



Perspectives on Mexico's Criminal Justice System: ¿What Do Its Operators Think?

Survey of Judges, Prosecutors, and
Public Defenders

Nancy G. Cortés
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Justiciabarómetro

About Justice in Mexico

Since 2001, Justice in Mexico (www.justiceinmexico.org) has worked to improve citizen security, strengthen the rule of law, and protect human rights in Mexico. We generate cutting-edge research, promote informed dialogue, and work to find solutions to address these enormously complex issues. As a U.S.-based initiative, our program partners with key stakeholders, experts, and decision makers, lending international support to help analyze the challenges at hand, build consensus about how to resolve them, and foster policies and programs that can bring about change. Our program is currently based at the Department of Political Science and International Relations at the University of San Diego (USD), and involves university faculty, students, and volunteers from the United States and Mexico. From 2005 to 2013, the project was based at the USD Trans-Border Institute in the Joan B. Kroc School of Peace Studies, and from 2001 to 2005 it was at the Center for U.S.-Mexican Studies at the University of California-San Diego.

About Justiciabarómetro

The *Justiciabarómetro* (Justice Barometer) research initiative consists of a series of studies that evaluate the perceptions and professional development of Mexican-justice-sector personnel through large-scale surveys, focus groups and interviews, and the analysis of public policy to better understand the strength, challenges, and needs of the Mexican criminal justice system. Thus far, the *Justiciabarómetro* has surveyed over 8,000 municipal police in six municipalities in the Guadalajara Metropolitan Zone in 2009, in Ciudad Juárez in 2011, and Tijuana in 2014. Justice in Mexico has also surveyed nearly a thousand judges, prosecutors, and public defenders in 11 Mexican states through a 2010 study and in the 2016 follow up study summarized in this report.

The *Justiciabarómetro* initiative has benefitted from the generous support of the [John D. and Catherine T. MacArthur Foundation](#), as well as previous support from the [William and Flora Hewlett Foundation](#), the [Tinker Foundation](#), the [Open Society Foundations](#), and the contributions of individuals donors to support the work of Justice in Mexico.

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PREFACE

During the last decade, many organizations in Mexico and elsewhere have worked arduously to generate and compile reliable indicators to evaluate the Mexican justice system, which until recently lacked relevant data to allow for adequate analysis. With the transition to a New Criminal Justice System (Nuevo Sistema de Justicia Penal, NSJP) that began in 2008, the Mexican government and independent researchers began to generate new data and indicators to evaluate the reform process, implementation efforts, and the overall operation and results of Mexico's evolving criminal justice system. Moreover, in recent years, there has been a substantial increase in the number of statistical indicators available about crime, victimization, and the general state of rule of law in Mexico.

This movement towards greater transparency has resulted in a greater understanding of the enormous “black box” (“*caja negra*”) that is the Mexican justice system, whose internal weaknesses are often recognized, but not easily measured. Although we currently have more and better information, there is still a tremendous need for the generation and the analysis of data that systematically measures all of the aspects of the justice system. Among the most important but little studied aspects of the justice system are the professional profiles, working conditions, and attitudes of personnel within the justice system.

While there is a great deal of information available regarding judicial sector institutions and outcomes (e.g., budgets, personnel figures, crime rates, etc.) and about public views regarding the judicial sector (e.g., polls, victimization surveys), there are exceptionally few studies about how judicial sector operatives view themselves and the system in which they operate.¹ Doing such studies is difficult for a number of reasons, but most importantly because historically and by its nature the judicial sector is a very cloistered area of government. As a result, we know surprisingly little about those who are central to the functioning of the judicial system itself. Judges, in particular, are naturally elusive creatures, about whom astonishingly little is known. Yet, because judges will play a central role in Mexico's new criminal justice system, it is especially important to take a close look at their views and experiences in working within this new framework.

The few studies that delve into the perceptions and attitudes of judges tend to rely primarily on qualitative analysis based on interviews with a fairly small group of individuals, rather than systematic surveys with quantifiable indicators obtained from a large sample of the target population. In part, this is because large survey projects of this nature are extremely laborious, technical, and time consuming. Such studies require a substantial long-term commitment of resources that is only possible with ample funding and a high degree of organization. Moreover, conducting a long-term study comparing judicial sector attitudes over several years requires a degree of institutional capacity and commitment that is difficult to achieve and sustain.

¹ Among these, we would point especially to a number of important recent studies: Causa en Común, ¿Qué piensa la policía? 2014. <http://causaencomun.org.mx/documentos/encuesta-piensa-la-policia/>; Matthew C. Ingram, *Crafting Courts in New Democracies: The Politics of Subnational Judicial Reform in Brazil and Mexico*, (Cambridge University Press, 2016); Gustavo Fondevila, Máximo Langer, Marcelo Bergman, Carlos Vilalta y Alberto Mejía, ¿Cómo se juzga en el Estado de México? Mexico, D.F.: Centro de Investigación y Docencia Económicas (CIDE), México Evalúa, Centro de Análisis y Políticas Públicas, A.C., 2016, http://mexicoevalua.org/wp-content/uploads/2016/10/Como_Juzga_Edomex.pdf.

Justice in Mexico is a research initiative based at the University of San Diego that has worked since 2001 to advance the justice system reform and analysis in Mexico. As part of this ongoing effort, Justice in Mexico launched a series of studies in 2009 that evaluate the perceptions and professional development of the primary operators of the Mexican justice system, namely police, judges, prosecutors, and public defenders. Working with interdisciplinary and bi-national teams of experts on Mexico's justice sector, this series of studies—titled *Justiciabarómetro* or “Justice Barometer”—has sought to specifically generate indicators that examine the justice system through their eyes, evaluating its strengths and challenges, as well as the needs of the institutions charged with the administration of justice in Mexico.

The timing of the 2016 *Justiciabarómetro* is fortuitous. This new study comes at a critical moment in Mexico's transition to a new justice system, providing valuable insight on the process and its consolidation. In 2008, the Mexican congress approved a package of reforms intended to dramatically improve the administration of justice by adopting a new oral, adversarial model of criminal procedure that also relies heavily on alternative sentencing and alternative dispute resolution (ADR) mechanisms. Because of the enormity of the change involved, Mexico's Congress mandated an eight-year period for full adoption of the reforms. To provide a benchmark upon which to evaluate the progress of these reforms, Justice in Mexico conducted its first *Justicabarómetro* survey of judges, prosecutors, and public defenders in 2010. The 2016 *Justiciabarómetro* survey was administered in the final months of implementation, providing a second vantage point from which to assess how the experiences and views of these actors have changed during the transition.

Thus, the 2016 *Justiciabarómetro* reflects the culmination of many fortunate circumstances, including generous current and past donor support from the MacArthur Foundation, the Tinker Foundation, the Open Society Foundation, and the Hewlett Foundation that has made possible a sustained effort to monitor the administration of justice in Mexico. Justice in Mexico is grateful to these sponsors and to all of the respondents that contributed their valuable time, knowledge, and experience to help inform this study. Overall, the judges, prosecutors, and public defenders that took part in the study demonstrated not only a strong sense of professional commitment, but also a clear commitment to the long-term improvement of Mexico's criminal justice system.

EXECUTIVE SUMMARY

- **This is the first repetition of the *Justiciabarómetro* study with a population of judicial sector operators in Mexico.** The 2016 *Justiciabarómetro* study is a follow up study to a previous survey deployed in 2010. To date, there are no comparable studies that have evaluated judicial sector opinions at two different points in time during the reform process.
- **The 2016 *Justiciabarómetro* study included participation from more than 700 judges, prosecutors, and public defenders in 11 states, for a remarkable response rate of 56% of all possible respondents in these states.** This survey included over 700 criminal justice sector operators—288 judges, 279 prosecutors, and 127 public defenders—out of a total population of slightly more than 1,200 possible participants, for a response rate of 56% and a 2.4% margin of error with a 95% confidence interval.
- **The majority of the justice system operators are relatively young males. Men represent 56% of the survey’s respondents .** Almost four in five (79%) of respondents are younger than 50 years old. The average age of prosecutor respondents was 38.2 years old, seven years less than that of judges (45.6 years old) and public defenders (45.8 years old).
- **More than half of the justice system operators surveyed have studied at the graduate level, although prosecutors were less likely to have any graduate studies.** Of all respondents, 57% completed graduate-level education, among which judges maintain the highest attainment rate: 63% of judges have a master’s degree, in comparison to 30% of prosecutors and 44% of public defenders. On the other hand, the number of professionals belonging to bar and legal associations continues to be very low, with only 12% of those surveyed reporting such membership.
- **There has been a substantial turnover among judges since 2008.** More than two-thirds of judges surveyed were appointed after the 2008 reforms. The number of judges with less than two years of experience in their position increased from 13% in 2010 to 26% in 2016, while the percentage of judges with ten years of experience or more in their position decreased from 34% in 2010 to 17% in 2016.
- **There is a difference in salaries among all operators, most evidently between prosecutors and public defenders.** Nearly three in five judges (63%) earn more than \$30,000 pesos each month, while a large majority of prosecutors (72%) and defenders (82%) earn less than \$30,000 pesos monthly. However, survey results suggest that a greater number of prosecutors have access to higher salary ranges than do public defenders.
- **The majority of respondents consider having good political connections an effective way to achieve job security or receive a promotion.** While the majority of respondents (64% of judges, 70% of prosecutors, and 58% of public defenders) indicated that having experience and training positively influences one’s job security and possibility of a higher position, a significant number of judges (54%), prosecutors (37%), and public defenders (65%) consider that having good political connections improves their chances of maintaining a position or being named to higher positions.
- **The majority of respondents indicated that the traditional justice system was in need of reform and that the new system has had positive results.** Eighty-nine percent of respondents in 2016 believed that the criminal justice system needed to be reformed and that the reform has had positive effects on their organization. In addition, 90% of those surveyed in 2016 indicated that the NSJP has created more trust in authorities and 93% indicated that it will increase the speed of judicial processes, both of which increased roughly ten percentage points in comparison to 2010.
- **Oral proceedings and alternative dispute resolution (ADR) are considered positive measures.** Oral proceedings are preferred over Mexico’s traditional written format by 93% of judges, 98% of prosecutors, and 96% of public defenders, which is a substantial increase from 2010 (when 76% of judges, 80% of prosecutors, and 87% of public defenders expressed the same opinion). Similarly, 98% of respondents supported the incorporation of ADR mechanisms, and 90% believe that ADR has resulted in quicker reparation of damages.

- **The right of presumption of innocence and the possibility of initiating a private prosecution received greater levels of approval in 2016 than in 2010.** The number of operators who indicated that the right to presumption of innocence should be respected increased from 76% in 2010 to 84% in 2016 among judges, from 70% to 76% among prosecutors, and from 83% to 91% among public defenders. The number of operators who support the option of private prosecution increased from 70% to 86% among judges, 53% to 84% among prosecutors, and 75% to 80% among public defenders.
- **Respondents indicate that the new system will help combat corruption.** Respondents in 2016 agree that the NSJP will help reduce corruption (80%), reflecting an increase compared to 2010. The increase was more apparent among prosecutors, whose level of agreement increased by 14 percentage points.
- **SETEC facilitated the reform's implementation process.** Of those surveyed in 2016, 89% agreed that SETEC made the process of implementing the reform easier, although a smaller number (68%) said that SETEC contributed sufficient funds to their respective states for the reform. However, even fewer operators in Chihuahua, Coahuila, and Nuevo León believe SETEC gave enough financial support to their states.
- **The large majority of respondents consider themselves ready to operate within the NSJP.** The large majority of respondents (86% of judges, 93% of prosecutors, and 90% of public defenders) consider themselves ready to operate within the NSJP, although 19% of judges, 24% of prosecutors, and 13% of public defenders still had not yet taken a course in oral litigation. An additional 20% of judges, 29% of prosecutors, and 26% of public defenders had also not yet taken a course on ADR.
- **The work done by judges has a high approval rating across states, however that of prosecutors is significantly lower.** Ninety-six percent of respondents have a positive opinion about the effectiveness of judges, believing that they thoroughly study the cases and sufficiently analyze the evidence. Additionally, the great majority of respondents (66% of judges, 86% of prosecutors, and 96% of public defenders) believe that public defenders provide an adequate counsel and judicial defense. On the other hand, prosecutors received the most negative opinions, most notably from judges, with only 56% of judges and 73% of public defenders holding a positive opinion about the effectiveness of prosecutors' work. Nonetheless, positive views of the work of prosecutors showed a ten-point increase in comparison to 2010.
- **Eyewitness testimony continues to be the most frequently presented form of evidence in trial.** According to respondents, eyewitness testimonies are the most frequently presented form of evidence in trial: 68% reported that eyewitness testimonies are presented "very frequently." Physical evidence received the second highest with 53%, and confessions the third with only 13%. Additionally, 39% of judges and 42% of defenders believe that prosecutors leave the responsibility of investigating or providing evidence up to the victim or person offended, an increase from the 2010 results.
- **The impression still exists that the NSJP favors criminals at the expense of the victims.** According to 21% of judges, 40% of prosecutors, and 24% of public defenders, the NSJP favors criminals at the expense of the victims. In addition, 10% of judges, 29% of prosecutors, and 20% of public defenders responded that human rights obstruct justice for victims. Furthermore, almost half (48%) of prosecutors and a third of public defenders (29%) responded that in some instances the authorities should circumvent the law in order to investigate and penalize those responsible for crimes (in comparison with only 13% of judges).
- **Operators still do not have full confidence in the system of justice.** Survey respondents perceive procedural judges and criminal enforcement judges as the most reliable (96% of those surveyed would trust them). In general, prosecutors expressed a higher level of trust in other authorities. For example, 84% of prosecutors said they would trust ministerial police in contrast to only 39% of judges and 28% of public defenders. Even so, of the 36% of operators who reported that they or someone in their family had been victim of a crime in the past year, only 20% admitted they did not report the incident to authorities. The main reason for not reporting in these cases was lack of interest (23%), followed by distrust in authorities (17%), and lack of time (15%).

INTRODUCTION

Survey of judges, prosecutors, and public defenders

Over the last three decades, a series of reforms to the criminal justice system has been implemented in Mexico. These include ongoing efforts to restructure Mexico's police and public security institutions in order to achieve a higher level of professionalization. Furthermore, these reforms sought to strengthen the judiciary by introducing higher professional standards for judges, stronger powers of judicial review, and greater judicial independence. These efforts to revamp the criminal justice system eventually led to new criminal statutes designed to deal with the mounting threat of organized crime.

By the 2000s, elevated levels of crime and violence led to further measures that focused on strengthening the Mexican criminal justice system. However, a major reform to the criminal justice system failed to pass in 2004. Nevertheless, some Mexican states enacted their own reforms at the state level, specifically Nuevo León, the State of Mexico (Estado de México), Zacatecas, Chihuahua, and Oaxaca. Following these state level reforms, the Mexican Congress approved a package of legislative and constitutional reforms in June 2008 that established a new model of criminal procedure and provided stronger due process mechanisms while streamlining the handling of criminal cases. The reforms introduced an adversarial model of criminal procedure to Mexico's traditionally mixed inquisitorial system, with the goal of increasing transparency, efficiency, and due process.

The New Criminal Justice System (Nuevo Sistema de Justicia Penal, NSJP) had until June 18, 2016 to replace the traditional framework of criminal justice in Mexico with public and oral trials, as well as procedures that allow both the prosecutor and the defense attorney to present evidence and arguments as equal parties before an impartial and independent judge. However, the predominant feature of the reform is that the vast majority of cases will be resolved before trial using alternative means, such as restitution, mediation, reconciliation, and the negotiation of sentences in exchange for a guilty plea.

The transition to the NSJP required major federal and state investments in infrastructure (e.g., construction of new courtrooms), professional training for judicial sector personnel and operators, and education for citizens and civil society. Beyond the level of investment demanded, the process of implementation also involved numerous changes to federal and state level legislation and administrative procedures. Given the large amount of human, financial, and legislative resources directed towards the transition to the NSJP, there is a clear need to systematically monitor and assess the performance of the new system. The internal limitations of Mexico's criminal justice system are widely recognized, but are not easily quantified.

As part of its ongoing efforts for more than a decade to advance and analyze the criminal justice system reform, in 2016 the Justice in Mexico program at the University of San Diego launched a second edition of the *Justiciabárometro* study directed towards judges, prosecutors, and public defenders. These actors are the principal operators of the new system and providing reliable information about their profiles, experiences, and perspectives will help policy analysts to better monitor and evaluate the reform efforts and contribute to the improvement of Mexico's justice system.

The 2016 *Justiciabarómetro* study consisted of a large-scale survey implemented in 11 Mexican states: Baja California, Chihuahua, Coahuila, Jalisco, Michoacán, Nuevo León, Oaxaca, Yucatán, and Zacatecas—the nine states that participated in the initial survey conducted in 2010—as well as Durango and Guanajuato. The new survey was piloted in the state of Baja California Sur during March 9-11, 2016, though the results of the pilot study are not included in this report.² The full survey was implemented in two stages: the first from April 21 to June 17, 2016, and an extended period from July 5-17 that was approved to allow for the inclusion of judges from Zacatecas in the study.

The survey was implemented in a staggered fashion due to significant variation in the time it took the research team to recruit participating institutions from different states to take part in the study. Although the research team had received commitments from officials in the designated states upon the initial funding request for this project, various factors (e.g., personnel changes at the state level) made it necessary to conduct additional outreach and recruitment prior to launching the survey. Other difficulties that contributed to a staggered process of implementation included differences in the speed at which different institutions were able to produce the contact information of participants and to familiarize their personnel with the study. Moreover, Baja California, Chihuahua, Durango, Oaxaca, and Zacatecas held elections on June 5, 2016, which meant the survey's planning and implementation process in those states had to be done with special care to prevent the politicization of the study or operators' participation in it.

While the study was designed to include the participation of the judges, prosecutors, and public defenders in each state, it was not successful in all cases. In some instances, the researchers coordinating this study were unable to establish a formal channel of communication or to otherwise persuade officials to permit members of their institution to participate in the study. In other cases, despite having initially expressed interest in the study, institutional representatives did not take the necessary steps to allow the study's implementation—such as familiarizing their personnel with the study—or they simply ultimately refused to participate.

Amid these challenges, the research team maintained a special interest in obtaining responses from criminal court judges and succeeded in obtaining participation from such judges in 10 out of the 11 states included in the final implementation of the survey. Unfortunately, Jalisco was the only state that did not allow its judges to participate. In this particular case, despite an initial commitment from the State Judiciary (*Poder Judicial del Estado*), the research team was informed immediately prior to deployment of the survey and without great detail that Jalisco state judges were not authorized to participate. Given that the Jalisco Attorney General's Office (*Fiscalía General del Estado*) also opted out of the study, the results from Jalisco only represent the opinions of the state's public defenders. In Guanajuato and Zacatecas, the judges' opinions were accompanied by the opinions of both prosecutors and public defenders, while in Baja California and Oaxaca the judges' opinions were solely accompanied by the opinions of the public defenders.

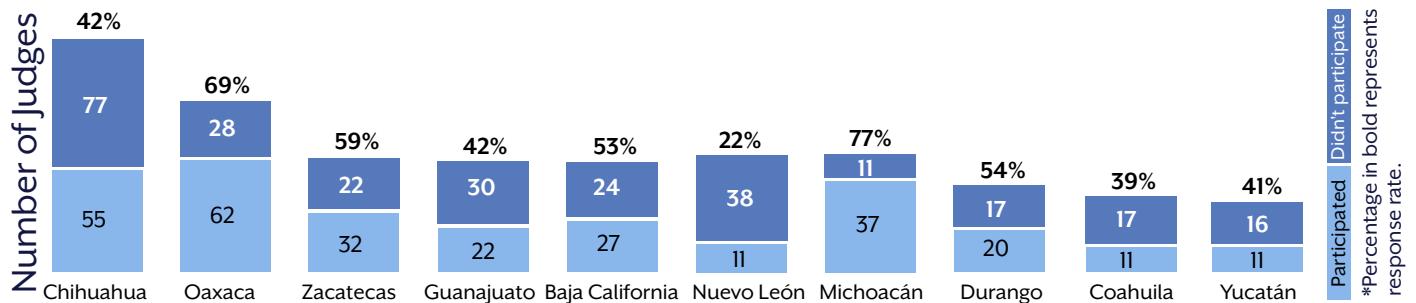
² The study of criminal justice system operators in 2010 surveyed 276 judges, prosecutors, and public defenders in nine Mexican states, and provided unprecedented analysis of the demographic profile, professional background, and personal observations of key players in Mexico's criminal justice system. However, as the justice system evolved, a continuation of these efforts became necessary to gauge attitudinal changes of the operators and capture new indicators that shed more light on the justice sector and serve as baseline performance metrics for future assessments of the reforms.

METHODOLOGY

Description of the Sample and Survey Implementation

As a follow-up study to a previous survey deployed in 2010, the *2016 Justiciabárometro* survey represents the first repeated iteration of a survey of judicial sector operators in Mexico. To date, there are few comparable studies of judicial sector personnel that have been developed worldwide, and this appears to be the first that has evaluated judicial sector opinions at two different points in time. As such, this survey provides important new information about how Mexico's judiciary has responded to a major package of reforms and developments that have occurred in recent years. In the process, the survey also offers unique insights on how changes take place over time among judicial sector personnel that may have broader generalizability beyond Mexico. »

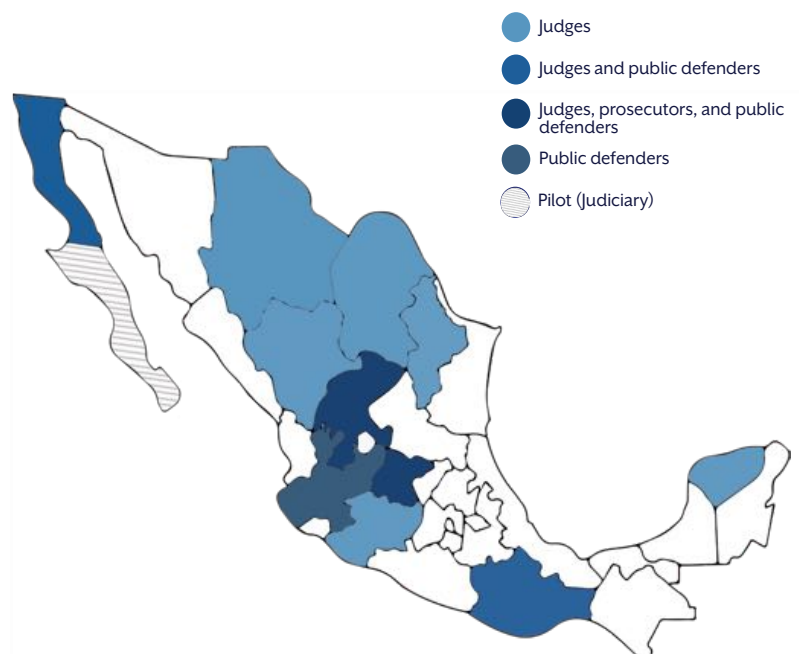
» With the *2010 Justiciabárometro* study as a foundation and point of reference, this edition widens the study's geographic coverage to 11 states: **Baja California, Chihuahua, Coahuila, Durango, Guanajuato, Jalisco, Michoacán, Nuevo León, Oaxaca, Yucatán, and Zacatecas.** The *2016 Justiciabárometro* study included participation from more than 700 judicial sector operatives in 11 states. »



» The study was implemented in **11 Mexican states** between **April 21 and July 17, 2016.**

» The survey was conducted by a team of academic researchers from Mexico and the United States, and by the polling firm Data Opinión y Mercados (Data OPM). It consisted of a 146-question survey, which was implemented by phone interview between April 21 and July 17, 2016. A total of **3,997 calls** were made to **1,252 potential participants**, with each survey lasting an average of 35 minutes. The participant's contact information was compiled and verified by the Justice in Mexico team through public online directories and with the support of personnel from the participating institutions. Each possible participant was called at least once. »

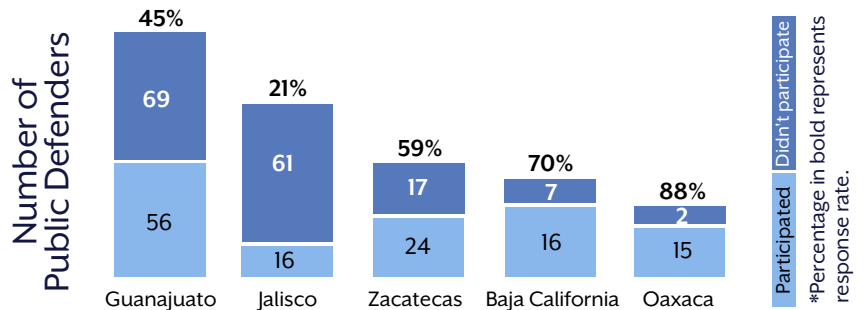
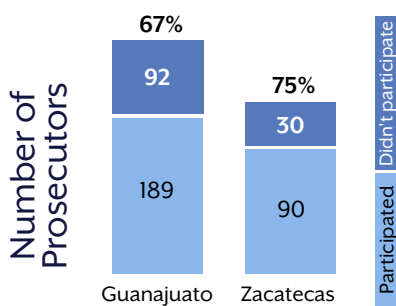
Participation by State



» **706** surveys were completed:
288 by judges,
279 by prosecutors, and
127 by public defenders.

» The margin of error is
2.4% with a
95% confidence interval.

In total, **706 surveys** were completed—resulting in a **56% response rate**—of which 288 were completed by judges, 279 by prosecutors, 127 by public defenders, and 12 by others, including jurisdictional, operational, and administrative personnel of criminal justice system. The margin of error for this survey is 2.4%, with a 95% confidence interval. The margin of error calculated by profession is 4.4% for judges, 3.3% for prosecutors, and 6.5% for public defenders. Responses from participants marked as “others” are excluded when evaluating the opinions of operators by profession, which limits the analysis to 694 interviews of judges, prosecutors, and public defenders; however, responses by “others” are included when general statistics on all judicial sector respondents are offered. »



Response Rate by State and Profession

State	Judges			Prosecutors			Public defenders		
	R	N	%	R	N	%	R	N	%
Baja California	27	51	52.9	-	-	-	16	23	69.6
Chihuahua	55	132	41.7	-	-	-	-	-	-
Coahuila	11	28	39.3	-	-	-	-	-	-
Durango	20	37	54.1	-	-	-	-	-	-
Guanajuato	22	52	42.3	189	281	67.3	56	125	44.8
Jalisco	-	-	-	-	-	-	16	77	20.8
Michoacán	37	48	77.1	-	-	-	-	-	-
Nuevo León	11	49	22.4	-	-	-	-	-	-
Oaxaca	62	90	68.9	-	-	-	15	17	88.2
Yucatán	11	27	40.7	-	-	-	-	-	-
Zacatecas	32	54	59.3	90	120	75	24	41	58.5
TOTAL	288	568	50.7	279	401	69.6	127	283	44.9

» More than two-thirds of the survey consists of opinion questions with responses on a Likert scale from one to seven, where a response of one (1) usually means “strongly disagree” and a response of seven (7) means “strongly agree.” Besides being able to choose four (4) as an option for “neutral,” respondents also had the option to choose “I do not know” or decline to provide a response. In order to present information concisely, when discussing a percentage of respondents that “disagree” or “agree,” this report refers to the sum of responses from one to three (1-3) or (5-7) on the scale, respectively. The responses (including “no response”) are generally excluded in graphic representations herein if they amount to less than 10% of all responses.

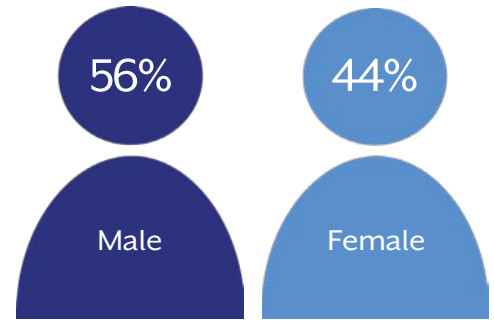
DEMOGRAPHICS

Sex, Age, and Education of the Judicial System Operators

A majority of respondents were **male (56%) and relatively young**. However, disaggregating the sample by profession reveals significant variation across sectors. For instance, more than half (53%) of prosecutors who participated in our survey were female, in contrast with 40% of judges and 34% of public defenders. For this result, it is important to take into account that the prosecutors surveyed come from only two states (Guanajuato and Zacatecas), and that the female majority among prosecutors is therefore not necessarily representative at the national level. »

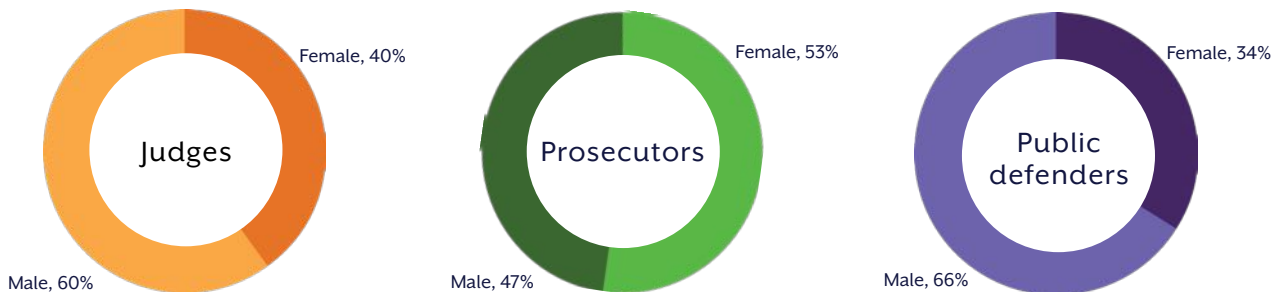
» A large majority (79%) of those surveyed are less than 50 years old, which reflects a substantial representation of younger individuals across all three professions. However, there is also a clear difference in **age** by profession, as more than half (62%) of prosecutors are less than 40 years old compared to 22% of judges and 19% of public defenders. The average age of prosecutors participating in the survey was 38.2 years old, seven years less than that of judges (45.6 years) and public defenders (45.8 years). »

Sex of Respondents

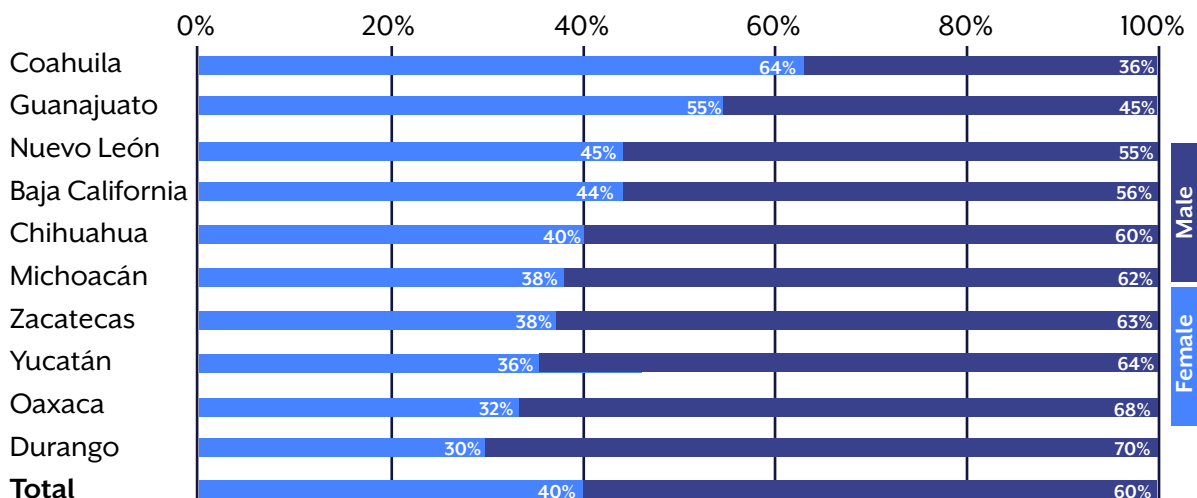


» **64%** of judges in the state of Coahuila are female, the largest representation of women in this profession.

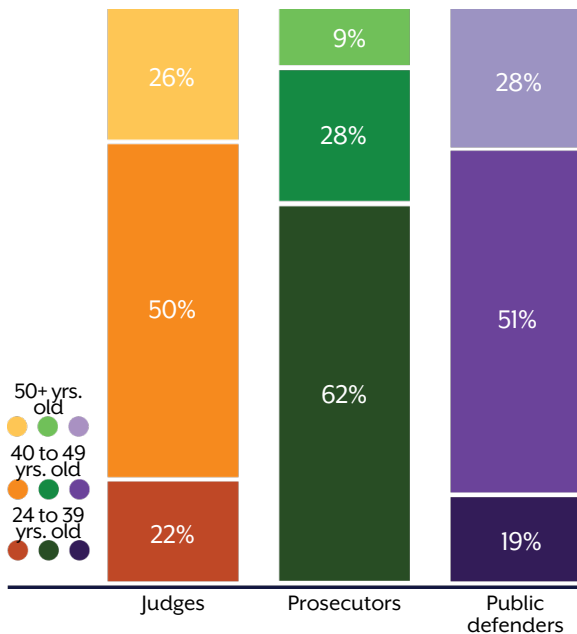
Sex by Profession



Sex of Judges by State (total)



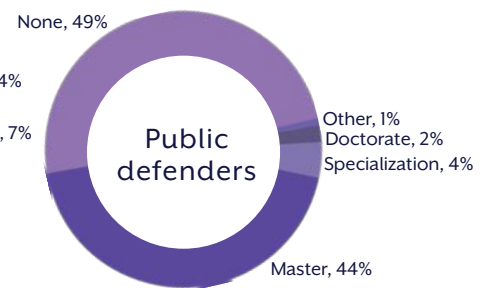
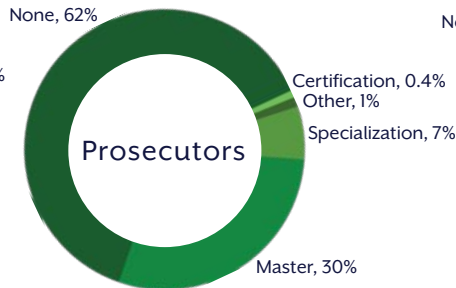
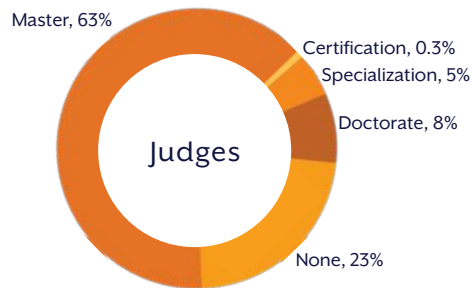
Age by Profession



» A recurring recommendation following from past *Justiciabárometro* studies has been the need to reduce gender inequality among justice system's operators and to increase the representation of women in the various professions available within the Mexican justice system. The fact that states have made progress in this regard is a good sign. It is worth noting that Guanajuato and Zacatecas are states considered to be at the forefront of the NSJP's implementation and operation, and that a large number of new operators have recently been incorporated into the system in these states. It is also possible that the increase in female and young prosecutors in each state is due to the urgent need for new and more qualified operators, and that therefore, these states have been able to mitigate the traditional age and gender barriers entrenched in some roles within the criminal justice system. »

» More than half (57%) of operators reported having completed **graduate studies**, among which the highest level of education was attained by judges and the lowest by prosecutors. Of those with graduate degrees, 99% completed their studies in Mexico. »

Graduate Studies



In 2010:

» **Sex:** 65% of judges, 87% of prosecutors, and 53% of defenders were men.

» **Age:** 38% of judges, 61% of prosecutors, and 64% of defenders were less than 40 years old.

» **Education:** 66% of judges, 40% of prosecutors, and 22% of defenders received graduate level education.

» From 2010 to 2016, the percent of judges with graduate studies increased from 66% to 77%, a good sign of the level of specialization and continuing education of operators in this profession and possibly of the overall professionalization of the justice system. However, the increase in education attainment could also be a result of the implementation of the NSJP, in particular. For instance, the NSJP has created a need to integrate new operators with specific qualifications into the system. Given that universities still have not comprehensively reformed their programs and curriculums, the desired qualifications are generally obtained in continuing education and graduate courses. Thus, the increase may be attributable to the demand for advanced training among operators of the new criminal justice system.

PROFESSIONAL PROFILE

Career Path and Position Requirements

The respondents to our survey have followed a variety of **career paths**. The most common previous position among public defenders (65%) and prosecutors (24%) was **litigating attorney**, while being an **academic** was the most common among judges (40%). Interestingly, 16% of judges and 15% of public defenders had previously worked as a prosecutor, but very few prosecutors had previously worked as a public defender (4%), and even fewer as a judge (1%). This would indicate the tendency among prosecutors to leave their position for positions elsewhere in the criminal justice system, but not vice versa. »

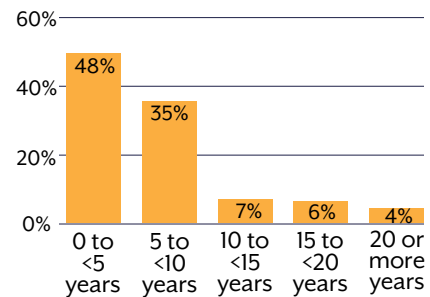
» The survey results indicated that there was a considerable amount of **turnover** among judges since the 2008 reforms, given that more than two-thirds were appointed to their positions in the last eight years. In fact, the percent of judges with less than two **years of experience** in their position increased from 13% in 2010 to 26% in 2016. Conversely, the percent of judges working ten years or more in their position decreased from 34% in 2010 to 17% in 2016. »

» More than **two-thirds** of judges were **appointed after the 2008 reforms** were passed.

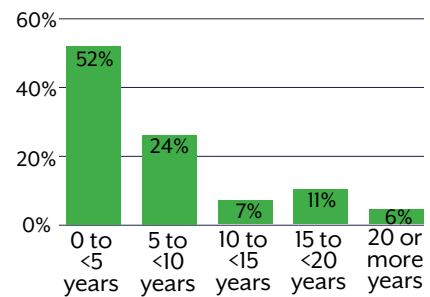


Years in current position...

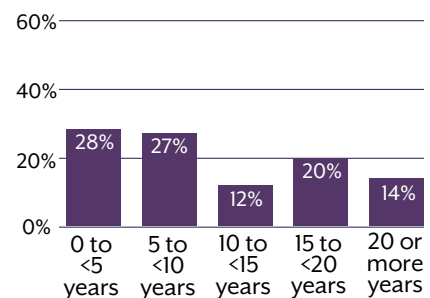
Judges



Prosecutors

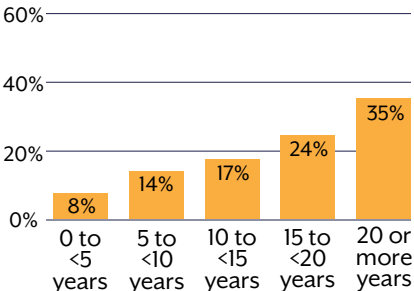


Public defenders

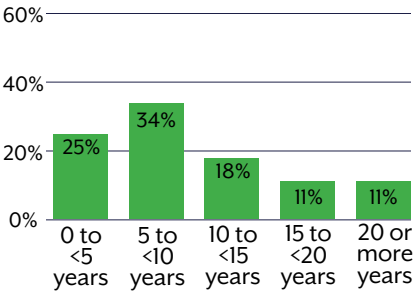


...and years working in the criminal justice system

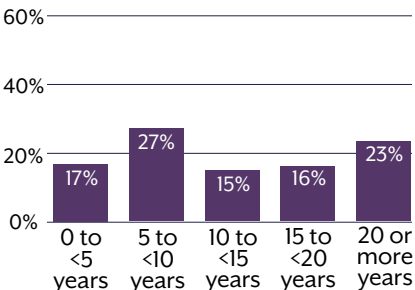
Judges



Prosecutors



Public defenders



» Public defenders reported more **years working in their current position**, 46% of whom have worked in their position for more than ten years, in contrast with 17% of judges and 23% of prosecutors. Meanwhile, judges appeared to be more experienced, with the majority (59%) reporting having **worked within the criminal justice system** for 15 years or more, compared to 39% of public defenders and 22% of prosecutors. »

» Average number of **years in current position:**

Public defenders:
10.5 years



Judges:
6.2 years

Prosecutors:
6.6 years

» Once again, it appears that the implementation of the new system required the inclusion of new operators to fill the positions that were created throughout the implementation process. In this light, the significant turnover in judges might be viewed positively, since it introduces to the system a new body of operators that has never worked within the framework of the traditional system. This infusion of a new generation of judges may have important implications for the Mexican criminal justice system in that it might bring with it a willingness to adapt to the new framework and procedures introduced by the NSJP. »

PROFESSIONAL PROFILE

Career Path and Position Requirements

» To obtain their current position, the large majority of operators across the three professions (93% of judges, 88% of prosecutors, and 91% of public defenders) had to take a **technical proficiency exam** (*examen general de conocimientos*), a requirement that, according to the opinions of those surveyed, was followed uniformly for the most part. In 2010, 89% of judges, 98% of prosecutors, and 78% of public defenders reported having taken this type of evaluation. For judges, the tendency seems to confirm a high level of institutionalization of these exams, considering that almost all judges reported having taken them both in 2010 and 2016. Yet, it is noteworthy that the technical proficiency exam requirement for prosecutors varied considerably by state, with 97% having reported taking the exam in Guanajuato compared to 69% in Zacatecas. There was less variation at the state level among public defenders, with at least 88% in all states reporting having taken the exam. »

» On the other hand, the large majority of prosecutors (92%) in the selected states had to take a “**trust-worthiness test**” (*examen de control de confianza*), in contrast with just 37% of judges and 26% of public defenders. The trust-worthiness tests have been consolidated in the public security realms and even more so in the justice sector in Mexico. Trust-worthiness tests have not necessarily demonstrated effectiveness and are not measures of actual employee performance. »

» **90%** of respondents reported having taken a **technical proficiency exam** to get their positions.

» **94%** of respondents said their institutions require them to take **continuing education courses**.

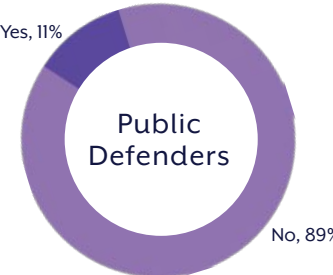
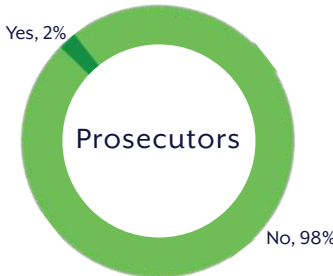
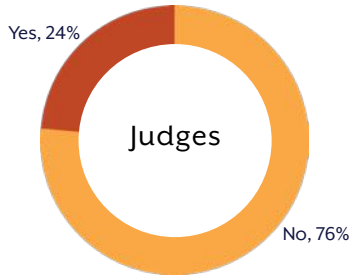
» **57%** de respondents underwent a **trust-worthiness test** (*examen de control de confianza*).

» **12%** of respondents are **members of a professional bar association**.

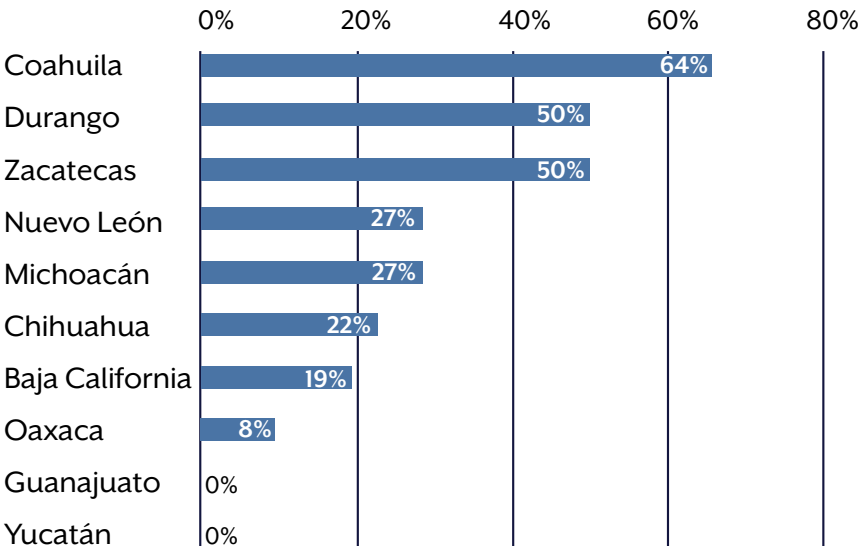
» The number of judges who reported having taken trust-worthiness tests varied by state, with the largest percent in Durango (55%) and the smallest in Guanajuato (14%). However, the vast majority of judges (87%) participated in a **competitive selection process** (*concurso por oposición*) to get their position, which may include interviews and/or a written competency exam, in contrast with just more than half of prosecutors (58%) and public defenders (54%). »

» **Membership to professional bar associations** was at a very low level among respondents, which was consistent with our 2010 findings. However, as in 2010, judges responding in 2016 had a higher tendency to belong to professional associations (24% of judges, in comparison to 2% of prosecutors and 11% of public defenders). In fact, from 2010 to 2016 the percent of judges that actively belonged increased from 20% to 24%. It should be mentioned that a large variation exists at the state level, as shown in the graph. Also, in Mexico, belonging to a bar or professional association still does not serve the purpose of determining eligibility to practice law. Until bar associations take on a more prominent role in professional practice, or until bar membership becomes mandatory, it appears unlikely that there will be a dramatic change in this indicator in the coming years.

Active Members of a Professional Bar Association



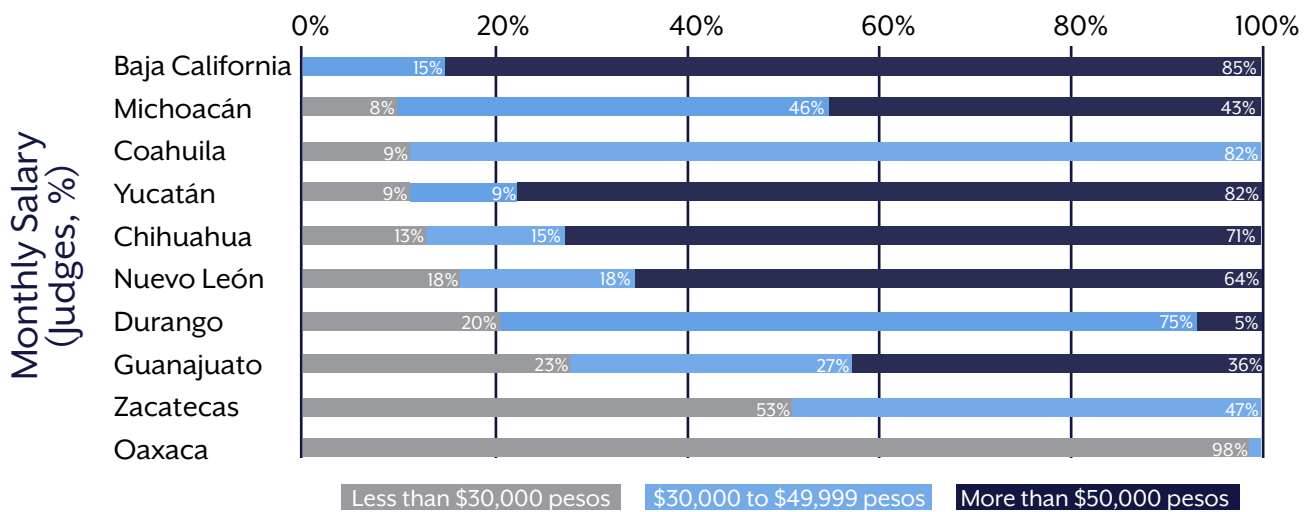
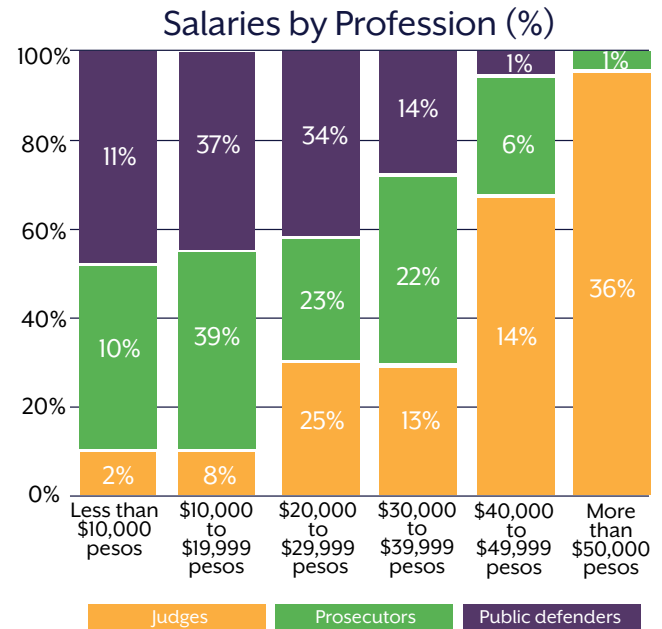
Judges who are active members of a professional bar association(%)



WORKING CONDITIONS

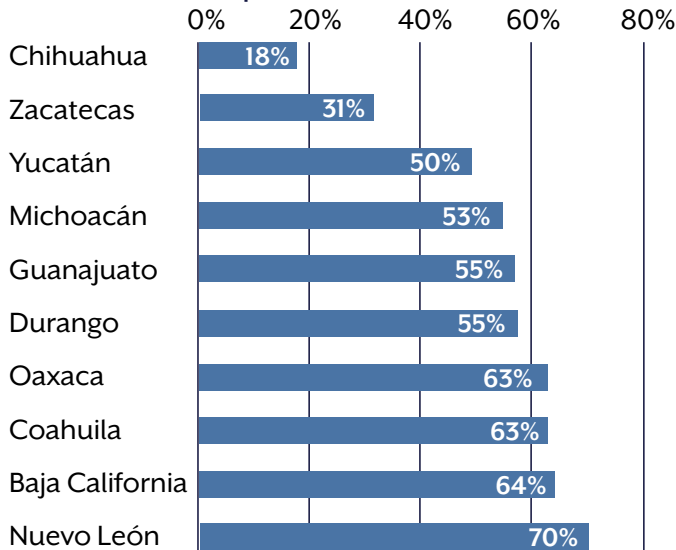
Salary, Workweek, Evaluation Process, Promotions, and Institutional Crimes

There is a significant difference in the **salaries** reported among the three professions: the majority of judges (63%) earn more than \$30,000 pesos monthly, while the majority of prosecutors (72%) and public defenders (82%) earn less than \$30,000 pesos. The difference between prosecutors and public defenders indicates that a larger number of prosecutors have access to higher salary ranges than public defenders. At the state level, there was a big variation in the salaries reported by judges. For example, in the state of Oaxaca, 98% of surveyed judges reported net monthly earnings of less than \$30,000, while 85% of judges in Baja California reported net monthly earnings above \$50,000 pesos. This variation could be attributed to difference in cost of living in each region. »



» Respondents' **satisfaction with their current pay** also varied by profession. Although judges usually reported better pay, only 44% consider their current pay is fair. Prosecutors were more satisfied with their pay (63% consider it fair), while public defenders showed a high level of dissatisfaction (only 39% consider it fair). The level of satisfaction also varied in a considerable manner between judges at the state level. For example, only 9% of judges in Coahuila and 31% in Oaxaca consider their pay to be fair, in contrast with 82% in Yucatán and 73% in Guanajuato. »

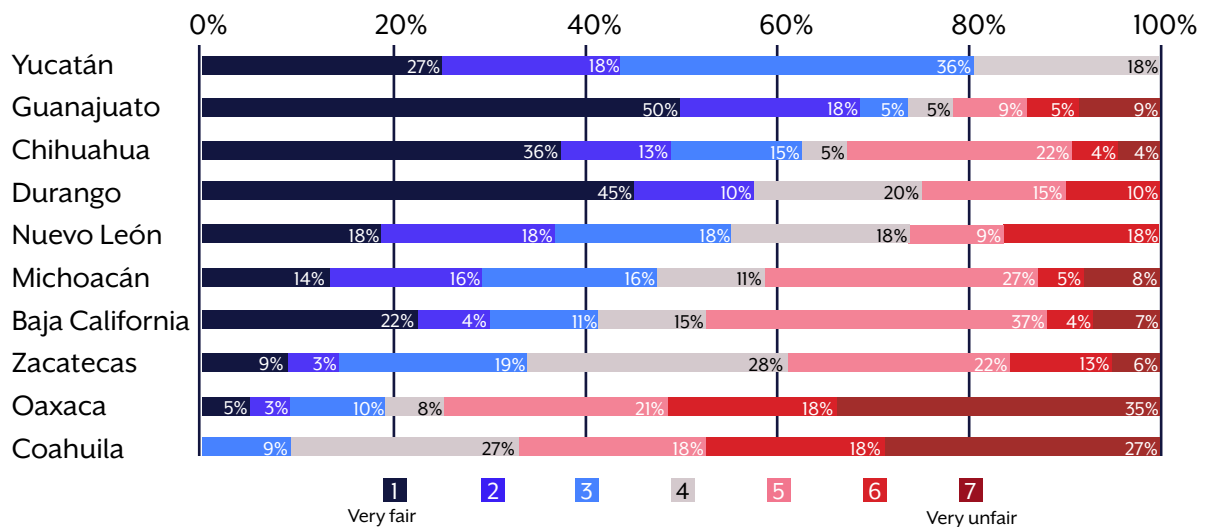
Judges with workloads of +50 hours per week (%)



» **Public defenders** continue to be the operators with the lowest earnings.

» The previous findings confirm those observed in the 2010 *Justiciabarómetro* survey, when a large **salary disparity** was observed among the three professions across state lines. It is important to note that public defenders continue to be the operators with the lowest earnings despite the requirement outlined within the Mexican Constitution to ensure equality in the salaries of public defenders and prosecutors. »

Perceptions of Current Pay (Judges, %)



» The large majority of those surveyed (87%) reported a **workload** of more than 40 hours per week, while only 9% reported working between 30 and 40 hours. In fact, a large percent in each profession reported working more than 50 hours per week: 53% of judges, 50% of prosecutors, and 57% of public defenders. There is substantial variation in judges' responses by state. While still a heavy workload for many respondents, Chihuahua was the state with the lowest number of reported hours: 18% of judges reported working between 30 and 40 hours per week, 64% between 40 and 50 hours, and 18% more than 50 hours. At the high end, almost three-fourths (70%) of those in the State of Nuevo León reported working more than 50 hours per week. »

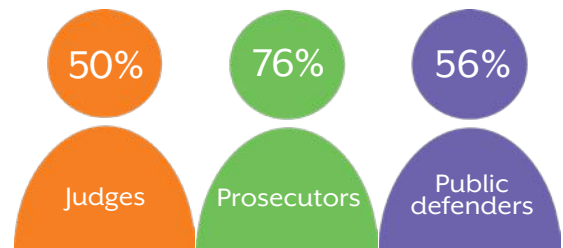
WORKING CONDITIONS

Salary, Workweek, Evaluation Process, Promotions, and Institutional Crimes

» With regard to the mechanisms that exist inside each institution to **maintain employment or be promoted**, 64% of judges, 70% of prosecutors, and 58% of public defenders considered that having experience and training positively influences the possibility of achieving job security or being promoted. However, the opinions of judges varied greatly by state: for example, 85% of judges in Durango believe that those with the greatest level of experience and training are more likely to be ratified or receive a promotion, in contrast to 53% of judges in Zacatecas. Additionally, a majority of judges (54%) and public defenders (65%) indicated that having good political connections positively influences one's job security and opportunity to be promoted, compared to 37% of prosecutors. Once again, there was variation at the state level in the responses of judges: in Oaxaca and Zacatecas, the majority (69% in both states) perceived that having **good political connections** increases the likelihood of maintaining employment or being promoted, in contrast with only 27% in Michoacán. »

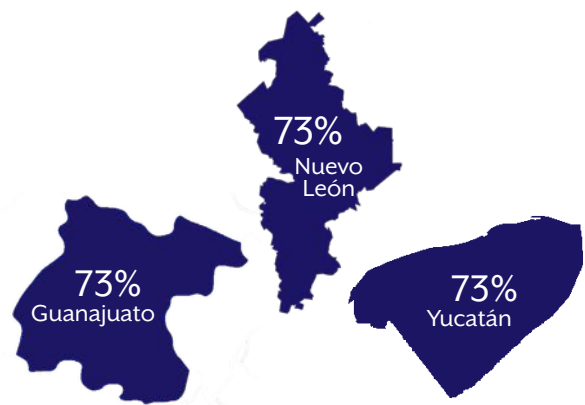
Career public service has been implemented in my institution:

% in agreement (by profession):

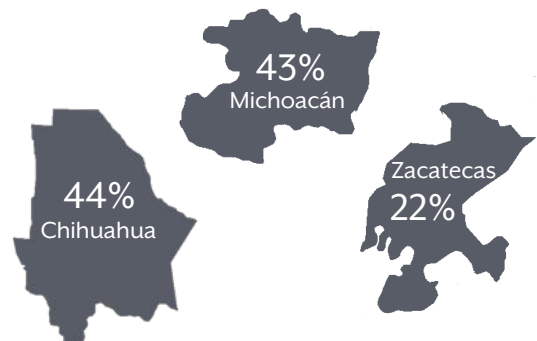


% of judges in agreement (by state):

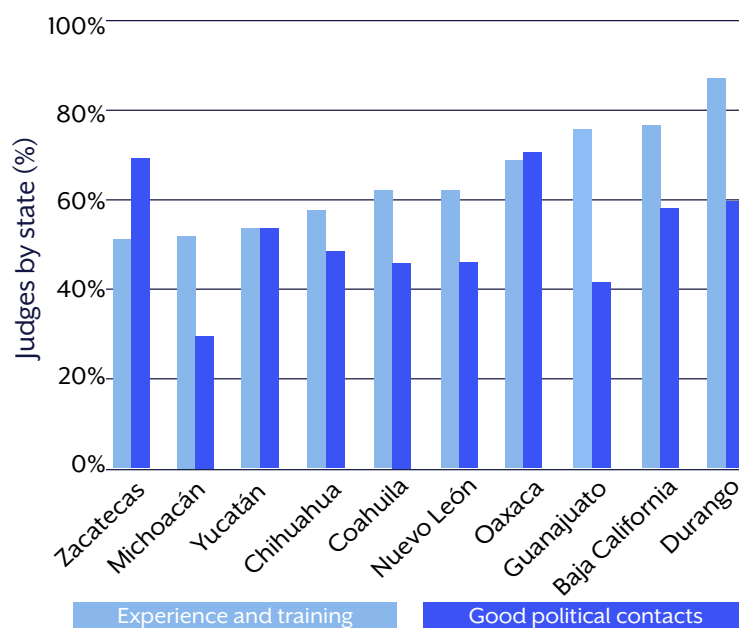
» Widespread implementation:



» Limited implementation:

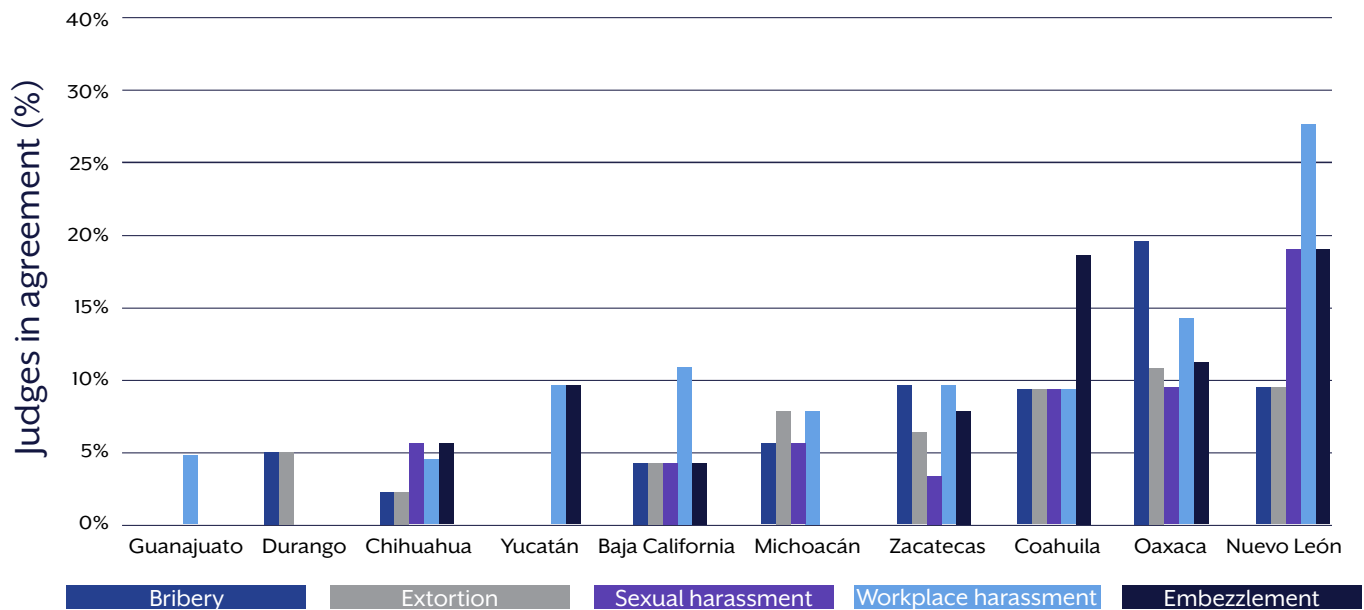


Factors influencing job security and the possibility of receiving a promotion*



* The percentages represented here correspond to the sum of responses from five to seven, on a scale of one to seven, where one means "total disagreement" and seven means "total agreement."

Judges' perception of the occurrence of certain crimes inside the Judiciary
 "In your institution, are there cases of..."



» Those surveyed also gave their opinion on the occurrence of certain crimes (**bribery, extortion, sexual harassment, workplace harassment, and embezzlement**) inside their respective institutions. The rate of responses indicating a perception of criminal misconduct was very low in all three professions (always less than 10%); however, they were clearly higher among judges. Again, there was interesting variation by state. For example, while 8% of the total sample of judges believes that bribery occurs inside their institution, the rate in Oaxaca was 19%. Similarly, 9% of judges reported workplace harassment in their institution compared to 27% in Nuevo León. Nuevo León was also the state where the largest percentage of judges reported the occurrence of sexual harassment (18%). Coahuila and Nuevo León had the same percentage of judges also reporting embezzlement (18%). »

» **27%** of judges in the state of Nuevo León said there is **workplace harassment** in their institution.

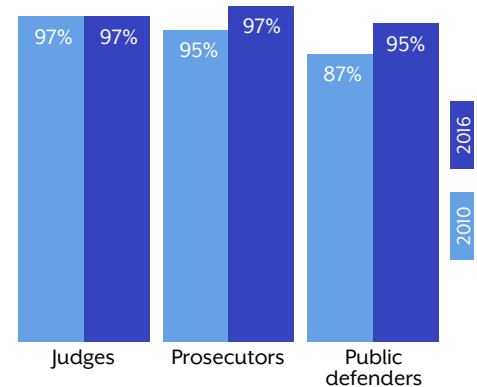
» This indicator (crimes inside respective institutions) was not included in the previous *Justiciabarómetro* study, and therefore it is not possible to draw comparisons. However, it is alarming to find a high perception of crimes being committed internally in states such as Coahuila, Nuevo León, and Oaxaca. Special attention should be given to sexual and workplace harassment in general and particularly in the three states mentioned. Likewise, special attention should also be given to the prevalence of bribery in Oaxaca and embezzlement in all states and in all institutions.

OPERATORS' PERFORMANCE

Evaluation of the Work of Judges, Prosecutors, Public Defenders, and Other Criminal Justice System Operators

Justiciabarómetro asked respondents their opinion on the **effectiveness, or how effective are, judges, prosecutors, and public defenders** in their respective states. Maintaining consistency with trends from the 2010 study, in general judges received more positive evaluations than did operators working as prosecutors or public defenders. It should be noted that opinions about prosecutors and public defenders improved somewhat from 2010 to 2016, but the latter profession continued to receive the worst evaluations. »

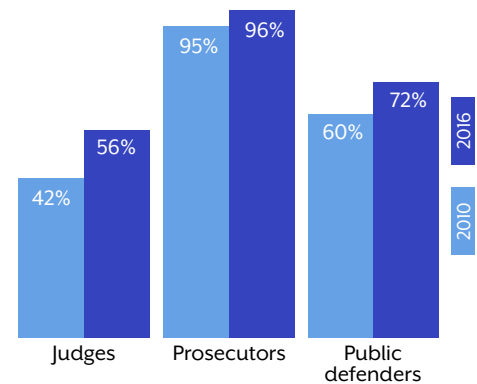
Positive opinions on the effectiveness of judges (%)



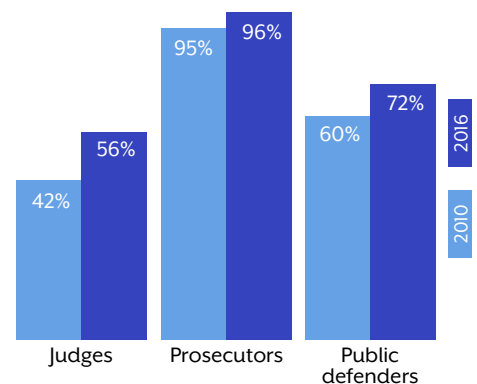
» **97%** of prosecutors and **95%** of public defenders believe **judges are effective.**



Positive opinions on the effectiveness of prosecutors (%)



Positive opinions on the effectiveness of public defenders (%)

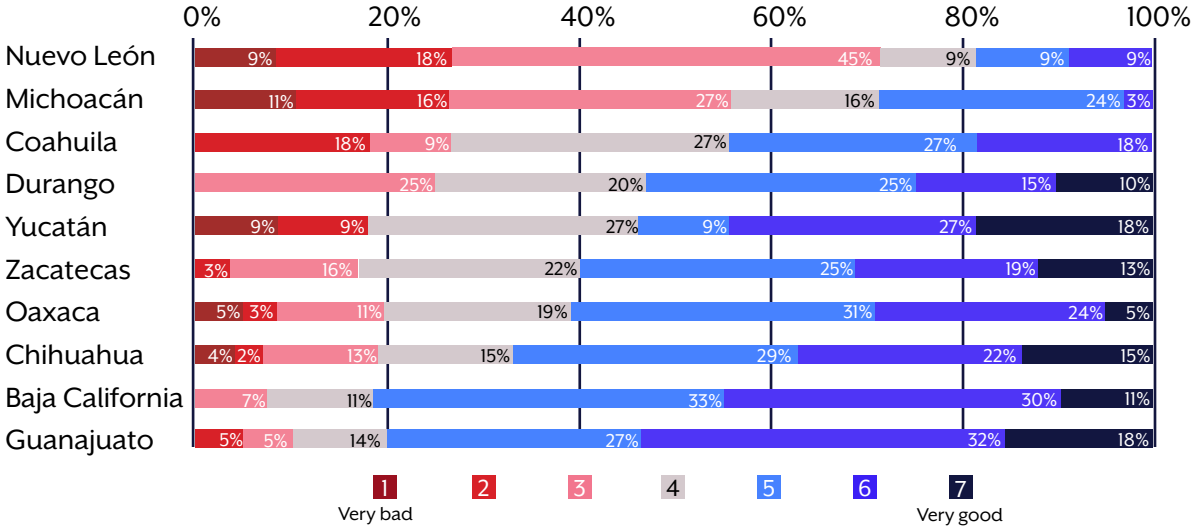


» In addition to receiving the highest evaluations, judges were also the **most critical respondents**. Breaking down the responses on the effectiveness of operators by state, judges from the states of Nuevo León and Michoacán gave the lowest evaluations of prosecutors, where 73% and 54% of judges, respectively, reported having a negative opinion on prosecutors' effectiveness. Public defenders also received the worst evaluations from judges in Nuevo León and Michoacán, where 27% and 41% of judges, respectively, had a negative opinion on their effectiveness. »

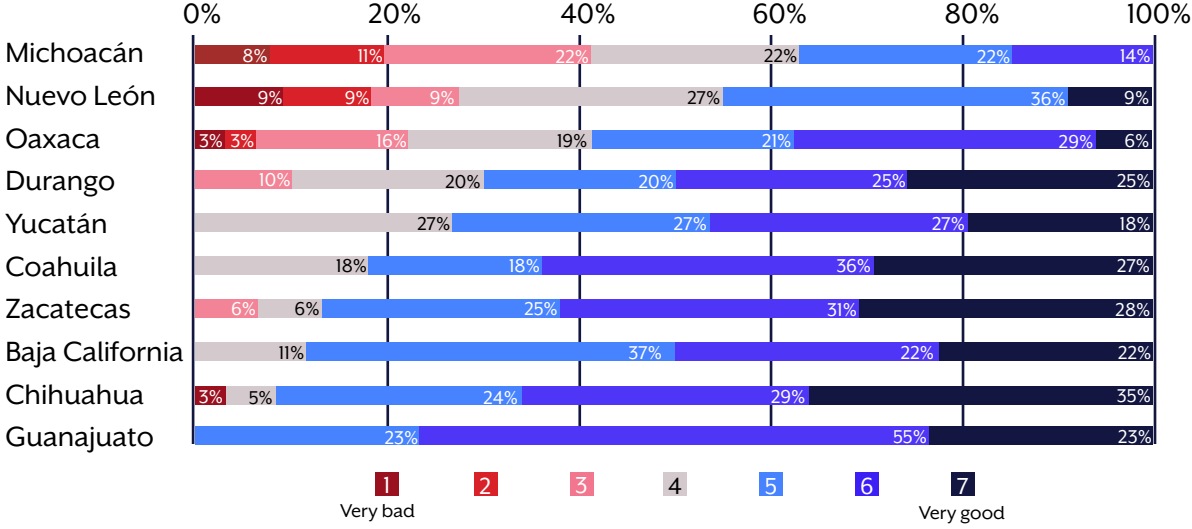
» From 2010 to 2016, the proportion of judges with **positive opinions about prosecutors** increased by **34%**.

» It is worth noting that, along with criminal investigation police (*policía ministerial*), prosecutors have been viewed among the most inefficient and corrupt operators. Meanwhile, judges have enjoyed the best reputation within the justice system, which corresponds with the highest levels of education and best salaries, as discussed in other sections of this report. »

Opinion on the effectiveness of prosecutors (judges, %)



Opinion on the effectiveness of public defenders (judges, %)



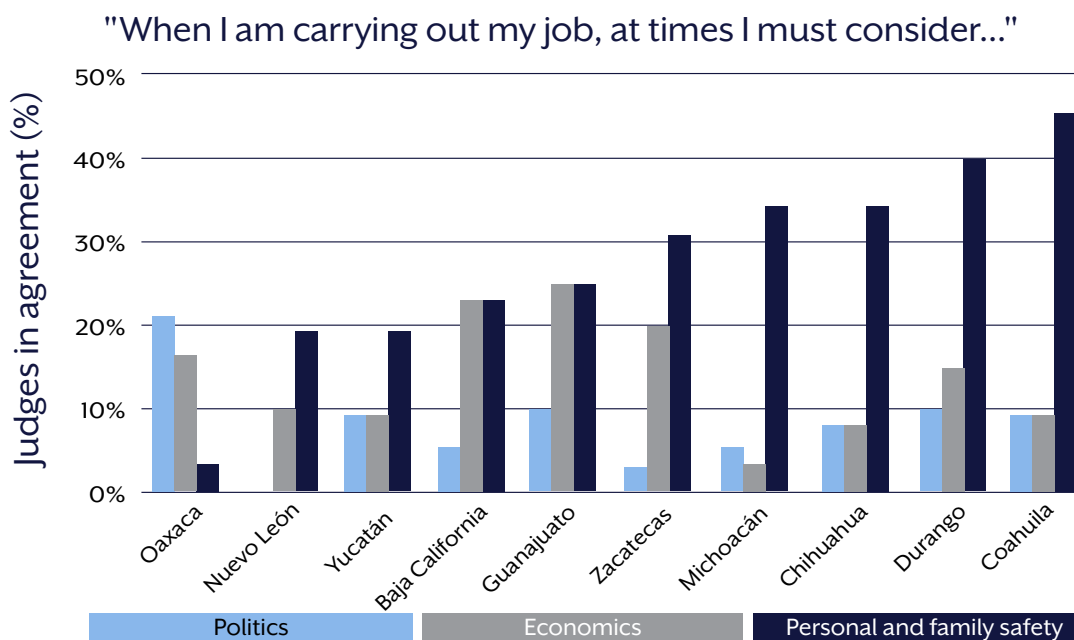
OPERATORS' PERFORMANCE

Evaluation of the Work of Judges, Prosecutors, Public Defenders, and Other Criminal Justice System Operators

» In an effort to evaluate the **impartiality of judges**, respondents were asked if, while carrying out their work, at times they have to consider politics, morals, economics, etc. Of all judges, 9% reported that in certain occasions they must consider politics. That opinion had a moderate variation across states, with Oaxaca having the highest percent (21%) of judges who reported that at times it is necessary for them to consider politics. On the other hand, 14% of judges reported that in some occasions they have to consider economics, with Guanajuato (23%), Baja California (22%), and Zacatecas (22%) having the highest percentage of judges who reported making such considerations. As an added concern in making legal decisions, almost one third of the judges in the study (33%) reported that at times they must also consider their safety and that of their family. This percent was even higher in the states of Coahuila (45%) and Durango (40%). »

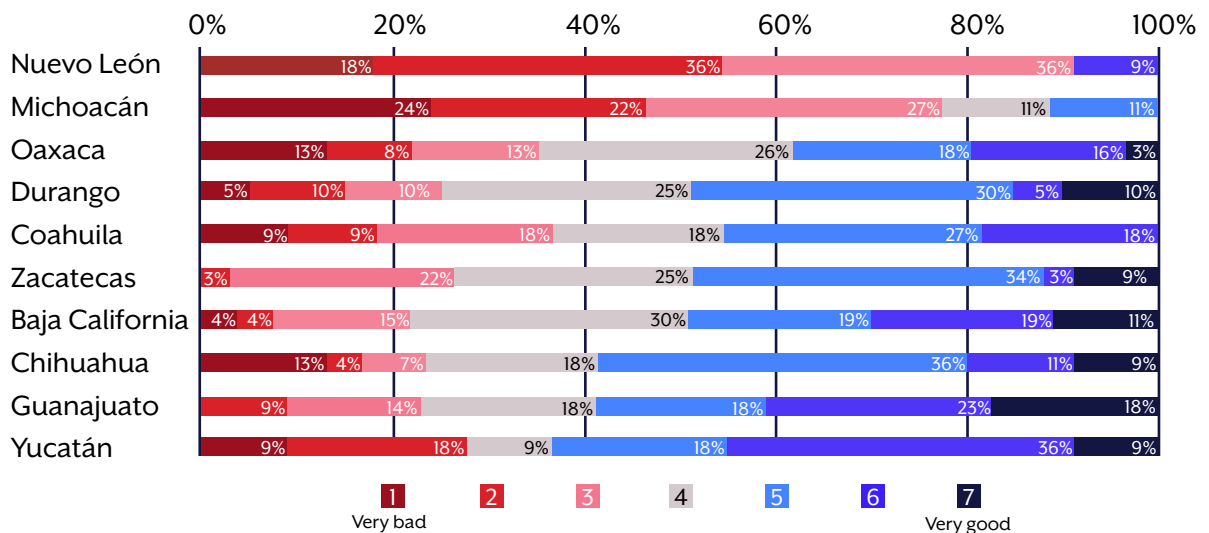
» The battery of questions summarized in the graph below was designed to measure how much operators felt influenced by factors external to the law. Although it is difficult to interpret what the operators understand by "politics," these responses appear to refute the myth within the judicial community that judges and other actors are mere instruments of the law. Also, it is quite concerning that in most states a judge's concerns about his or her personal security is a factor that influences some judicial decisions. »

» **33%** of judges reported that they **must consider their personal safety** and that of their families while carrying out their job.

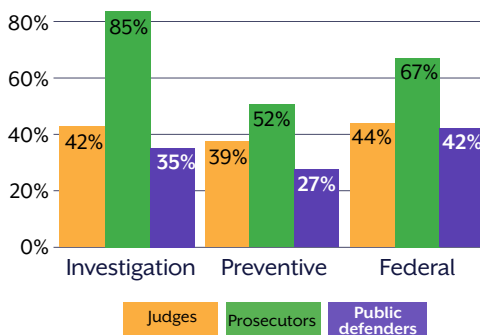


» The respondents also evaluated the work of other operators within the criminal justice system, among them judges in the courts of criminal appeals, forensic experts (*peritos*), and various police forces. The **work of appellate judges** was evaluated very positively by judges (91%) and prosecutors (94%), in comparison with only 75% of public defenders. On the other hand, a considerably smaller percent of judges in Nuevo León (64%) compared to other states reported having a positive opinion of appellate judges. The **work of forensic experts** was also viewed very positively by prosecutors, but not so much by judges and public defenders, considering that 96% of prosecutors have a positive opinion of forensic experts compared with 70% of judges and 73% of public defenders. Among judges, the lowest evaluations came from Michoacán (35%) and Yucatán (45%). »

Opinion on the work of the criminal investigation police (judges, %)



Positive opinions on the work done by the police



» The **work of preventive police** (municipal and/or state) received less favorable evaluations than other police forces evaluated by respondents, with only 39% of judges, 52% of prosecutors, and 27% of public defenders having a positive opinion about their work. In fact, only 8% of judges in Michoacán and 9% in Nuevo León view the work of preventative police positively. The **criminal investigation police** also received low evaluations, with only 42% of judges and 35% of public defenders evaluating their work positively, in contrast with 85% of prosecutors. Once again, **federal police** were poorly viewed by judges (44%) and public defenders (42%), and somewhat more positively by prosecutors (67%). It is worth noting that in the state of Nuevo León, not one judge evaluated federal police positively. Low assessments of Mexican law enforcement, particularly municipal police, are consistent with our 2010 survey and with general public opinion. »

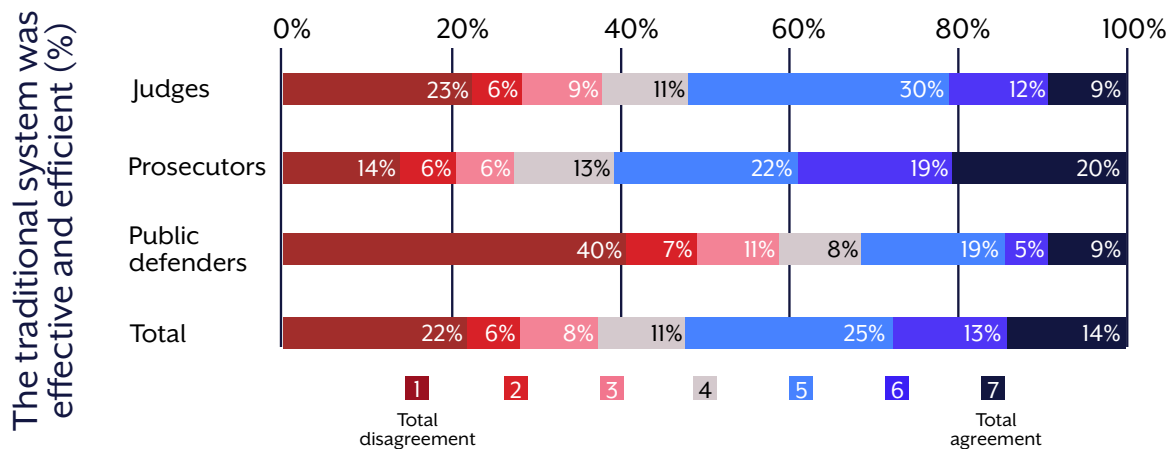
TRADITIONAL SYSTEM

Efficiency and Disqualification of the Traditional System, and the Need for Reform

According to many respondents, the traditional justice system functioned as it should have. Notably, 52% of respondents to our 2016 survey indicated their view that the **traditional justice system was effective and efficient**. Of the three professions, the highest level of satisfaction with the traditional system was expressed by prosecutors (61%), followed by judges (52%) and public defenders (32%). Compared to our 2010 survey, this represents a slight decline in the support for the traditional justice system among judges and public defenders. In 2010, 59% of judges, 43% of prosecutors, and 37% of public defenders indicated that the traditional system was effective and efficient. Among judges, the highest level of satisfaction with the traditional system was found in the state of Baja California (78%) and the highest level of dissatisfaction in Coahuila (64%). »

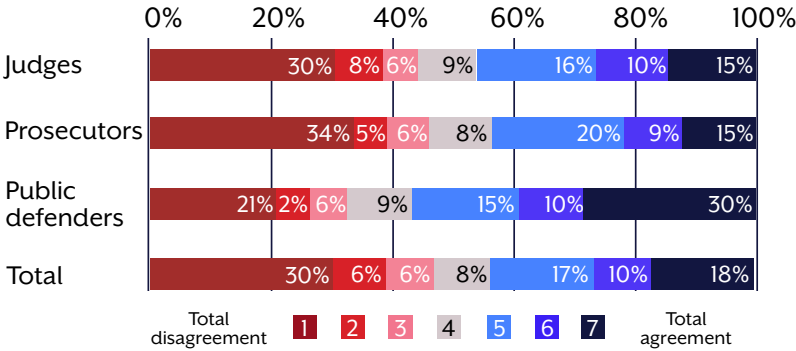
» Despite differing perception of its relative effectiveness and efficiency, **89%** of operators believe that **the traditional system needed to be reformed**.

» **31%** of operators consider **lengthy procedures to be the most persistent problem** in the traditional justice system.



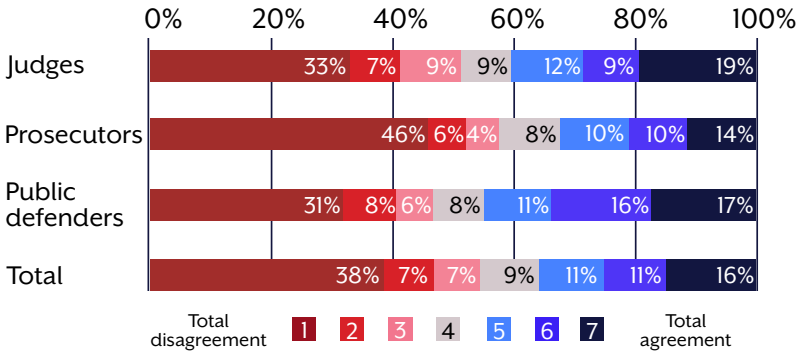
» As in our 2010 survey, some respondents in 2016 viewed the new criminal justice system reform as a **foreign imposition** and others perceived a campaign to **disqualify Mexico's traditional model of criminal procedure** in order to pass the reforms. However, in both 2010 and 2016, these opinions were not shared by the majority of respondents, whose opinions were divided into two camps. Of those surveyed in 2016, 44% viewed the reform of the criminal system as a product of pressure from foreign governments and organizations, while 42% disagreed with this view. Furthermore, 38% of operators indicated that there had been a campaign to disparage Mexico's traditional system, while 51% disagreed with this view. In 2010, 40% of the operators believed that the reform was the result of pressure from foreign governments and organizations, and 37% believed that there was a disqualification campaign. On the other hand, even though less than half of all judges agreed that there was a campaign to disparage the old system, judges in Yucatán (82%) and Nuevo León (64%) overwhelmingly shared that view. »

The reform is the result of pressure from foreign governments and organizations (%)

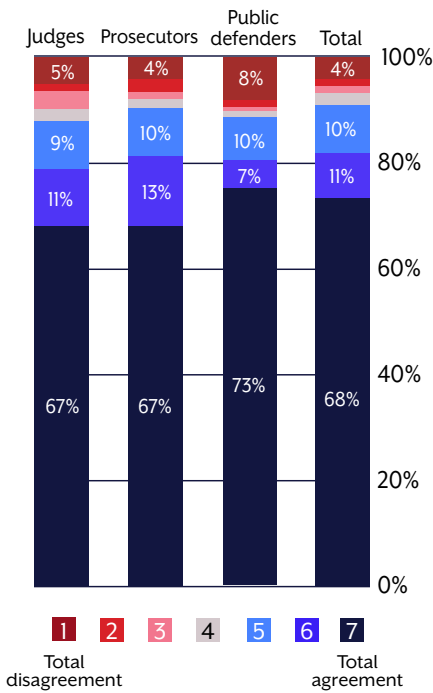


» One of the most important findings in the study was that, even though the operators' opinions were divided regarding the functioning of traditional system, a surprising majority of respondents (89%) indicated that the **traditional justice system needed to be reformed**. This response rate was consistent across the three professions (87% of judges, and 91% of both prosecutors and public defenders), with a considerable variation among judges at the state level given that only 73% and 76% of judges in Yucatán and Michoacán, respectively, believe that the traditional justice system needed to be reformed.

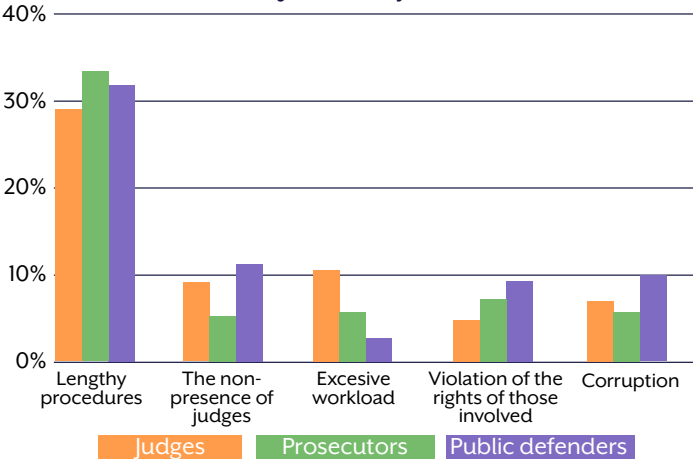
There was a campaign to disqualify the traditional system in order to pass the criminal justice reform (%)



The traditional system was in need of reform (%)



Recurring problems of the traditional criminal justice system (%)



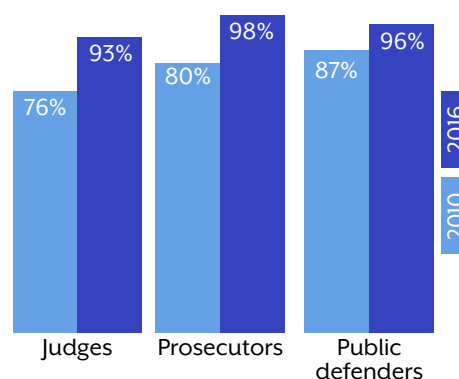
OPINIONS AND EXPECTATIONS OF THE NSJP

Evaluations and Approval of the New Criminal Justice System

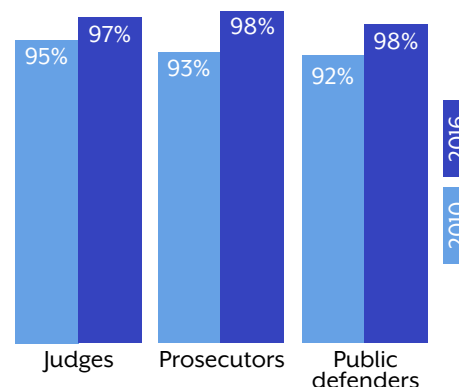
The large majority of operators maintained favorable opinions about the NSJP and have an optimistic view of what could be achieved under the new system. In fact, the 2016 survey revealed an apparent increase in positive perceptions of the new system compared to the results of the 2010 study. **Oral trials**, a key component of the reform, received a high level of approval among the three professions: 93% of judges, 98% of prosecutors, and 96% of public defenders reported they agree that trial proceedings should be “oral,” rather than “written.” However, it should be noted that respondents in several states expressed that oral trials are unsatisfactory in proceedings. Focus groups and interviews suggest that some court attorneys have not developed strong litigation skills and simply read aloud from prepared statements, instead of engaging in a more fluid oral presentation. »

» Support for **alternative dispute resolution (ADR)**, which had received high levels of approval in our 2010 survey, was reaffirmed by the three professions: 97% of judges, and 98% of prosecutors and public defenders in 2016 indicated their support for using ADR. The operators also expressed an expectation that the changes introduced by the NSJP will **speed up judicial proceedings**. In effect, 91% of judges, and 95% of both prosecutors and public defenders believe the NSJP will result in quicker judicial proceedings. Although it is generally difficult to determine what successes the new system will have, based on the positive opinions regarding the speed of processes and ADR, these may be among the most important achievements of the reform. »

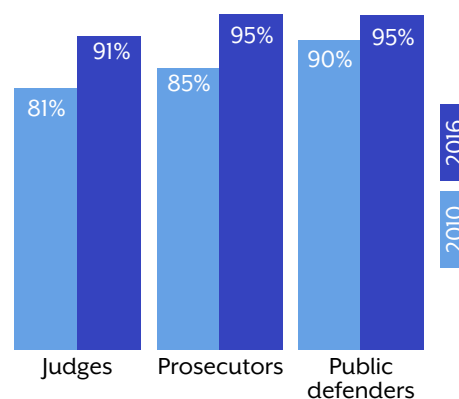
Agreement that trials should be oral, not written (%)



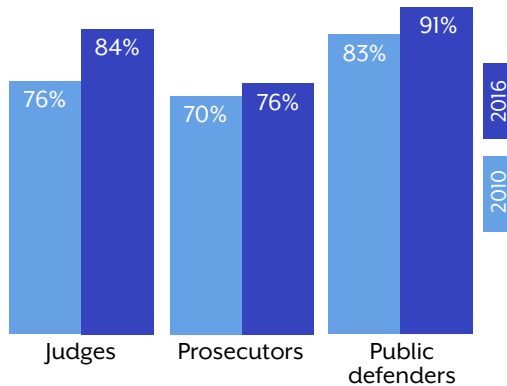
Support for the use of ADR (%)



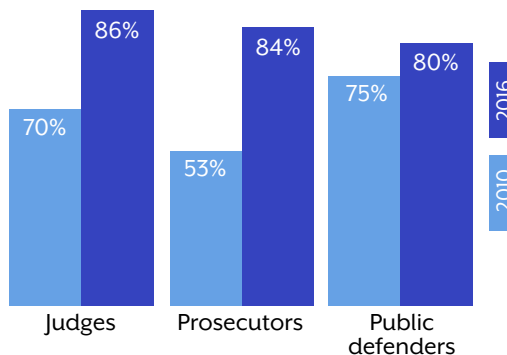
Expectation that the NSJP will allow for speedier judicial proceedings (%)



Support for the guarantee of presumption of innocence (%)



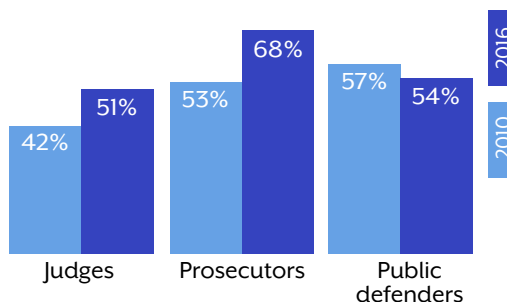
Support for the possibility of initiating private prosecution (%)



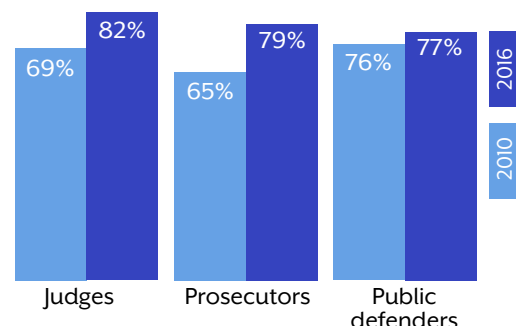
» The guarantee of **presumption of innocence** and the **right of a victim to prosecute criminal cases directly** (in instances where a prosecutor has declined to do so) were elements of the reform that received less support in 2010 than oral trials and ADR. However, across all three professions, these elements received a high level of support in the 2016 survey: 84% of judges, 76% of prosecutors, and 91% of public defenders indicated that the presumption of innocence should be respected, which corresponds to an increase of eight percentage points for both judges and public defenders. Moreover, in the 2016 survey the option of private prosecution received the support of four out of five respondents, with 86% of judges, 84% of prosecutors, and 80% of public defenders indicating their support for the right of a victim to prosecute cases directly. »

» While judges are more or less divided in how much the new criminal justice system **will help to reduce crime** (34% disagree and 51% agree), 82% of them agree that the new system will help to reduce corruption, which is 12 percentage points more than in 2010. A large majority of prosecutors (79%) also agreed that the NSJP will help to reduce corruption. »

Expectation that the NSJP will help to reduce the crime (%)



Expectation that the NSJP will help to reduce corruption (%)



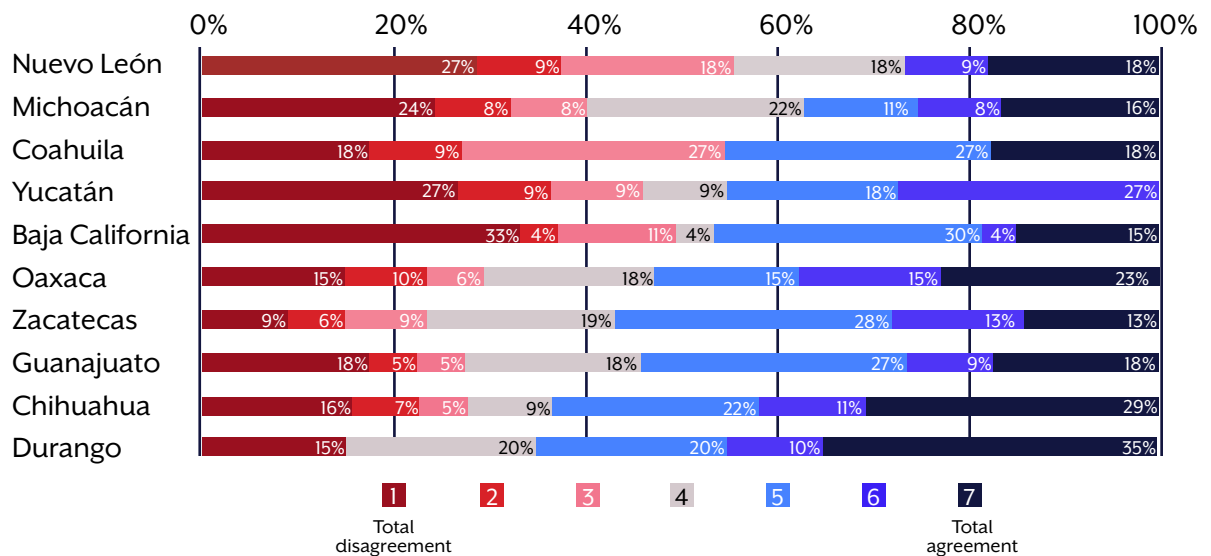
* Comparing prosecutors across survey years is problematic because our 2016 respondents came from different states than those surveyed in 2010. The 2010 *Justiciabarómetro* surveyed prosecutors in the states of Baja California, Nuevo León, and Oaxaca.

OPINIONS AND EXPECTATIONS OF THE NSJP

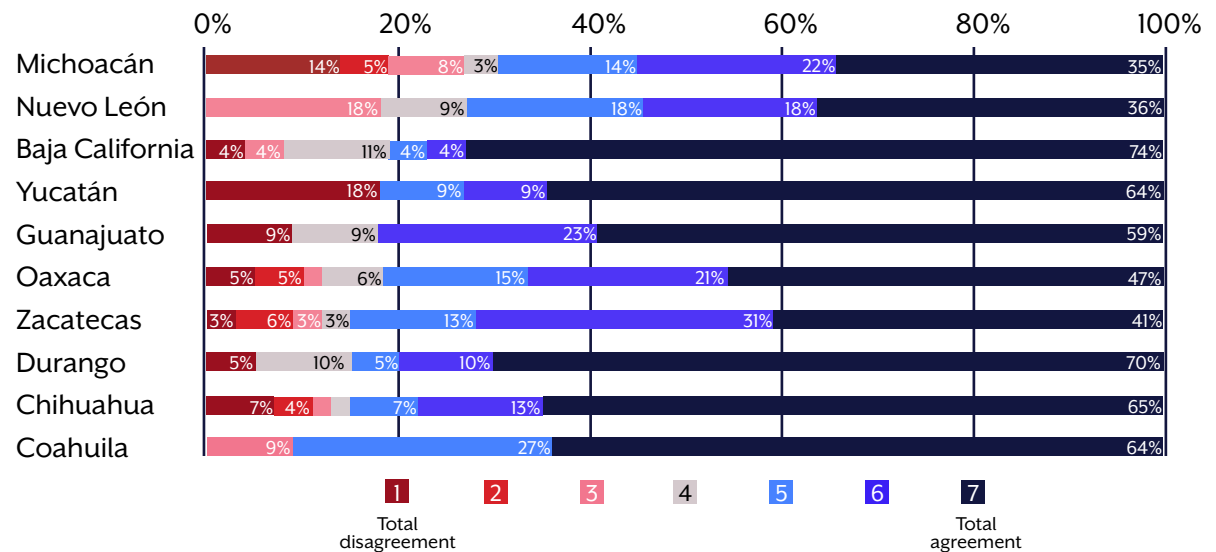
Evaluations and Approval of the New Criminal Justice System

» Optimistic expectations on the prospects of the NSJP for reducing criminality may be attributable to judges' overall positive perception of the new system, or perhaps to a better understanding of the pros and cons of the new system. For example, the use of the three-judge panel and public proceedings recorded on video may contribute to increased transparency and reduce the susceptibility of court personnel to corruption. However, it is important to reiterate that reducing crime is not an objective of the new system, since the task involves addressing other factors that are outside the scope of any justice system. Yet creating greater transparency and trust in authorities may result in a more effective system that, combined with other public policies, could contribute to reducing crime in the long run. »

The NSJP will help to reduce crime (judges, %)



The NSJP will help to reduce corruption (judges, %)



» 80% of respondents agreed that the NSJP will help to reduce corruption.

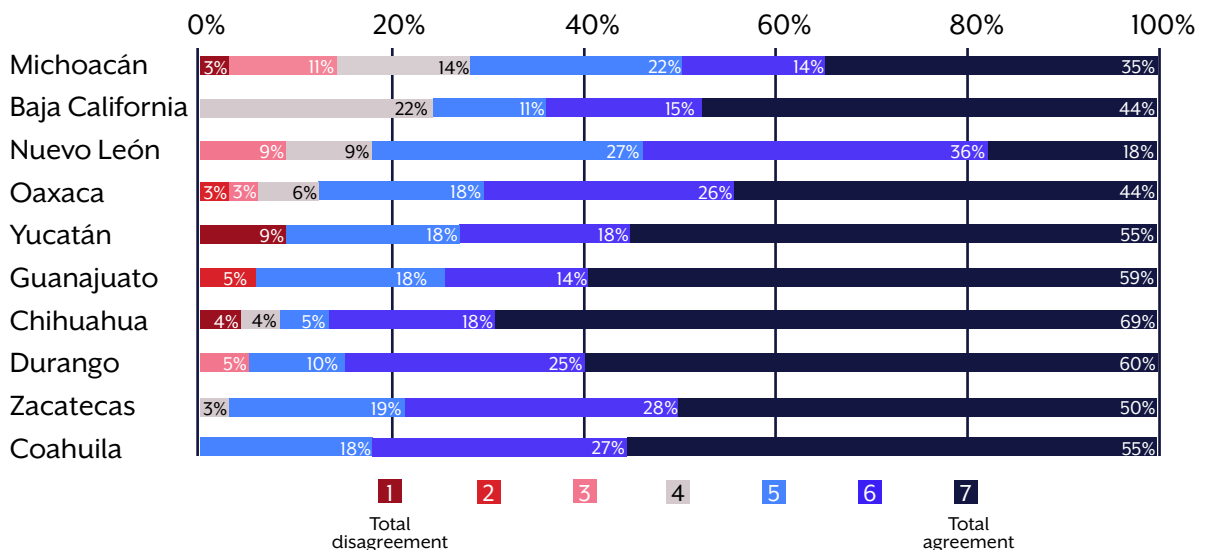
» 59% of respondents agreed that the NSJP will help to reduce crime.

» The large majority of the participants in the 2016 Justiciabarómetro study expressed a generally positive opinion of the NSJP. Indeed, 87% of judges, 91% of prosecutors, and 90% of public defenders indicated that **the reform has had positive results** in their respective states. Moreover, the large majority indicated that the new system **generates a higher level of trust in authorities** (90% of judges, 91% of prosecutors, and 88% of public defenders). »

» 90% indicated that the **NSJP has had positive results** in their state.

» It is important to note that there are still negative opinions of the NSJP among some respondents. In some cases, there is still a perception the new system “allows criminals to walk away free.” For this reason, it should be emphasized that in order for the new system to operate effectively, all operators of the system must properly fulfill their responsibilities. If there are inadequate investigations or preparation for trial, judges cannot make up for these shortcomings in the way it was theoretically possible under Mexico’s traditional system. »

The reform yielded positive results in your state (judges, %)



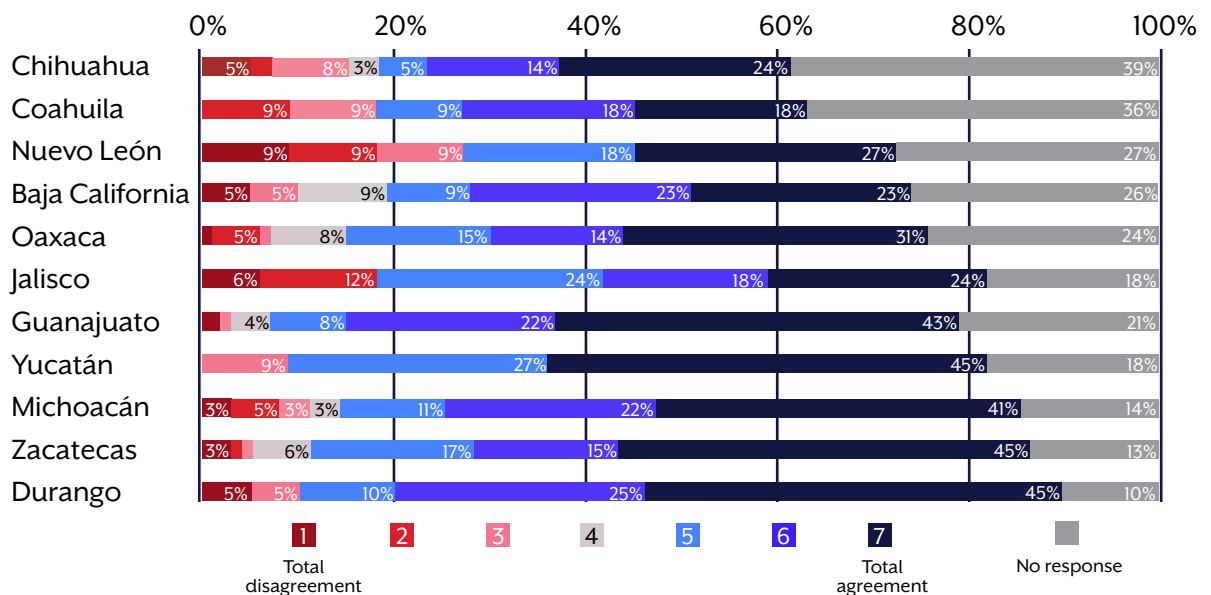
IMPLEMENTATION OF THE NSJP

Coordination, Training, and Institutional Capacity

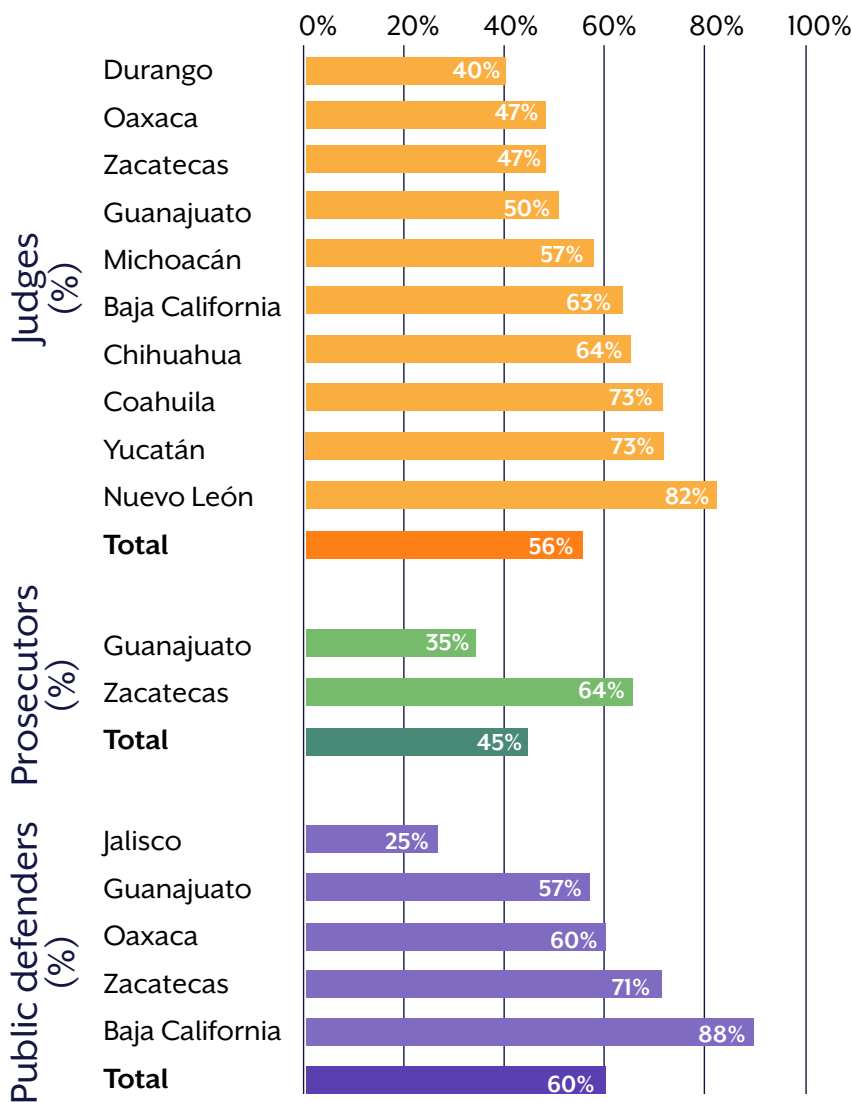
The large majority of respondents (86%) believe that **coordination among the different branches of government** has been effective in promoting the implementation of the reform in their respective states. However, there was noticeable variation across states and professions: in Jalisco (where other branches refused to partake in our survey) only 47% of public defenders surveyed indicated that the coordination between the different branches of government has been effective, in comparison with 100% of respondents in Durango and Yucatán. On the other hand, 89% of those surveyed indicated that the **Technical Secretariat (Secretaría Técnica para la Implementación del Nuevo Sistema de Justicia Penal, SETEC) facilitated the reform's implementation process**, although a lower number (68%) believed that **SETEC contributed enough funds** to their state. It is worth noting that a sizeable percentage of operators opted not to respond to this question, particularly in the states of Chihuahua (39%), Coahuila (36%), and Nuevo León (27%). In those three states, there were also relatively fewer respondents that considered the amount of funds provided by SETEC to be sufficient. »

» Almost all of the respondents (91%) had a favorable view with regard to **NSJP training offered by foreign organizations**. Approximately half of survey respondents received training from a foreign organization (56% of judges, 45% of prosecutors, and 60% of public defenders), although this varied at the state level. For example, four out of five judges (82%) in Nuevo León participated in courses offered by foreign organizations, whereas only 40% of the judges in Durango received such training. Respondents named more than 15 countries that offered trainings, with the United States being the country mentioned most often (43%), followed by Chile (20%) and Colombia (7%). »

SETEC has contributed sufficient funds for the implementation of the reform (all respondents by state, %)



Respondents who received training on the NSJP offered by a foreign institution



» In addition to trainings from foreign organizations, a large majority reported having received some type of **training** to operate the new justice system **within the last year** (83% of judges, 74% of prosecutors, and 86% of public defenders). According to 49% of judges, 57% of prosecutors, and 86% of public defenders, their most recent training was provided by their own institution. »

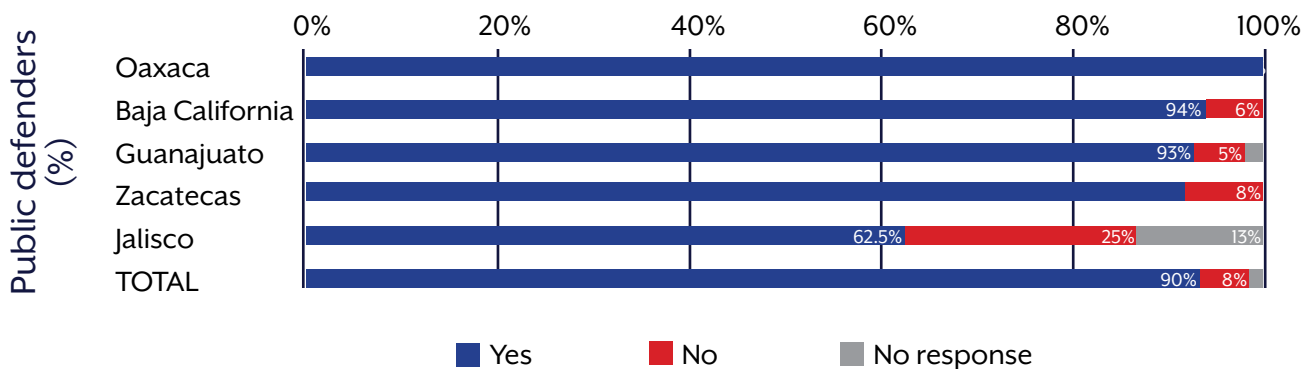
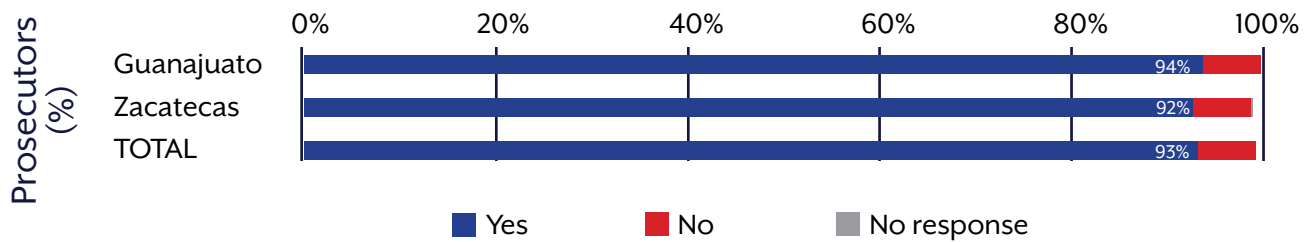
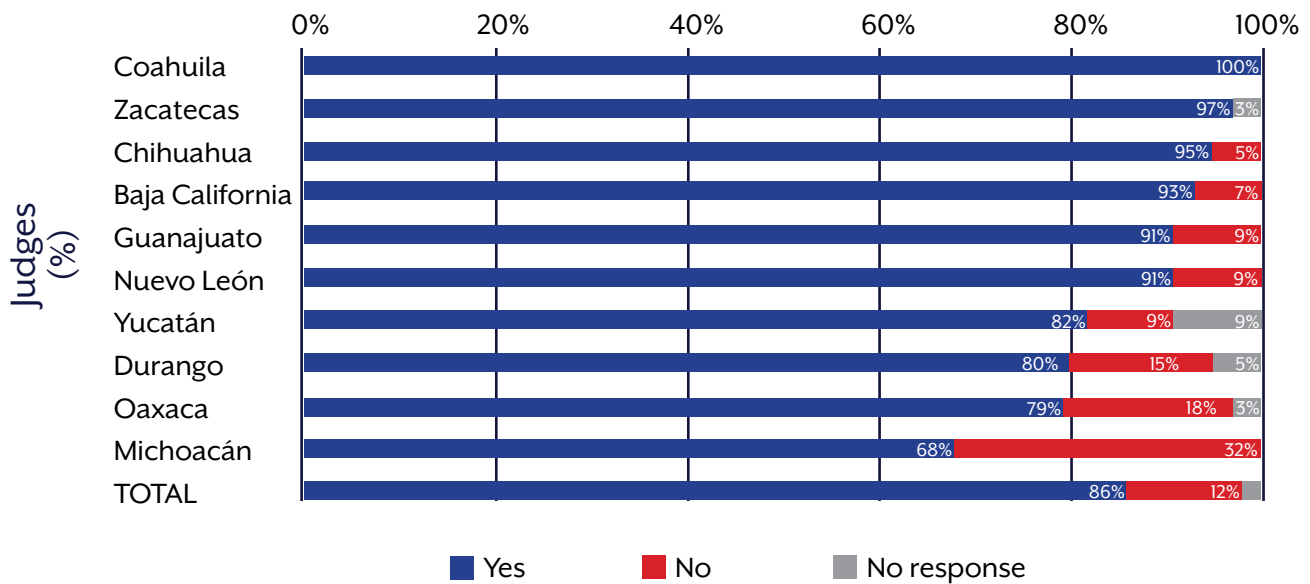
» **90%** of operators consider themselves **prepared to operate the NSJP**.

» The large majority of respondents (86% of judges, 93% of prosecutors, and 90% of public defenders) **consider themselves prepared to operate the NSJP**. This statistic reflects optimism on behalf of the respondents, but at the same time raises concerns when compared to the specific knowledge that the respondents reported having acquired in their **training courses**. For example, 19% of judges, 24% of prosecutors, and 13% of public defenders reported they had not taken a course on **oral litigation**. Furthermore, 20% of judges, 29% of prosecutors, and 26% of public defenders had also not taken a course on **ADR**. Given that oral litigation and ADR are key elements of the new system, it is important that NSJP operators receive proper training in these areas. »

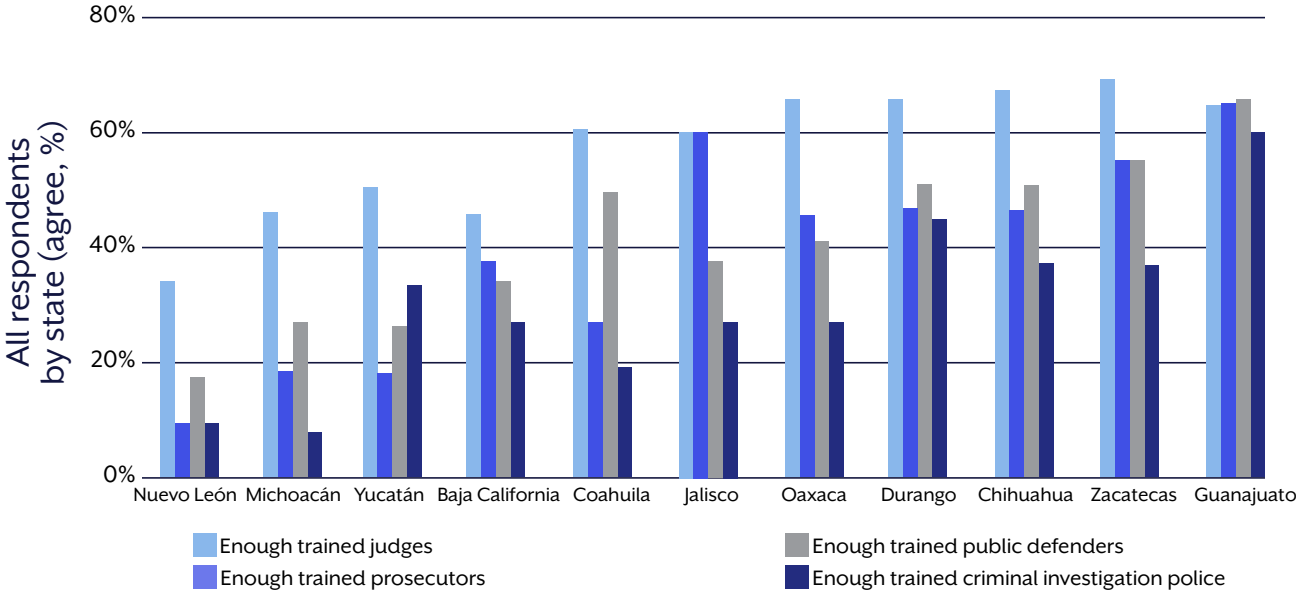
IMPLEMENTATION OF THE NSJP

Coordination, Training, and Institutional Capacity

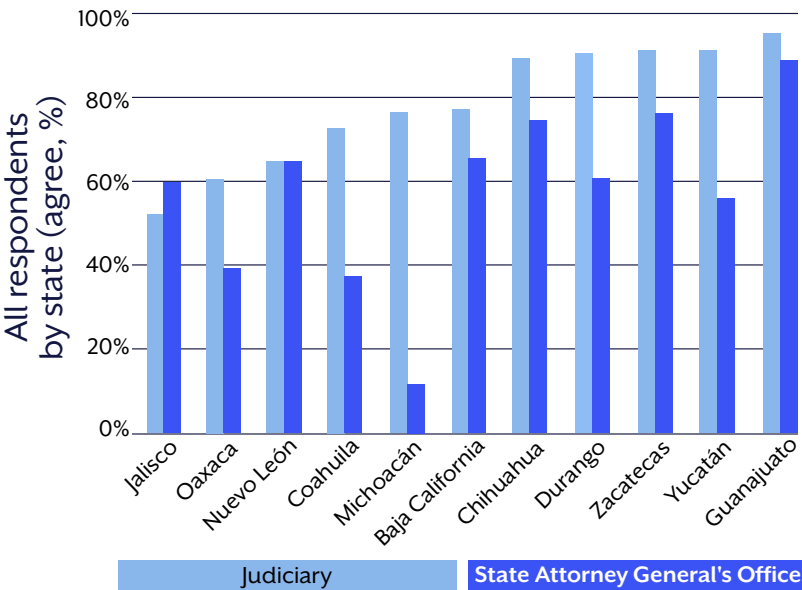
¿Do you consider yourself prepared to operate the NSJP?



Capacity to handle all cases within the NSJP
"Your state has..."



Your state's institutions have adequate infrastructure in place to operate the NSJP



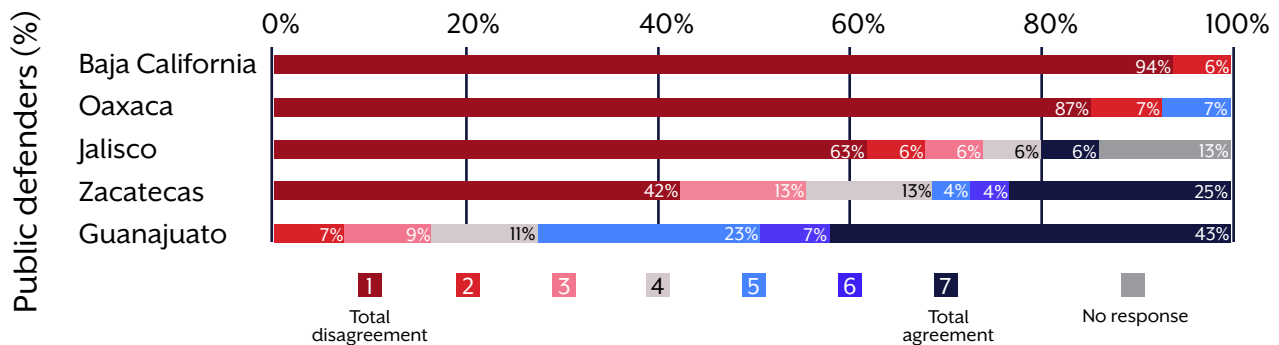
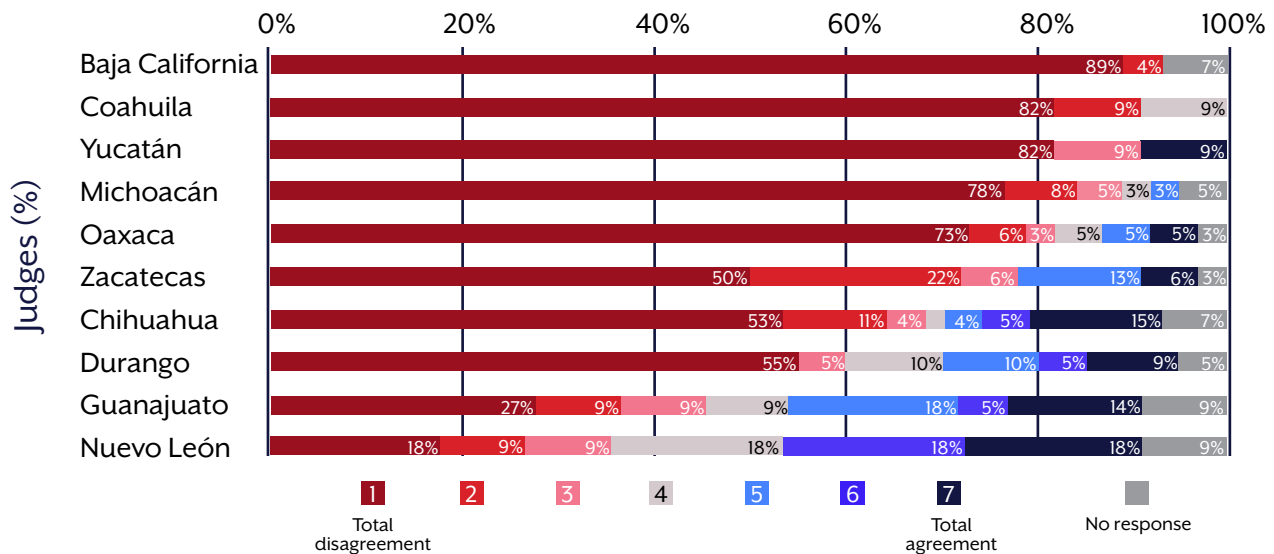
» Of all those surveyed, 71% agreed that their state has **enough judges trained** to keep up with NSJP caseload while only 58% agreed they have **enough prosecutors** and 59% agreed they have **enough public defenders**. There was, again, a considerable level of variation across different states and professions. For example, only 36% of judges in Nuevo León believed they have enough trained judges, compared to 88% of judges in Zacatecas. Additionally, in Nuevo León there were very few judges (9%) that believed that their state had enough trained prosecutors, in contrast with 66% of judges in Zacatecas.

CRIMINAL JUSTICE SYSTEM IN PRACTICE

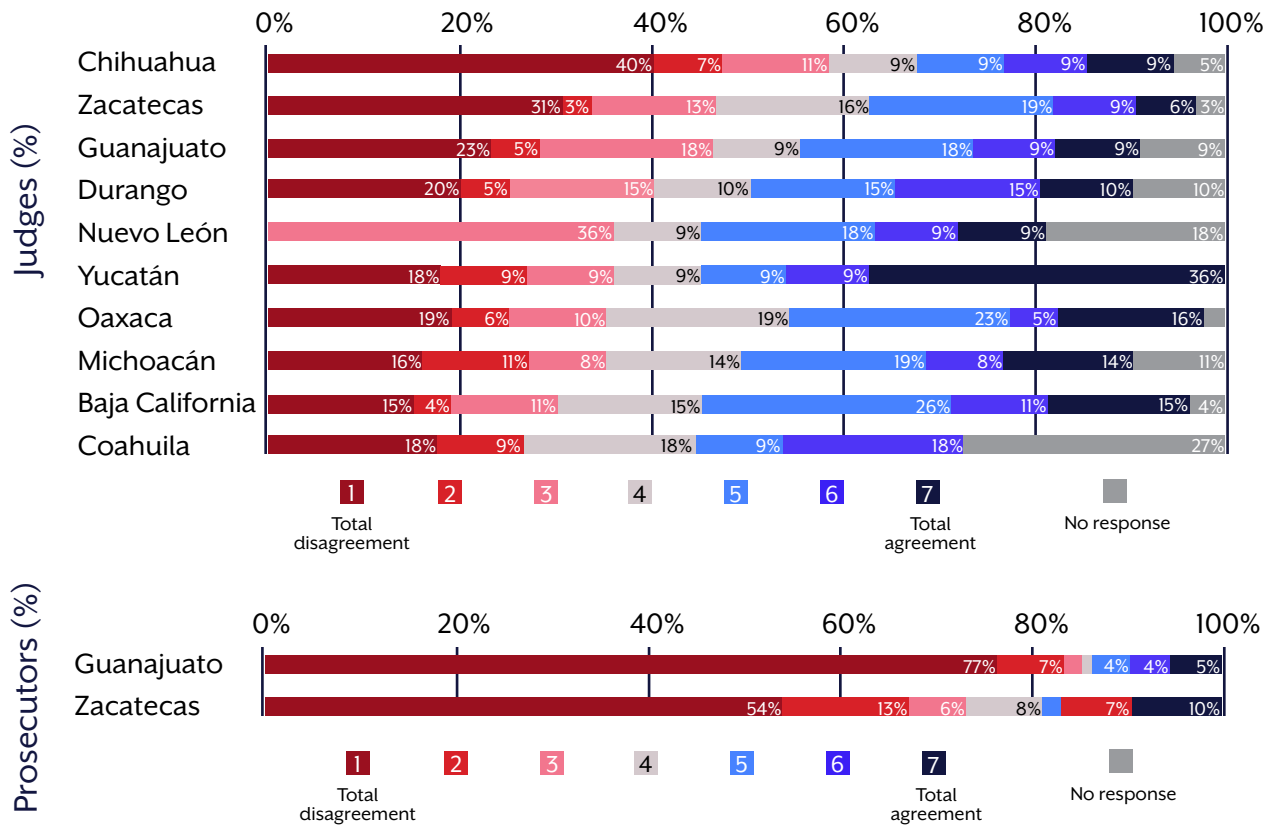
Prominent Findings about Legal Defense, Rights of the Accused, Analysis of Evidence, and ADR

The majority of those surveyed indicated that public defenders provide an **adequate legal defense and counsel** (66% of judges, 86% of prosecutors, and 96% of public defenders). The opinion of judges was consistent with the results from 2010, when 63% of judges expressed a positive opinion about the legal counsel provided by public defenders. On the other hand, in the 2016 survey a minority of respondents (15% of judges, 40% of prosecutors, and 40% of public defenders) indicated that **public defenders have access to forensic experts** (or funds to contract them) in order to construct an adequate legal defense. »

Public defenders have access to experts/investigators when they are necessary to provide an adequate defense



The prosecutor's office leaves the burden of investigating or providing evidence to the victims and the offended



» A larger percentage of judges and public defenders (39% and 42%, respectively) than prosecutors (15%) indicated that prosecutor's office **leaves the burden of investigating and providing evidence to the victim**. This represents an increase from 2010, when fewer judges (29%) and public defenders (21%) expressed a similar view. In addition, a significant portion of judges (45%) and public defenders (50%), and a modest portion of prosecutors (21%) indicated that the prosecutor's office justifies illegal detentions by criminal investigative police. In Guanajuato and Zacatecas, where respondents from all three professions were surveyed, 50% of public defenders (in both states) indicated that the prosecutor's office **justifies illegal detentions by the criminal investigative police**, in contrast to 20% of prosecutors surveyed in Guanajuato and 23% in Zacatecas. »

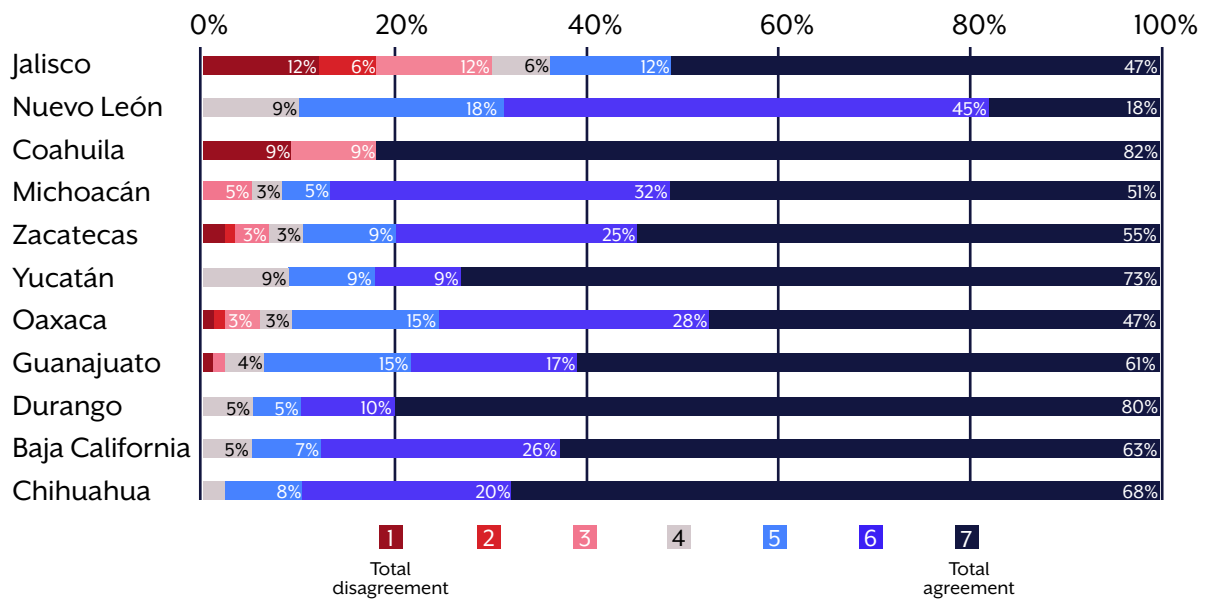
» These perceptions suggest that doubts remain about investigations conducted by the prosecutor's office and its inability to prepare cases for trial. This could indicate not only a shortage of qualified prosecutors, but also a lack of support personnel in combination with excessive caseloads. Additionally, illegal detentions and a tendency to secure evidence illegally (including the use of physical abuse) could invalidate evidence presented at trial. Any of these problems could lead to the acquittal of the defendant and, consequently, the perception that the NSJP "allows criminals to walk free." »

CRIMINAL JUSTICE SYSTEM IN PRACTICE

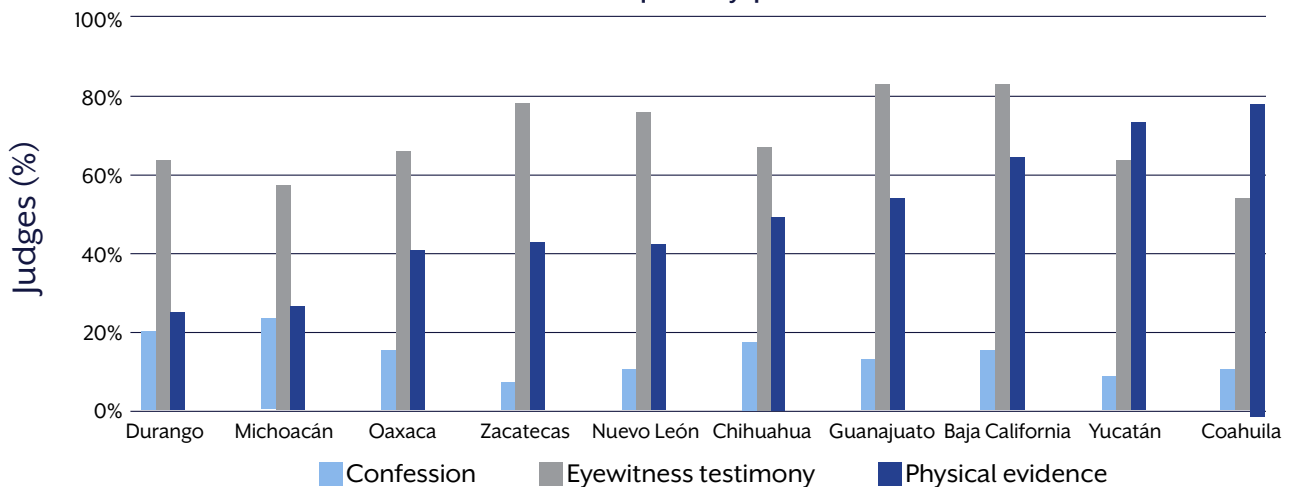
Prominent Findings about Legal Defense, Rights of the Accused, Analysis of Evidence, and ADR

» The large majority of respondents in the three professions believe that **judges study their cases in depth and sufficiently examine the evidence** (94% of judges, 91% of prosecutors, and 82% of public defenders). Considering that judges from Jalisco refused to participate in the survey, it is perhaps worth noting that a much lower proportion of public defenders (63%) in that state held the same opinion. The respondents generally agreed that **eyewitness testimony** is the type of evidence most frequently presented in court. On a Likert scale where one (1) meant “almost never” and seven (7) meant “very often,” 68% of respondents indicated that eyewitness testimony is presented “very often” (7) in trial. »

Judges study their cases in depth and sufficiently examine the evidence (all respondents by state, %)

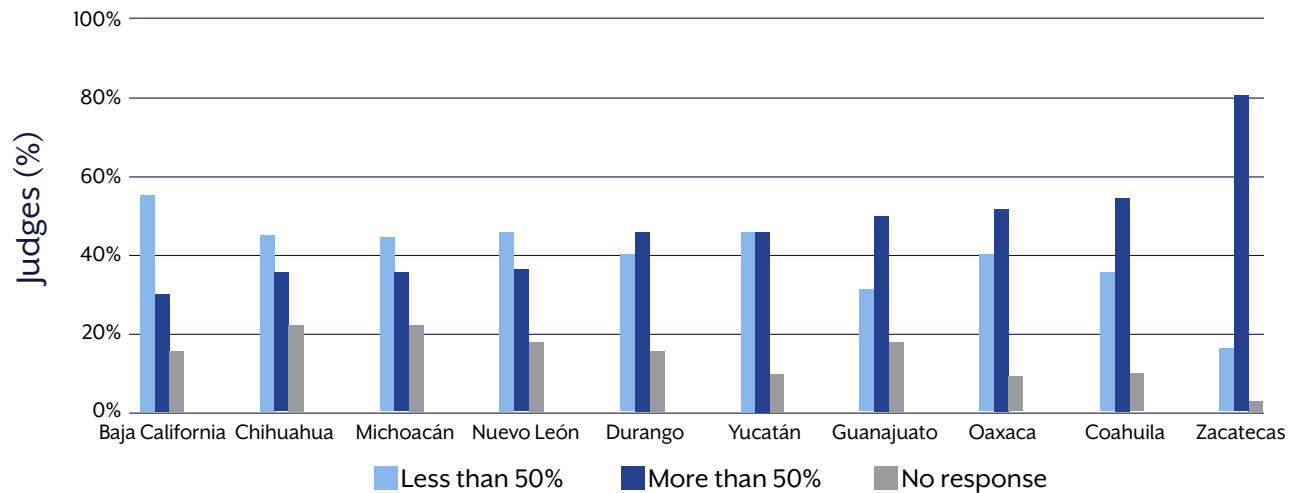


Evidence most frequently presented in trial *



* Percentage of judges who responded seven on a scale of one to seven, where one represents "almost never" and seven represents "very frequently."

Percentage of criminal cases resolved through ADR



» **Physical evidence** was the second most common form of evidence with 53% and **confessions** ranking third (13%). Responses varied at the state level. For example, only 25% of judges in Durango responded that physical evidence is presented very frequently, in comparison with 82% of judges in Coahuila. This appears to be a continuation of one of the vices of the traditional system, in which eyewitness testimony was used to convict without other supporting evidence. »

» ADR mechanisms were viewed positively by the three professions. Of those surveyed, 90% believe that ADR has **accelerated the process of paying damages to victims**. Additionally, approximately three-fourths of judges and prosecutors (76% and 73%, respectively), and 93% of public defenders believe that **public defenders actively participate in the process of alternative justice**. In turn, 74% of judges, 98% of prosecutors, and 85% of public defenders believe that **prosecutors promote ADR mechanisms**, while almost all operators surveyed (94%) believe that judges promote ADR mechanisms. The **frequency with which criminal cases are resolved through ADR** varied by state. In Zacatecas, 81% of surveyed judges estimated that more than 50% of cases are resolved through ADR compared to only 30% in Baja California.

» **50% of public defenders** believe that **more experts or investigators are needed** to construct an adequate legal defense.

» **43% of judges** believe that **criminal investigation police** frequently carry out **illegal detentions**.

» **22% of prosecutors** believe that **criminal investigative police** take over the investigation, **disregarding prosecutors**.

CRIME AND PUBLIC SECURITY

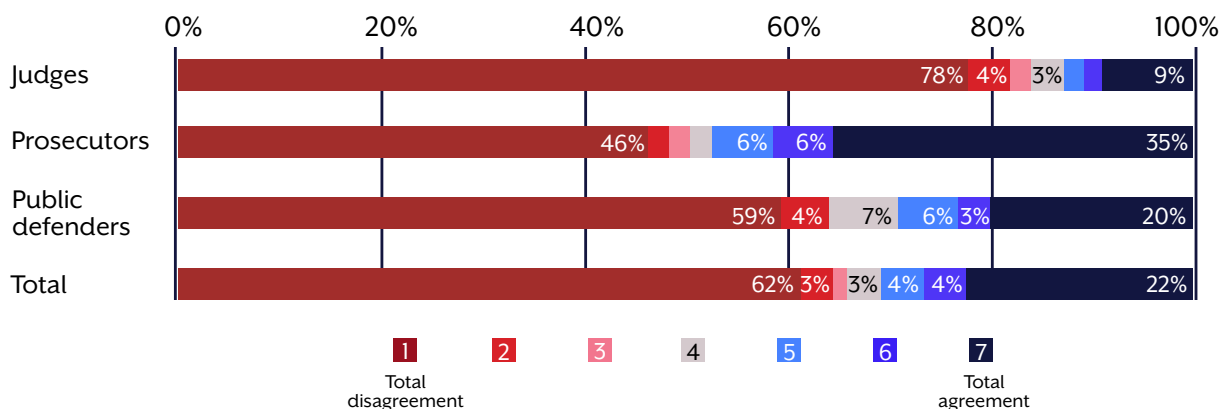
Perceptions on Crime, Due Process, and Trust in the Authorities

Our survey included a number of questions regarding the rights of the accused. For example, according to 21% of judges, 40% of prosecutors, and 24% of public defenders, the **NSJP favors criminals at the expense of victims**. Moreover, 10% of judges, 29% of prosecutors, and 20% of public defenders believe that **human rights obstruct justice for victims**. Almost half (48%) of prosecutors and a third of public defenders (29%) believe that authorities at times can circumvent the law in order to investigate and charge those responsible for crimes (in comparison with only 13% of judges). Moreover, half (51%) of prosecutors said they would prefer to never set a guilty person free, even if this led to the occasional condemnation of an innocent person. However, more than a half of judges and public defenders (59% and 62%, respectively) expressed the opposite view, considering it is preferable to occasionally set a culprit free in order to ensure that an innocent person is never condemned. »

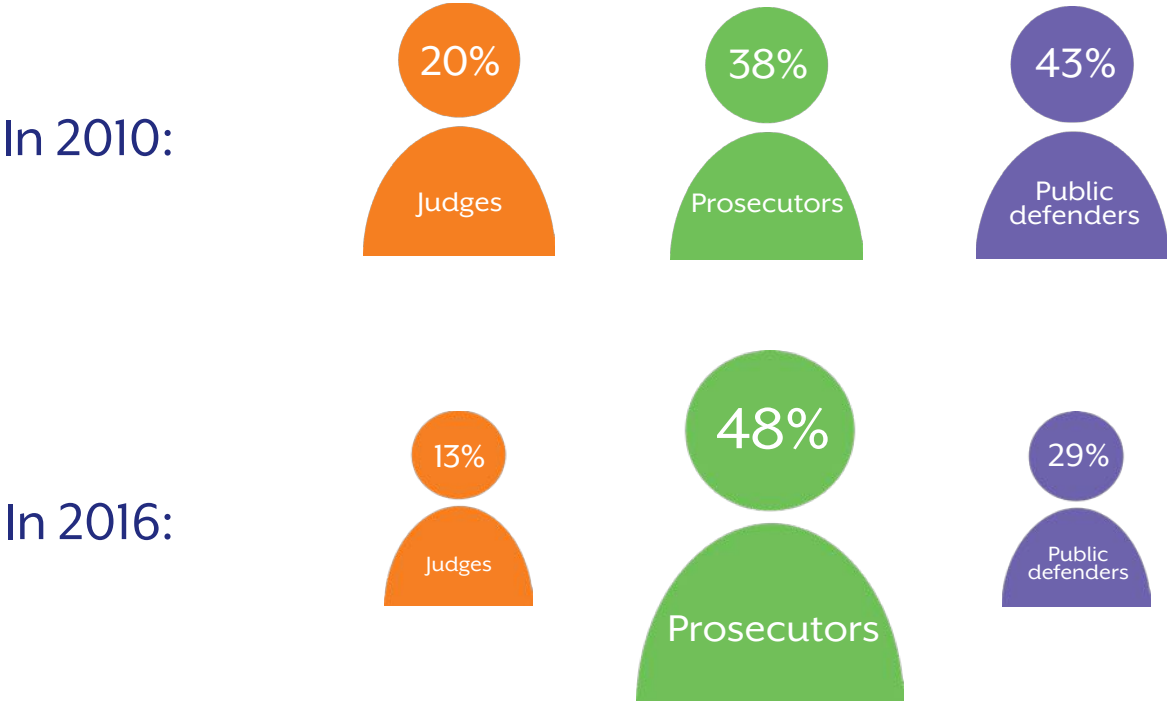
» With respect to the question of circumventing the law in order to capture criminals, it should be noted that there was a considerable decline from 2010 to 2016 among judges (by 38%) and public defenders (by 32%). However, support for this view among prosecutors surveyed remained high in 2016, though over time comparability was limited (prosecutors from the same states did not participate across the two surveys). »

» **51% of prosecutors prefer to never set a guilty person free, even if this leads to the occasional condemnation of an innocent person.**

"At times, it is acceptable for authorities to circumvent the law in order to investigate and punish criminals" (%)

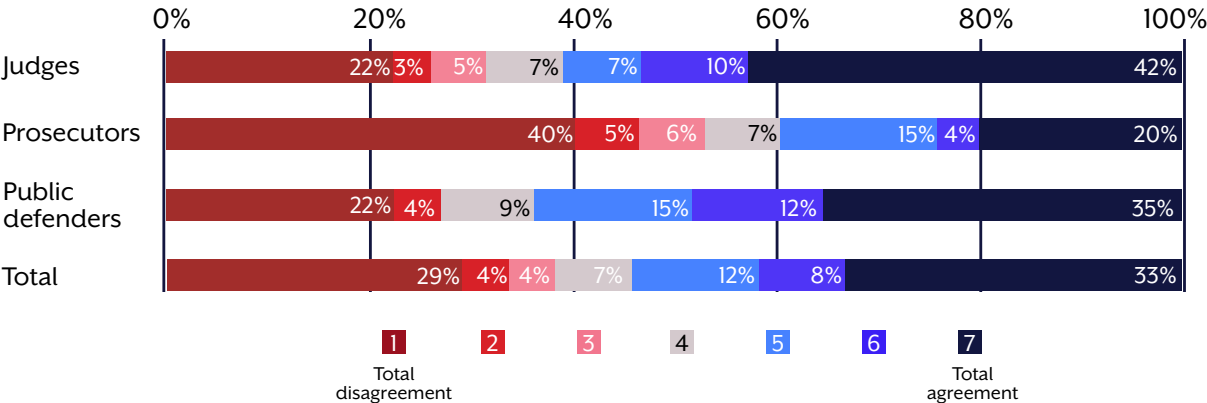


Respondents that believe that "at times, it is acceptable for authorities to circumvent the law in order to investigate and punish criminals" (%)



* Comparing prosecutors across survey years is problematic because our 2016 respondents came from different states than those surveyed in 2010. The 2010 *Justiciabarómetro* surveyed prosecutors in the states of Baja California, Nuevo León, and Oaxaca..

"It is preferred to never condemn an innocent person, although this means at times a culprit might be set free" (%)



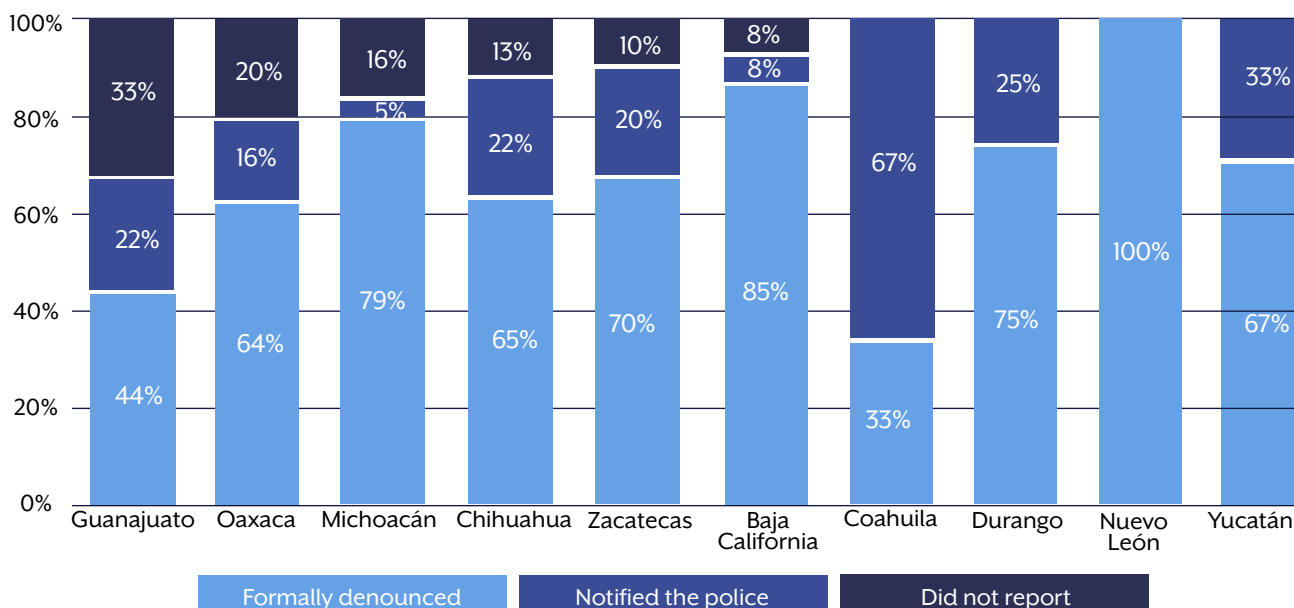
CRIME AND PUBLIC SECURITY

Perceptions on Crime, Due Process, and Trust in the Authorities

» Of all those surveyed, 36% reported that they or someone in their family had been **victims of some crime** in the past year. Of the respondents that indicated this, 20% acknowledged they did not report the crime to authorities. The percentage of respondents that **filed a police report or notified the police** varied by profession: 86% of judges, 78% of prosecutors, and 66% of public defenders. The main reason why they did not report cases to authorities was a **lack of interest on the part of the victim** (23%), followed by lack of trust in authorities (17%) and **lack of time** (15%). The percentage of judges that did not turn to authorities also varied by state. For example, in Coahuila, Durango, Nuevo León, and Yucatán, all of the judges said they either filed a police report or informed the authorities, while 33% in Guanajuato opted not to report. The tendency of not reporting crimes is typical among regular citizens. »



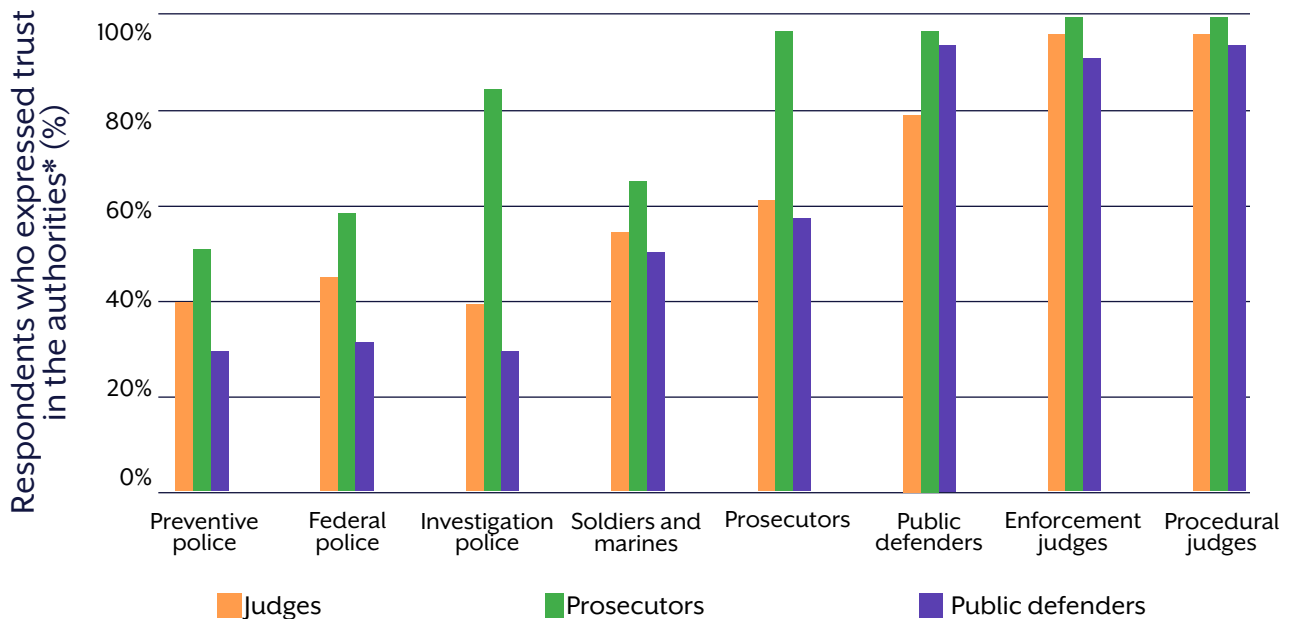
Action taken by judges who were victims of a crime (%)



» Respondents reported varying levels of trust in different authorities. They were asked how much they **would trust their rights to be respected** by different actors (including the preventive, federal, and criminal investigation police, as well as prosecutors, public defenders, procedural judges, enforcement judges, the military, and the navy) in the event they or their family member were detained under auspices of having committed a crime. In this context, the respondents perceived procedural and enforcement judges to be more trustworthy (96% of those surveyed would trust them). In general, prosecutors were the operators that showed the highest level of trust in different authorities. For example, 84% of them would trust the criminal investigative police compared to only 39% of judges and 28% of public defenders. »

» As previously mentioned, police forces received the lowest levels of trust from respondents. Respondents' levels of trust among all three professions surveyed was generally high, though lower among prosecutors. The fact that barely 50% of those surveyed expressed trust in the Mexican armed forces is also noteworthy, since the military has increasingly become involved in public security matters.

If you (or a family member/someone you know) were arrested, would you trust the following authorities to respect your rights?



* Percentage of the operators who, on a scale of one to seven, where one means "would totally mistrust" and seven means "would trust completely," responded five, six, or seven; in other words, they maintain a significant level of trust.

CONCLUSIONS

Main Findings and Final Observations

The 2016 *Justiciabarómetro* study provides a rare look inside the Mexican judicial sector, and particularly the administration of the criminal justice system. The survey offers a snapshot of the profiles and perspectives of judges, prosecutors, and public defenders at a critical moment in Mexico's history, which the authors hope will serve as a benchmark for future studies to evaluate the challenges and progress of these efforts. The judicial sector operatives who participated in this study have contributed their views and assessments on a wide range of questions, from their professional development to workplace conditions and from their concerns to their hopes for the future state of justice in Mexico. Participants demonstrated considerable commitment to the exercise, responding to more than 140 questions with nearly double the response rate of this study's first edition.

What we see most clearly in the results of the 2016 *Justiciabarómetro* are indicators of a system in transition. Our results show that many things have changed in the course since the early days of the federally mandated reforms that began in 2008. One of the most notable findings is the decreased perception among judges that the old system was working well and the growth in judicial support for reform. In 2010, 59% of judges viewed Mexico's traditional system as "effective and efficient," while in hindsight this view decreased considerably—to less than 52%—in 2016. At the same time, while only 76% of judges approved the transition to the oral adversarial model in 2010, nearly all judges—93%—approved of the new model in 2016.³ Much of this shift is likely attributable to the enormous turnover we identified on the bench, with one in four judges having served less than two years in their current position. These new judges appear to be more accepting or adaptable with regard to the reforms.

These findings must be tempered against the challenges and issues that remain, including many identified by the participants in this survey, as well as by other recent studies of Mexico's criminal justice reform efforts. Based on these findings and careful monitoring of Mexico's judicial reform process, the authors suggest five specific areas for the continued improvement of the Mexican criminal justice system.

A. Professionalization of the Judicial Sector

The primary champions of justice and judicial system improvements are those who operate the system: judges, prosecutors, public defenders, police, technical staff, and other judicial system operators. The new system is designed to challenge these actors by introducing new checks and balances, and pitting interest against interest. Without dedicated measures and resources to increase their professional capacity, they will not be able to stand up to the test. Specifically, it will be important to ensure that judges, prosecutors, and public defenders continue to receive the necessary training to function in their new roles in the criminal justice system. The 2016 *Justicabarómetro* survey reveals that a large majority of judicial sector operatives in most states included feel that public defenders especially have inadequate resources and investigative support to do their job.

³ It is worth noting that support for the new system was even higher among public defenders (96%) and, surprisingly, prosecutors (98%). Somewhat oddly, in 2016 a larger proportion of prosecutors (61%) viewed the traditional system as "effective and efficient" than in 2010 (44%), though it should be emphasized again that these samples were from two states and are not as comparable as the responses of judges who participated in the survey.

As federal and international financial support for such training diminishes over time, law schools and professional associations will need to take on greater responsibility for judicial sector training. The federal and state governments can help to promote the professionalization of the entire judicial sector by channeling resources to law schools to revise their curricula and creating special programs for legal professionals to acquire the necessary training and continuing education to operate within the oral, adversarial system. For example, the Mexican government could direct funding to establish a system of accredited university programs that cover relevant aspects of oral, adversarial litigation, and offer government scholarships to support professionals and students who participate in such programs.

Also, given the growing importance of graduate degrees among Mexican judges (up from 66% in 2010 to 77% in 2016), the Mexican Congress or state legislatures could provide scholarship funding for attorneys to obtain graduate training abroad in countries that already use oral, adversarial procedure (something that only 1% of respondents in our survey had done). In its efforts to professionalize the judicial sector, the federal government should also take care to promote opportunities for the professional development of female judges, given the significant gender gap found in most of the states we surveyed (as well as the concerns expressed about sexual harassment in the judiciary in some states, such as Coahuila, Nuevo León, and Oaxaca).

Another possibility would be for Mexico's Congress to mandate that all judges, prosecutors, and public defenders must obtain a specific training to practice law under the new system, or a specified number of hours of continuing education each year. Alternatively, rather than government intervention, it might be preferable for Mexico's professional associations to establish such requirements for their members as a means to gradually raise the "bar" for professional practice. Indeed, self-help and self-regulation may necessarily prove the only option, as the Mexican federal government has opted to dissolve the agency that has been responsible for coordinating and overseeing the reform implementation process since 2008: the widely respected Technical Secretariat (SETEC).

B. The Institutionalization of Change

While the June 18, 2016 implementation has come and gone, Mexico's new criminal justice system will undoubtedly require further improvements and many years to consolidate. There are many technical challenges that must be addressed to ensure the proper functioning of Mexico's new criminal justice system. Experts who assisted with the implementation of this survey point to specific unresolved questions, such as how the new system will deal with appellate court matters. Consider, for example, the technical challenge of watching countless hours of videotaped testimony from oral proceedings in order to review evidence on appeal. Also, there may be lingering problems from the old system that take on a new twist under the current system, such as the use of plea bargaining as a means by corrupt prosecutors to "sell" reduced sentences for bribes.

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Because President Enrique Peña Nieto introduced a uniform National Code of Criminal Procedure (*Código Nacional de Procedimientos Penales*), making the changes and modifications required to address such challenges may require a level of political consensus at the federal level that may not exist when needed. For this reason, the Mexican Congress should act as quickly as possible to establish a new deadline for a comprehensive review of the National Code of Criminal Procedure, at which point jurists and legislators should work together to make revisions and modifications to address problems of implementation or performance at the national or state level. Such a deadline would cut across administrative terms, and would bind the federal and state governments to revisit the possibility of major constitutional changes that would be required in order to consolidate the reforms.

C. Monitoring Judicial System Performance

Studies such as this one illustrate the need for information and analysis that is only possible through constant monitoring and evaluation of changes in the judicial sector. Such monitoring and evaluation makes it possible to identify and advocate for the necessary policy and administrative changes to achieve the fair and effective administration of justice. In this regard, government officials, judicial system professionals, and civil society will need to collaborate in providing and analyzing the necessary information to ensure that the criminal justice system continues to improve. In the United States, for example, the wave of rights-based criminal justice sector advances of the 1960s—such as *Miranda v. Arizona*—were followed by federal legislation and funding through the 1968 Law Enforcement Administration Act (LEAA), which provided support for continued monitoring and improvement of judicial system functioning through the Bureau of Justice Statistics, the National Institute of Justice, and other government agencies.

At the same time, the 1950s and 1960s brought important efforts by lawyers to establish standards for professional practice and ethics, including the introduction of mandatory bar exams and continuing education for attorneys. These specific steps may not be the right ones for Mexico today, but they illustrate the kinds of measures that might help to bolster Mexico's new rights-based, adversarial model of criminal justice that has begun to take root. Mexican government agencies—such as the National Institute of Criminal Sciences (*Instituto Nacional de Ciencias Penales*, INACIPE) within the Attorney General's Office—should be encouraged to generate and disseminate indicators of judicial system performance, and to provide grants to universities, research institutes, nongovernmental organizations, and individual researchers that can assist in the evaluation and assessment of the new criminal justice system.

One of the major issues that need to be examined more carefully is corruption and abuse of power. In 2016, four out of five judges said that Mexico's adoption of oral, adversarial criminal procedures will help to reduce corruption, presumably given the increased transparency and checks and balances introduced under the new system. However, 43% of judges also indicate that prosecutorial police regularly engage in illegal arrests.

Monitoring and guarding against corruption is a major challenge, and there is a special need to ensure that the new system achieves a high degree of integrity in order to remain legitimate in the eyes of its operators, users, and the general public. The 2016 *Justiciabárometro* survey found significant variation in efforts to prevent and detect corruption, typically consisting of a “trustworthiness test” administered prior to taking office.

Arguably, this is an area that requires enormous care and possibly new mechanisms to ensure against judicial sector corruption. For prosecutors, in particular, a shift from “trustworthiness tests” to more effective internal and cross-agency investigations may be beneficial. Monitoring salaries in the judicial sector to address disparities across states and professions will also help to ensure against corruption, particularly in states (like Coahuila and Oaxaca) where respondents expressed serious misgivings about their current salaries.

D. Understanding the Link between Justice and Society

Half of judges (51%) responding to the 2016 survey expressed the view that the new criminal justice system will help to reduce crime, which is a substantial increase from 2010 (when 42% of judges surveyed said the same). Such expectations need to be carefully tempered. The new criminal justice system will give a stronger role to public defenders and, in so doing, will raise the bar for police and prosecutors. Better gathering and presentation of evidence in court will arguably mean that more criminals will wind up in a jail cell and more innocent people will walk free. However, crime and crime reductions are multi-causal phenomena that have much to do with underlying social and economic patterns—perhaps most importantly, access to a good home, education, employment, and decent income—and these will not change as a result of recent judicial reforms. Moreover, there are other ways to achieve a more direct and immediate effect on crime rates, such as surges in police deployments or community focused policing. That said, police departments that benefit from a high degree of education and professionalism in the ranks are arguably more likely to utilize such strategies. Thus, to the extent that the new system’s emphasis on due process and the rights of the accused encourages a long-term transformation of police and policing in Mexico, respondents are right to be cautiously optimistic that things will improve on the security front.

Still, the 2016 survey revealed a disturbing trend. More than one in four judges reported that they or someone in their family had been a victim of crime in the last year, which is slightly higher than the national rate of 22% reported in the latest available National Survey of Victimization and Perception on Public Safety (*Encuesta Nacional de Victimización y Percepción Sobre Seguridad Pública*, ENVIPE) reported by the National Statistics Agency (*Instituto Nacional de Estadística y Geografía*, INEGI) in 2015. Most of the judges who were victimized formally reported these crimes to the authorities, though it is notable that more than half of judges in Guanajuato (55%) and Coahuila (67%) opted not to do so. In the past, threats against judges were relatively rare. Prosecutors were more often the primary targets of organized crime, given their leading role in criminal proceedings under Mexico’s traditional system. However, as judges take on a more central role in the new criminal justice system, this may increase the security threats they face.⁴

4 The October 15, 2016 assassination of federal judge Vicente Bermúdez Zacarías was by no means attributable to the new criminal justice system, but it does perhaps signal a bad omen for judges ruling on the growing number of organized crime cases moving through the criminal justice system. “El juez asesinado libró 15 días antes un ataque,” *La Razon*, October 19, 2016. <http://www.razon.com.mx/spip.php?article325224>.

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E. Continuing International Support for Judicial Reform in Mexico

Lastly, as Mexico's security situation improves, current international efforts to strengthen the rule of law in Mexico will no doubt lose focus and shift to other priorities. However, it will be important for U.S. government agencies, private foundations, and international funding organizations to sustain their commitment to advancing criminal justice sector reform in Mexico. For one, the transformation of the Mexican criminal justice system will be a long-term endeavor, perhaps taking as long as a generation to take hold. There will be a need for resources and new ideas to continue the progress that has been made so far.

Investments in improving the Mexican criminal justice system will likely need to shift from the current emphasis on infrastructure, capacity building, and training to policy innovation and monitoring to help improve the system over time. For example, there will be a need to provide funding to support and incentivize legal watchdog organizations to advocate on the rights of victims, prisoners, and even operators in the criminal justice system. There will also be a need for support and protections of whistle blowers who call out illegal behavior on the part of government officials, including but not limited to legal representation or even political asylum. In this regard, the U.S. Congress should continue to support the efforts of USAID and other government agencies that have helped to advance the cause of judicial reform in Mexico. Also, international foundations should work to support non-profit organizations working in the field of judicial reform and human rights law, even after it becomes unfashionable to do so.



The 2008 criminal procedure reforms were intended to achieve a major shift in how Mexico's justice system works and the ultimate ends it achieves. In 2016, almost half of prosecutors agreed that sometimes it is necessary to circumvent the law in investigating and punishing those responsible for a crime, and more than one third of those surveyed said that it is better for an innocent person to rot in jail than for a guilty person to go free (most judges and public defenders disagree). In the long run, proponents believe that this will change. The new system will help to protect against serious problems that are presently pervasive in Mexico, including arbitrary arrest, prolonged pretrial detention, forced confessions, falsification of evidence, wrongful conviction, systemic corruption, and even torture and other human rights abuses by police, prosecutors, and prison officials. Of course, no reform is a cure-all, and substantial further efforts will be needed to achieve these potential benefits. Moreover, in the long run, the transition to Mexico's New Criminal Justice System will undoubtedly bring unexpected challenges and failures. Mexico is one step closer to reaching a more just society, but its path will no doubt remain long, steep, and sometimes rocky.

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2016 Justiciabarómetro

Survey of Judges, Prosecutors,
and Public Defenders