 - 49	-1 (-50)	-51 (-100)	-51 (-100)	-100 (-150)										
Islas Marías Penitentiary Complex					-1.7%	-43.9%	-68.6%	-73.1%	-81.1%	-87.6%	-87.3%									
CEFERESO No. 9 North					48.5%	37.3%	17.3%	-11.5%	-29.8%	-43.8%	-56.9%	-44.3%								
CEFERESO No. 6 Southeast					-17.4%	-27.5%	-42.7%	-41.9%	-42.6%	-56.0%	-61.9%	-58.8%								
CEFERESO No. 3 Northeast					24.8%	68.2%	0.8%													
CEFERESO No. 2 West					39.7%	70.1%	88.1%	-5.6%	-1.2%	-4.9%	-5.5%	-17.6%								
CEFERESO No. 18 CPS Coahuila										-86.4%	-52.4%	-30.6%	-26.9%							
CEFERESO No. 17 CPS Michoacán										-68.8%	-74.8%	-72.2%	-51.0%	-52.0%						
CEFERESO No. 15 CPS Chiapas								-35.6%	-21.2%	-36.7%	-48.7%	-51.2%	-47.7%							
CEFERESO No. 14 CPS Durango								-42.5%	-7.2%	-4.5%	-12.5%	-15.8%	-23.5%	-28.0%	-22.6%					
CEFERESO No. 13 CPS Oaxaca								-30.9%	-41.3%	-15.0%	-20.6%	-45.7%	-50.6%	-46.7%	-40.8%	-39.8%				
CEFERESO No. 10 Northwest								-39.4%	-45.5%	-60.6%										
CEFERESO No. 1 Atlaplan								21.1%	41.3%	32.4%	-0.2%	-3.0%	-5.3%	-8.1%	-4.7%	-51.8%	-39.8%			
Federal Women's Center Northwest								-5.9%	-27.3%	-8.0%										
CEFERESO No. 7 Northwest								22.3%	1.9%	-12.1%	-25.0%	-14.2%	-6.5%	-10.8%	-24.4%	-40.8%	-54.8%			
CEFERESO No. 11 CPS Sonora								-17.6%	38.5%	29.8%	-4.8%	-12.0%	-19.9%	-27.1%	-29.6%	-22.1%	-18.4%			
CEFERESO No. 5 East								36.1%	7.3%	31.1%	-4.6%	-19.1%	-30.6%	-39.8%	-45.2%	-52.5%	-60.3%			
CEFERESO No. 12 CPS Guanajuato								-54.0%	-29.8%	-28.5%	-7.9%	-8.2%	-29.0%	-37.7%	-41.2%	-23.8%	-21.1%			
CEFERESO No. 4 Northwest								-22.1%	-23.5%	18.1%	-10.9%	-26.9%	-38.6%	-47.7%	-40.7%	-49.0%	-59.6%			
CEFEREPSI								-48.5%	-37.6%	-38.3%	-26.7%	-42.8%	-45.0%	-65.0%	-66.5%	-68.9%	-73.3%			
CEFERESO No. 8 Northwest								30.0%	-7.0%	-22.3%	-53.1%	-24.8%	-45.1%	-60.2%	-51.4%	-57.3%	-54.4%			
Women's CEFERESO No. 16 CPS Morelos											-47.0%	-50.6%	-56.9%	-62.9%	-67.0%	-67.8%	-69.3%			
											2012	2013	2014	2015	2016	2017	2018	2019	2020	2021

Source: Own elaboration based on SSPC data | @mexevalua.

Table 61. Number Of People in Pretrial Detention (Mandatory Or Justified) With More Than 730 Days Deprived Of Their Liberty

Entity Name	Men			Women		
	Mandatory	Justified	Men	Mandatory	Justified	Women
National	3,492	1,077	4,569	236	99	335
Baja California	2,431	281	2,713	150	17	167
Baja California Sur	27	6	33	2	0	2
Coahuila	72	52	124	4	2	6
Colima	20	12	32	0	0	0
Durango	0	1	1	0	0	0
State of Mexico	185	4	189	20	2	22
Guanajuato	124	21	145	5	0	5
Guerrero	2	0	2	0	0	0
Jalisco	1	0	1	2	0	2
Nuevo León	185	462	647	9	52	61
Oaxaca	1	1	2	0	0	0
Puebla	358	114	472	34	9	43
Querétaro	25	20	45	1	2	3
Quintana Roo	23	3	26	1	0	1
San Luis Potosí	9	0	9	0	0	0
Sinaloa	15	34	49	1	3	4
Sonora	62	55	117	1	7	8
Tabasco	9	0	9	1	0	1
Yucatán	11	19	30	1	3	4

Source: Own elaboration based on data obtained through requests for access to information | @mexevalua.

without sentence reaches a ratio of eight out of 10. In the case of men, the highest proportion is centered in Tlaxcala, where seven out of 10 await sentencing.

4.4 Main Conclusions

Criminal justice in Mexico requires the coordinated performance of different authorities, which, to adequately manage their efforts and scarce resources, must act in a coherent and orderly manner.

With the above in mind, we must first point out that **the beginning of the investigation is compromised by models that do not precisely place the needs of the user population at the center.** An obvious reflection: the dark figure has remained without significant changes over the years, to a greater extent, for reasons attributable to authority. This means that access to justice for crime victims in Mexico is not guaranteed by the State; on the contrary, this is often an obstacle. Although the operating institutions have made decisions seeking to relieve congestion in the system, especially for backlog combat, the mechanisms that accompany them have not shown to be guided by defined criminal prosecution policies, with clear criteria for prosecution decisions. Nonetheless, **the promotion and mechanisms for receiving complaints have improved: the proportion that is reported to the authorities and receives attention is high.**

Table 62. Population deprived of liberty for local jurisdiction crimes

Year	Total number of people deprived of their liberty ¹	Annual variation	Rate per 100 thousand inhabitants ²	Total number of men deprived of their liberty	Total men prosecuted	Percentage of men prosecuted	Total convicted men	Percentage of convicted men	Total number of women deprived of their liberty	Total women prosecuted	Percentage of women prosecuted	Total convicted women	Percentage of convicted women
2012	189,662	NA	81.1	181,337	69,520	38.3%	111,817	61.7%	8,325	4,093	49.2%	4,232	50.8%
2013	197,611	4.2%	83.4	188,346	73,647	39.1%	114,699	60.9%	9,265	4,761	51.4%	4,504	48.6%
2014	206,767	4.6%	86.2	196,722	77,334	39.3%	119,388	60.7%	10,045	5,130	51.1%	4,915	48.9%
2015	199,776	-3.4%	82.3	189,956	73,499	38.7%	116,457	61.3%	9,820	4,860	49.5%	4,960	50.5%
2016	175,967	-11.9%	71.7	167,488	57,815	34.5%	109,673	65.5%	8,479	3,807	44.9%	4,672	55.1%
2017	167,476	-4.8%	67.5	159,259	57,723	36.2%	101,536	63.8%	8,217	3,627	44.1%	4,590	55.9%
2018	165,213	-1.4%	65.9	157,022	57,196	36.4%	99,826	63.6%	8,191	3,457	42.2%	4,734	57.8%
2019	171,738	3.9%	67.8	163,121	60,066	36.8%	103,055	63.2%	8,617	3,777	43.8%	4,840	56.2%
2020	186,146	8.4%	72.8	176,266	72,239	41.0%	104,027	59.0%	9,880	4,942	50.0%	4,938	50.0%
2021	193,717	4.1%	75.1	183,279	74,164	40.5%	109,115	59.5%	10,438	5,346	51.2%	5,092	48.8%

¹ People deprived of their liberty from both state and federal penitentiary centers were included.

² Calculation made based on CONAPO data.

Source: Own elaboration based on SSPC data | @mexevalua.



Table 63. Population Deprived of Liberty for Crimes of Federal Jurisdiction

Year	Total number of people deprived of their liberty ¹	Annual variation	Rate per 100 thousand inhabitants ²	Total number of men deprived of their liberty	Total men prosecuted	Percentage of men prosecuted	Total convicted men	Percentage of convicted men	Total number of women deprived of their liberty	Total women prosecuted	Percentage of women prosecuted	Total convicted women	Percentage of convicted women
2012	49,427	NA	21.13	46,341	23,084	49.8%	23,257	50.2%	3,086	1,717	55.6%	1,369	44.4%
2013	48,723	-1.4%	20.57	45,627	23,375	51.2%	22,252	48.8%	3,096	1,806	58.3%	1,290	41.7%
2014	48,871	0.3%	20.37	45,716	23,000	50.3%	22,716	49.7%	3,155	1,831	58.0%	1,324	42.0%
2015	47,712	-2.4%	19.66	44,485	22,481	50.5%	22,004	49.5%	3,227	1,900	58.9%	1,327	41.1%
2016	41,901	-12.2%	17.07	39,182	19,348	49.4%	19,834	50.6%	2,719	1,609	59.2%	1,110	40.8%
2017	37,141	-11.4%	14.97	34,764	16,175	46.5%	18,589	53.5%	2,377	1,394	58.6%	983	41.4%
2018	32,775	-11.8%	13.08	30,750	13,269	43.2%	17,481	56.8%	2,025	1,108	54.7%	917	45.3%
2019	29,198	-10.9%	11.53	27,357	10,493	38.4%	16,864	61.6%	1,841	951	51.7%	890	48.3%
2020	28,085	-3.8%	10.99	26,126	10,834	41.5%	15,292	58.5%	1,959	1,115	56.9%	844	43.1%
2021	28,652	2.0%	11.11	26,610	11,841	44.5%	14,769	55.5%	2,042	1,223	59.9%	819	40.1%

¹ People deprived of their liberty from both state and federal penitentiary centers were included. ² Calculation made based on CONAPO data.

Table 64. Penitentiary Statistical Information by State

Year	State	Total number of men deprived of their liberty	Total men prosecuted	Percentage of men prosecuted	Total convicted men	Percentage of convicted men	Total number of women deprived of their liberty	Total women prosecuted	Percentage of women prosecuted	Total convicted women	Percentage of convicted women
2021	Aguascalientes	1,893	743	39.2%	1,150	60.8%	132	63	47.7%	69	52.3%
2021	Baja California	12,187	5,990	49.2%	6,197	50.8%	660	383	58.0%	277	42.0%
2021	Baja California Sur	1,149	533	46.4%	616	53.6%	39	30	76.9%	9	23.1%
2021	Campeche	1,143	306	26.8%	837	73.2%	40	20	50.0%	20	50.0%
2021	Coahuila	3,510	1,775	50.6%	1,735	49.4%	209	124	59.3%	85	40.7%
2021	Colima	1,209	487	40.3%	722	59.7%	63	38	60.3%	25	39.7%
2021	Chiapas	4,474	2,558	57.2%	1,916	42.8%	208	137	65.9%	71	34.1%
2021	Chihuahua	8,335	3,175	38.1%	5,160	61.9%	544	254	46.7%	290	53.3%
2021	Mexico City	24,277	6,773	27.9%	17,504	72.1%	1,481	560	37.8%	921	62.2%
2021	Durango	3,677	1,714	46.6%	1,963	53.4%	267	158	59.2%	109	40.8%
2021	Guanajuato	6,929	2,527	36.5%	4,402	63.5%	315	155	49.2%	160	50.8%
2021	Guerrero	3,999	1,505	37.6%	2,494	62.4%	245	112	45.7%	133	54.3%
2021	Hidalgo	4,393	1,520	34.6%	2,873	65.4%	339	127	37.5%	212	62.5%
2021	Jalisco	12,661	8,229	65.0%	4,432	35.0%	583	362	62.1%	221	37.9%
2021	State of Mexico	31,782	9,730	30.6%	22,052	69.4%	2,136	939	44.0%	1,197	56.0%
2021	Michoacán	5,714	3,404	59.6%	2,310	40.4%	319	250	78.4%	69	21.6%
2021	Morelos	3,550	1,215	34.2%	2,335	65.8%	301	145	48.2%	156	51.8%
2021	Nayarit	1,995	793	39.7%	1,202	60.3%	128	62	48.4%	66	51.6%
2021	Nuevo León	8,646	2,983	34.5%	5,663	65.5%	461	219	47.5%	242	52.5%
2021	Oaxaca	3,916	2,302	58.8%	1,614	41.2%	176	141	80.1%	35	19.9%
2021	Puebla	8,095	4,572	56.5%	3,523	43.5%	658	431	65.5%	227	34.5%
2021	Querétaro	2,749	690	25.1%	2,059	74.9%	169	52	30.8%	117	69.2%
2021	Quintana Roo	3,227	1,778	55.1%	1,449	44.9%	161	118	73.3%	43	26.7%
2021	San Luis Potosí	2,420	1,398	57.8%	1,022	42.2%	124	78	62.9%	46	37.1%
2021	Sinaloa	4,218	1,327	31.5%	2,891	68.5%	157	52	33.1%	105	66.9%
2021	Sonora	9,360	1,757	29.5%	6,603	70.5%	564	318	56.4%	246	43.6%
2021	Tabasco	4,190	1,497	35.7%	2,693	64.3%	204	128	62.7%	76	37.3%
2021	Tamaulipas	3,823	1,285	33.6%	2,538	66.4%	236	125	53.0%	111	47.0%
2021	Tlaxcala	894	626	70.0%	268	30.0%	85	72	84.7%	13	15.3%
2021	Veracruz	6,746	4,065	60.3%	2,681	39.7%	437	301	68.9%	136	31.1%
2021	Yucatán	1,329	342	25.7%	987	74.3%	47	19	40.4%	28	59.6%
2021	Zacatecas	2,116	779	36.8%	1,337	63.2%	215	110	51.2%	105	48.8%

Source: Own elaboration based on SSPC data | @mexevalua.



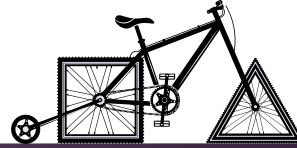
Secondly, we observe that, **although the percentage of determinations by prosecutors increased compared to the previous year, it did so under modalities such as temporary filing and the non-exercise of criminal proceedings**, determinations that may well work as incentives to reduce workload, but do not give an effective response to a case.

Thirdly, it is still cause of concern the fact that, as the type of determination of the investigations is a power of the prosecutors, without a criminal prosecution policy that defines the criteria for prioritizing the criminal phenomena, **these determinations are made by individual, subjective, heterogeneous and non-transparent criteria**. Similarly, the lack of a public policy approach, with clear, continuous and transparent rules for all the operators involved, means that the police continue to be, at least in practice, the ones in charge of determining the priorities for pursuing the crime in the prosecutor's office. Therefore, **investigation efforts are focused on the casuistry and not on the criminal phenomena that most affect the population**.

Fourthly, we see that the previous points have an impact on the operation of the criminal justice system as a whole, which **makes little use of risk assessments**

provided by the Precautionary Measures Units, institutions that must increase their information records per supervised person to be able to measure their effectiveness and operation before the prosecution and judicial authority. This is important because it can cause magistrate judges to have more incentives to impose precautionary custodial measures without a prior risk analysis, especially in a context where the role and involvement of legal counseling personnel for victims and Defenders are still scarce in crucial stages of the criminal process. Something similar happens with those cases that are likely to be channeled to alternative dispute resolution mechanisms from the prosecution headquarters, where as the involvement of victims' legal advisory personnel and public defenders grows, the expectations of obtaining higher rates of both referral and resolution, and a more strategic prosecution also grows.

Finally, **the significant increase in the population deprived of liberty without sentence is worrying**. This increase stems from the legal reform of pretrial detention of a mandatory nature, but it should also be noted that it is the prosecutor's offices that suggest the type of precautionary measure and those that are under-taking advantage of the risk analysis that would result in an exceptional use of the deprivation of liberty.



CHAPTER 5

Impunity Index

For the fourth consecutive year, we present an approximation of the level of effectiveness of the criminal justice system. For this, we have sought to strengthen the construction of an index that shows the level of effective response that justice institutions provide to the cases they hear. We refer to the *measurement of direct impunity*. That is to say, **the one that implies lack of attention, investigation and/or resolution of the cases known by the authority**, either due to not having reached a restitution agreement, not being referred to any early release, or finding themselves without a sentence.

Although impunity is present in all societies, it is true that its degree of occurrence and the conditions it fosters make the difference between a robust rule of law and one that is not. Effective justice systems manage to establish differentiated response mechanisms to criminal disputes, depressurize the system by focusing its resources on those phenomena considered to be a priority, and offer conditions of certainty to society. Deficient or unstructured penal systems, on the other hand, are incapable of efficiently and strategically managing the crimes they must deal with and solve.

Under this assumption, our Impunity Index is an **indicator of the degree of effectiveness or institutional inability to deal with criminal conflict,**

give a forceful response to the phenomena that affect society and to favor lawfulness conditions. Additionally, it can be **a path that sheds light on the sociopolitical use of the penal system when the analysis is done at the crime or criminal phenomenon level**, by appreciating the sensitivity and response offered by the system itself, or the indifference and inattention associated with it.

For our approach to the degree of impunity we have raised two fundamental premises:

- *Justice cannot be understood as the equivalence of a punishment.*

We have sought to overcome that punitive perspective to focus on one in which justice is understood from the truth and the restitution of the damage. Therefore, depending on each type of criminal conflict, the Impunity Index provides for various possible resolutions. This is a clear difference with respect to other measurements that consider convictions as the only form of justice.

- *Prosecutors need to establish differentiated strategies and responses to the conflicts they are familiar with.*

The accusatory criminal justice system provides for the possibility of seeking attention and resolution according to the type of case being addressed, so that a restorative approach that does not wear down the system is privileged, in order to take advantage of investigation and litigation resources in another types of cases, and may be those with the greatest impact and relevance.

Likewise, within the framework of this evaluation, the analysis on impunity should also give rise to reflections on the practices, policies and/or tools that are being implemented in light of their results, as well as those cases in which their implementation is required to improve performance.

Brief Methodological Description

It is necessary to reaffirm that the scope of this measurement corresponds to the degree of response only of those cases that were known by the authorities; therefore, it does not contemplate among its dimensions the inclusion of the so-called 'dark figure', that is, those crimes that were not reported.

We take as a reference the impunity measurement system created by the International Commission against Impunity in Guatemala (CICIG)., a calculation that we deem correct if we consider that the accusatory criminal system provides for different solutions and/or responses to conflicts; thus, the sentences that have emerged from the criminal action are not exclusively measured, but the cases in which an agreement was reached between the parties, the offended party's forgiveness or another type of response are also considered as favorable. Based on it, we designed an adequate index to measure impunity in the accusatory criminal justice system in the Mexican context, considering the various exits, determinations or forms of satisfactory termination provided for in the National Code of Criminal Procedures (CNPP).

In the first year of the calculation (2018 edition) we used as a source the data collected by the National Censuses of State Procurement and Administration of Justice for local level, and the information provided by the authorities themselves for federal level. However, after contemplating the changes implemented in the National Census of Justice Procurement –same ones that we documented in past editions–, we considered that it was necessary to use another source of information for the following editions (2019 and 2020). For this edition, the construction of the Index remained unchanged compared with the 2020 edition –published in 2021–, that is, we considered as a source the information

Formula, Variables and Main Metadata

Impunity Index Formula 2021			
Impunity = $\frac{1 - \text{Alternative means} + \text{Early releases} + \text{Sentences}}{\text{Referred cases} - \text{dismissals}}$			
Interpretation	The higher the percentage, it is considered that there is greater impunity, since it means that the system failed to offer a satisfactory response to a greater number of cases. The calculation refers to "direct impunity", understood as the ability to respond effectively to criminal acts that are known and prosecuted by the authorities. The calculation is based on the logic of the adversarial system, which is why it accepts as satisfactory answers not only the sentences, but also other possible solutions foreseen by the criminal justice system (alternate and anticipated solutions). Likewise, cases whose resolution is not attributable to the justice system are excluded from the universe to be analyzed or are dismissed, because they do not constitute criminal acts or because they are not the competence of the authority		
Information Sources	Monitoring and Evaluation Model (SEGOB)		
Temporary coverage	Year 2021	Geographic coverage	National and by state

provided by the Monitoring and Evaluation Model (MES), now administered by the Ministry of the Interior.

This way, with this edition it is possible to make a comparison between the results for 2019 and 2020. As can be seen later, the national average for impunity decreased, which represents a slight improvement over its previous levels, without this being considered a representative change.

Likewise, the results of the 2021 Impunity Index suggest a reorganization of the states compared to the previous edition; that is to say, those states that presented a better performance the previous year are not necessarily those that show the best results in the current edition.

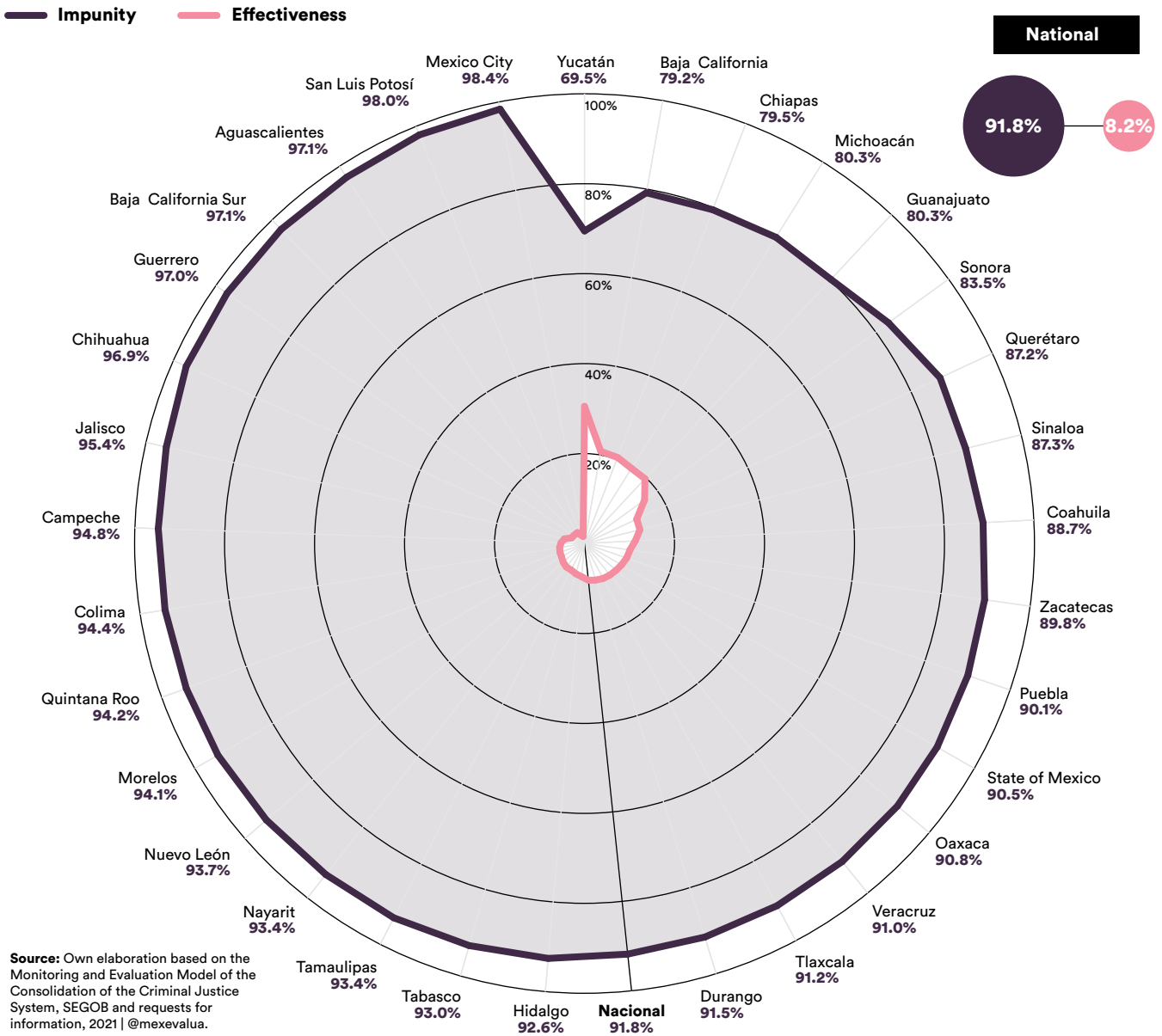
It is necessary to analyze these changes based on public policies, criminological policies, management models and related practices. The decrease in the degree of impunity can be associated with various factors: specific impacts of the health contingency, suspension of deadlines or, simply, lack of prioritization instruments that facilitate the system depressurization. In any case, it is necessary to carefully study those states that presented notable improvements from one year to the next.

State Impunity Index 2021

The 2021 Impunity Index reveals that, in general terms, the criminal justice system still presents significant levels of impunity. **All in all, the national average was 91.8%, lower than that reflected for 2020, which was 94.8%.**



Graph 110. Impunity Index and Degree of Effectiveness of the Criminal Justice System 2021



Source: Own elaboration based on the Monitoring and Evaluation Model of the Consolidation of the Criminal Justice System, SEGOB and requests for information, 2021 | @mexevalua.

The states that presented the lowest levels of impunity still reached levels between 69% and 80%, while there are 23 states with levels above 90% and 19 that reached or exceed the national average, which is representative of the enormous challenge to face at local level.

The states with lower levels of impunity and/or higher levels of effectiveness are Yucatán, with 69.5%; Baja California, with 79.2%; Chiapas, with 79.5%; Michoacán and Guanajuato, with 80.3%, and Sonora, with 83.5%. Meanwhile, the states with the highest levels are Mexico City, with 98.4%; San Luis Potosí, with 98%; Baja

California Sur and Aguascalientes, with 97.1%; Guerrero, with 97%, and Chihuahua, with 96.9%.

In this way we can identify which are the states that are achieving less congestion in the operation, and using the various outputs provided to give an effective response to the cases they know about. However, we stress that a much more disaggregated and qualitative analysis is required in order to know if the answers given to the cases are adequate, if the mechanisms provided by the system are being used correctly and if tools of prioritization are being used.



Beyond the national impunity level and the specific results obtained by states, the states that presented the greatest changes, either in a positive or negative sense, draw attention (Table 69).

In addition to the most noticeable changes, we propose to observe (Graph 111) the behavior of the Impunity Index for the states over time.

The 2021 Impunity Index shows us reductions in the impunity level in 84% of the states, some in a greater proportion than others, but which in short

Table 69. States with the Greatest Changes from 2020 to 2021, According to the Reason and Direction of the Change

	State	Impunity Index 2020	Impunity Index 2021	Change
Improved	Yucatán	85.3%	69.5%	-15.8%
	Chiapas	92.7%	79.5%	-13.3%
	Puebla	98.6%	90.1%	-8.5%
Got Worse	Zacatecas	76.6%	89.8%	13.2%
	Tlaxcala	86%	91.2%	5.2%

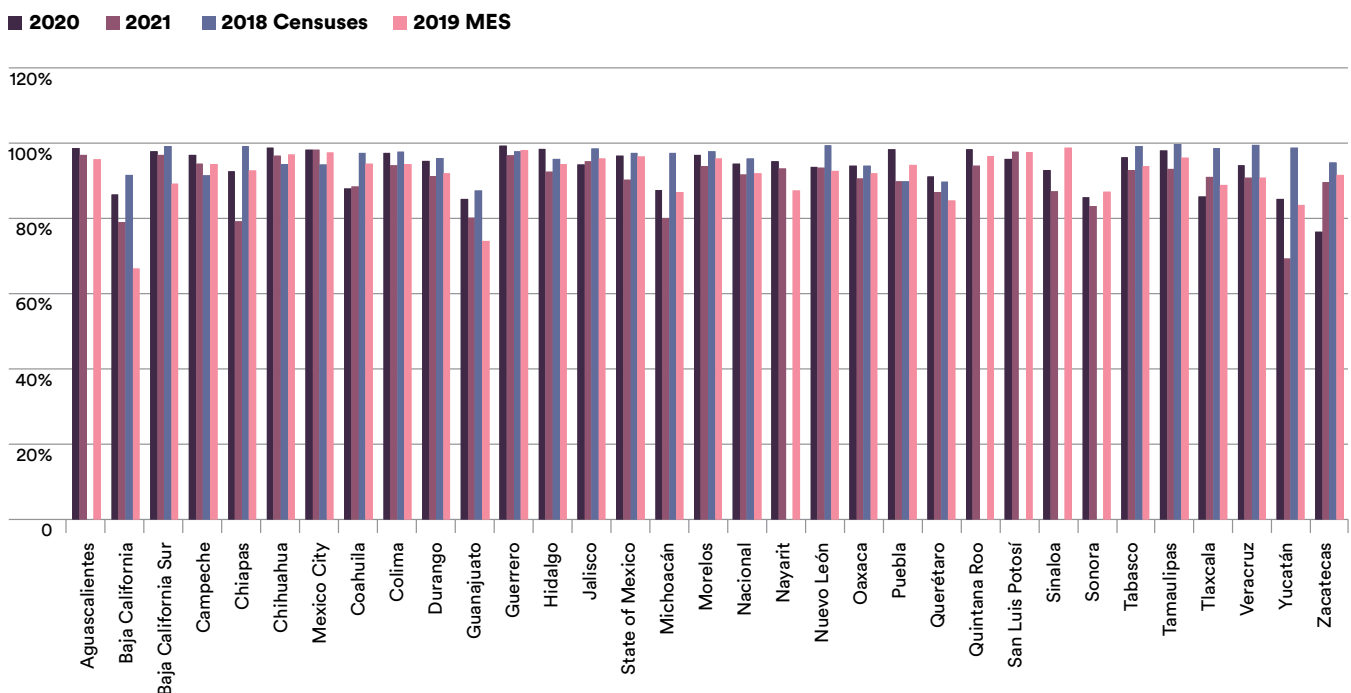
justify the reduction of three percentage points in the national impunity level.

This result, to a large extent, is due to the achievement of restitution agreements in prosecution headquarters and other early conclusions that manage to provide an effective response to the cases. However, the persistently high level of national impunity deserves deep reflection as well as the efforts to strengthen the criminal justice system.

Cross-reference of the Impunity Index of the Criminal Justice System 2021 with the National Ranking of Progress in the Consolidation of the Criminal Justice System 2021

It would be expected that a greater level of progress in the conditions for the operation of the criminal justice system would be related to a greater institutional capacity to respond to citizen demands and, therefore, have a lower level of impunity or greater effectiveness. However, in the 2021 Ranking, whose standard is 1,200 points, a remarkably high lag is observed, since the average is placed at a level of 540 points. This reflects

Graph 111. Comparison of the Impunity Index, by Year



Source: Own elaboration based on the Monitoring and Evaluation Model (MES) of the Consolidation of the Criminal Justice System, SEGOB and information requests, 2021, 2020, 2019 and for the 2018 calculation, National Censuses of Procurement and Administration of Justice 2019, Inegi | @mexevalua.



that the inertial trend observed in the system in previous years has not been broken, with states that are still far from having the basic conditions for operation.

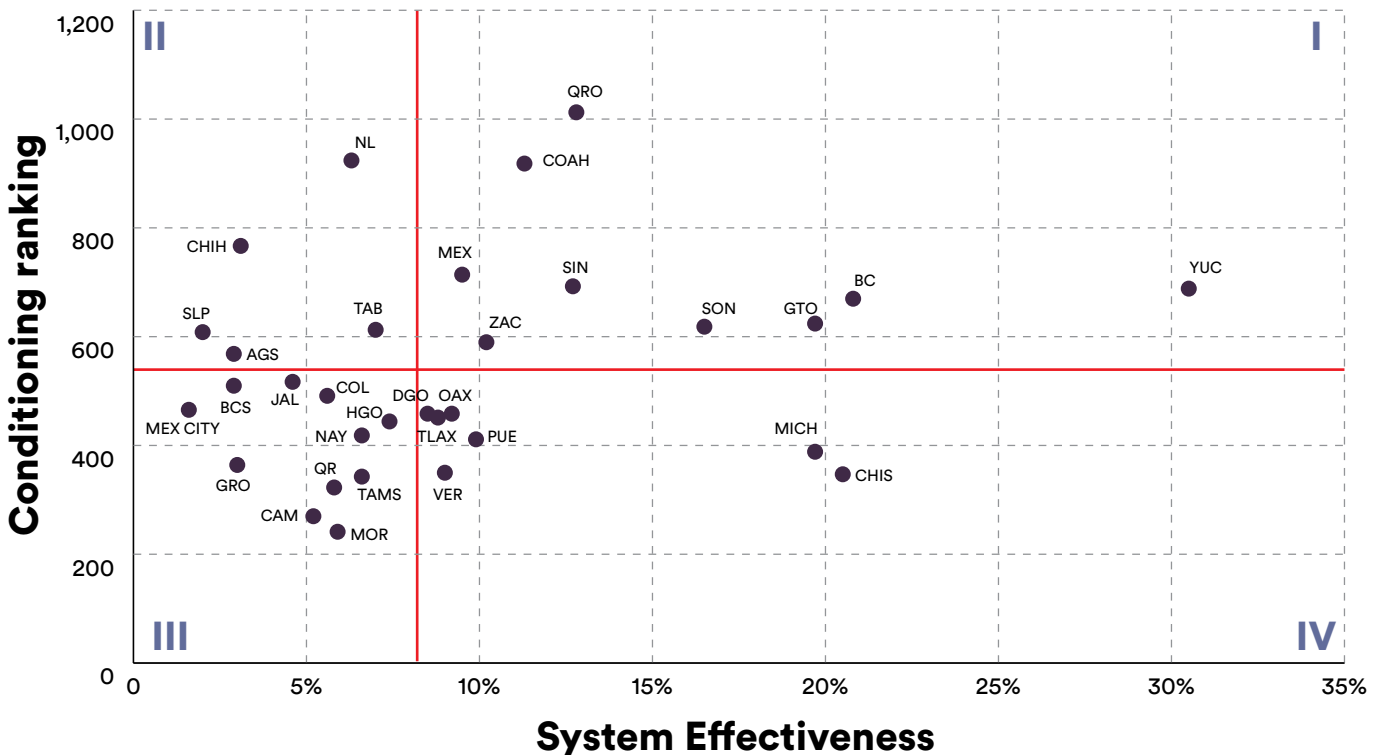
We cross-referenced the 2021 Ranking with the 2021 Impunity Index to identify whether the following relationship is confirmed: *the greater progress in the conditions of public policy focused on the consolidation of the system, the greater the effectiveness.* We propose the crossing on these four quadrants.

Quadrant II	Quadrant I
States with fewer operating conditions, but with an effective operation.	States with greater operating conditions and greater effectiveness.
Quadrant III	Quadrant IV
States with lower operating conditions and with a high level of impunity.	States with greater operating conditions and with a high level of impunity.

We identified states such as Querétaro, Coahuila, Baja California, Yucatán, Sonora and Guanajuato, located in the upper right quadrant (Quadrant I), whose progress in terms of operating conditions can be related to better operating results. However, in that same quadrant there are states such as Zacatecas, with a low level of conditions for the operation, but with high effectiveness. For its part, in the upper left quadrant (Quadrant II) we locate states that, having basic operating conditions, are not achieving a better response to criminal conflicts; such is the case of Tabasco, Aguascalientes and San Luis Potosí.

Eleven states, as well as the national average, are located in the lower left quadrant (Quadrant III); that is to say, they present insufficient advances in the conditions for the operation and, simultaneously, their performance in terms of effectiveness is deficient. We are talking, for example, of Morelos, Campeche, Guerrero, and Quintana Roo. Finally, in the lower right quadrant (Quadrant IV) paradigmatic cases are identified, with better operating conditions (presumably) but which at the same time are providing low effective responses; the cases of Oaxaca, Durango and Michoacán.

Graph 112. Cross-reference of Effectiveness 2021 and Ranking of Progress in the Consolidation of the Criminal Justice System 2021



Source: Own elaboration based on the Monitoring and Evaluation Model of the Consolidation of the Criminal Justice System, SEGOB and information requests, 2021; as well as publicly available information | @mexevalua.



State Impunity Index 2021 in Specific Crimes

Given that it is extremely important to have precise elements that support the analysis and understanding of reality, we believe it is necessary to have measurements of impunity by type of crime or phenomenon, in order to promote *ad hoc* reflections for the criminal phenomena faced by the system.

It must be said that we have had this purpose since the first publication of the Impunity Index; however, the quality of the information when it is analyzed by type of crime had not made it possible to build a calculation with these scopes. Thus, in this edition of *Hallazgos* the first approach to impunity for type of crime is submitted, with full acknowledgement that impunity does not mean the same thing in every case.

For example, while for a simple robbery case it is possible to think of damage restitution as an effective conclusion, this is not the case for a case of intentional homicide, femicide or disappearance.

In such a way that each of the crimes analyzed presents particularities in the possible and effective forms of conclusion from the perspective of the accusatory criminal justice system, and under the understanding of a justice that transcends the act of punishment.

The main objective of these measurements is to have a more grounded and clear picture of the response that the system is giving to the crimes it knows about, which allows a more in-depth approach. This analysis can make it possible to identify practices that are managing to decongest the system, or traits that may be perverting the use of justice.

In short, these approximations (which, we reiterate, are the starting point for a new type of analysis of impunity) seek to understand explicit or implicit trends and policies, both in prosecution headquarters and courts, to the different phenomena and guide the discussion around its relevance and even legitimacy.

To facilitate understanding of these measurements we present Table 70, which establishes the outputs provided and applicable to each type of crime analyzed, according to the CNPP.

It is worth mentioning that these calculations use as a source of information the one collected directly by México Evalúa. They are presented for those states whose information allowed the construction and analysis; that is, those with incomplete or deficient information are not presented in this edition.

In this sense, the construction logic is similar to the Global Impunity Index. As described in the metadata table, it starts from the universe of cases for a specific crime, which were processed in the criminal justice system and which were in force during 2021 (regardless of the date they started), as well as the conclusions that have taken place during that year. This allows us to know the degree of effective response that is given to each type of crime and to infer if the prioritization and criminal investigation policies are reflected in practice.

Formula, Variables and Main Metadata

Impunity Index Formula by Crime 2021			
$\text{Impunity} = \frac{1 - \text{Alternative means} + \text{Early releases} + \text{Sentences}}{\text{Referred cases} - \text{dismissals}}$			
<p>*The formula varies depending on the type of conclusions and/or outputs from each type of crime. For this, it is necessary to take into account Table 70, which shows the origin according to the National Code of Criminal Procedures</p>			
Interpretation	<p>The higher the percentage, it is considered that there is greater impunity, since it means that the system failed to offer a satisfactory response to a greater number of cases. The calculation refers to "direct impunity", understood as the ability to respond effectively to criminal acts that are known and prosecuted by the authorities. The calculation is based on the logic of the adversarial system, which is why it accepts as satisfactory answers not only the sentences, but also other possible solutions foreseen by the criminal justice system (alternate and anticipated solutions).</p> <p>In this sense, all cases corresponding to a specific crime are considered, which were in force during 2021, regardless of the year in which they began. Likewise, all the conclusions that have taken place from January 1 to December 31, 2021, whether in prosecution headquarters or courts, were considered.</p>		
Information Sources	<p>Information collected by México Evalúa through information requests to all the Attorney General's Offices of Justice and the Superior Courts of Justice of the states</p>		
Temporary coverage	Year 2021	Geographic coverage	National and by state



Table 70. Forms of Conclusion Provided for in the CNPP, by Type of Crime

	Alternate solutions		Early Termination Forms	Investigation Termination Forms			
	Restitution agreement (art 186 CNPP)	Conditional suspension of criminal proceedings (191 CNPP)	Summary proceedings (201 CNPP)	Refrain from investigating (253 CNPP)	Temporary file (254 CNPP)	No exercise of the action for updated grounds for dismissal (255 and 327 CNPP)	Prosecutorial Discretion (256 CNPP)
Homicide (qualified)	X Does not proceed, as it is an intentional crime and as established in the CNPP (art. 187)	X Does not proceed as established in the CNPP (art 192)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	X Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)
Femicide	X Does not proceed	X Does not proceed due to the penalty (art 192 CNPP)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	X Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)
Kidnapping	X Does not proceed because it is prosecuted ex officio (art. 187 CNPP and art. 3 LGPSS) and it is only appropriate for culpable crimes	X Does not proceed due to the penalty (art 192 CNPP)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	X Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)
Extortion	X It is prosecuted ex officio and therefore no restitution agreement is appropriate	✓ It does proceed as long as the victim does not oppose (art 192 CNPP), since the arithmetic mean of the sentence is 5 years (and no more)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	X Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)
Simple robbery	✓ Yes, it proceeds because it is a patrimonial crime without violence (art. 187 CNPP)	✓ When the value of the stolen does not exceed one hundred times the salary; up to 2 years in prison (370 CPF) – Arithmetic mean does not exceed 5 years, so conditional suspension of criminal proceedings is applicable (art 192 CNPP), as long as the victim does not oppose	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	It would be necessary to consider the less seriousness of the crime, the workload and the prioritization of cases	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	✓ It does proceed when the value of the stolen property does not exceed one hundred times the salary; up to 2 years in prison (256 CNPP)

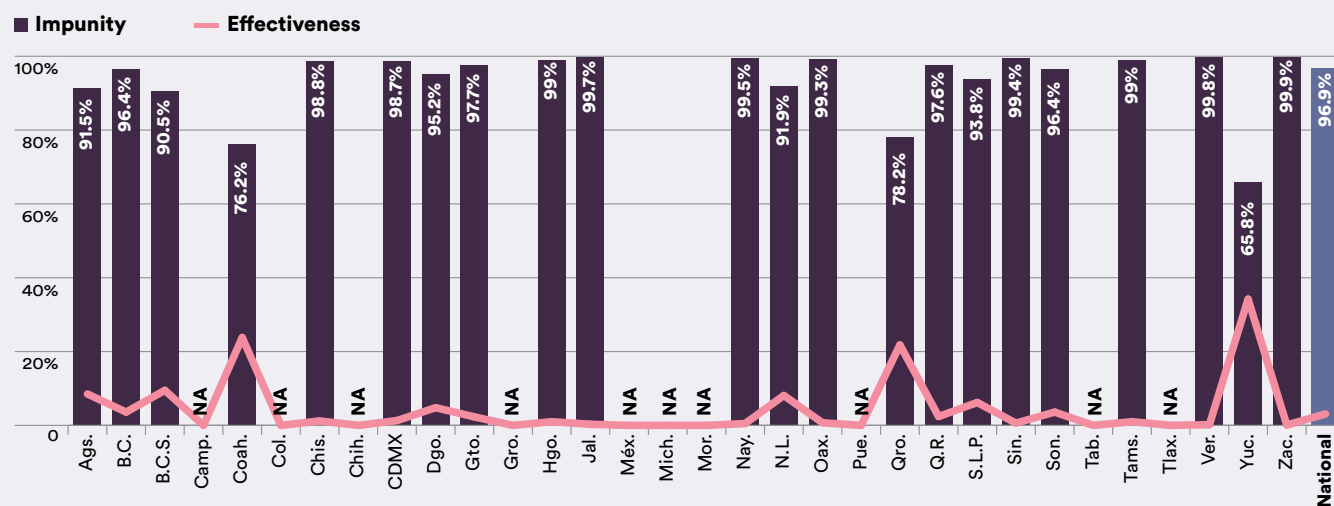


	Alternate solutions		Early Termination Forms	Investigation Termination Forms			
	Restitution agreement (art 186 CNPP)	Conditional suspension of criminal proceedings (191 CNPP)	Summary proceedings (201 CNPP)	Refrain from investigating (253 CNPP)	Temporary file (254 CNPP)	No exercise of the action for updated grounds for dismissal (255 and 327 CNPP)	Prosecutorial Discretion (256 CNPP)
		<p>✓ When it exceeds one hundred times the salary, but not five hundred: 2 to 4 years in prison (370 CPF) – Arithmetic mean does not exceed 5 years, so conditional suspension of criminal proceedings is applicable (art 192 CNPP), as long as the victim does not oppose</p> <p>✗ When it exceeds five hundred times the salary: 4 to 10 years in prison (370 CPF) – arithmetic mean exceeds 5 years, then conditional suspension of criminal proceedings does not proceed (art 192 CNPP)</p>					<p>✓ It does proceed when it exceeds one hundred times the salary, but not five hundred: 2 to 4 years in prison (256 CNPP)</p>
Rape and Equated Rape	✗ Does not proceed as establish in the CNPP (187)	✗ Does not proceed due to the penalty (art 192 CNPP)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	✗ Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)
Domestic Violence	✗ Does not proceed as establish in the CNPP(187)	✓ Conditional suspension of criminal proceedings is applicable (the arithmetic mean of the sentence does not reach 5 years)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	✓ It proceeds because the sentence does not exceed 5 years (256 CNPP)
Enforced disappearance	✗ Restitution agreement does not proceed because it is pursued ex officio (art. 187 CNPP and 13 LGDFDP)	✗ Does not proceed due to the penalty (art 192 CNPP)	✓ Applicable in all crimes provided that the requirements established in article 201 CNPP are met	The law admits it, but the decision must be founded and motivated, and there should be a correspondence with reality (that conditions established in the law are actually updated)	The law admits it but it could be questionable if the file responds to an inactivity of the prosecutor and/or the police	The dismissal for updating the grounds in section V (art. 327) (not having elements to support an accusation) could be questionable if the prosecutor did not carry out a quality investigation	✗ Does not proceed because it is punishable by deprivation of liberty with a maximum sentence of more than 5 years (256 CNPP)



Intentional Homicide Impunity Index 2021

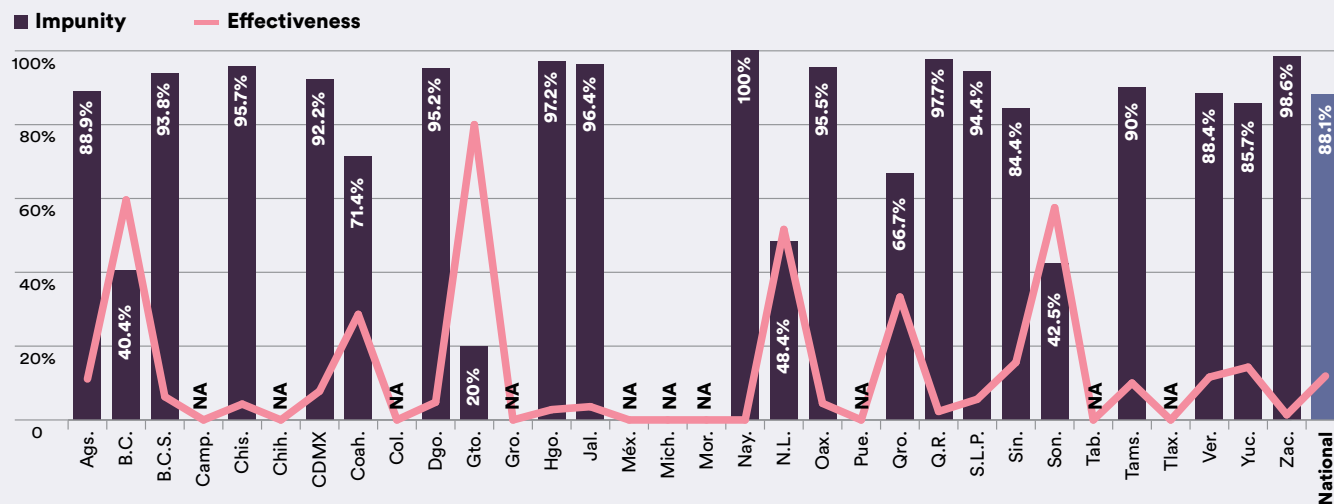
The average **national impunity in intentional homicide by 2021 amounts to 96.9%**. The states with the lowest impunity for intentional homicide are Yucatán (65.8%), Coahuila (76.2%) and Querétaro (78.2%), while the states with the highest impunity are Zacatecas (99.9%), Veracruz (99.8%) and Jalisco (99.7%). It should be noted that the states with less impunity achieved these levels thanks to the fact that they channeled the matters through summary proceedings, resulting in a conviction.



Femicide Impunity Index 2021

The average **national impunity in femicide by 2021 amounts to 88.1%**. The states with the lowest impunity in femicide are Guanajuato (20%), Baja California (40.4%) and Sonora (42.5%), while the states with the highest impunity are Nayarit (100%), Zacatecas (98.6%) and Quintana Roo (97.7%). The states with less impunity achieved these levels since they channeled the matters through an oral trial or summary proceedings resulting in a conviction, as well as, in some cases, by reaching the conditional suspension of criminal proceedings and the exercise of prosecutorial discretion.

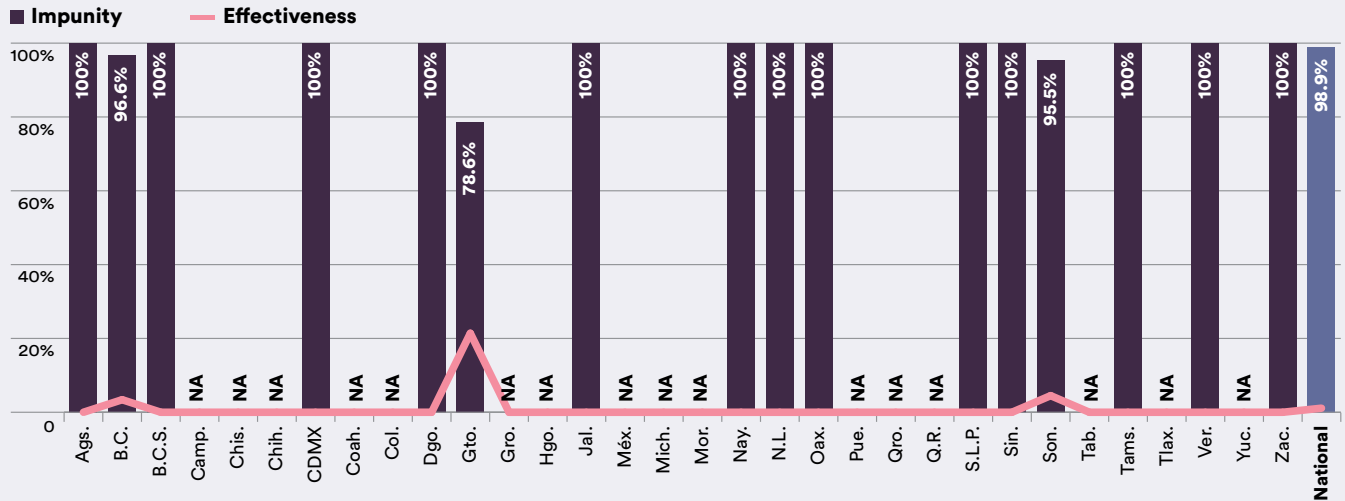
The levels significantly lower than the national spectrum of some states are striking, so we suggest taking them with reservation. The response that both Guanajuato and Querétaro are giving is also remarkable: their operation could represent a good practice in the prosecution of this crime.





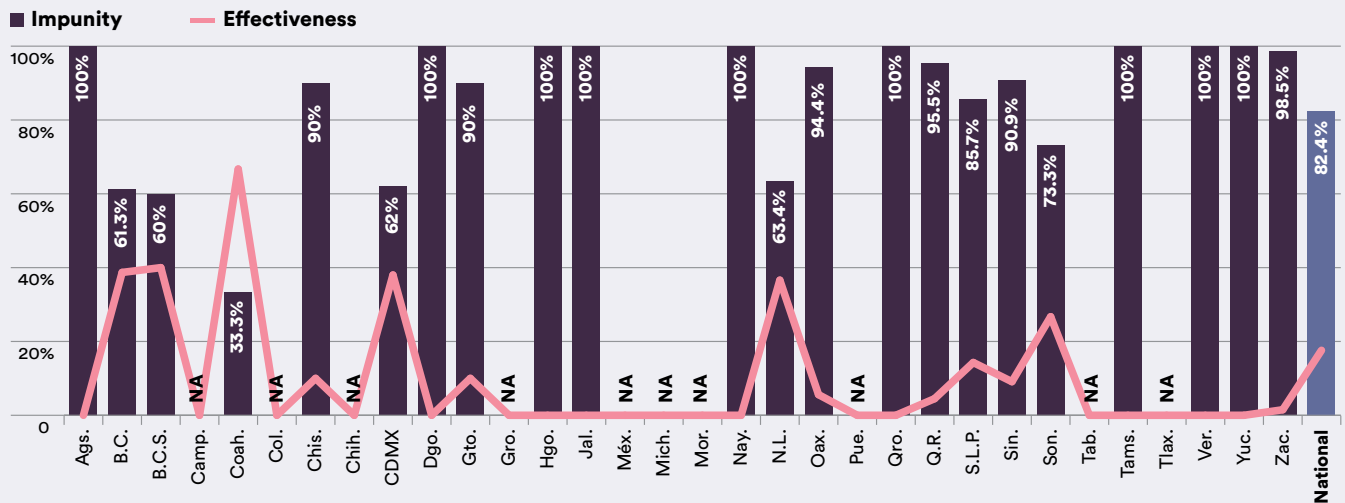
Enforced Disappearance Impunity Index 2021

The average **national impunity in enforced disappearance by 2021 amounts to 98.9%**. For this crime, all states achieve 100% impunity, with the exception of Sonora, Baja California, and Guanajuato, with impunity rates of 95.5%, 96.6%, and 78.6%, respectively.



Kidnapping Impunity Index 2021

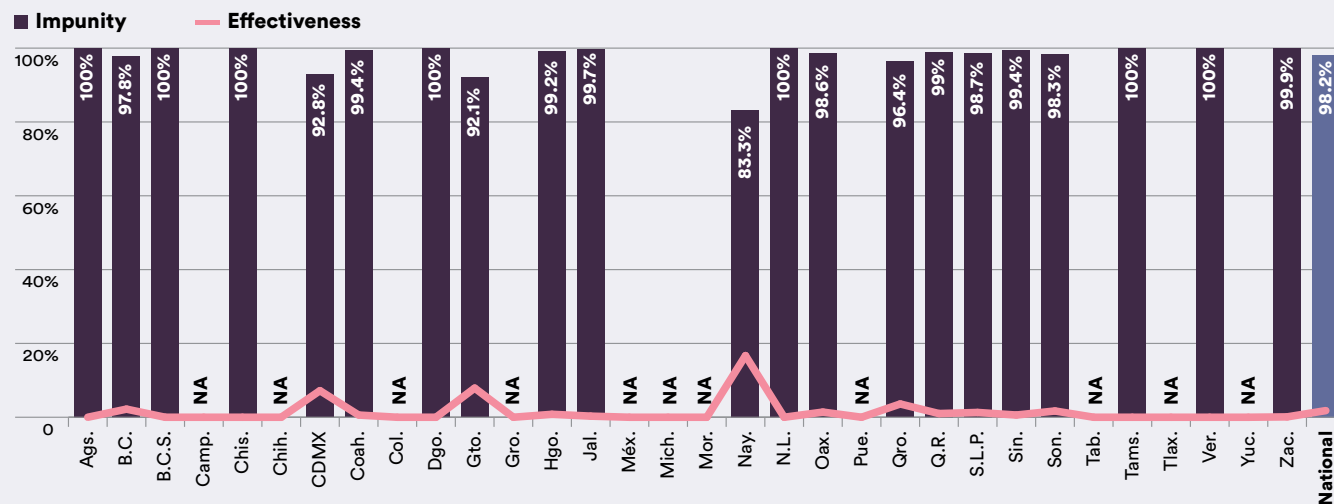
The average **national impunity in kidnapping by 2021 amounts to 82.4%**. The states with the least impunity in this crime are Coahuila (33.3%), Baja California Sur (60%), Baja California (61.3%), Mexico City (62%) and Nuevo León (63.4%) while nine other states reach 100%. For the calculation of the national average, we also consider it pertinent not to include the state of Coahuila, which presents a significantly lower level than the rest of the country. It should be noted that the states with less impunity achieved these levels by channeling matters through oral proceedings or summary proceedings resulting in a conviction.





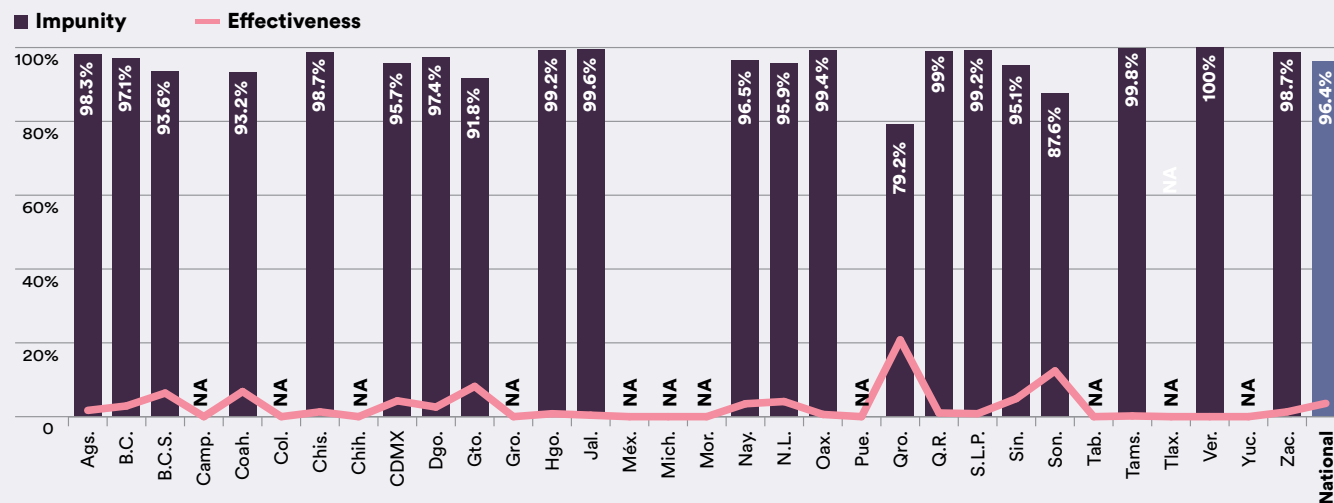
Extortion Impunity Index 2021

The average **national impunity in extortion by 2021 amounts to 98.2%**. Most states present levels of impunity of 100% or close to it. However, there is a case that stands out, Nayarit, which presents a level of impunity of 83.3%. The Nayarit case can be explained by the fact that four out of 24 cases were resolved through a summary proceeding, resulting in a conviction.



Rape Impunity Index 2021

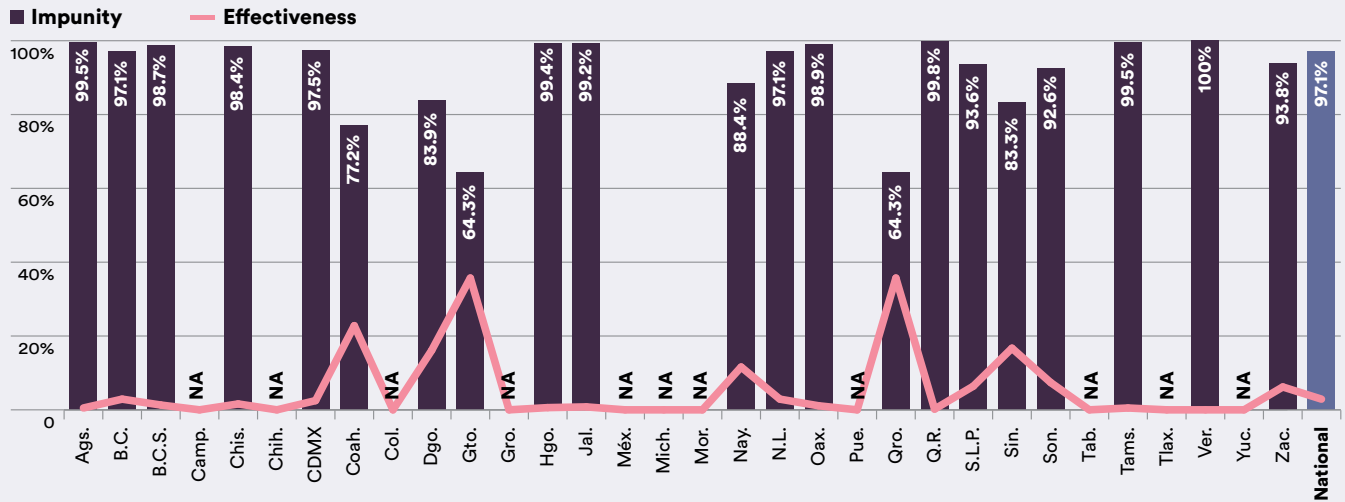
The average **national impunity in rape by 2021 amounts to 96.4%**. The state with the least impunity for this crime is Querétaro (79.2%), followed by Sonora (87.6%). Outside of them, practically all the states present an impunity higher than 90%. The main form of resolution of the cases was through the oral trial or summary proceeding resulting in a conviction, although there were also cases whose resolution came from the conditional suspension of criminal proceedings, mainly in the states of Nuevo León and Guanajuato.





Domestic Violence Impunity Index 2021

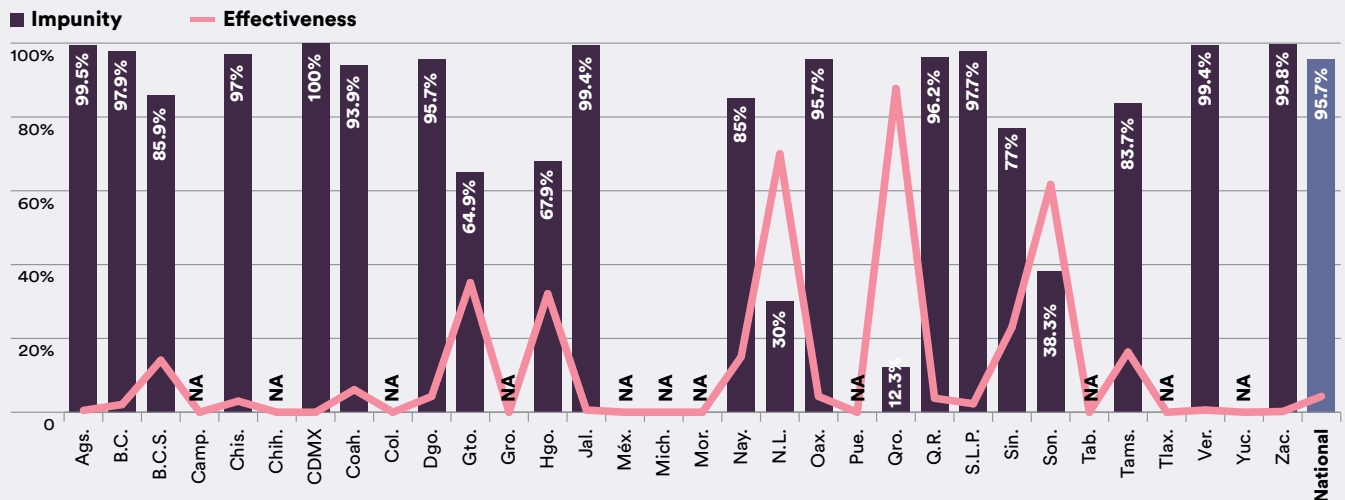
The average **national impunity in domestic violence by 2021 amounts to 97.1%**. The states with the least impunity for this crime are Guanajuato (64.3%) and Querétaro (64.3%), followed by Coahuila (77.2%), while the states with the highest impunity are Veracruz (100%), Quintana Roo (99.8%), Tamaulipas and Aguascalientes (99.5%) and Hidalgo (99.4%). The states with less impunity achieved these levels by channeling the cases through a summary proceeding resulting in a conviction, as well as by concluding them through conditional suspension of criminal proceedings.



Drug dealing Impunity Index 2021

The average **national impunity in drug dealing by 2021 amounts to 95.7%**. The states with the lowest impunity are Querétaro (12.3%), Nuevo León (30%) and Sonora (38.3%), while the states with the highest impunity are Mexico City (100%), Zacatecas (99.8%), Aguascalientes (99.5%) and Veracruz (99.4%).

The states with less impunity achieved these levels by channeling the cases through a summary proceeding resulting in a conviction, as well as by concluding them through conditional suspension of criminal proceedings and exercise of prosecutorial discretion. It is noteworthy that Nuevo León resolves a large part of these cases through oral proceedings, even when due to their nature they could be resolved through other less burdensome solutions for the system.

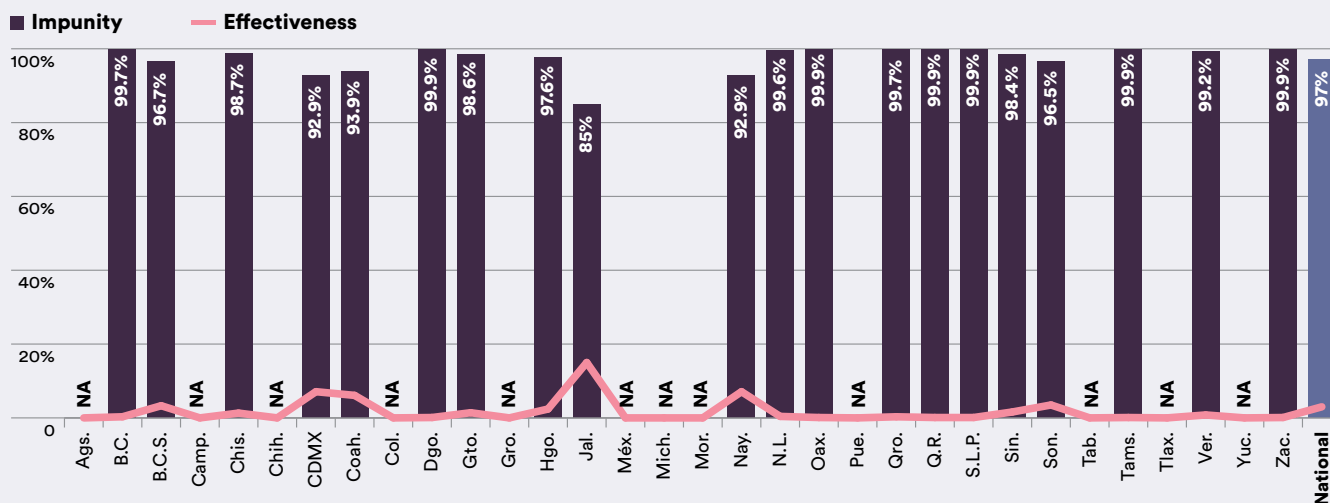




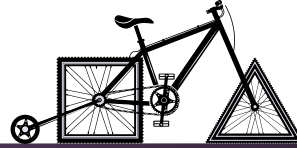
When we talk about drug dealing, it is necessary to warn about the **punitive approach** that is observed in its attention. We are observing cases of drug dealing in the form of possession; we are not dealing with cases of trade, much less supply. Nevertheless, **even when it is only about possession, the main form of resolution is conviction via summary proceedings, without sufficiently prioritizing the exercise of prosecutorial discretion or other solutions.**

Simple Robbery Impunity Index 2021

The average **national impunity in simple robbery by 2021 amounts to 97%**. The entity with the lowest impunity is Jalisco (85%), while the rest of the states exceed the threshold of 90%. Being a low-impact crime, it would be expected that institutions would not be exhausted in investigative efforts or that they would take full advantage of the use of alternative exits. The main exits that are granted to this crime are the exercise of prosecutorial discretion, followed by conditional suspension of criminal proceedings and summary proceedings, in some cases.



Source: Own elaboration based on the Evaluation and Monitoring Model of the Consolidation of the Criminal Justice System, SEGOB and information requests, 2021.



CHAPTER 6

Conclusions and Recommendations

We have detected and measured the withdrawal of federal authorities in tasks of articulating a comprehensive national policy to promote the criminal justice system. But this year we have also seen, in some states –Baja California Sur, Guanajuato, Nayarit and Coahuila–, the resurgence of already known coordination bodies whose mission is to consolidate penal reform, good news that adds to good practices (also from the point of view of coordination), such as the Cosmos model in Querétaro or the Ministry of Justice and Human Rights in the State of Mexico.

Those institutions were recovered in the years that followed 2016, when the implementation of the most important ‘justice revolution’ in recent years was formally concluded with the entry into force of the reforms to the criminal justice system at national level. During the time that these local institutions functioned as a coordinating entity within the states, and as points of dialogue with the then federal coordination instance (SETEC), beneficial interactions took place that are being resumed today, such as joint planning, the comprehensive monitoring and evaluation of the institutions and discussions on specific topics. These practices make us see that although the implementation of the system may have been ‘formally’ finished, **the need to concatenate**

processes, indicators, criteria and budgets for a results-oriented systemic operation will be permanent.

Of course: it should be mentioned that in some states the coordination through the state executive secretariats of public security has had limited results, as their focus is only on security and not fully on justice. What is observed, at most, is a certain coordination for the request of resources between the police, prosecutors and prison subsystem, but the judiciary, defenders and victim advisors are left out.

In that sense, in *Hallazgos 2021* we underline, and reiterate **the need to work to reduce the institutional asymmetry of local police, defenders, victims’ commissions**, which inevitably require the promotion of national public policies that allow them to be integrated as essential elements of the justice system.

On the other hand, we can conclude that at federal level the corresponding coordination body –**Justice Support Unit under the Ministry of the Interior**– is just, precisely, ‘support’, not coordination. **It does not have a vision of promoting public policies in the sector.** The most prominent spaces opened by this unit are the Justice Tables, a parallel mechanism to the justice system



aimed at resolving particular cases (whose starting point is requests made to the Presidency of the Republic), but are not a promotion of general public policies. That is, its scope is very limited, centralized in the Executive.

In addition, in the federal order of government there are also a series of omissions, such as the fact that there is no sectoral program or a special inter-institutional program for the prosecution of criminal justice, nor a plan or program for the prosecution of justice (which was carried out in previous governments). Another indicator that allows us to verify the importance that the current federal government gives, in comparison with the states, to security and justice system, is that while at state level, an average of 5.2% of the total spending is allocated to justice and 5.4% to security –national average of 10.6% allocated to these two aspects–, the federal government allocated only 2.2% to justice and 0.8% to security.

This situation allows us to infer that the issue of consolidating the criminal justice system, with a view to expanding access to justice in criminal matters, is not a priority on the current federal government's agenda. Moreover, we notice that **there is a need for meeting or articulation points at federal and state level, and among all the institutions involved:** police, prosecutors, defense and advocacy, Alternative Justice Centers, Women's Justice Centers, Precautionary Measures Units, judiciaries, victim counseling, witness protection units, Mechanisms for the Protection of Human Rights Defenders and Journalists, juvenile justice system and prison system, to name a few.

The contrast is notorious: in some states we were able to identify good practices in the issuance of **sectoral programs**, such as Baja California Sur, Coahuila, Hidalgo, Jalisco, Michoacán, Nuevo León, Querétaro, San Luis Potosí, and Sonora.

The foregoing finds continuity or reflection in the state Technical Coordination Index (ICTE). In it, the states with the highest score are precisely those that have coordinating bodies and sectoral plans or programs in justice matters: Querétaro (score of 100), State of Mexico (81.25), Baja California Sur (68.75), Coahuila (68.75).

On the other hand, in its role as a determining factor of the criminal justice system, information technologies constitute an important indicator of progress in the management of institutions. The fact that they have well-designed **information systems** means that they have mapped internal processes, that communication between operators can be fluid, that they can generate

data that feed indicators, and that they have the possibility of intercommunicating with other institutions and users through agile technological means.

In this regard, at federal level there is a clear public policy, in the sense of promoting in all sectors (not only the justice sector) practices that promote digital government. The National Digital Strategy 2021-2024 establishes, for example, that the areas will have their own Information and Communications Technology Unit (UTIC), that is, independent and with the same hierarchical level as the Administration and Finance Unit. In addition, the door is opened to *in house* development of computer systems, based on free software, which reduces costs and makes its improvement accessible.

However, at state level, only 31% of the states have computer systems with some level of interconnection between the operating institutions of the criminal justice system. For this reason, the Single Computer System of the Cosmos Commission of Querétaro is once again identified as a good practice. This system allows *all operators* of the accusatory oral criminal system – General Prosecutor's Office, Judiciary, Public Defender's Office, UMECAS, ADRM, Victims' Executive Commissions and first responder police – intercommunicate, which allows traceability of all cases.

As for the **budget issue**, we conclude that the lag in institutions such as Defender's offices (with an average of 2% of the budget) and the Executive Commissions for Victims (with an average of 0.43% of the budget) is maintained at state level, in contrast to public security institutions, which on average have half the budget allocated, prosecutors with 26% of the budget and judiciaries with 22% of the budget, for all matters, not just criminal law.

When evaluating budget allocations, we realize that **there is no rationality in the budget cuts or expansions of the different justice institutions** in each state. Thus, we find dramatic variations in budget cuts in the Baja California SSP, with 95% less budget than the previous year; the CEAV of Campeche, with less than 97% than the previous year; the Prosecutor's Office in Campeche, with a cut of 72.35%; the Hidalgo Defender's Office, with 99.93% less budget... And, on the other hand, budget extensions such as the cases of the Judiciary in Baja California Sur, with 740% more budget; the CEAV of Mexico City, with an increase of 366%; the SSP of Jalisco, with 4.107% more budget and, in Oaxaca, the budget increases of the Defender's Offices, with 2.159%, and the Judiciary, with 877%.



As for the **enablers** of the system –regulatory framework, personnel, infrastructure and functional equipment, information and communication technologies, organizational structure and management model, dissemination of the criminal justice system, relationship with users and stakeholders interested in the criminal justice system–, we also observe stagnation at state level (warned already in *Hallazgos 2019*) and serious setbacks at federal level.

From the regulatory field we corroborate that the constitutional and legal reforms to expand the catalog of **mandatory pretrial detention crimes** have had a negative impact on the deprivation of liberty of people without sentence. Thus, while in 2020 there were 89,130 people in pretrial detention at national level –which represents 41.6% of the total number of people deprived of liberty–, at the end of 2021 an increase of 3.9% was measured, reaching 92,574 people in this circumstance. This is due, in large part, to the 8.1% increase in the federal order, going from 12,323 to 13,321 people, while in the states the use of pretrial detention decreased by 2.5%, going from 81,464 to 79,415.

This criminal policy at federal level has tried to be compensated at local level with the implementation of the Amnesty Law. However, its scope has been very limited given the impact of mandatory pretrial detention: as of June 2022, the federal judicial authority has decreed amnesty in favor of 127 people (43.7% women and 56.3% men), compared to 13,321 people incarcerated in a 'preventive' way.

Also in the legislative sphere, attempts have been made to strengthen **the policy of autonomy of public prosecutors**. On March 24, 2022, Senator Olga Sánchez Cordero presented a bill to reform section IX of article 116 and section X of part A of article 122 of the Federal Constitution, to make the autonomy of state prosecutors mandatory.

To date (and without the need to amend the Constitution), 13 states already have a framework like that of the Attorney General's Office. However, this declaration of political intent to strengthen the autonomy of the prosecuting body is overshadowed by the fact that **the senate has refused to hold the attorney general accountable for failing to comply with its constitutional and legal obligations**. This has resulted in a transformation of the prosecutor's office into attorney general's office only in name. The FGR has not issued the Organic Statute (it should have been issued in August 2021), the Professional Career Service Statute (it should have been issued in November 2021), nor the Strategic Plan for the Procurement of Justice (it

should have been issued in May 2022). In addition, the Senate has not advanced in the integration of the Citizen Council, nor has it questioned the disappearance of the Transition Unit in charge of coordinating, implementing, and evaluating the Strategic Transition Plan (PET).

Moreover, **the strengthening of civil police seems to be an almost forgotten task**, which is alarming since the militarization of the National Guard is, at least in theory, temporary. According to the fifth transitory article of the constitutional reform by which these federal police force was created, the states would have five years to present diagnoses and programs to strengthen their civil police forces. However, two states did not present a diagnosis –Baja California and Zacatecas–; five did not present the program –Baja California, Baja California Sur, Jalisco, San Luis Potosí, and Zacatecas– and 12 did not foresee a budget for the execution of the program –Aguascalientes, Baja California Sur, Campeche, Mexico City, Coahuila, Colima, Jalisco, Michoacán, Nuevo León, San Luis Potosí, Veracruz and Yucatán.

Regarding the enabler related to **sufficiency of personnel** at state level, extremely low rates per 100,000 inhabitants are observed in legal advisors in prosecutors and CEAV (1.6), facilitators in prosecutors (1.1), public defenders (1.8) and judges (1.2). On the other hand, the operators with the best numbers nationwide are the expert forensic services, with 8.0; prosecutors, with 12.8, and police, with a rate of 21.1. And as far as **training**, 19 prosecutor's offices reported it in terms of updating in the criminal justice system and for protocols for care and investigation of femicide and alternative dispute resolution mechanisms.

In the federal order, the authorization regarding sufficient staff was stagnant or with serious setbacks: there are 858 defenders, which represents an increase of just one person compared to the previous year, and 112 legal advisors in the Victims' Executive Commission (barely 10 more than in 2020). At the FGR, at the end of 2021, a wave of massive layoffs was reported in the media.

Our **procedural flow** assessment made us conclude that in the states there are no policies to reduce the dark figure increasing tendency due to causes attributable to the authority. To reverse it, measures should be put in place to make it easier for citizens to report crimes and, thus, opening the doors of the criminal process and making effective the right of access to justice. However, this key objective is not in the focus of public policy.

Of the cases that manage to enter the system, it is observed that at national level 35.6% were resolved



by alternative forms of investigation completion. Some states, such as the State of Mexico, Guanajuato, and Querétaro, conclude more than 60% of investigations through these means, and others such as Sonora, Jalisco, Nuevo León and Hidalgo make use of these in less than 10% of cases.

One of the most used prosecution determinations continues to be the **temporary file**, with 56.4%, followed by **non-exercise of criminal action**, with 22.4%, and other forms of termination of the investigation, such as the victims' forgiveness. The states that determine more than 60% of the investigations early through these faculties are the State of Mexico (72.9%), Guanajuato (69.5%), Querétaro (64.5%) and Yucatán (63%). However, it is important not to lose sight of the fact that both the temporary file and the non-exercise are determinations of the prosecutors, which do not seek damage restitution to the victims.

Following the procedural sequel, 6.6% of the cases admitted to the prosecutor's offices were turned over to specialized agencies in Alternative Dispute Resolution Mechanisms (ADRM), which implies a setback compared to 2020. It is important to take these figures into account when designing criminal prosecution plans and prioritization criteria, since these exits –which are of a higher quality compared to not exercising and temporary filing in terms of satisfying the interests of the victims and non-custodial sanction for accused persons– are being underutilized by the system.

However, an annual variation of -8.1% was registered in the number of victims of crime attended by State Victims' Executive Commissions. Michoacán (-73%), San Luis Potosí (-42.5%), Yucatán (-11.5%) and Chiapas (-9.5%) are states in which this type of care was drastically reduced.

Nevertheless, the procedural flow in terms of **prosecution congestion** offers us a somewhat encouraging picture: it fell 4%, going from 53.9% to 49.9% in one year.

In the next link of the procedural sequel, we note that **prosecution rates** continue to be low at national level, with an average of 6.9%. However, there are notable exceptions, such as Sonora, where the prosecution rate is 33.9%. It will be necessary to analyze in detail what policies this entity is implementing, to understand its effectiveness on the prosecutor's side.

Regarding **women's access to the justice system** and policies to abate structural gender inequality, we

note that the pronouncements by justice institutions in favor of the gender perspective and opposed to violence against women and girls is a priority that has not been translated into policies that allow prioritizing crimes that affect women, and, above all, that give them alternative solutions to address their different contexts. An example: in the state prosecutor's offices from which we obtained information and in the federal one, the contribution of the Women's Justice Centers has not been formally incorporated into their persecution policies.

On the other hand, we found that women, as users of the criminal justice system as victims, do not turn to the authorities because they face a hostile attitude and disinterest from the authority in a greater proportion than men. The authorities, in fact, tend to dismiss cases in which women are victims, considering them to be of private competence, and which must be resolved within the family, without State intervention.

Besides, we were able to disaggregate some indicators that account for the differential (harmful) treatment given to women when they are charged. Thus, for example, in addition to being in solitary confinement or isolated to a greater extent than men, the time to make them available before the ministerial authority is greater than for men.

The situation of women does not improve in the following procedural stages, since they are more likely to suffer sexual assault through sexual harassment, groping, exhibitionism, rape or attempted rape, and in Puebla, Querétaro, Guerrero, Baja California, Morelos, Aguascalientes, Nuevo León, Tlaxcala, Sonora, Baja California Sur, Oaxaca, Quintana Roo, Guanajuato and Coahuila, women report not having legal advice before the ministerial authority in a greater proportion than men.

Once people are brought before criminal judges, their rights are largely respected, but women are consulted by the judicial authority about the conditions of treatment during detention and before public prosecutor agencies to a lesser extent than men. This helps perpetuate abusive conditions in the early stages of investigations.

Although the proportion in the use of pretrial detention is similar between men (98.9%) and women (98.4%), 27.4% of women in pretrial detention receive their sentence in a period greater than two years, and only 23.7% of men receive their sentence in that period; that is, women in pretrial detention have to wait longer to obtain sentences and, in the end, they are also more severe than men: 46.1% of them receive the longest sentences – imprisonment of more than 21 years–, while for men who face this sanction the proportion is 38.7%.



Public Policy Recommendations

A. Regarding the conditions and enablers of the system as constitutive of its institutional structure...

If at federal level there are no conditions to resume a coordinating body of the policies and direction of the criminal justice system, this is not an obstacle for the states to do their part. We must remember that the first impulse for the reform of the system was led by the states, and at a certain moment this impulse was used so that the federal government made the decision to move towards an accusatory system.

If these points of contact between the institutions that integrate the criminal justice system are reinstated, it is essential for them to have powers to require the institutions to present reliable information, to collaborate in conversations, to design and follow up on indicators that reflect systemic functioning, to promote the interconnection of information systems and to carry out coherent planning together.

A systemic vision should focus on reducing the institutional asymmetries that today affect public defenders and victim counseling to a greater extent. To achieve a balance between the actors involved in the criminal process, **conditions must be created so that the public defenders have sufficient elements and resources to litigate before the prosecutors**, since the principle of contradiction resides in this possibility of questioning between parties.

Given the absence and withdrawal of the federal government in matters of justice (with the consequence that programmatic and planning documents corresponding to the justice sector have not been issued halfway through the six-year term, which coexists with a significant budget reduction), **we recommend that the state security and justice systems be strengthened internally and generate ways of working with their peers**. Share and replicate good practices between states (such as the **reinstallation of coordination bodies**) it could continue to fuel the momentum towards higher quality access to justice at national level.

However, the foregoing will not be enough to combat impunity and deliver justice, especially in the face of complex criminal phenomena, in which federal institutions play an important role. The recommendation,

then, is that from the civil society and citizenship we continue demanding accountability and making proactive proposals for good governance.

In the field of state coordination and results-oriented work, **we recommend not losing sight of the installation of computer systems that allow the interconnection of institutions**. Advancing in this area is fundamental, since it allows the continuous improvement of services, which implies review of processes, reduction of redundant formalities, establishment and monitoring of institutional and systemic goals, data collection to feed indicators and communication tools with the users, among others.

In this sense **it is recommended to follow up on the implementation of the National Digital Strategy 2021-2024** issued by the federal government, and which also covers the federative states. National strategy, together with good practices detected in some states in terms of technology, is the ideal starting point to convene meetings or exchanges with a view to the implementation of technological tools in security and justice institutions.

What is recommended in terms of regulations is the execution of a constant review process, but always guided by the identification of problems whose origin is normative, since many obstacles and barriers that the criminal justice system presents are of administrative and management origin. In any case, **the regulatory analysis should be focused on the elimination of formalities, protection of rights, coordination between institutions and the favoring of users of the criminal justice system**.

Special monitoring must be done of the regulatory changes that have implied a limitation of rights, such as the expansion of the catalog of crimes of mandatory pretrial detention. Although the reform, because it is constitutional, obliges both states and Federation, it is advisable to monitor its functioning in practice, since it must be confirmed at some point that the precautionary measure has no causal relationship with the incidence of the crimes to which it relates.

Regarding the institutional architecture of the prosecutor's offices, **it is recommended to deepen and raise awareness in the states about the implications of autonomy, to avoid replicating the federal model, which has distorted it: it has interpreted autonomy as a pretext for dismantling the justice system and evading responsibilities**. The States, before copying the federal model (for good



and bad), must have in-depth discussions that allow them to build prosecutors' offices that truly serve the citizen and articulate efficient investigations with other actors to prosecute crimes in court.

We propose something similar for the police issue, instead of retreating to make room for the militarization of public security, **in the states it is urgent to comply with the fifth transitory article of the constitutional reform that gave rise to the National Guard**, in the sense of having diagnoses that are updated periodically and a strengthening plan. An important part of these diagnoses and planning acts should be focused on the tasks that the police must carry out in the framework of crime investigation and criminal proceedings.

Regarding the capacities of the personnel in the different institutions of the criminal justice system, we recommend making medium-term projections of the needs, and accompanying this projection by the design of profiles and professional career. In this way it will be possible to count on the adequate operational capacities, while promoting a gradual, orderly and professional growth of the personnel, according to the needs of the justice services.

B. Regarding the operation of the system aimed at improving results, we recommend:

- **Eliminating formalities that bureaucratize the investigation** and prevent the generation of coordination conditions between authorities that can provide information to prosecutors and give participation to victims.
- **Crime reporting:** it must be facilitated through the reception and coordination with other authorities,

as well as with the implementation of technology-based solutions.

- **Analyzing the underutilization of alternate outputs to the process** and establishing policies that allow a better use of mediation, conciliation and restorative meetings.
- **Reviewing the typology of cases that are being filed or not exercised in criminal proceedings**, to respond with the design of higher quality solutions in favor of the users.
- **Setting goals to increase prosecution of cases** and reviewing experiences in states such as Sonora.

In matters of **access to justice for women and girls**, we recommend including the specific problems of this population in the criminal prosecution policies of the prosecutor's offices and in the conversations between institutions. To achieve this construction, it is essential to have the participation of women themselves from different perspectives, either as users –defendants and victims– or as operators, members of civil society organizations and unorganized citizens.

It is necessary to consider issues as simple as establishing measures to ensure that complaints in cases of domestic violence are always filed (since, as we have seen, there are practices aimed at dismissing complaints from women and girls), in addition to following up on them.

In general terms, we recommend that all public policies on security and justice have as their central point **the attention of the users** and privilege the **differentiated approaches** to serve people with needs.

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