

# Assessing Mexico's Judicial Reform

## *Views of Judges, Prosecutors, and Public Defenders*



### Special Report

By Matthew C. Ingram, Octavio Rodríguez Ferreira, and David Shirk



**Trans-Border Institute**

Joan B. Kroc School of Peace Studies  
University of San Diego

June 2011

### **About the Report:**

This report was prepared for the Justice in Mexico Project ([www.justiceinmexico.org](http://www.justiceinmexico.org)) coordinated by the Trans-Border Institute (TBI) at the University of San Diego. Since 2002, this project has been a focal point for research, scholarly interchange, and policy forums to examine the challenges and prospects for the rule of law in Mexico. This project is made possible by the very generous support of The William and Flora Hewlett Foundation and The Tinker Foundation. This report also benefited from insights gained through the support of the Smith-Richardson Foundation in a grant to TBI and Mexico Institute at the Woodrow Wilson Center, the Center for U.S.-Mexican Studies, and the TIES Program from Higher Education for Development sponsored by the U.S. Agency for International Development through a grant to the University of San Diego and the Universidad Autónoma de Baja California.

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## Preface

In 2009, the Justice in Mexico Project at the Trans-Border Institute (TBI) launched a series of studies to evaluate the perceptions and professional development of actors in Mexico's judicial sector. Working with an interdisciplinary, bi-national team of experts, this series of studies —titled the Justiciabarómetro, or "Justice Barometer"— consists of surveys, interviews, and policy research on the justice sector's strengths, challenges, and resource needs. The initial Justiciabarómetro study consisted of a major survey of municipal police in the Guadalajara metropolitan area, while a subsequent study focused on local police in the municipality of Ciudad Juárez. Now shifting the focus to members of the judiciary, the latest Justiciabarómetro summarizes the findings from a third study that surveyed 276 legal elites —judges, prosecutors, and public defenders— in nine different Mexican states between October and December 2010. This report focuses specifically on the attitudes that these respondents had toward the functioning of the Mexican criminal justice system, and the 2008 reforms that are to be implemented throughout the country over the next few years.

This study was also made possible through the generous financial support of both The William and Flora Hewlett Foundation and The Tinker Foundation. In addition, the study benefited from the input and guidance of the study's Advisory Committee, including Hector Fix-Fierro, Francisco Gorjón, Dante Haro, Pablo Paras, and Guillermo Zepeda. Others who provided vital contacts, recommendations, and useful background for this study included Heliodoro Araiza, Raúl Carrillo del Muro, Rolando de Lassé, Ana Laura Magaloni, Tony Maino, Cory Molzahn, María Teresa Martínez Mercado, Marcos Pablo Moloeznik, María Candelaria Pelayo Torres, Ángel Prieto, Miguel Sarre, Rubén Vasconcelos, Raúl Carrillo del Muro, Miguel Sarre, Allen Snyder, Daniel Solorio, and Jorge Vargas. Special thanks goes to Hon. José Ramón Cossío, Hon. María Esther Rentería, State Attorney General Rommel Moreno, Hon. Justice Javier Ramírez Benítez, Hon. Gergorio Alberto Pérez Mata, Hon. Rodolfo Acosta Muñoz, Hon. Antonio Berchelman, State Attorney General José de Jesús Torres Charles, and Director of Public Defenders Francisco Javier Ramos, Hon. Celso Rodríguez González, Hon. Alejandro González, Director of Public Defenders Guillermo Arteaga Torres, Hon. Gustavo Adolfo Guerrero Gutiérrez, State Attorney General Alejandro Garza y Garza; Hon. Hector Anuar Mafud Mafud, Attorney General María de la Luz Candelaria Chiñas; Hon. Angel Prieto, Director of Public Defenders Oswaldo Ortíz Matu, and Hon. Leonor Varela Parga.

Above all, we are deeply indebted to all the respondents and court staff members who contributed their valuable time to help inform this study. Overall, the judges, prosecutors, and defense attorneys who took part in this study demonstrated a strong sense of professional commitment, but also the self-critical recognition that Mexico's criminal justice system is in dire need of improvement. Of course, we also recognize that this report may not necessarily reflect the viewpoints of the participants or the individuals noted above, so we take full responsibility for any errors or omissions.

Matthew C. Ingram, University of Massachusetts Dartmouth

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## Executive Summary

*Assessing Judicial Reform in Mexico* highlights the findings of a recent *Justiciabarómetro* survey of 276 judges, prosecutors, and public defenders working in Mexico's criminal justice system from October to December 2010. The full report is available at [www.justiceinmexico.org](http://www.justiceinmexico.org). This special report summarizes respondents' attitudes regarding the workings of the Mexican criminal justice system, as well as the sweeping judicial reforms approved by Mexico's Congress in 2008. Among the key findings highlighted in this report are the following:

- **Frustration with workload varies by state and profession:** Judges, prosecutors, and public defenders appear to be generally satisfied with the levels of compensation they receive, though frustration with salary and workload vary by state.
- **General support for the traditional Mexican legal system remains strong:** More than half of the respondents —especially judges— indicated that Mexico's traditional inquisitorial system was both efficient and effective, and at least a third feel that the traditional system was disparaged by a deliberate, negative campaign designed to promote a shift to the new adversarial system.
- **Public defenders are more critical of the traditional system than others:** There were significant differences between judges and prosecutors, on the one hand, and public defenders, on the other, regarding the efficiency of the criminal justice system. Also, judges and prosecutors tend to believe that violations of due process —such as forced confessions— are very rare or never used, while public defenders are more likely to strongly disagree.
- **There is significant skepticism about recent judicial reforms.** Our findings suggest that there lingering concerns about reform efforts, above all among those who are currently attempting to work within the new oral, adversarial system. Respondents were split on whether judicial reform will reduce criminality, and a significant proportion feel that the reforms were the result of pressure by foreign governments and organizations.
- **Even so, there is hope that recent reforms will improve the justice system.** Despite the concerns we find, the provisions included in the 2008 reforms —introducing oral, adversarial criminal procedures— were generally well regarded, particularly in states where they had not yet taken effect. While there are significant reservations in states that have already adopted the reforms for some time, many respondents are optimistic that they will ultimately help to improve efficiency and reduce corruption in the judicial system.

## Mexico's Criminal Justice System and Recent Reforms

Mexico currently faces justice and security challenges on several fronts. These include the poor performance of the criminal justice system in general and the ability of this system to deal effectively with a wide array of offenses related to or contributing to drug violence and organized crime. First, the criminal justice system has long been regarded as dysfunctional, generating broader social harms in the form of (a) civil and human rights abuses of those caught as defendants within it, and (b) impunity from prosecution, including political and economic elites, as well as criminal elites, due to corruption, or what is commonly (and euphemistically) labeled the “traffic of influence”. Impunity also extends to “ordinary” criminals due to the tendency of victims to simply not report their victimization since they have so little faith in the justice system’s ability to vindicate their rights.

As is common to other parts of Latin America, the problems faced by Mexico’s state-level judiciary are largely attributable to the historical neglect if not outright subversion of the institution in the political system. Due to several factors, Mexico’s judiciary has been far weaker than the legislature and (especially) the executive branch.<sup>1</sup> In Mexico and most Latin American countries, large majorities express a lack of confidence in justice sector institutions.<sup>2</sup> Such concerns owe partly to persistent and deeply engrained problems in the functioning of courts and penal institutions, which suffer from significant resource limitations and case backlogs.

In addition, since 2007 severe drug-related violence has wracked the country. To be sure, drug-related violence has existed in Mexico for a long time, and recent evidence shows the initial rise in violence began before 2007.<sup>3</sup> However, the character of the phenomenon of the “war on drugs” has changed dramatically since (a) Calderon’s large-scale activation of the military in January 2007, (b) civilians have been caught in the violence in increasing numbers, and (c) the violence has spread to new and previously sedate parts of the country (e.g., Monterrey). Given standard measures in studies of armed conflicts, the sheer scale of the violence—averaging nearly 10,000 dead per year for the last four years—invites comparisons to civil wars and insurgencies.<sup>4</sup>

The severity of these challenges and the urgency of their resolution are difficult to overstate. In a major attempt to help resolve these problems, in 2008 the federal government of Mexico passed a criminal procedure reform with broad and deep implications for the design and performance of the criminal justice system throughout the country. This reform is one of the most ambitious and far-reaching attempts to improve the criminal justice sector, the failings of which—delays, impunity, corruption, and mistreatment—are widely regarded as at least partly responsible for the security challenges facing Mexico today.<sup>5</sup>

## Research Objectives, Case Selection, and Methodology

Since 2009, the Justice in Mexico Project, coordinated by the Trans-Border Institute (TBI) at the Joan B. Kroc School of Peace Studies at the University of San Diego (USD) has been developing a series of surveys of professionals within the Mexican criminal justice system to register attitudes of these legal professionals towards a range of legal and institutional issues. These issues include: (1) entry, permanence, and promotion within each profession (criminal prosecution, criminal defense, and adjudication); (2) integrity and corruption, (3) the performance and effectiveness of different components of the criminal justice system (including honesty and efficiency), and (4) the causes, functioning, and consequences of the 2008 reform. Regarding this last issue area, the latest Justiciabarómetro survey—focused on judges, prosecutors, and public defenders—is of particular interest because the responses help to assess the recent progress of reform efforts, potential barriers to further advancement, and factors that might help to improve the criminal justice system.

Figure 1: States Included in Justiciabarómetro Survey



### Case Selection

The survey participants come from nine of Mexico's 32 states, specifically: Baja California, Coahuila, Chihuahua, Jalisco, Michoacán, Nuevo León, Oaxaca, Yucatan, and Zacatecas (See Figure 1).<sup>6</sup> The limitation to nine states was a practical, non-methodological choice due to resource limitations. However, on a more methodological note, the nine states were selected to represent variation in regional location, political tradition, economic structure, and experience with the high-profile 2008 reform. That is, the states are broadly representative of all 32 Mexican states. These states represent different regions, including the south (Oaxaca and Yucatan), the center (Jalisco, Michoacán, and Zacate-

cas), and the north (Baja California, Coahuila, Chihuahua, Nuevo León). The states also show variation in population and economic structure, as some are highly urbanized and industrialized (e.g., Baja California, Jalisco, Nuevo León) while others are more rural and have broader agricultural or mining sectors (e.g., Michoacán, Oaxaca, Yucatan, Zacatecas). Politically, the states included in this study represent different experiences and perspectives, as the three main parties in Mexico —the Institutional Revolutionary Party (PRI), National Action Party (PAN), and the Party of the Democratic Revolution (PRD)— are dominant in different states: the PRI in some (Oaxaca and Coahuila), the PAN in others (Baja California and Jalisco), and the PRD in still others (Michoacán and Zacatecas).

Beyond these regional, economic, and political factors, these states vary in the extent to which they have adopted recent high-profile reforms in criminal procedure. Even before the 2008 federal reform, Oaxaca, Chihuahua and Nuevo León had working reforms implemented by 2007. Morelos followed in 2008, Durango and Zacatecas soon thereafter with implementation in 2009, and Baja California in 2010. Guanajuato and Puebla approved reforms in September 2010 and January 2011, respectively, but implementation is not scheduled until later in 2011. Other states have reforms under considerations, but have yet to take substantial steps to match the 10 states above (see Ingram and Shirk 2010; Ingram forthcoming). Thus, the surveys capture attitudes among legal professionals about a range of legal and institutional issues in the criminal justice sector, and across a variety of regional, economic, political, and reform contexts.

Many questions were drafted specifically for this survey, but others built on existing surveys and prior questionnaires. For instance, our earlier Justiciabárometro surveys of police officers in the cities of Guadalajara and Ciudad Juarez generated several questions that are used here for analytical comparability. Also, questions were borrowed from Vanderbilt University's Latin American Public Opinion Project (LAPOP) surveys, a survey of judges in Bolivia (Perez-Liñan, Ames, Seligson 2006), and also from a survey of legal elites regarding judicial performance in Latin American countries (Staats, Bowler, and Hiskey 2005).

## Methodology

The survey was conducted by telephone between October 11 and December 17, 2010. A total of 2,858 calls were made to 1,098 contacts across the three professions in nine states. The primary focus of this study was on judges with jurisdiction over criminal matters. However, to complement these perspectives, the survey design called for the inclusion in the sample of both public prosecutors and public defenders. Data collection efforts generated 276 completed interviews, or an overall response rate of 22.4%.<sup>7</sup> Dropping responses for which the state or professional identifying information was missing, the usable total amounted to 268 respondents, with 65.9% men versus 34.1% women. This total includes 171 judges, 38 prosecutors, 59 public defenders. The number of respondents by state and profession, and the respective response rates, are listed in Tables 1 and 2.

**Table 1: Survey Respondents by State and Profession**

State	Judge	Prosecutors	Public Defenders	Total
Baja California	12	6	36	54
Coahuila	17	0	15	32
Chihuahua	21	0	0	21
Jalisco	30	0	0	30
Michoacán	33	0	0	33
Nuevo León	20	12	8	40
Oaxaca	20	20	0	40
Yucatán	5	0	0	5
Zacatecas	13	0	0	13
<b>Total</b>	<b>171</b>	<b>38</b>	<b>59</b>	<b>268</b>

\* An additional 8 respondents are not included in this report: three defenders originating from Chihuahua, Durango, and Jalisco; a single judge from Durango; and four respondents who did not identify their profession or for whom other information was missing. Where broad, aggregate statistics are of interest, the full 276 respondents are included.

**Table 2: Respondents and Response Rates by State and Profession**

State	Prosecutor			Public Defender			Judge		
	R	N	%	R	N	%	R	N	%
Baja California	6	10	60	36	115	31.30	12	27	44.44
Coahuila	0	--	--	15	46	32.61	17	25	68.00
Chihuahua	0	--	--	0	[na]	[na]	21	86	24.42
Jalisco	0	--	--	0	[na]	[na]	30	132	22.73
Michoacán	0	--	--	0	--	--	33	39	85.62
Nuevo León	12	76	15.79	8	116	6.90	20	54	37.04
Oaxaca	20	66	30.30	0	--	--	20	61	32.79
Yucatán	0	--	--	0	--	--	5	12	41.67
Zacatecas	0	--	--	0	--	--	13	42	30.95

In contrast to general public opinion surveys, the sample was non-random, following other expert surveys on specialized populations, including expert surveys in the justice sector. Response rates were much lower in this survey than in many general public surveys and in our previous surveys of police, but they are similar to those of other expert surveys of judges and criminal attorneys mentioned above. In order to ensure some reliability, the study did require at least a minimum number of responses. Several leading studies have sought a minimum of five respondents per territorial unit they analyzed — entire countries — in order to generalize from their expert responses to the country as a whole.<sup>9</sup> For instance, Staats, Bowler, Hiskey (2005) collect a non-random sample of 143 responses across 17 Latin American countries, generalizing regarding the performance of courts in countries like Brazil and Guatemala based on as few as four or five respondents.<sup>10</sup> Thus, we are confident in generalizing about Mexico based on our 268 responses from nine very different states, including at least five responses in each state. We are nonetheless cautious in generalizing whenever sample sizes are smaller in a given state or profession.<sup>11</sup> We urge readers to be similarly cautious, and encourage others to build on this work to expand available knowledge on these subjects.

## Perceptions of Judicial System Functioning

Our study posed questions asking respondents to evaluate the functioning of the judicial system, particularly with regard to staffing, efficiency, effectiveness, decision quality, effectiveness of enforcement, case backlogs, and job performance among judges, prosecutors, and public defenders. The answers to these questions provide a sense of the subjective assessments of judicial system performance among those operating the system, as well as the variation that exists across different states and professions.

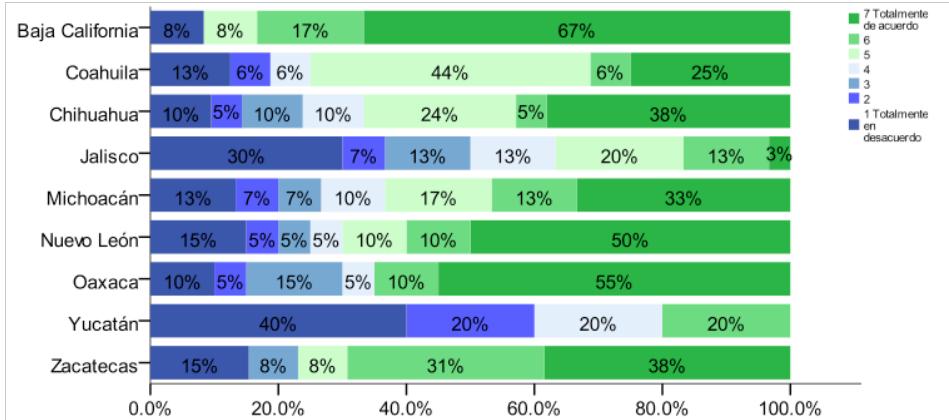
### Number of Personnel

With regard to staffing, there was general agreement among all categories of respondents that there is sufficient of personnel in their respective areas. With the exception of Yucatán, where most judges surveyed disagreed, at least 63% of judges in all other states agreed that there is a sufficient number of judges to deal with every case in a timely manner. The view that there are a sufficient number of judges was generally shared by prosecutors and especially public defenders. Among prosecutors, there was less agreement that the number of prosecutors is adequate, and in Oaxaca there was a majority view that the number is inadequate. In overall responses, the sentiment that more prosecutors might be needed was shared among both judges and public defenders. Finally, there was a widespread sense, if not total agreement, among judges and prosecutors that there is a need for more public defenders in each state, even though a majority of public defenders surveyed did not themselves share this view. Indeed, over half of public defenders in Baja California and more than 60% in Nuevo León felt that their numbers were adequate to deal with cases effectively, although a majority in Coahuila disagreed.

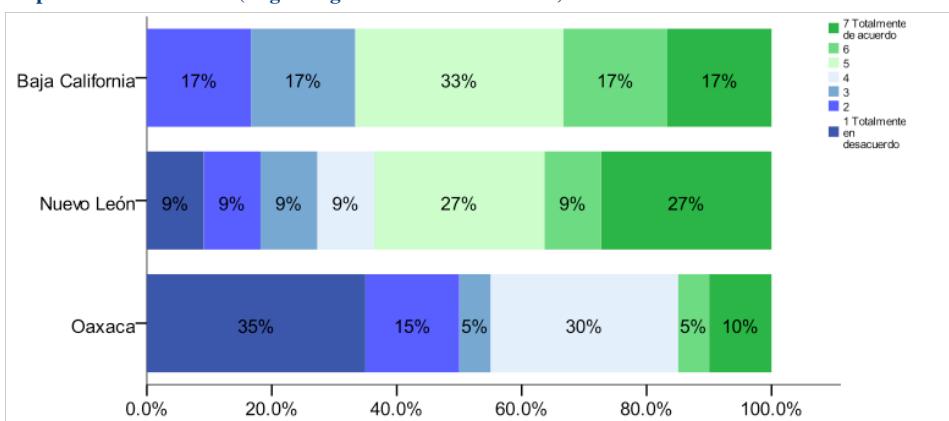
**Figure 2: Number of Personnel in Each Area**

Indicate to what extent you agree or disagree with this statement: This state has a sufficient number of (judges/prosecutors/public defenders) to deal in a timely manner with every case.

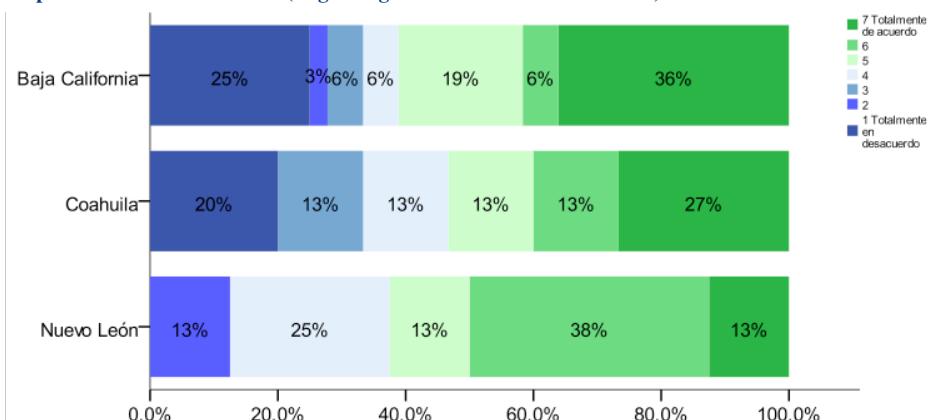
**Responses of Judges (Regarding Number of Judges)**



**Responses of Prosecutors (Regarding Number of Prosecutors)**



**Responses of Public Defenders (Regarding Number of Public Defenders)**



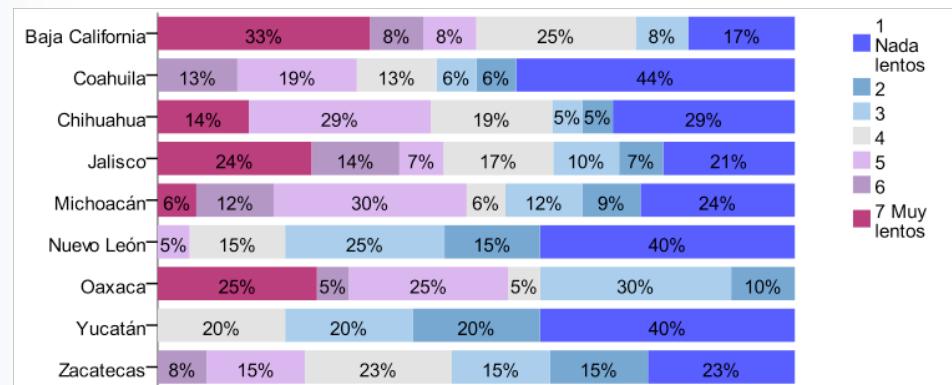
## Efficiency of Procedures

As a proxy measure to evaluate efficiency, the Justiciabárometro survey asked about the speed with which criminal cases are resolved. We also asked this question of different types of cases: (1) homicide, (2) robbery, (3) rape. Overall, there was a greater sense among public defenders that it takes too long to resolve homicide cases, as roughly half indicated that these processes are “very slow.” Meanwhile, over a quarter of prosecutors and judges took the opposite view that the resolution of such cases is “not slow at all.” Concerns about the swiftness of processing for other crimes were generally lower for robbery, assault, and rape.

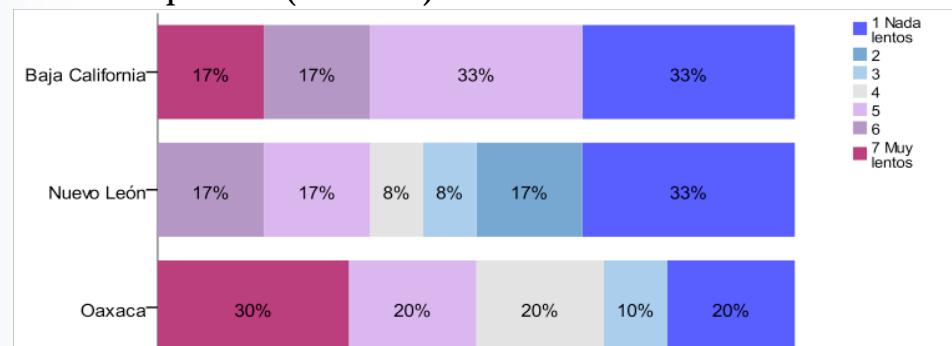
**Figure 1: Time to Disposition (Homicide)**

*What is your opinion about the average time that it takes for the resolution of criminal proceedings in the case of intentional homicide [III.1.b.i]*

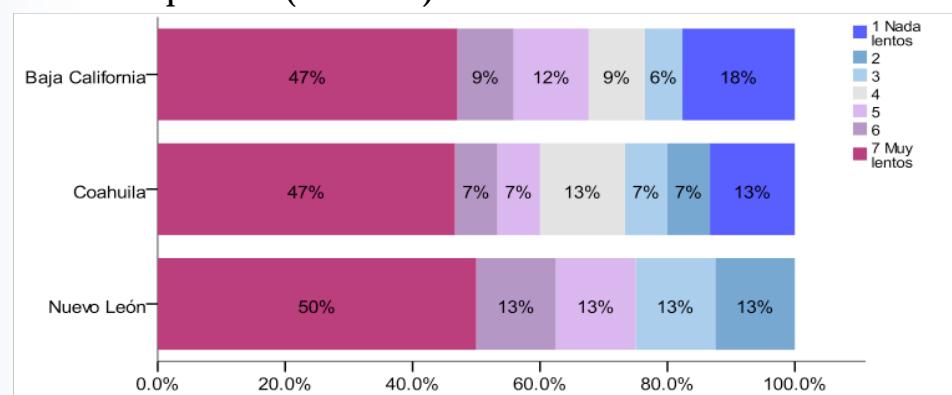
**Time to disposition (homicide): Judges**



**Time to disposition (homicide): Prosecutors**



**Time to disposition (homicide): Defenders**



## **Quality of Criminal Court Decisions**

In an effort to measure the satisfaction of judicial actors with the real outcomes of criminal cases, the Justiciabarómetro survey inquired about the quality of decisions made by local criminal courts (calidad de las decisiones emitidas por los juzgados penales). It should be noted that this is a measure of judicial performance that has thus far largely escaped systematic attention and has been neglected by the expanding literature on judicial politics, comparative courts, and justice reform. Most of this literature examines variables that are easier to measure, such as institutional design or the direction of votes.<sup>12</sup> Thus, this variable alone constitutes a novel contribution to studies in this area.

Overall, a majority of legal professionals are satisfied with these outcomes. Indeed, including all 276 respondents, 84% expressed some positive assessment (5-7) of the quality of criminal court decisions. Another 9.1% expressed a neutral opinion (4), leaving only 6.9% that expressed any negative opinion. This is an overwhelmingly positive aggregate assessment of the quality of decisions in Mexico's criminal courts. The disaggregated responses reveal some clear exceptions to this overall pattern. Among judges, 16% express a negative assessment in Baja California. The other major exception to the pattern is the fact that 28% of public defenders this state (Baja California) also express a negative assessment of criminal court decisions. Indeed, 19% of these defenders express the strongest negative opinion. The combination of responses from judges and defenders in this state suggest that it deserves closer attention in future research.

## **Enforcement of Sentences**

While many of the prior questions address inputs to courts and the judicial process, and the last section on the quality of decisions addresses outputs to some extent, studies of the justice sector are also concerned with the extent to which judicial outputs have any real traction beyond the courtroom. That is, are judicial decisions -- even the good ones described above -- really observed. Notably, the 2008 criminal justice reform highlights the need for the creation of “enforcement judges” precisely to ensure that decisions are followed, and followed in lawful manner. To this end, the Justiciabarometro survey asked respondents to rate the enforcement of decisions. Overall, 71.4% of 266 respondents that answered this question expressed a positive assessment.<sup>13</sup> Further, within each profession, every state had a majority expressing some level of positive opinion. The major exceptions to this general pattern include judges in Coahuila, Jalisco, Nuevo León, and Oaxaca, prosecutors in Oaxaca, and defenders in Baja California and Nuevo León.

## Criminal Justice Reform of 2008

As noted earlier, in 2008 the Mexican Congress approved a series of constitutional and legislative reforms that aim to bring major changes to the criminal justice system. These reforms include: 1) changes to criminal procedure through the introduction of new oral, adversarial procedures and alternative dispute resolution (ADR) mechanisms; 2) a greater emphasis on the rights of the accused (i.e., the presumption of innocence, due process, and an adequate legal defense); 3) a similar emphasis on the rights of victims and restorative justice; 4) modifications to police agencies and their role in criminal investigations; and 5) tougher measures for combating organized crime. After the reforms passed, the federal and state governments were given until 2016 to adopt the reforms. When this survey was conducted (October-December 2010), there were five years remaining and fewer than half of Mexico's 32 states (including the Federal District) had approved complementary state-level reforms, and less than a quarter of had begun to implement the new procedures.<sup>14</sup>

The 2008 judicial reform has faced serious criticisms, even provoking concerns about a possible “counter-reform” movement. Critics fear that Mexico’s sweeping judicial reforms may be trying to do too much, too fast, with too few resources, and with little promise of success. Some critics also initially complained that the reforms were being actively promoted by outside forces, particularly from the United States, and lacked consideration of the intricacies, nuances, and benefits of Mexico’s existing system. Also, given the recent proliferation of violent crime, many Mexicans are understandably reluctant to place greater emphasis on the presumption of innocence and pre-trial release, since the new rights-focused approach of the adversarial system may excessively favor criminals to the detriment of the rest of society. Hence, counter-reform currents in Mexico have expressed the view that “oral trials only protect the criminals.”<sup>15</sup>

However, until this study, there had been no systematic effort to survey judges and lawyers who operate within the criminal justice system to measure the level of criticism or support that exists among these institutional “insiders.” Nor are there assessments of the views held by different professions regarding the 2008 reforms. This survey therefore constitutes an important first effort to gauge the perspectives of those who will be charged with implementing the 2008 reforms.

## Effectiveness and Efficiency of Mexico’s Traditional System

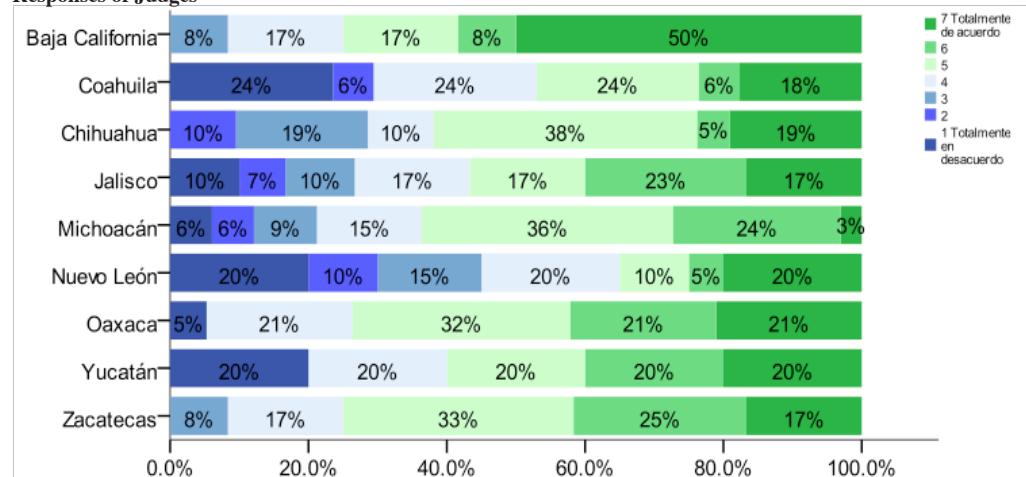
First, it is worth noting how respondents felt about the traditional system that was in place prior to the passage of the 2008 judicial reform. Approximately 51% of respondents agreed that the traditional justice system was effective and efficient (*eficaz y eficiente*). About 17% reported a neutral position on this question, leaving about 31% of respondents who expressed any level of disagreement with this statement. This is a provocative result because it suggests that a majority of criminal justice professionals considered the traditional system as adequate prior to the 2008 reform.<sup>16</sup>

Across professions, there was greater variation. Those that expressed some level of agreement that the old system was effective and efficient included 59% of judges, 44% of prosecutors, and 37% of defenders. Hence, judges seem to be the most likely to think the old system was performing well, prosecutors were fairly evenly split, and defenders were most likely to believe the old system was performing poorly. These patterns among judges should give pause to scholars, policy makers, and practitioners alike, as they suggest that judges, in general, may not have believed that the 2008 reform was really necessary. If this is the case, then these attitudes may be a source of opposition to the reform or a source of resistance to the full implementation of its provisions. Ultimately, such

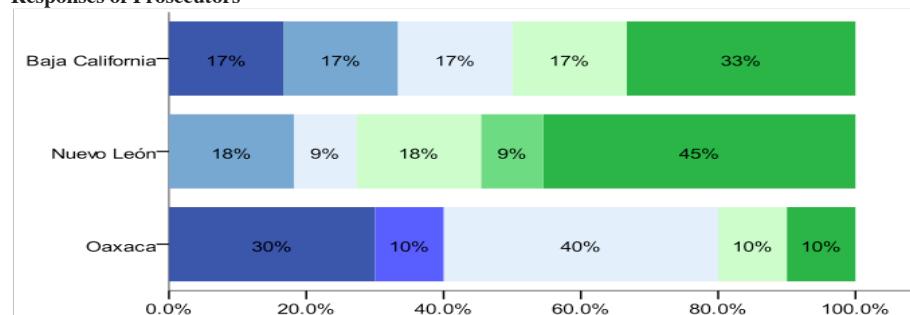
**Figure 4: Evaluations of Traditional Criminal Justice System**

*Do you agree or disagree with this statement: The traditional criminal justice system was effective and/or efficient.*

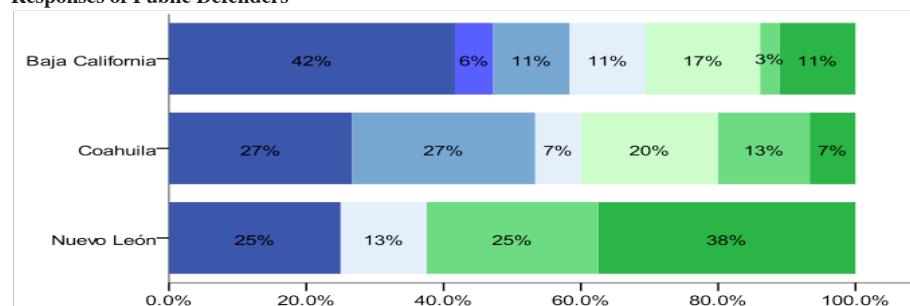
**Responses of Judges**



**Responses of Prosecutors**



**Responses of Public Defenders**



attitudes could lead to future efforts to repeal the reform, since the persistence of traditional attitudes among judges after reforms may surface years later as significant counter-reform movements.<sup>17</sup> Future research might examine the reasons behind these attitudes, clarifying whether there is disagreement with the substantive provisions of the reform or whether the opposition is motivated by narrower interests (e.g., an unwillingness to learn a new way of running a courtroom).

### **Efforts to Discredit the Traditional Criminal Justice System**

Approximately 36% of respondents believed that there has been a campaign to discredit the traditional criminal justice system in order to pass the 2008 reform. Across professions, about 38% of judges, 35% of prosecutors, and 31% of defenders agreed that there has been a deliberate campaign to discredit the old, pre-reform system. Notably, the three professions were very divided on this issue, as about 48% of judges, 50% of prosecutors, and 60% of defenders disagreed with this proposition. Thus, opinions on this topic were very dispersed, which is reflected in the general bimodal distribution of responses. This is a worrying finding for advocates of reform. It provides evidence that many established professionals are invested in the prior system, and divergent interests are in play. In this context, reform is neither an easy nor a simple proposition.

### **Pressure from Foreign Governments and Organizations**

One of the frequently mentioned accusations against the 2008 reform is that it was the result of pressure from foreign governments and organizations, particularly from the United States. Overall, approximately 40% of respondents agreed that the 2008 reform was the result of pressure from foreign governments and organizations. Across the professions, about 39% of judges, 38% of prosecutors, and 45% of defenders agree with this statement. The fact that more than a third of respondents in each profession indicated that foreign pressure was responsible for the reform seriously undermines the legitimacy of the reform project. In a country where nationalist currents run deep and sensitivities about foreign intervention are strong, this may help to explain why the reform has been slow to spread and develop across the 32 Mexican states. Particularly disturbing is the fact that judges were the ones most likely to believe foreign pressure played a major role in the reform. It should be noted that it was not just U.S. governmental or non-governmental organizations that worked to promote judicial reform in Mexico. Spanish, German, Chilean, and European Union organizations were also active in this sector, so it is not clear that views expressed in response to this question gave credit or blame to any particular foreign influence.<sup>18</sup>

## General Opinion of 2008 Reform

Despite the above findings, views toward the 2008 reform were remarkably positive. Approximately 84% of respondents expressed some level of agreement with the 2008 reform.<sup>19</sup> Across all three professional categories, support for the reform was fairly strong. More than 80% of respondents within each category reported a positive assessment of the reform, stating that they were somewhat in agreement, in agreement, or totally in agreement with the reform. Indeed, in all three professional categories, approximately half of respondents reported the highest level

**Figure 5: Evaluations of the 2008 Reforms to Mexican Criminal Procedure**

*What is your general opinion of the 2008 criminal procedure reform? [CIII.1]*

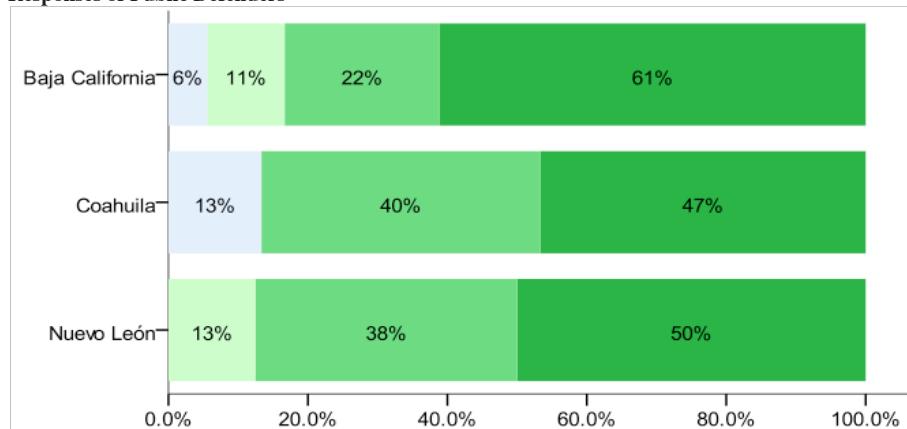
### Responses of Judges



### Responses of Prosecutors



### Responses of Public Defenders



of agreement with the reform. Among public defenders, above all, there is no opposition to the reform. Such opposition registers only among prosecutors and judges. Specifically, while five prosecutors (12.5%) and 15 judges (8.8%) expressed some level of opposition to the reform, none of the 59 public defenders that were interviewed for this study expressed any level of opposition to the reform.

These patterns remain even as we unpack the results into different states and professions, though some other complexities emerge. First, support for the reform remains the most salient feature of the results. Among judges and prosecutors, no state has more than 17% who expressed any level of disagreement with the reform. However, several states have judges and prosecutors that register the most negative opinions (“totally disagree”), including 17% of prosecutors in Baja California, 10% of prosecutors in Oaxaca, 8% of judges in Zacatecas, 7% of judges in Jalisco, and 5% of judges in Chihuahua, Nuevo León, and Oaxaca. This portion of the results is disturbing because several of these states -- Chihuahua, Nuevo León, Oaxaca, and Zacatecas -- were among the earliest reformers, so they have already had time to implement and adjust to the reform.

That such negative views persist in these states provides ammunition for opponents to the reform and does not bode well for other states that are at earlier stages in the reform process. Still, it is worth noting that the majority of respondents do seem to give the reforms the benefit of the doubt. In the subsections below, we examine responses regarding specific aspects of the 2008 reform, including the use of oral trials, efforts to strengthen the presumption of innocence, the use of alternative dispute resolution mechanisms, and the likely impact of reforms on the speed of criminal proceedings, criminality, and corruption. All of these help to identify perceived strengths and weaknesses of the reform effort.

### **Oral trials (juicios orales)**

Overall, 79% of respondents agreed that the traditional inquisitorial criminal process should be replaced with the oral-adversarial model. Across the professions, 76% of judges agreed that criminal trials should be oral, along with 80% of prosecutors and 88% of defenders. In a few states, however, there was some noticeable variation among the professions. For example, 100% of prosecutors in Nuevo León expressed high or very high levels of support for oral trials, making prosecutors in Nuevo León a key source of support for this aspect of the reform. By contrast, 34% of prosecutors in Baja California expressed disapproval of oral trials.

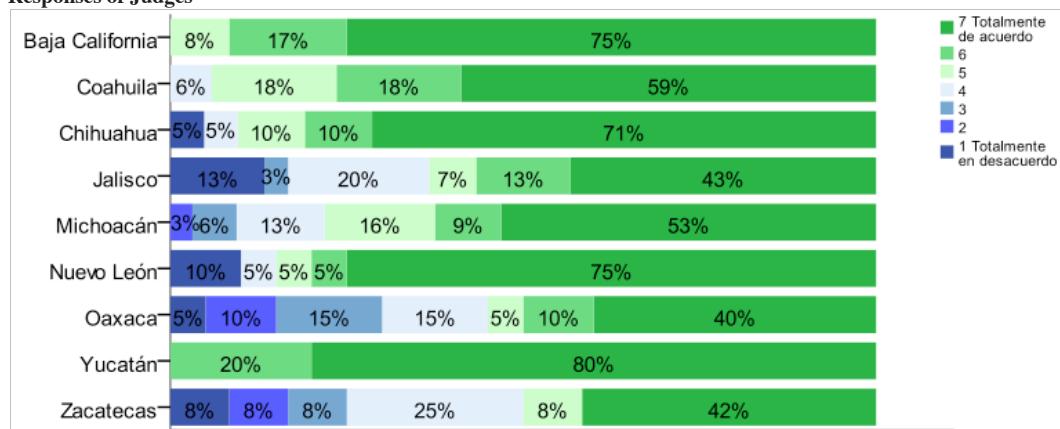
Among public defenders, there was broad support for oral trials. Only in Baja California did public defenders express any level of disagreement with oral trials, and that was only among 3% of respondents. Among judges, the extremes were marked by Baja California (where 100% of judges expressed some level of approval of oral trials) and Oaxaca (where only 55% expressed support for oral trials and 30% expressed some level of disapproval). Approval was also low in Zacatecas, where only 50% of judges expressed some level of agreement that trials should be oral. Most of the respondents who were either undecided or opposed to oral process are judges.

Interviews conducted separately with judges suggests this is due, at least in part, to the reluctance of judges—especially older, established judges—to learn new courtroom procedures. In essence, the reform asks judges to still maintain control of process, but speaking less and allowing the parties to speak more in a more open, public proceeding. Thus, some judges may simply be insecure or uncertain about looking bad as they try to manage these adversarial conflicts under the watchful eye of the public and press. In any case, the clearest picture that emerges from the responses is that there is generalized support across all three professional categories for the new oral proceedings, and especially among public defenders.

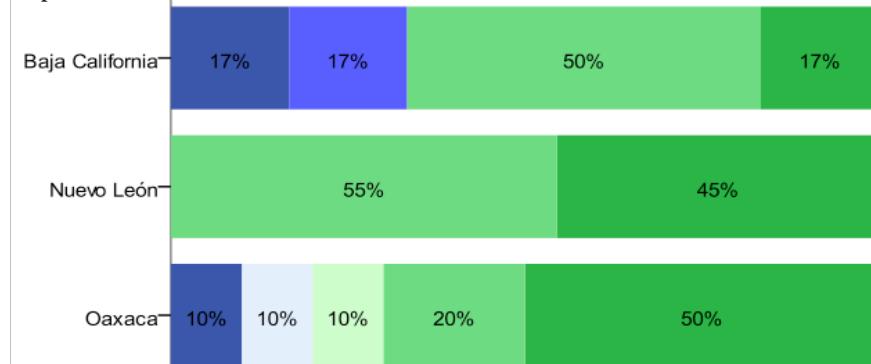
**Figure 6: Attitudes Toward the Use of Oral Trials**

*Indicate whether you agree or disagree with this statement: Trials should be oral rather than written [CII.1]*

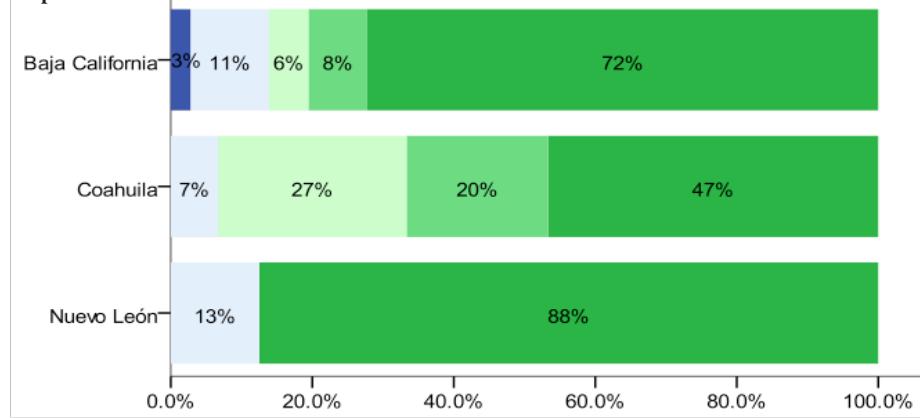
**Responses of Judges**



**Responses of Prosecutors**



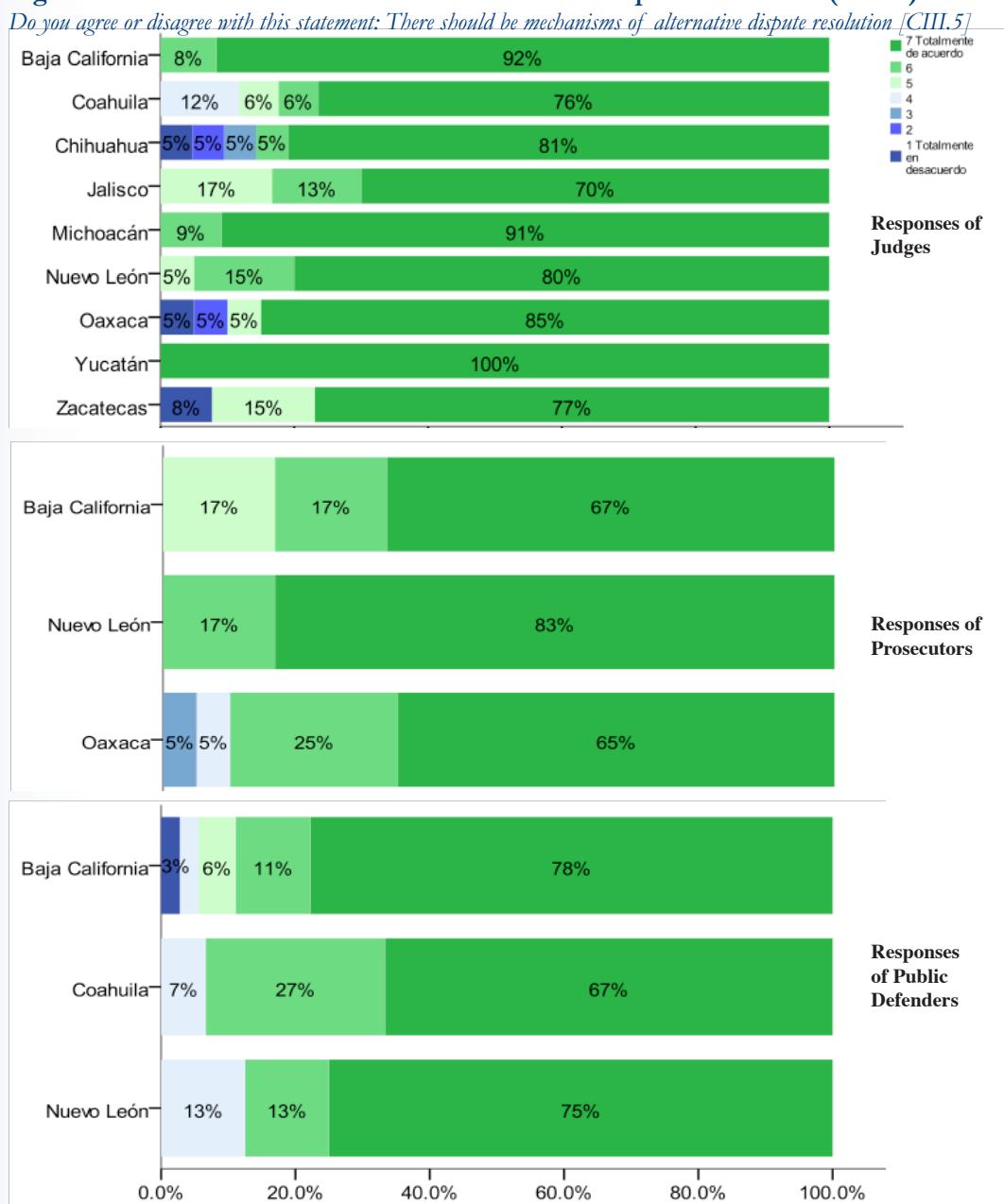
**Responses of Public Defenders**



## Alternative Dispute Resolution (ADR)

There is very broad support for mechanisms of alternative dispute resolution (ADR), which is a key component of the reform. Overall, about 94% of respondents expressed approval of ADR. Indeed, 77.9% of respondents (215 of 276) expressed the highest level of agreement (“totally agree”). The broad support for the use of alternative dispute resolution (ADR) mechanisms remains even as results are disaggregated among states and professions, never dropping below 65% of respondents who expressed the highest level of support for ADR. Also, opposition to ADR never rises above 15% within any given profession, or across states within a profession.

**Figure 7. Attitudes Toward the Use of Alternative Dispute Resolution (ADRs)**



One cautionary note regarding these results is that ADR can mean different things to different people. It can mean methods for resolving disputes that are not litigation-based, such as mediation, conciliation, and arbitration. Many criminal procedure codes across the Mexican states explicitly use this language to describe ADR. However, many of the 32 state civil procedure codes also refer to “alternative exits” from the typical criminal process (salidas alternas), including plea bargaining and procedures that are equivalent to alternative sentencing options like diversion or probation that are found in many U.S. jurisdictions. In short, respondents may be answering this question with any one of these procedural “alternatives” in mind.

## Speed of Criminal Proceedings

Approximately 84% of respondents agreed that the new system will increase the speed (*celeridad*) of the criminal process. At first glance, this finding might appear to contrast with the earlier pattern of responses that indicated the old system of justice was effective and efficient (see above). That is, if the old system was efficient, then how could the new system increase the speed of the criminal process? However, it is possible that respondents assessed the old system as adequate, i.e., not slow, but that the new system will still increase speed and efficiency. Across professions, overwhelming agreement with the proposition that the reform will increase speed remains. Not only do large majorities agree with this proposition -- 81% of judges, 85% of prosecutors, and 92% of defenders -- but majorities within each profession expressed the highest level of agreement with this proposition: 56% of judges, 68% of prosecutors, and 72% of defenders.

Across states within each profession, similar patterns remain. Most dramatically, 100% of judges in Baja California (n=12) expressed the highest level of agreement with the underlying statement. Similarly, all prosecutors in Baja California expressed some level of agreement with this statement, along with 95% of defenders. Thus, there appears to be near total consensus in Baja California that the reform will make for a faster process. Returning to judges, majorities in all states agreed with the statement. Among prosecutors, large majorities expressed the highest level of agreement -- 80%, 75%, and 60% in Baja California, Nuevo León, and Oaxaca, respectively. Similarly, among defenders the most frequent response category is the highest level of agreement -- 81%, 60%, and 50% in Baja California, Coahuila, and Nuevo León, respectively.

Overall, these results appear to give good news. That is, there is widespread agreement among judges, prosecutors, and public defenders that the speed of the criminal process should increase as a result of the new reform. Presumably, therefore, the criminal justice system will become more efficient, leading to fewer delays. Given that one of the main criticisms of the justice system in Mexico is the prevalence of long delays, this is good news, indeed.

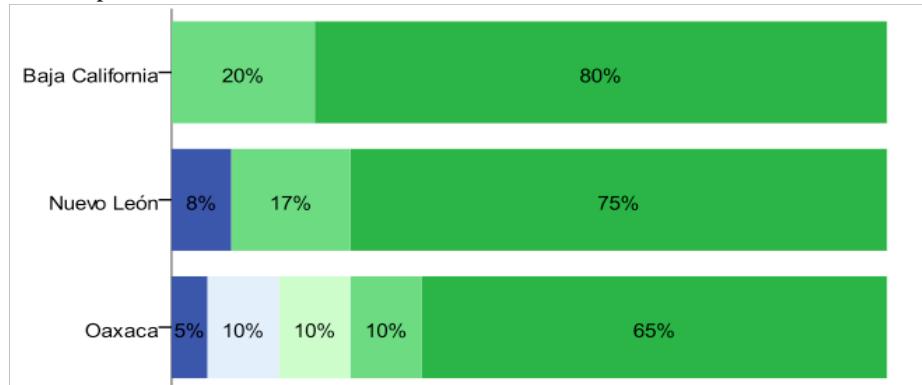
**Figure 8: Expectations Regarding the Efficiency of the New System**

*Do you agree or disagree?: The 2008 reform will increase the speed of the criminal justice process [CIII.7]*

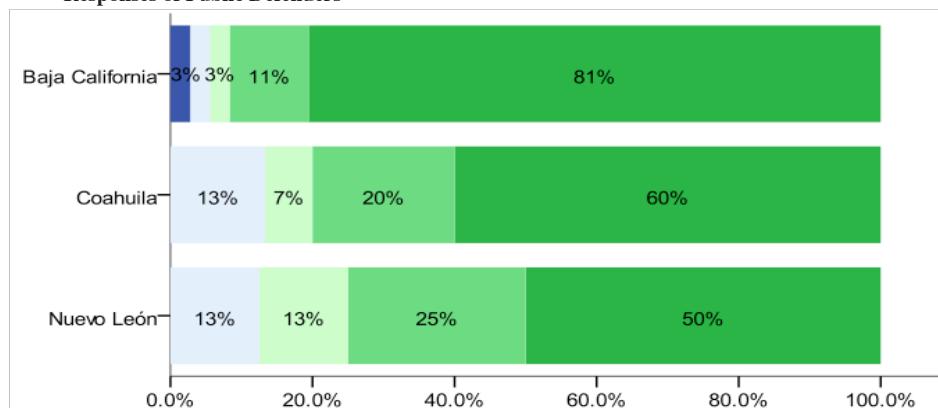
**Responses of Judges**



**Responses of Prosecutors**



**Responses of Public Defenders**



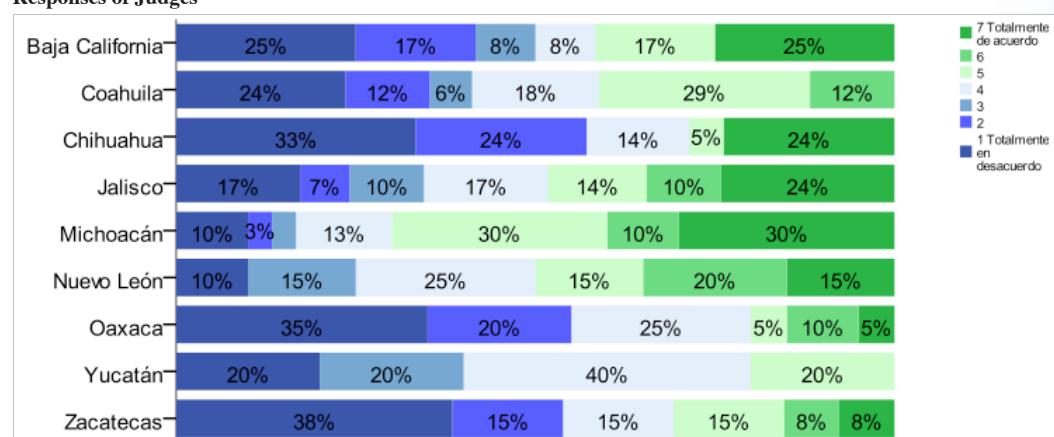
## Expected Effect of the New System on Criminality

Only 47% of respondents think the reform will help reduce criminality, while about 34% of all respondents disagree. Given the levels of violence Mexico is experiencing and the high-profile framing of this reform as a central measure to fight crime and impunity, this is not an encouraging finding. Across professions, 41% of judges, 53% of prosecutors, and 58% of defenders think the reform will help. Those that disagree include 38% of judges, 35% of prosecutors, and 23% of defenders.

**Figure 9. Expectations Regarding Effect of New System on Criminality**

*Do you agree or disagree with this statement: The new criminal justice system will help reduce criminality [CHI.8]*

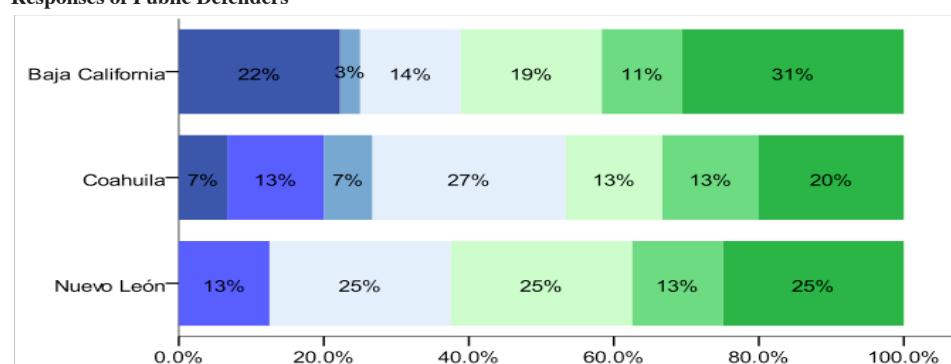
### Responses of Judges



### Responses of Prosecutors



### Responses of Public Defenders



Across states within each profession, substantial disagreement remains. Among judges, only in Michoacán is there a majority (70%) that thinks the new system will reduce criminality. Aside from the positive assessment of the reform on this point in Michoacán, there is widespread disagreement among judges across these eight states whether the criminal procedure reform will reduce criminality. Only two other states have large portions of judges reporting agreement with this proposition: 50% in Nuevo León and 48% in Jalisco. The rate of agreement drops rapidly thereafter, down to only 20% in Oaxaca (4 of 20) and Yucatán (1 of 5). Meanwhile, those judges that disagreed that the reform will reduce criminality include 57% in Chihuahua, 55% in Oaxaca, 53% in Zacatecas, and 50% in Baja California. In each of these states, substantial portion expressed the highest level of disagreement—33%, 35%, 38%, and 25%, respectively. Among lawyers, results are slightly more encouraging. In two states, majorities of both prosecutors and defenders think the new system will reduce criminality (Baja California and Nuevo León). However, in Oaxaca 40% agree while another 40% disagree. In Coahuila, 46% of defenders think the reform will reduce criminality, but 27% disagree.

In contrast to the prior question on the increased speed of the new criminal procedure, these results present a rather pessimistic picture. There is substantial disagreement that the reform will help reduce criminality. Notably, this disagreement exists across professions, across states, and even across professions within a single state, e.g., the negative opinion of judges in Baja California versus the positive opinion of lawyers in the same state. The attitudes of judges in Chihuahua, Oaxaca, and Zacatecas show particularly disheartening results because they are states (along with Nuevo León) that have longer experience with the reform already implemented and in practice. If judges here do not think the reform reduces criminality, it is unlikely that it does or will elsewhere. The evidence from Chihuahua is perhaps most disturbing due to the high levels of violence in Ciudad Juárez, though that fact might also explain the results. That is, Ciudad Juárez is the locus of high levels of drug-related violence (Shirk 2010; Rios and Shirk 2011), so that phenomenon may be obscuring the utility of the reform. On the other hand, judges may be commenting on the fact that the reform fails to address drug-related criminality. In other words, reducing levels of criminality may require a different approach, separate from the 2008 reform.

### Expected Effect of the New System on Corruption

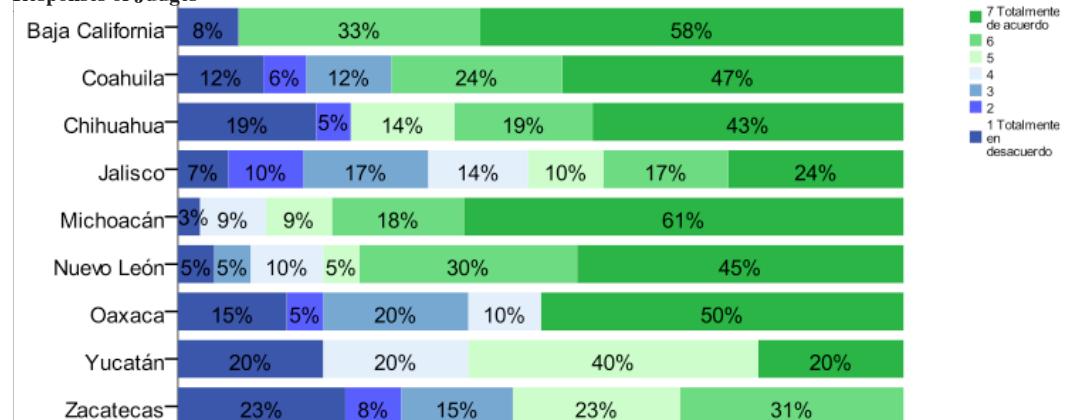
Approximately 70% of respondents believe the reform will help reduce corruption. In contrast to the opinions regarding the crime-reduction potential of the reform, this result is more encouraging regarding the corruption-reduction potential of the new system. Across professions, 70% of judges, 65% of prosecutors, and 77% of defenders agreed that the reform will reduce corruption. Among judges, 41% expressed the highest level of agreement with this proposition, along with 45% of prosecutors and 50% of defenders. Though 23% of judges expressed some level of disagreement, only 18% of prosecutors and 10% of defenders do so.

Across states within each profession, at least 50% of respondents in each state agree to some extent that the reform will reduce corruption. This percentage is highest among judges in Baja California, where 91% agree (58% “totally agree”). The lowest is in Oaxaca (50%), and in no states does the percentage expressing disagreement exceed 46% (Zacatecas, where a majority, 54%, expressed agreement). In no state does the percentage that disagrees exceed 17%. At least half of all defenders and two thirds of prosecutors agree. In a separate question on the survey, roughly a quarter of all respondents thought corruption was the biggest problem facing the judiciary prior to the 2008 reform, which makes the results here rather encouraging.

**Figure 10: Expectations Regarding Effect of New System on Corruption**

*Do you agree or disagree with this statement: The new criminal justice system will help reduce corruption [CIII.9]*

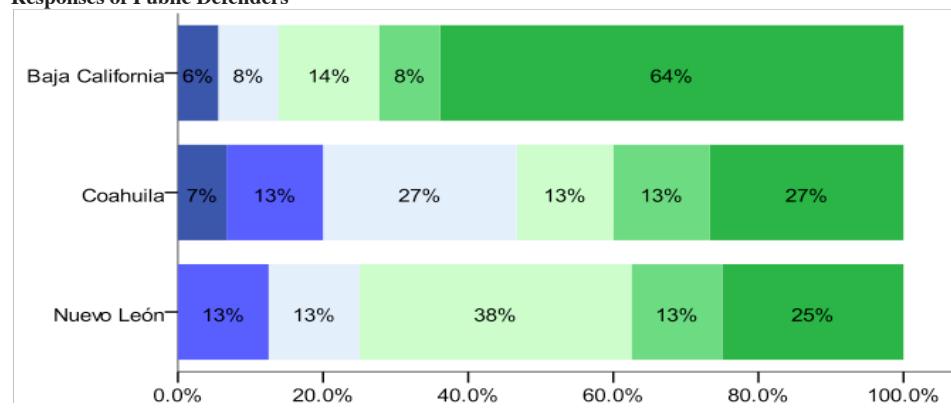
**Responses of Judges**



**Responses of Prosecutors**



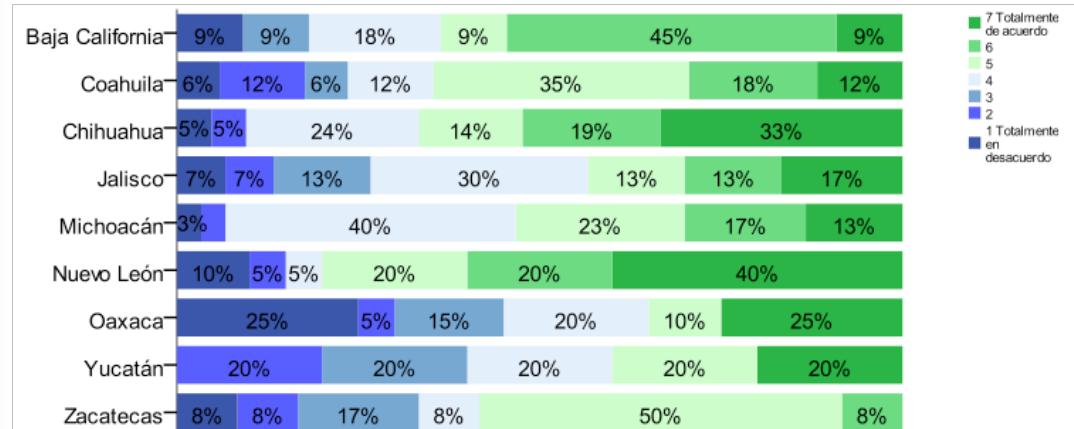
**Responses of Public Defenders**



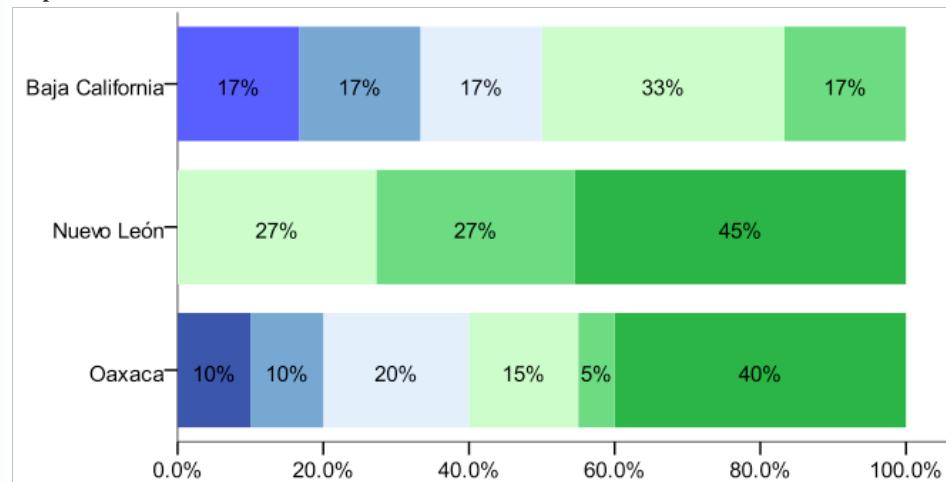
**Figure 11: Results of Reform Efforts**

*Do you agree or disagree with this statement: The results of the 2008 reform have been good [CII.1]*

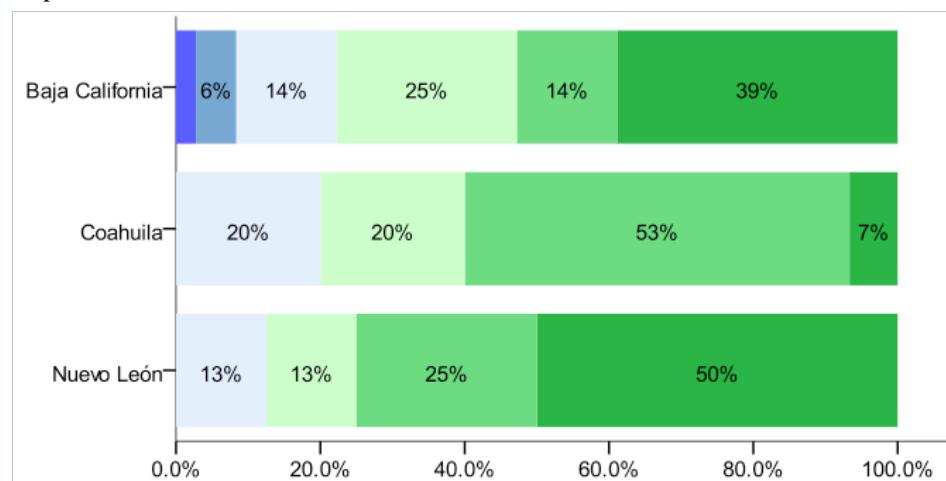
**Responses of Judges**



**Responses of Prosecutors**



**Responses of Public Defenders**



## **Results of Reform Efforts**

Another question on the 2008 reform asked whether the results of the reform have thus far been good. Given that the survey was administered in late 2010, respondents had the benefit of more than two years reflection since the passage of the reform in June 2008. Responses to this question were far more mixed than that focusing on general support for the reform. Specifically, 64% of respondents expressed some level of agreement with the results of the reform, noticeably less than the proportion of respondents (84%) who expressed general support for the reform.

The results remained mixed even disaggregating by state and profession. Approximately 55% of judges expressed some level of approval of the results of the reform, compared with 80% of defenders and 67% of prosecutors. Even within professions, though, there is wide variation. For instance, 100% of prosecutors in Nuevo León agree with the reform's results, but 34% of prosecutors in Baja California disapproved of the results of the reform. Among judges, respondents in several states reported disagreement with the results of the reform in excess of 20% of respondents, but in Michoacán only 6% of judges reported any level of disagreement. In Oaxaca, 25% of judges expressed "total disagreement" with the results of the reform, and 45% of judges in this state expressed some level of disagreement with the reform's results. Given that 20% of Oaxacan judges expressed a neutral position on the reform, this leaves a plurality of judges (45%) opposed to the results of the reform and only 35% in favor.

Hence, Michoacán appears to be a bastion of support for the reform and its results, despite not having implemented their own reform, while Oaxaca has high level of disapproval of the reform's results after several years of experience with the reforms locally. Again, Oaxaca is one of the pioneers in criminal procedure reform among the Mexican states, so the fact that such generalized disagreement with the results of the reform exists in this state is not encouraging for advocates of the reform, and deserves closer attention and further research.

## **Conclusions**

Our findings shed new light on the profile and attitudes of the principal actors responsible for the administration of justice in Mexico as they work toward the implementation of the new judicial reforms initiated in 2008. At this particular moment, Mexico is embroiled in a severe public security crisis and there is intense public frustration with the inability of the criminal justice system to effectively resolve it. Advocates hope that the 2008 reforms will improve the justice sector by introducing greater transparency, accountability, and due process. Because these reforms will demand greater professionalism and effectiveness from police and prosecutors in the long term, there is hope that judicial reform will eventually help Mexico to address the problems of rising crime, judicial sector corruption, and systemic human rights abuses.

Most important, the Justiciabárometro helps to identify several important trends, as well as future lines of inquiry, regarding the perspectives of judges, prosecutors, and public defenders.

- Generally speaking, respondents had a sense that the number of judges is adequate to handle cases in a timely manner (with relatively strong dissenting opinions in Jalisco, Oaxaca, Yucatán, among other states).
- Respondents reported that there is a need for more prosecutors and especially public defenders to adequately handle the workload in several states, most notably Jalisco, Oaxaca, Yucatán, Michoacán and Coahuila.
- On the efficiency of procedures in criminal cases, there were relatively sharp differences between the views of judges and prosecutors, on the one hand, and public defenders, on the other.
- While all respondents tended to have a high opinion of the professional competency and integrity of judges and public defenders, prosecutors were viewed as less competent by their colleagues in other professions, despite favorable self-assessments among prosecutors themselves.
- Respondents were significantly split on the effectiveness and efficiency of Mexico's traditional criminal justice system, on whether that system had been deliberately discredited to make way for the 2008 judicial reform, and on whether the new judicial system was the result of pressure from foreign interests.
- Still, the provisions included in the 2008 reforms —introducing oral, adversarial criminal procedures— were well regarded, particularly in states where they had not yet taken effect; the most significant reservations tended to register among respondents from states that had already adopted the reforms for some time.
- Many respondents do not believe that the 2008 reform will help to reduce criminality, but are optimistic that it will improve efficiency and reduce corruption in the judicial system.

These are important findings because they point to the strengths and weaknesses of the Mexican criminal justice system, and illustrate the sources of support for and resistance to the reforms introduced in 2008. Our findings suggest that proponents of the reform need to recognize that there is significant skepticism about the reforms, above all among those who are currently attempting to work within the new oral, adversarial system. If the reform effort is to be successful, then the concerns of these judicial actors need to be explored more carefully and addressed relatively quickly. Otherwise, a significant backlash is likely to result, hampering further progress toward full and effective implementation of these reforms.

Meanwhile, within the available data from this survey, there are numerous additional questions that are outside the scope of this report. Some of these are available in the full 133-page report summarizing the survey's overall findings, while others must be explored in greater detail in the future. The survey will provide a rich resource to help address of a wide range of questions about the judicial profession in Mexico, such as the different perceptions of men and women working in different professions in the criminal justice system, the influence of prior study abroad on attitudes toward foreign influence in the

Mexican legal system, and the experience of crime victimization and trust toward prosecutors. Likewise, this study provides new data well worth comparing to existing research on other professionals working in the criminal justice system, including previous Justiciabarómetro studies of police attitudes in Guadalajara and Ciudad Juárez.

The team that helped to generate in this study encourages other researchers to use the data generated by the Justiciabarómetro to develop future research that will provide insights on the role of the judiciary in Mexico and more generally comparative juridical studies. In Mexico, and in many other Latin American societies, there is a clear need to identify ways to strengthen the judicial sector not only as part of the strategy to address recent challenges of crime and violence, but as part of the larger project of strengthening democratic governance that was initiated throughout the region in recent decades. In the case of Mexico, it is clear that the key to a more efficient, effective, and fair criminal justice system is to ensure that criminal justice professionals have adequate preparation, support, and accountability for their performance.

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**David A. Shirk** is the director of the Trans-Border Institute and assistant professor of political science at the University of San Diego, and is a widely cited expert on Mexican politics, U.S.-Mexican relations, and the U.S.-Mexican border. Dr. Shirk received his B.A. from Lock Haven University and his Ph.D. in Political Science at the University of California, San Diego. He was a scholar in the Ralph Bunche Summer Institute in 1992, a recipient of a National Science Foundation minority scholarship in 1993, a fellow at the UCSD Center for U.S.-Mexican Studies from 1998-99 and 2001-2003, and a fellow at the Woodrow Wilson Center for International Scholars in 2009-10. Recent publications include: *Shared Responsibility: U.S. and Mexican Policy Options for Combating Organized Crime* (2010); *Drug Violence in Mexico* (2010); *Police and Public Security in Mexico* (2009); *Contemporary Mexican Politics* (2008); *Reforming the Administration of Justice in Mexico* (2007); *Evaluating Accountability and Transparency in Mexico: National, Local, and Comparative Perspectives* (2007).

## Endnotes:

<sup>1</sup> Post-independence political instability in the 19th century, the 34-year dictatorship of General Porfirio Díaz (1876-1910), and severely restricted terms of democratic competition during 71 years of uninterrupted rule by the Institutional Revolutionary Party (PRI) significantly impeded the development of judicial independence in Mexico. Under the PRI, for example, judicial appointments depended heavily on loyalty to the ruling party and judicial decisions only rarely contradicted the elected branches of government controlled by the party. Sara Schatz, Hugo Concha, and Ana Laura Magaloni Kerpel, “The Mexican Judicial System: Continuity and Change in a Period of Democratic Consolidation,” in Reforming the Administration of Justice in Mexico, edited by Wayne A. Cornelius and David A. Shirk, pp. 197-224. South Bend, IN; San Diego, CA: University of Notre Dame Press; Center for U.S.-Mexican Studies, University of California-San Diego, 2007, Stephen Zamora, José Ramón Cossío, Leonel Pérez Nieto, José Roldán-Xopa, and David Lopez, Mexican Law. Oxford; New York: Oxford University Press, 2005.

<sup>2</sup> After decades of irrelevance in Latin America, courts have played an increasingly important role in addressing issues of transitional justice, in constitutional deliberations, and in reforms to the administration of justice throughout the region. A central theme throughout much of the new literature on the judiciary in Latin America is the link between democracy and the rule of law, particularly the role of the courts in protecting a democratic society against abuses of authority in a context of political uncertainty. Beatriz Magaloni, “Authoritarianism, Democracy and the Supreme Court: Horizontal Exchange and the Rule of Law in Mexico,” in Democratic Accountability in Latin America, edited by Scott Mainwaring and Christopher Welna, Oxford: Oxford University Press, 2003, Lisa Hilbink, Judges Beyond Politics in Democracy and Dictatorship: Lessons from Chile. Cambridge Studies in Law and Society. New York: Cambridge University Press, 2007, Pilar Domingo, Rule of Law, Citizenship and Access to Justice in Mexico. México, D.F.: Centro de Investigación y Docencia Económicas División de Estudios Políticos, 1996, Pilar Domingo, “Judicialization of Politics or Politicization of the Judiciary? Recent Trends in Latin America,” Democratization Vol. 11, 2004:104-27, Pilar Domingo and Rachel Sieder, The Rule of Law in Latin America: The International Promotion of Judicial Reform. London: University of London Institute of Latin American Studies, 2001, Héctor Fix-Zamudio, Los problemas contemporáneos del poder judicial. Grandes tendencias políticas contemporáneas ; 50. 1. ed. México, D.F: Universidad Nacional Autónoma de México Coordinación de Humanidades, 1986, Héctor Fix-Zamudio and José Ramón Cossío Díaz, El poder judicial en el ordenamiento mexicano. 1. ed. México: Fondo de Cultura Económica, 1996, Edmundo Jarquín and Fernando Carillo Florez, Justice Delayed: Judicial Reform in Latin America. 1998, Mario Melgar Adalid, Reformas al poder judicial. 1. ed. México: Universidad Nacional Autónoma de México Coordinación de Humanidades, 1995, Mark Ungar, Elusive Reform: Democracy and the Rule of Law in Latin America. Boulder, CO: Lynne Rienner, 2001, William C. Prillaman, The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law. Westport, Conn.: Praeger, 2000, Nigel Biggar, Burying the Past: Making Peace and Doing Justice After Civil Conflict. Expanded and updated ed. Washington, D.C.: Georgetown University Press, 2003. This literature emphasizes the relationship between strong legal institutions and the quality of democratic citizenship. See Juan E. Méndez, Guillermo O'Donnell, and Paulo Sergio Pinheiro, eds. The (Un)Rule of Law and the Underprivileged in Latin America. South Bend, Indiana: University of Notre Dame Press, 1999. Guillermo O'Donnell. “Acerca del estado, la democratización, y algunos problemas conceptuales: una perspectiva latinoamericana con referencias a países poscomunistas.” Desarrollo Económico 33(130): 163-184, 1993. Also in Miguel Carbonell, Miguel, Wistano Orozco y Rodolfo Vázquez, eds. Estado de derecho: concepto, fundamentos y democratización en América Latina. México, D.F: Siglo XXI, 2002, pp. 235-264.; United Nations Development Program (UNDP). “Democracy in Latin America: Toward a Citizens’ Democracy.” New York: United Nations, 2004.

<sup>3</sup> Viridiana Ríos and David Shirk, Drug Violence in Mexico: Data and Analysis Through 2010, San Diego: Trans-Border Institute, 2010.

<sup>4</sup> See, for example, Sarkees, Meredith Reid and Frank Wayman (2010). Resort to War: 1816 - 2007. CQ Press; Gleditsch, Nils Petter, Peter Wallensteen, Mikael Eriksson, Margareta Sollenberg, and Havard Strand. 2002. “Armed Conflict 1946-2001: A New Dataset.” Journal of Peace Research 39(5).

<sup>5</sup> For detailed discussion of reform see Matthew C. Ingram and David A. Shirk, “Judicial Reform in Mexico: Toward a New Criminal Justice System,” Special Report, Trans-Border Institute, University of San Diego, May 2010; David A. Shirk, “Judicial Reform in Mexico: Changes and Challenges in the Justice Sector,” Working Paper, Trans-Border Institute, University of San Diego, 2010; United States Agency for International Development (USAID), Mexico Rule of Law Strengthening: Final Report to USAID (prepared by Management Systems International, MSI), December 31, 2007.

<sup>6</sup> The polling firm Data-OPM, based in Mexico City and directed by Pablo Parás, administered the survey. The advisory council met and corresponded to develop the lines of inquiry and to review the specific questions to be included in the survey instrument. In advance of administering the survey, the research team travelled to each of the states included in order to identify respondents and disseminate information about the study and its objectives.

<sup>7</sup> An additional two interviews were with respondents who listed profession as “other” so they are not included.

<sup>8</sup> Joseph L. Staats, Shaun Bowler, Jonathan T. Hiskey, “Measuring Judicial Performance in Latin America,” Latin American Politics and Society 47(4), 2005; Simeon Djankov et al. Legal Structure and Judicial Efficiency: The Lex Mundi Project. Washington, DC, 2001; World Bank; John Huber and Ronald Inglehart, “Expert Interpreta-

tions of Party Space and Party Placement in 42 Societies," *Party Politics*, v. 1, 1995, pp. 73-112; Michael Laver and Ben Hunt. *Policy and Party Competition*. London: Routledge, 1992; Michael Coppedge, "The Dynamic Diversity of Latin American Party Systems." *Party Politics*, v. 4, 1998, pp. 547-68.; G. Bingham Powell, *Elections as Instruments of Democracy: Majoritarian and Proportional Visions*. New Haven: Yale University Press, 2000; Leonard Ray, "Measuring Party Positions on European Integration: Results from an Expert Survey," *European Journal of Political Research* 36, 1999, pp. 283-306; Leonard Ray and Hanne Marthe Narud, "Measuring the Issue Positions of Norwegian Parties: Results from an Expert Survey," *Party Politics* 6, 2000, pp. 225-39.

<sup>9</sup> Laver and Hunt (1992) and Huber and Inglehart (1995), Ray (1999: 286) and Staats, Bowler and Hiskey (2005).

<sup>10</sup> Staats, Bowler and Hiskey, p. 84.

<sup>11</sup> Staats, Bowler, and Hiskey include data on Brazil and Ecuador even though only 4 respondents replied to particular questions, p. 98-99.

<sup>12</sup> See, for example, Helmke, Gretchen. 2005. *Courts Under Constraints*. Cambridge: Cambridge University Press; Beer, Caroline. 2006. "Judicial Performance in the Mexican States." *Latin American Politics and Society*; Rios-Figueroa, Julio. 2007. *Latin American Politics and Society*; Kapiszewski, Diana. 2011. "Tactical Balancing" *Law and Society Review*; Ingram, Matthew C. [forthcoming]. "Crafting Courts in New Democracies: The Effect of Ideology on Judicial Council Reforms in Three Mexican States." *Comparative Politics*.

<sup>13</sup> 10 respondents did not know or did not respond ("NS/NR").

<sup>14</sup> As of Dec. 31, 2010, eight (8) states had approved and implemented the new system: Baja California, Chihuahua, Durango, State of Mexico, Morelos, Nuevo León, Oaxaca, and Zacatecas. Another two -- Guanajuato and Puebla -- had reforms approved by January 2011 and were scheduled to begin implementing in the second half of 2011. See Ingram, Matthew C. [forthcoming]. "State of the States: Local Criminal Procedure Reforms in Mexico," in Octavio Rodriguez and David A. Shirk, eds. *La reforma penal en Mexico*. Trans-Border Institute, University of San Diego.

<sup>15</sup> Nancy J. Blake and Kathleen Blake Bohne, "The Judicial System in Mexico (Part 3)," Open Democracy, August 8, 2009.

<sup>16</sup> Preliminary cross-tabulations show a relationship between general opinion regarding the 2008 reform and this variable ( $\chi^2=11.66$ ;  $p < .05$ ), as well as opinion regarding results of the 2008 reform and this variable ( $\chi^2=14.56$ ;  $p < .01$ ). Thus, as might be expected, at least some part of the assessment of the traditional system is shaped by one's attitude towards the 2008 reform; put simply, if one has a negative opinion of the 2008 reform one is likely to think that the traditional system was just fine.

<sup>17</sup> Ingram's study of judicial councils examines how this process can unfold. See Matthew C. Ingram, (forthcoming), "Crafting Courts in New Democracies: Ideology and Judicial Council Reforms in Three Mexican States," *Comparative Politics*.

<sup>18</sup> In full disclosure, for similar reasons, in 2007 the Trans-Border Institute, the host institution of the *Jusiciabárometro* study, initiated a series of studies and public forums to examine the prospects and merits of judicial reform in key reform states, including eight Mexican states: Aguascalientes (September 2007), Baja California (May 2007), Chihuahua (March 2008), Coahuila (March 2007), Jalisco (July 2007), Nuevo León (January 2008), Oaxaca (November 2007), and Zacatecas (September 2007). Such initiatives were developed with the intent of promoting public discussion and reasoned debate among the very professionals surveyed in this study. The rationale for these activities was that the involvement of U.S. institutions could play a positive role in facilitating an understanding of the strengths and weaknesses of oral, adversarial model.

<sup>19</sup> Aggregate percentages are based on the full set of 276 responses, of which only 268 can be broken down by profession and location (see methodological section).





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