

# Justiciabarómetro

*Survey of Judges, Prosecutors, and Public Defenders  
in Nine Mexican States*



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**2011**

**Justice in Mexico Project**

Trans-Border Institute

*Joan B. Kroc School of Peace Studies*

University of San Diego



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Co-authored by Matthew C. Ingram, Octavio Rodríguez Ferreira,  
and David A. Shirk

Full Report: May 2011

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## List of Acronyms

LAPOP	Latin American Public Opinion Project
PAN	National Action Party (Partido Acción Nacional)
PRD	Party of the Democratic Revolution (Partido de la Revolución Democrática)
PRI	Institutional Revolutionary Party (Partido Revolucionario Institucional)
PRODERECHO	Assistance Program for the Rule of Law in Mexico (Programa de Apoyo al Estado de Derecho en México)
TBI	Trans-Border Institute
USAID	United States Agency for International Development
USD	University of San Diego

## Preface

Data on Mexican legal professions are scarce. While there are many widely available statistical indicators about crime, victimization, and public opinion on the rule of law in Mexico, there have been few systematic, quantitative efforts to gauge the current levels of professional development, working conditions, and attitudes of the primary operators of the Mexican justice system, namely police, prosecutors, public defenders, and judges. Due in part to this lack of knowledge on legal professionals, Mexico's criminal justice system remains an enormous "black box" whose internal weaknesses are often readily recognized but difficult to quantify.

In 2009, the *Justice in Mexico Project*, a multi-year research initiative coordinated by the Trans-Border Institute at the University of San Diego (USD), launched a series of studies to evaluate the perceptions and professional development of actors in Mexico's judicial sector. Working with an interdisciplinary, bi-national team of experts on Mexico's justice sector, this series of studies —titled the *Justiciabarómetro*, or "Justice Barometer"— consists of surveys, interviews, and policy research to examine the strengths, challenges, and resource needs of Mexican law enforcement agencies and judicial institutions, and the justice sector in general. The initial *Justiciabarómetro* study consisted of a major academic survey of municipal police in 2009, including 5,422 local law enforcement personnel in the six municipal governments that make up the Guadalajara metropolitan area. In 2010, a subsequent police study was conducted, involving more than 2,400 local police in the municipality of Ciudad Juárez, a city that has had a series of brutal homicides targeting women since the 1990s and severe levels of crime and violence since early 2008.

Shifting the focus to members of the judiciary, *Justiciabarómetro* judicial survey summarizes the findings from a third study that surveyed 276 legal elites —judges, prosecutors, and public defenders— in nine different Mexican states between October and December 2010. Once again, this study breaks new ground by providing unprecedented analysis of the demographic profile, professional background, and personal observations of key players in Mexico's criminal justice system. This study comes at a critical moment in Mexico's efforts to promote judicial sector reform, and therefore provides useful insights on the course and overall support for these efforts. We are therefore deeply indebted to all the respondents who contributed their valuable time to help inform this study. Overall, the judges, prosecutors, and defense attorneys who took part in this study demonstrated a strong sense of professional commitment, but also the self-critical recognition that Mexico's criminal justice system is in dire need of improvement.

This study was also made possible through the generous financial support of both The William and Flora Hewlett Foundation and The Tinker Foundation. In addition, the study benefited from the input and guidance of the study's Advisory Committee, including Hector Fix-Fierro, Francisco Gorjón, Dante Haro, Pablo Paras, and Guillermo Zepeda. Other colleagues and judicial system experts who provided vital contacts, recommendations, and useful background for this study included Heliodoro Araiza, Raúl Carrillo del Muro, Rolando de Lassé, Ana Laura Magaloni, Cory Molzahn, María Teresa Martínez Mercado, Marcos Pablo Moloeznik, María Candelaria Pelayo

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Special thanks for their interest and collaboration in this project goes to Mexican Supreme Court Justice José Ramón Cossío, as well as the following public officials in Baja California: Supreme Court Justice María Esther Rentería, Attorney General Rommel Moreno, and Assistant Attorney General Maria Elena Andrade; Chihuahua: Supreme Court Chief Justice Javier Ramírez Benítez; Coahuila: Supreme Court Justices Gergorio Alberto Pérez Mata (President), Rodolfo Acosta Muñoz, and Antonio Berchelman, Attorney General José de Jesús Torres Charles, and Director of Public Defenders Francisco Javier Ramos; Jalisco: Supreme Court Justice Celso Rodríguez González; Michoacán: Supreme Court Chief Justice Alejandro González and Director of Public Defenders Guillermo Arteaga Torres; Nuevo León: Supreme Court Chief Justice Gustavo Adolfo Guerrero Gutiérrez and Attorney General Alejandro Garza y Garza; Oaxaca: Supreme Court Justice Hector Anuar Mafud Mafud and Attorney General María de la Luz Candelaria Chiñas; Yucatán: Supreme Court Justice Angel Prieto and Director of Public Defenders Oswaldo Ortiz Matu; Zacatecas: Supreme Court Justice Leonor Varela Parga.

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As with previous versions of the *Justiciabarómetro*, this survey was implemented by Data Opinion Publica y Mercados ([www.dataopm.net](http://www.dataopm.net)), under the direction of Pablo Paras. The technical team was managed by Carlos Lopez and coordinated by Andrea Rico Villanueva, and included María Hernández, Lizet Miranda, Griselda Nicolás, Stephanie Navarrete, and Dulce Morales. The project also benefited from the attention and assistance of the TBI staff, notably Charles Pope, Stephanie Borrowdale, Danielle Farias, Felicia Gomez, Gayle Hazard, Kimberly Heinle, Elisse Larouche, Anna Lizano, and Ernesto Reyes-Hernández. This report does necessarily not reflect the viewpoints of any of the above, and the authors take full responsibility for any errors or omissions within.

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## Executive Summary

The *Justiciabarómetro: Judicial Survey* is a timely study of the judges, prosecutors, and public defenders that operate Mexico's criminal justice system. The study's results shed new light on both the current state of the administration of justice in Mexico and the sources of support for and resistance to the sweeping judicial reforms initiated by the administration of Mexican President Felipe Calderón in 2008. Among the key findings are the following:

- **General satisfaction with compensation, but frustration with workload varies:** Judges, prosecutors, and public defenders appear to be generally satisfied with the levels of compensation they receive, though frustration with salary and workload vary by state.
- **Experience and merit drives professional advancement, but some see politics:** Most respondents agreed that experience and training are a primary basis for employment and promotion, a significant portion of respondents feel that political contacts also play a role.
- **Despite respect for legality, some tolerance of unlawful behavior for justice:** Regarding lawful behavior, there was widespread agreement that “illegal conduct” is unacceptable, even if no one gets hurt. However, one in four respondents —28.2%— were willing to tolerate occasional illegalities in the pursuit of justice.
- **Judges and defenders tend to see prosecutors as lacking in competency and integrity:** While all respondents tended to have a high opinion of the professional competency and integrity of judges and public defenders, prosecutors were viewed as less competent and trustworthy by their colleagues in other professions.
- **Public defenders are more critical of procedure efficiency and perceive more violations of due process than judges and prosecutors:** There were significant differences judges and prosecutors, on the one hand, and public defenders, on the other regarding the efficiency of the criminal justice system. Also, judges and prosecutors tend to believe that violations of due process —such as forced confessions— are very rare or never used, while public defenders are much more likely to disagree.
- **New judicial reforms seen by some ineffective, a result of foreign influence, and unlikely to reduce crime.** Respondents were split on the effectiveness and efficiency of Mexico's traditional criminal justice system, on whether that system was deliberately discredited to make way for the 2008 judicial reform, on whether foreign interests were behind the new judicial system, and whether judicial reform will reduce criminality.
- **Even so, new criminal procedures are generally well regarded, especially in states still awaiting reform.** Still, the provisions included in the 2008 reforms —introducing oral, adversarial criminal procedures— were well regarded, particularly in states where they had not yet taken effect; the most significant reservations tended to register among respondents from states that had already adopted the reforms for some time. Many respondents are optimistic that it will improve efficiency and reduce corruption in the judicial system.

## Introduction

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

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

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

The severity of these challenges and the urgency of their resolution are difficult to overstate. In 2008, in an attempt to help resolve these problems, the Mexican Congress passed a major criminal procedure reform with broad and deep implications for the design and performance of the criminal justice system throughout the country.<sup>5</sup> The reform introduces several new elements, including a restructuring of the judicial process, greater emphasis on oral trial proceedings, substantive protections for defendant rights, enhanced victim rights and restorative justice mechanisms, and special procedures for organized crime. Notably, the reform also requires that the procedural changes be adopted and implemented by all of Mexico's 32 states no later than 2016.

This reform is one of the most ambitious and far-reaching attempts to improve the criminal justice sector, the failings of which —delays, impunity, corruption, and mistreatment— are widely regarded as at least partly responsible for the security challenges facing Mexico today.<sup>6</sup> This report presents timely and original new data on how the criminal justice system is presently viewed by the lawyers and judges responsible for the administration of justice in Mexico. The study comes at a critical moment for Mexico, given the above noted public security and criminal justice sector challenges.

Based on a survey of 276 judges, prosecutors, and public defenders in nine states, each at various stages in implementing the reforms, we report on the professional background, evaluations, and attitudes of these professionals towards the criminal justice sector and its ongoing reform. This kind of expert survey offers insights into the way institutional insiders view problems they face, whether that is judges registering their opinions about their courtrooms, or prosecutors or defense attorneys registering opinions about their respective institutions. The survey also captures respondent attitudes towards the 2008 reform, whether it is being effectively implemented, what are its strengths and weaknesses, and whether it is helping resolve the justice and security challenges facing Mexico.

Perhaps contrary to expectations, observations from insiders can often be highly self-critical and even unflattering. From a methodological perspective, the unexpected nature of critical and unflattering self-assessment suggests we should pay greater attention to these kinds of opinions, as they are more likely to yield useful insights than rosy evaluations of the status quo. To be clear, the end goal of this research initiative is not to expose, embarrass, or blame Mexico's justice sector personnel. Rather, the immediate objective of this research effort is to develop useful measures of professionalism and performance, and provide concrete recommendations for policy makers and legal practitioners on how to improve Mexico's judicial sector capabilities. Moreover, in the long term, the indicators developed by this effort can also help to evaluate these efforts by providing tangible performance indicators that can serve as a baseline to measure future progress.

This report provides a first look at the results of this survey, with figures and detailed narrative descriptions of the findings across different states and professions. What is made clear by the results of this survey is the substantial need and potential for improvement in the administration of justice in Mexico, particularly in certain states. In particular, respondents indicated concerns about workload and capacity in the states of Jalisco, Oaxaca, Yucatán, Michoacán and Coahuila. Moreover, while most judges and prosecutors viewed court procedures in criminal cases as adequately efficient and saw few problems of adherence to due process, many public defenders strongly dissented from these views. Both judges and public defenders expressed some reservations about the competency and integrity of prosecutors, suggesting a need for improvement in the professional standards and accountability measures in this area of law enforcement. The survey also revealed important divisions and concerns within the judiciary on the effectiveness and efficiency of Mexico's traditional criminal justice system, as well as the new system that is meant to replace it. Such findings provide useful indicators for evaluating the performance and prospects of the Mexican criminal justice system, and a foundation for future research in this area. Indeed, we invite scholars and practitioners

alike to take a closer look at the data available on the project website ([www.justiceinmexico.org](http://www.justiceinmexico.org)), helping to improve any inferences drawn from it wherever possible.

The remainder of this report is organized as follows. The next section provides a background on the survey and the methodology employed to ensure social scientific rigor and to protect the anonymity of respondents. The substantive results begin with consideration of the demographic characteristics of respondents, including gender, age, and family status. Subsequent sections examine the standards for entry into the three legal professions analyzed in the survey, as well as the standards for permanence and promotion, as well as court performance. The penultimate section explores respondents' attitudes towards lawfulness and corruption. The final section reports on some of the attitudes regarding the sources and future direction of the 2008 criminal procedure reform. Readers interested primarily in specific topics may prefer to move directly to the appropriate section, though it is also worth considering how each section relates to the overall summary of findings presented in the conclusion.



## Research Objectives, Methodology, and Case Selection

Since Mexico began to experience elevated levels of crime and violence in the mid-1990s, there have been numerous studies and surveys of public opinion about criminality and the criminal justice system in Mexico.<sup>7</sup> Such studies are useful insofar as they provide external measures that help evaluate (a) public perception regarding urgent societal problems, (b) the performance of the criminal justice system in helping to resolve these problems, and (c) the impact that both (a) and (b) have on society. Moreover, over the last decade, there have also been several important efforts to study the experiences of both crime victims and prison inmates.<sup>8</sup> Such studies complement public opinion surveys by offering the informed perspective of those most directly affected by crime and those with close personal interactions with the criminal justice system.

By comparison, there have been relatively few studies of other “insider” perspectives regarding crime and criminal justice in Mexico, most notably the chief operators of the criminal justice sector itself: police, prosecutors, defense attorneys, and judges. Most studies of these key players in the criminal justice system are qualitative assessments that probe deeply with interviews, focus groups, and close participant observation. Nonetheless, such studies often lack clearly quantifiable indicators of institutional capacity and performance, and are therefore sometimes unfairly disregarded as purely anecdotal assessments.

Meanwhile, with the exception of earlier *Justiciabarómetro* surveys of local police officers in Guadalajara and Ciudad Juárez, there has been almost no systematic, quantitatively focused research to gauge professional profile, experience, and perspectives of criminal justice professionals.<sup>9</sup> Such studies are difficult for individual researchers to do because they require substantial funding, enormous logistical effort, close coordination with sometimes reluctant authorities, and long time horizons.

As the first major academic survey of criminal justice attorneys and judges in Mexico, this study breaks new ground and contributes valuable original data. Still, the study's implementation had specific priorities, significant methodological challenges, and necessary limitations with regard to those surveyed. This section briefly outlines the research objectives, case selection, and other issues regarding the research methodology employed in this study.

### Research Objectives

Since 2009, the *Justice in Mexico Project*, coordinated by the Trans-Border Institute (TBI) at the Joan B. Kroc School of Peace Studies at the University of San Diego (USD) has been developing a series of surveys of professionals within the Mexican criminal justice system —judges, prosecutors, and defense attorneys— to register attitudes of these legal professionals towards a range of legal and institutional issues. These issues include: (1) entry, permanence, and promotion within each profession (criminal prosecution, criminal defense, and adjudication); (2) integrity and corruption, (3) the performance and effectiveness of different components of the criminal justice system

(including honesty and efficiency), and (4) the causes, functioning, and consequences of the 2008 reform. Regarding this last issue area, this survey is of particular interest because the responses help to assess the recent progress of reform efforts, potential barriers to further advancement, and factors that might help to improve the criminal justice system.<sup>10</sup>

## Case Selection

The survey participants come from nine of Mexico's 32 states, specifically: Baja California, Coahuila, Chihuahua, Jalisco, Michoacán, Nuevo León, Oaxaca, Yucatan, and Zacatecas. The limitation to nine states was a practical, non-methodological choice due to resource limitations. However, on a more methodological note, the nine states were selected to represent variation in regional location, political tradition, economic structure, and experience with the high-profile 2008 reform. That is, the states are broadly representative of all 32 Mexican states. These states represent different regions, including the south (Oaxaca and Yucatan), the center (Jalisco, Michoacán, and Zacatecas), and the north (Baja California, Coahuila, Chihuahua, Nuevo León). The states also show variation in population and economic structure, as some are highly urbanized and industrialized (e.g., Baja California, Jalisco, Nuevo León) while others are more rural and have broader agricultural or mining sectors (e.g., Michoacán, Oaxaca, Yucatan, Zacatecas). Politically, the states included in this study represent different experiences and perspectives, as the three main parties in Mexico —the Institutional Revolutionary Party (PRI), National Action Party (PAN), and the Party of the Democratic Revolution (PRD)— are dominant in different states: the PRI in some (Oaxaca and Coahuila), the PAN in others (Baja California and Jalisco), and the PRD in still others (Michoacán and Zacatecas).

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

## Methodology

The survey was conducted by telephone between October 11 and December 17, 2010. A total of 2,858 calls were made to 1,098 contacts across the three professions in nine states. The primary focus of this study was on judges with jurisdiction over criminal matters. However, to complement these perspectives, the survey design called for the inclusion in the sample of both public prosecutors and public defenders. Data collection efforts generated 276 completed interviews, or an

overall response rate of 22.4%.<sup>11</sup> Dropping responses for which the state or professional identifying information was missing, the usable total amounted to 268 respondents. This total includes 171 judges, 38 prosecutors, 59 public defenders. The number of respondents by state and profession, and the respective response rates, are listed in Tables 1 and 2.

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

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

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

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

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

In contrast to general public opinion surveys, the sample was non-random, following other expert surveys on specialized populations, including expert surveys in the justice sector.<sup>12</sup> Response rates are much lower than many general public surveys and than our previous surveys of police, but they are similar to those of other expert surveys of judges and criminal attorneys mentioned above.

Elite surveys such as these are extremely valuable, in that these “insider” professionals are better situated to understand and evaluate the specialized nature of the criminal justice system and the

changes rapidly taking place in Mexico today. In order to ensure some reliability, the study did require at least a minimum number of responses. Several leading studies have sought a minimum of five respondents per territorial unit they analyzed—entire *countries*—in order to generalize from their expert responses to the country as a whole.<sup>13</sup> For instance, in 2005, Staats, Bowler, and Hiskey collected a non-random sample of 143 responses across 17 Latin American countries, generalizing regarding the performance of courts in countries like Brazil and Guatemala based on as few as four or five respondents.<sup>14</sup>

Thus, we are confident in generalizing about Mexico based on our 268 responses from nine very different states. Further, in our sample, there are at least five responses for all nine states, the threshold used in the research cited above. We are therefore also confident in generalizing about attitudes within each state, but cautious whenever sample sizes are smaller.<sup>15</sup> Similarly, we are confident about generalizing within each profession, though our confidence in doing so varies as we take a closer look within individual states, again depending on the sample size. Our confidence remains high with regards to cross-state comparisons among judges across all nine states since we have at least five judicial responses from each of the nine states. We restrict any comparisons across professions to those states where the number of respondents equaled or exceeded five: Baja California, Coahuila, Nuevo León, Oaxaca, and Yucatán. The level of analysis—nation, state, profession—therefore varies throughout the report, depending on the issue being analyzed and the relevance of each level of analysis. In some cases, only very disaggregated data are presented (e.g., on whether pay within each profession is adequate). In others, all three levels of analysis are of interest, and so all three are presented (e.g., attitude towards the 2008 reform).

Many questions were drafted specifically for this survey, but others built on existing surveys and prior questionnaires. For instance, our earlier *Justiciabarómetro* surveys of police officers in the cities of Guadalajara and Ciudad Juárez generated several questions that are used here for analytical comparability. Also, questions were borrowed from Vanderbilt University's Latin American Public Opinion Project (LAPOP) surveys, a survey of judges in Bolivia, and also from a survey of legal elites regarding judicial performance in Latin American countries.<sup>16</sup>

Readers are alerted to questions that this survey shares with other studies because these commonalities provide additional analytic leverage in comparing similar questions across different populations and levels of government, that is, across different units and levels of analysis. For instance, the LAPOP survey in Mexico asks various questions of the general population regarding the rule of law and public safety policies. Similar questions were subsequently asked in our police survey and were again asked here of legal professionals. Variation, or the lack thereof, in the perception of these issues across these different populations may be of interest for future analysis of the data presented in this study.

## Demographic Characteristics of Respondents

The *Justiciabarómetro* survey provided a useful portrait of the judges and criminal attorneys practicing in Mexico's justice system. Despite significant exceptions and distinctions among judges, prosecutors, and public defenders, that portrait is overwhelmingly male, relatively young, predominantly married, and mostly settled into families of one or more children.

### Age of Respondents

One of the most striking observations about the respondents surveyed for the *Justiciabarómetro* is that significant proportion—as many as half—of judges indicated that they were below the age of 40, while a low proportion indicated that they were over the age of 50. With the exception of Jalisco (where 44% of respondents were over the age of 50), the vast majority—at least two thirds—of judges in most states was between the ages of 30 and 50. The youngest judges were found in Yucatán, where 60% of judges fell below the age of 40 (n=5 in Yucatán).

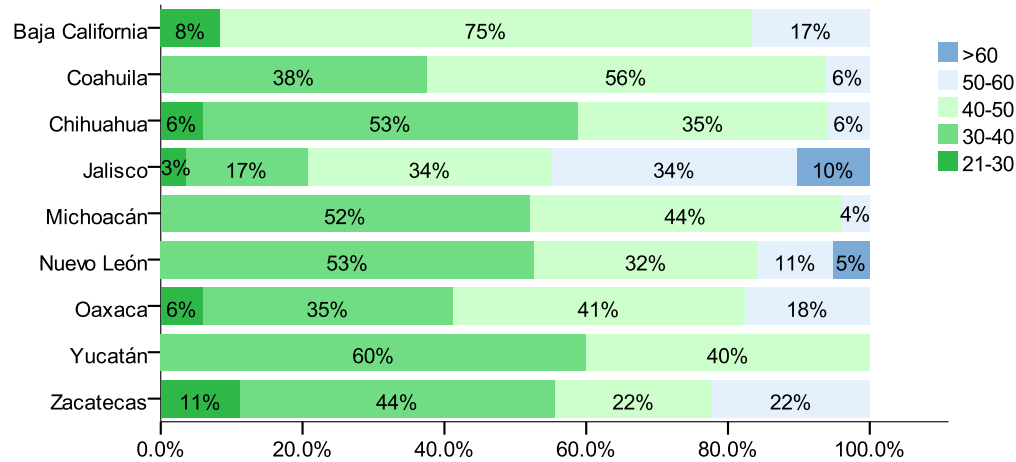
Reported ages were slightly lower among prosecutors, but noticeably lower among public defenders in the three states sampled. At least half of prosecutors in Baja California, Nuevo León, and Oaxaca indicated that they were 40 years old or younger. This was a slightly higher proportion, but not too dissimilar from the pattern found among judges. In contrast, at least two thirds of public defenders indicated that they were below the age of 40. The age gap was particularly noticeable in Baja California, where 66% of public defenders who responded were under the age of 40 (including 18% who were under the age of 30), compared to 50% of prosecutors who responded.

While these findings could easily reflect a self-selection bias on the part of younger jurists, who may be more likely to participate in a survey of this nature, it is generally recognized that lawyers practicing Mexico's legal system are relatively young. Unlike typical lawyers in the United States, lawyers in Mexico are not required to go to graduate school, nor are they expected to wait until they pass an examination in order to practice law, or accumulate a certain level of practice before assuming a position on the bench. As a result, lawyers in Mexico often begin to practice law soon after completion of their university degree, and it is not uncommon to find judges in their twenties. This practical reality in Mexico would be very surprising to a practitioner in the United States, where judgeships are generally reserved for senior personnel with an established record of proven expertise and ethical conduct. The differences across the two countries also reflect the status and prestige accorded to the position of a judge, which is lower in Mexico and higher in the United States.

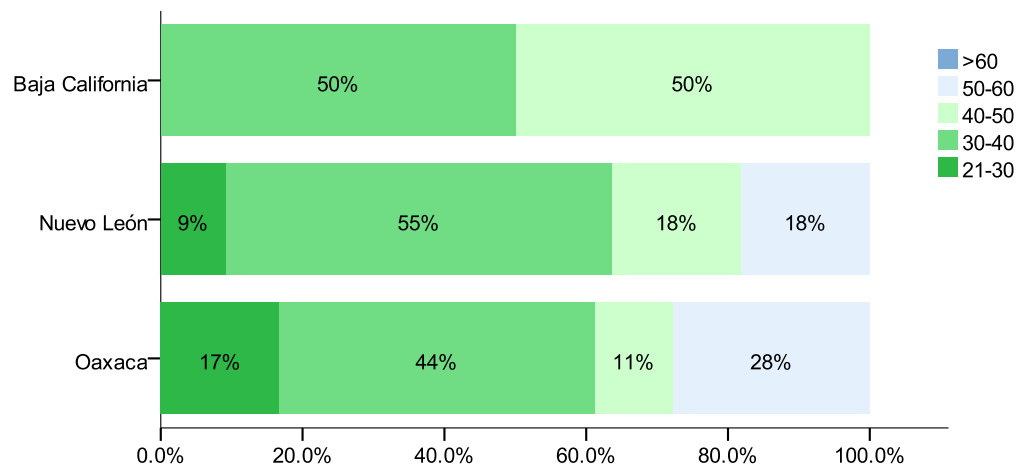
**Figure 1: Age of Respondents (Judges, Prosecutors, and Public Defenders)**

*What year were you born? [AI.1b]*

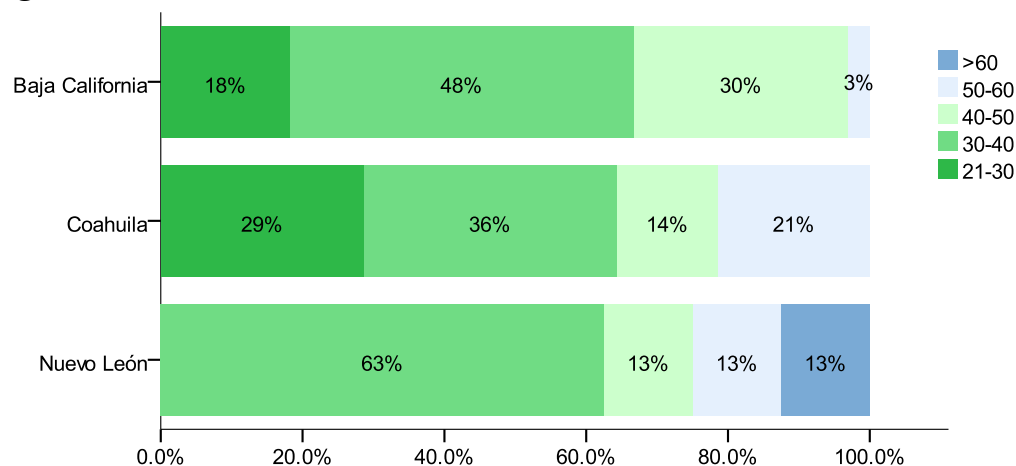
**Age: Judges**



**Age: Prosecutors**



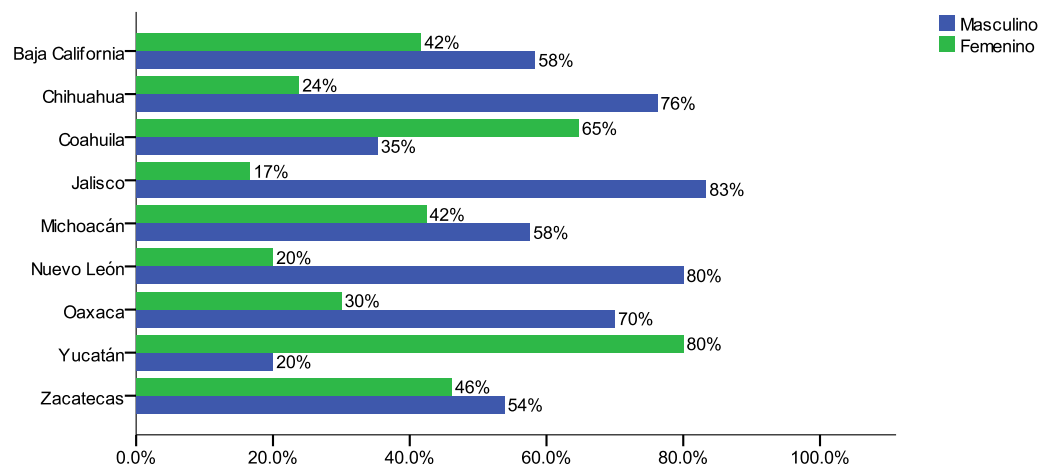
**Age: Public Defenders**



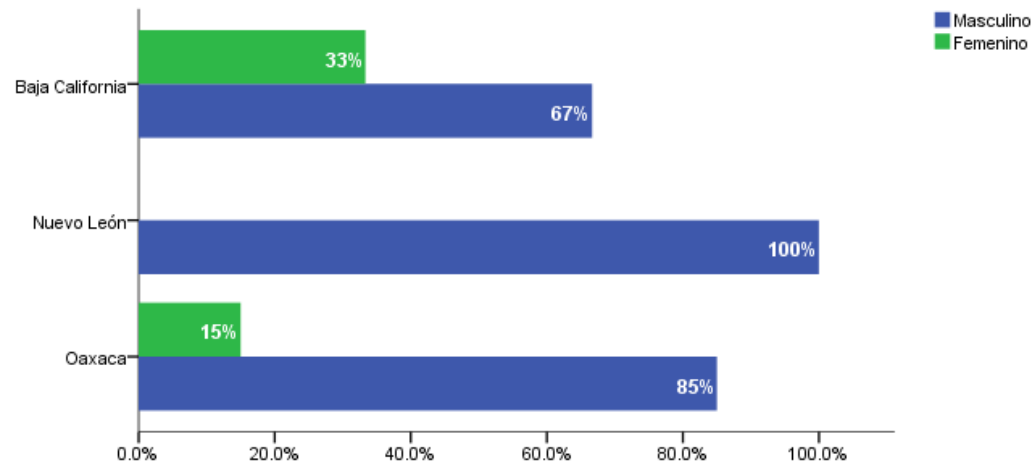
## Gender

Men and women are distributed differently across the three surveyed professions and the nine included states. Overall, men constitute the majority of the 276 respondents -- 65.9% men versus 34.1% women. However, as shown by the graphs below, this difference, or "gender gap", is spread unevenly across states and professions. Specifically, in some states and professions the gender gap is smaller than in others (e.g., judges in Baja California or Zacatecas). Indeed, among respondents in some states and professions, women even make up the majority (e.g., among judges and defenders in Coahuila). Notably, 100% of prosecutor respondents from Nuevo León were male (n=12).

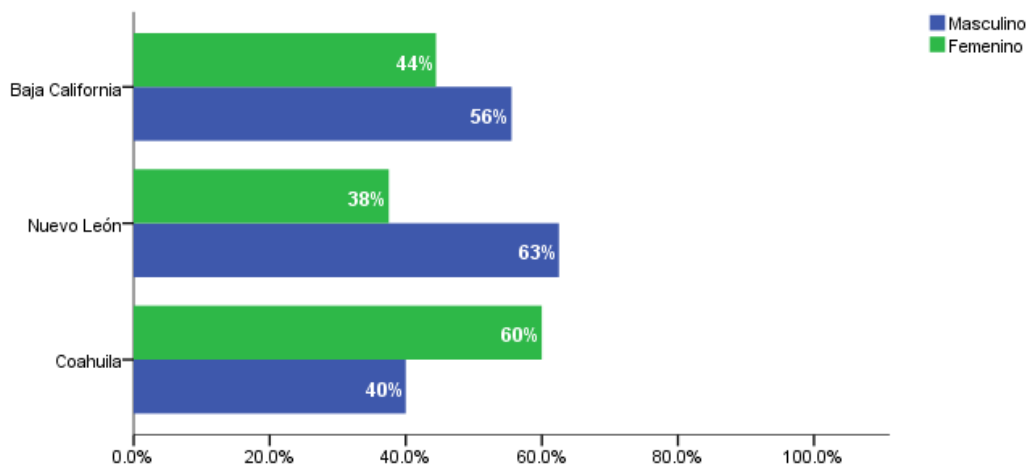
### Gender: Judges



### Gender: Prosecutors



## Gender: Defenders



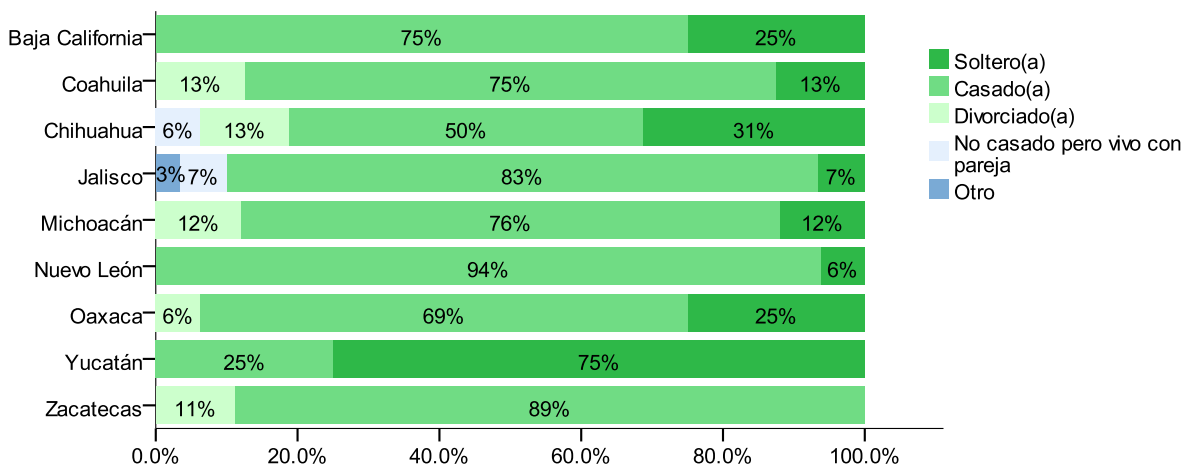
## Marital Status

In developing a profile of the operators of Mexico's criminal justice system, the *Justiciabarómetro* survey also examined respondents' family status. Marriage was the norm for the overwhelming majority of judges in seven out of ten states. The case of judges in Yucatán again proved exceptional, since 75% of respondents were single (*soltero*). It was also remarkably uncommon for judges in any state to indicate that they were cohabitating out of wedlock, with just a handful of cases in Chihuahua and Jalisco.

Virtually all prosecutors who responded to the survey indicated that they were married. However, public defenders were almost evenly split between married and single respondents, possibly due to their relative youth and increased proportion of females in this area of legal practice. It is possible that women select out of a career practicing law—particularly in the criminal justice system—once they are married, though this is difficult to confirm from these data.

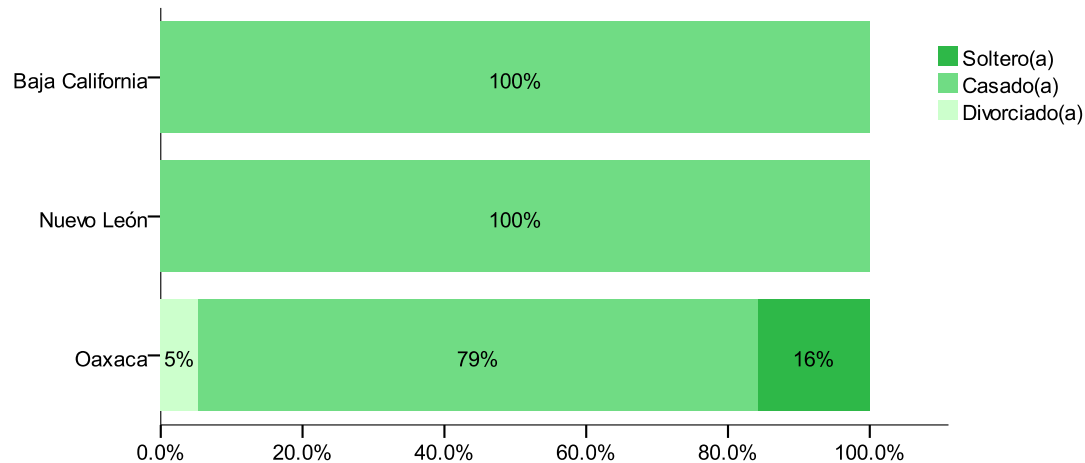
**Figure 2: Marital Status of Respondents**

### Marital Status: Judges

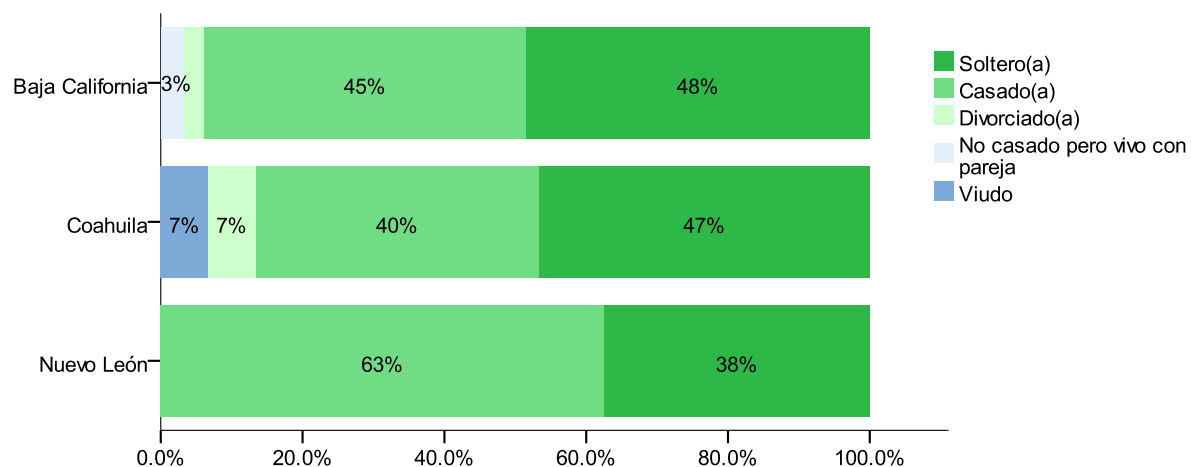




### Marital Status: Prosecutors



### Marital Status: Public Defenders



## Family Size

As noted above, most of the attorneys practicing in the criminal justice systems of our selected states indicated that they were married. However, of those sampled, only about half of judges have begun to establish families with one or more children. In Chihuahua and Yucatán, noticeably lower prevalence of children among judges could have followed from lower incidences of marriage observed earlier in those states. Meanwhile, for those judges indicating that they had children, most had relatively modest family sizes with fewer than three children. The most notable exception to this was Jalisco, where 20% of judges reported having four or more children, presumably due to the fact that judges in this state were relatively older and more established in their profession.

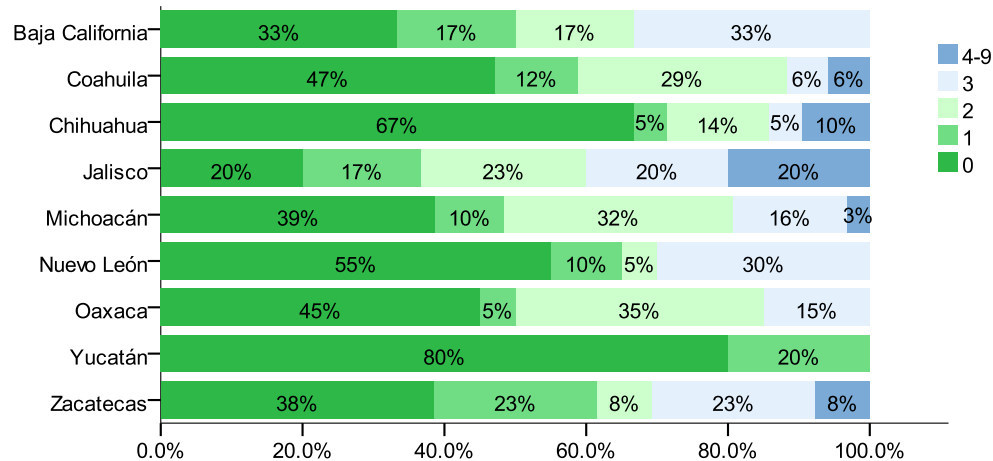
The pattern for prosecutors and public defenders was also split. Prosecutors in the states sampled were more likely to have children than both judges and public defenders. Nuevo León was somewhat exceptional in that the majority of prosecutors reported no children and all reported having fewer than three children. However, the overall prevalence of prosecutors with children stands out in part because they also reported slightly younger, but roughly similar ages to judges. In other words, despite their age similarities to judges, prosecutors tend to have more children on average than judges. It is not clear why this might be the case, but could reflect the positive

association between higher levels of education (also prevalent among judges, as we discuss later) and smaller family sizes. Again, because the available sample of prosecutors is much smaller than judges, it would be necessary to expand the dataset in order to expand our analysis on this particular point. Meanwhile, the relatively low numbers of public defenders with children fits the overall pattern identified thus far, in that they are younger and less likely to be married than either prosecutors or judges.

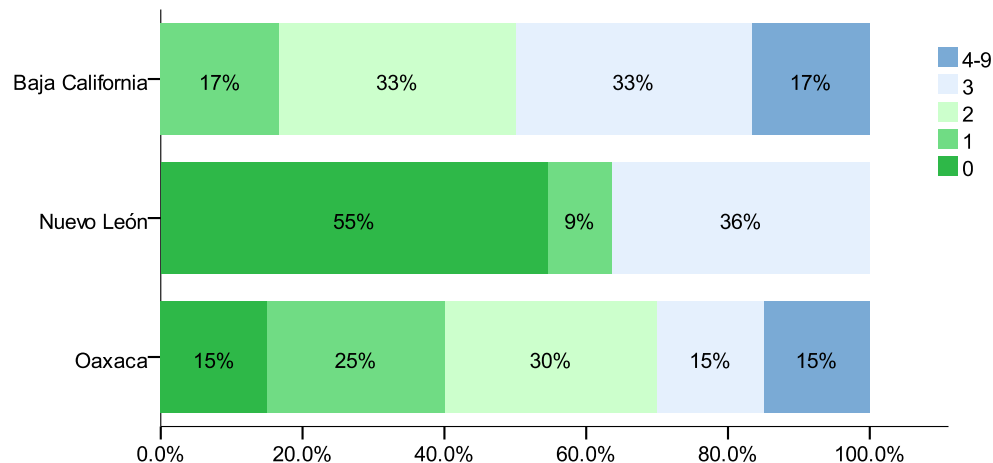
**Figure 3: Size of Respondents' Families**

*How many children do you have?*

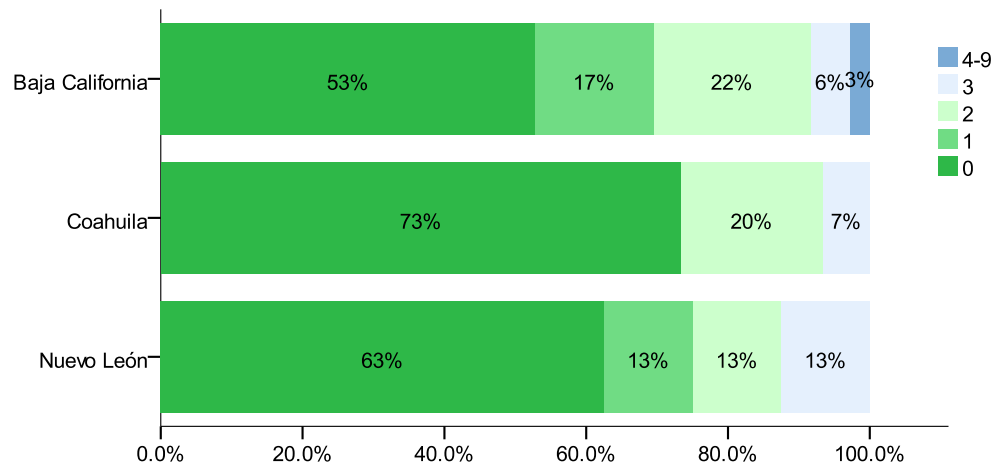
**Number of Children: Judges**



**Number of Children: Prosecutors**



## Number of Children: Defenders



## Professional Profile

Mexico has been strongly criticized for low levels of professionalism in the judicial sector. To be sure, the main criticisms of the Mexican criminal justice system reside less with judges than with law enforcement, particularly police officers. However, in early 2002, a 49-page report by the United Nations Special Rapporteur on the Independence of Judges and Lawyers brought forth particularly harsh allegations and self-assessments from lawyers about the state of the Mexico's legal profession. In that report, the President of the Mexico City Bar Association stated that "the legal profession in Mexico might be one of the worst in the world insofar as disciplinary procedures were concerned."<sup>17</sup> Such damning criticisms have been received with significant resentment by some Mexican jurists, who protest that the system has been severely mischaracterized by non-specialists. The responses of lawyers to the *Justiciabarómetro* provides some useful insights on how respondents viewed the general state of the legal profession in Mexico, as well as some of the issues and challenges confronted within the criminal justice sector.

In Mexico, law is a common and increasingly popular major area of study within undergraduate education, which typically requires five years of study and a final thesis in the fifth year. Once a student has graduated from their university studies they may typically immediately file for a government certificate authorizing them to practice law. Unlike some criminal justice systems, eligibility to practice law does not require a background check, professional examination, ethics exam, compulsory bar membership, or continuing education within the profession. However, some professions or states may require at least some of their judges and attorneys to take at least some courses or exams prior to working in the field of criminal justice. Such hurdles can help to guarantee standards of proficiency and competence in the profession, enhancing the performance of each individual, institution, and the system as a whole. The questions asked in this survey about the absence or existence of course requirements, graduate study, and qualification exams are therefore of interest since they help to determine the expectations and mechanisms for vetting and quality control within each profession and across different states.

### Graduate Study

In our survey, 22.2% of public defenders, 41.7% of prosecutors, and 63.6% of judges reported having a graduate degree. Among those with graduate training, the vast majority of degrees were master's degrees; 93.3% of prosecutors reported having this degree, along with 58.3% of public defenders, and 73.5% of judges. Notably, 7.1% of judges also reported having a doctorate, while none of the respondents from other professions reported having this level of academic training. Overall, 51.6% of respondents reported having some graduate degree.

### Professional Requirements and Exams

With regard to professional course requirements and competency exams, respondents indicated major differences across states and some variation across professions. For instance, in four states

(Chihuahua, Michoacán, Nuevo León, and Oaxaca), roughly three quarters of respondents indicated that some course requirements existed for their current position. Meanwhile, in the other five states, at least half of the judges responding indicated that there were no such requirements. Three quarters of the prosecutors who responded in Oaxaca indicated that there were course requirements for their current position in their state, while two thirds of prosecutors in Baja California and Nuevo León reported that there were none in theirs. Over half of public defenders in Baja California said that there were course requirements for their current position, while three quarters of public defenders in Coahuila and Nuevo León indicated that they had none.

Meanwhile, 67% of judges in Baja California and at least 80% of judges in all the other nine states indicated that there was a technical proficiency exam (*examen de conocimientos*) required in their state. Nearly all prosecutors in Baja California, Oaxaca, and Nuevo León indicated similar requirements (only 8% of prosecutors in Nuevo León disagreed). Results were somewhat more mixed for public defenders, since all of them in Nuevo León, 86% in Baja California, but only 40% of them in Coahuila indicated that there was a technical proficiency exam required in their state.

Overall, it is worth noting that coursework seems to be required primarily for judges, while most respondents in all three professions indicated that there are technical proficiency requirements in their field (public defenders in Coahuila being the major exception). It is also notable that, even within the same state and the same profession, some individuals indicated that they had to take a course or exam, while others did not. This kind of variation in answers to these questions is compelling in itself. For instance, in Baja California about twice as many prosecutors do not take a specialized course as those who do, and about equal numbers of defense attorneys and judges take a specialized course to enter their post.

A third question in this area asked respondents whether they were required to take a test of their "trust worthiness" or credibility (*examen de confianza*), which can include a psychological exam and polygraph test (lie detector). These exams are a routine part of background investigations for entering most law enforcement professions in the United States.<sup>18</sup> Across all three professions surveyed here, majorities in each state say they are required to pass such exams with three exceptions: judges in Coahuila (only 47% answered yes), judges in Michoacán (45%), and defense attorneys in Coahuila (47%). Also, the size of the majorities among judges is smaller than those among prosecutors and defense attorneys, that is, it appears that the latter (attorneys) are asked to take these exams more frequently than judges. Specifically, setting aside the three exceptions noted above, the majorities of judges taking credibility tests ranges from 53% to 67%, while among prosecutors it ranges from 75% to 100% and among defenders it ranges from 81% to 100%. Nuevo León stands out as 60% of judges are required to take this test, while it is required of all (100%) of prosecutors and defenders.

There are several possible explanations for this variation, some less troubling and some more so. First, on the less troubling end of the spectrum, these differences may be due to rank, position, or

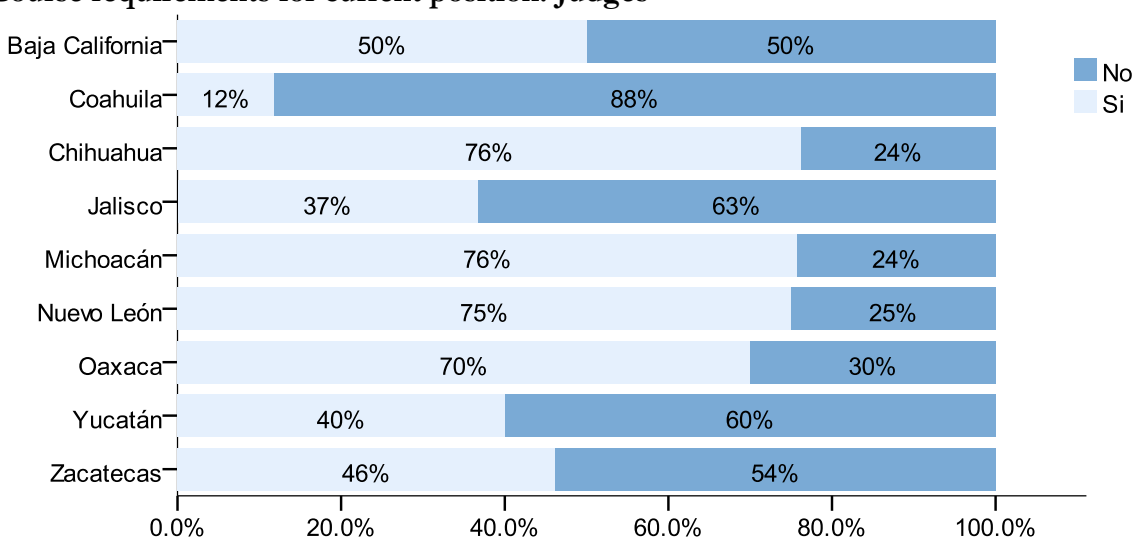
tenure within the profession. That is, the questionnaire did not ask for specific titles or positions within the profession, so it is plausible that some more senior respondents required an additional course or exam while others did not simply because of their stage in their profession. This would most likely be the case if someone had entered the profession without having to take a course or exam, and then was required to take one to gain promotion. However, preliminary cross-tabulations and simple logistic regressions of binary versions of these variables (0,1; 1=course or exam required) do not show any relationship between age and course or exam requirements, so it appears unlikely that this explanation has much traction.

The more troubling possibility is that similarly positioned individuals receive differential treatment within the professions. Some face courses and exams to enter a position, while others are allowed to enter the same or similar position without coursework or examination. If that is the case, entry into and/or promotion in these professions is arbitrary or discretionary in ways that harm baseline standards of competence. In subsequent sections, we probe the issue of professional qualifications more deeply by looking at questions related to ascension within each group. In either case, the results suggest avenues of further research aimed at confirming or disconfirming whether the variation is due to seniority or status within the profession, specialized standards required to gain promotion within each profession, or whether these additional hurdles (courses and exams) are indeed selective or arbitrary.

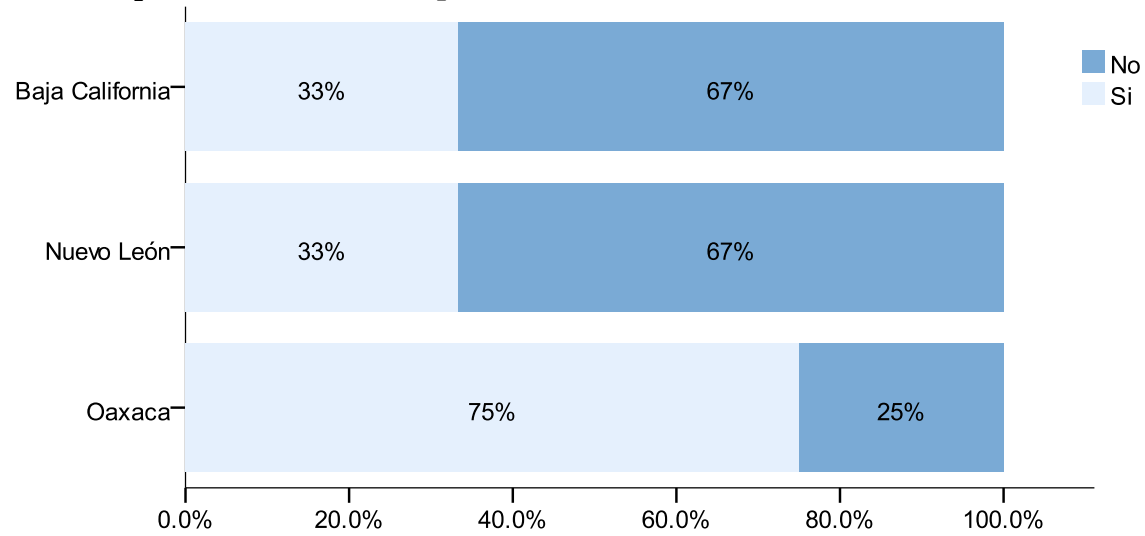
**Figure 4: Existence of Course Requirements for Current Position**

*Regarding the mechanism to obtain your current position, did you have to take a special class or course? (AIII.2b.i)*

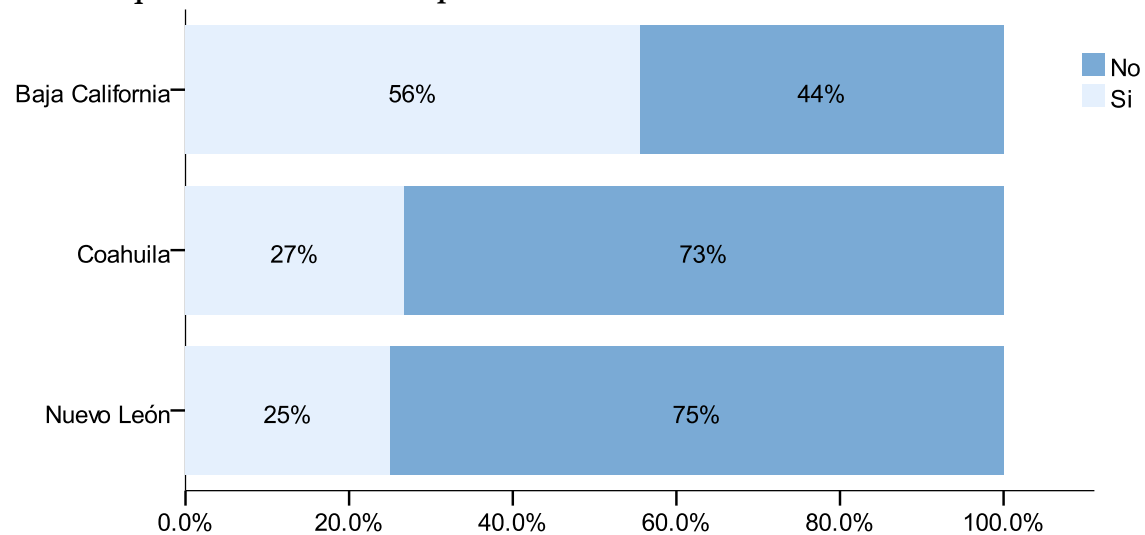
**Course requirements for current position: Judges**



### Course requirements for current position: Prosecutors



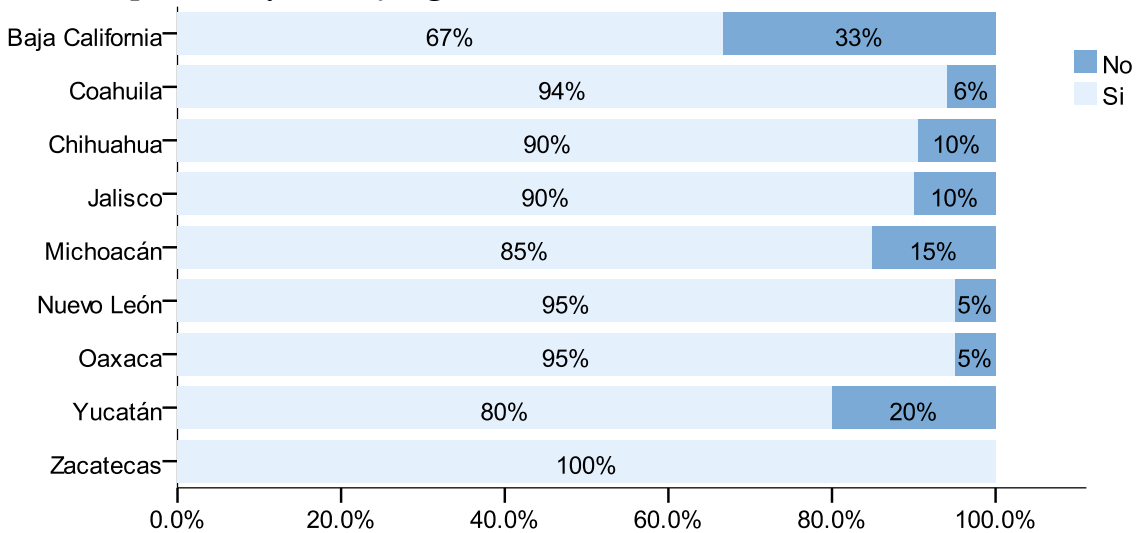
### Course requirements for current position: Defenders



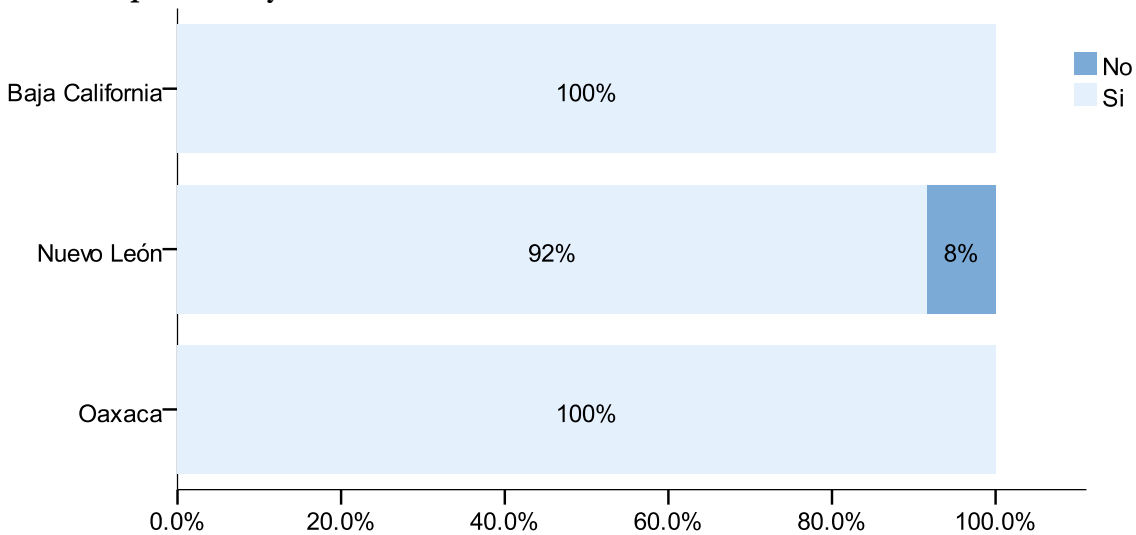
**Figure 5: Requirement of Technical Proficiency Exam**

*Did you have to take a technical proficiency exam (examen de conocimientos)? (AIII.2b.ii)*

**Technical proficiency exam: Judges**

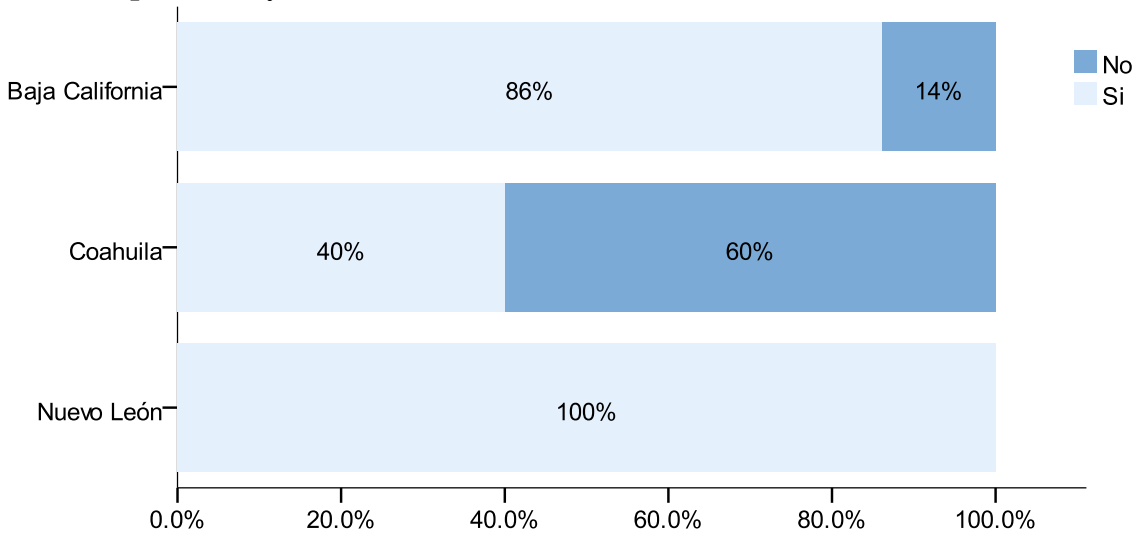


**Technical proficiency exam: Prosecutors**





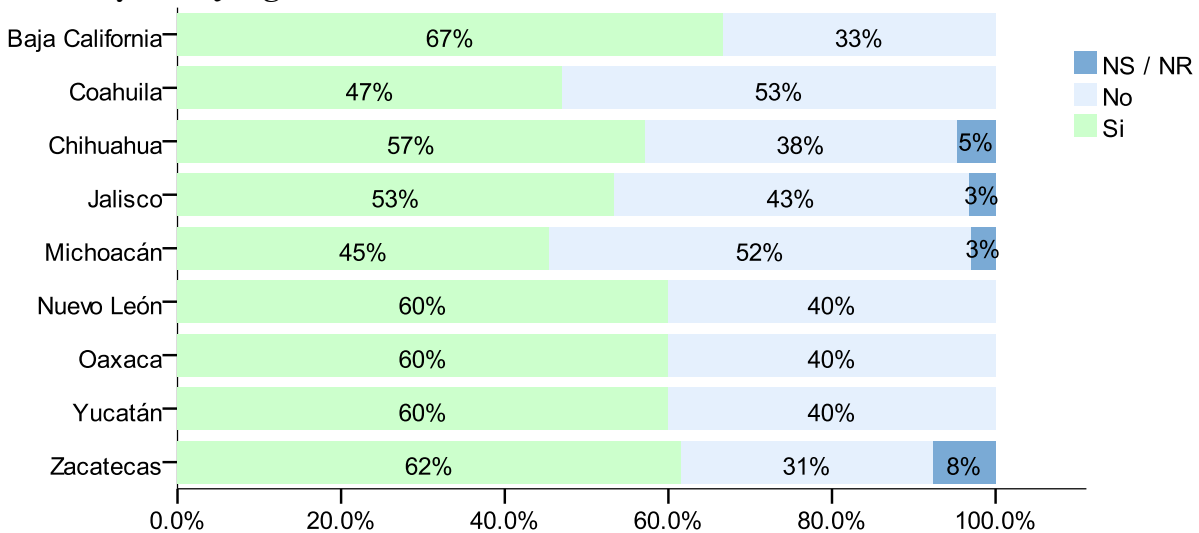
### Technical proficiency exam: Defenders



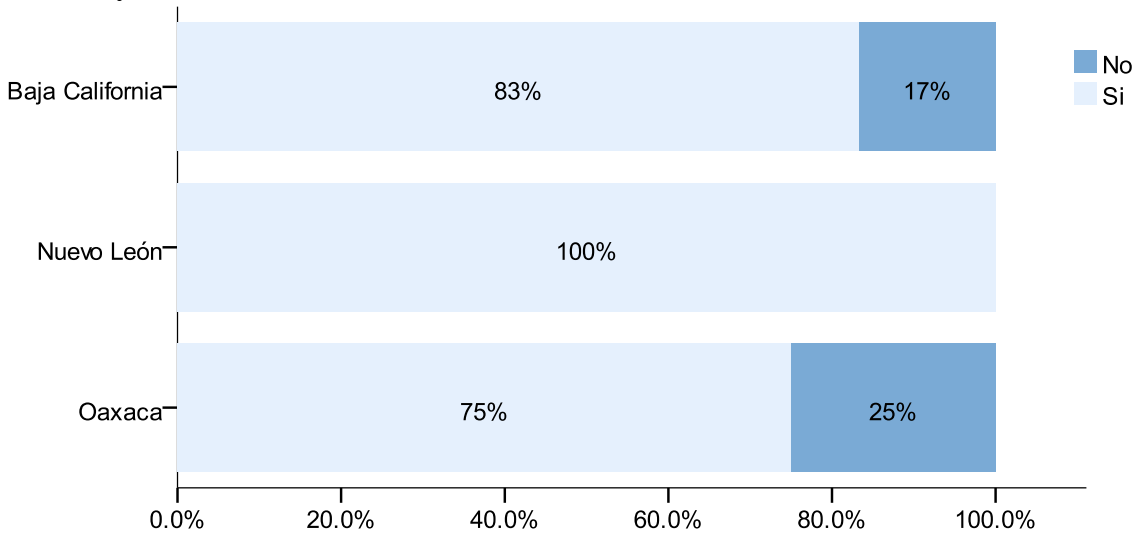
**Figure 6: Required to Take Credibility Test (Psychological/Polygraph)**

*Did you have to take a credibility test (examen de confianza)? (AIII.2b.iii)*

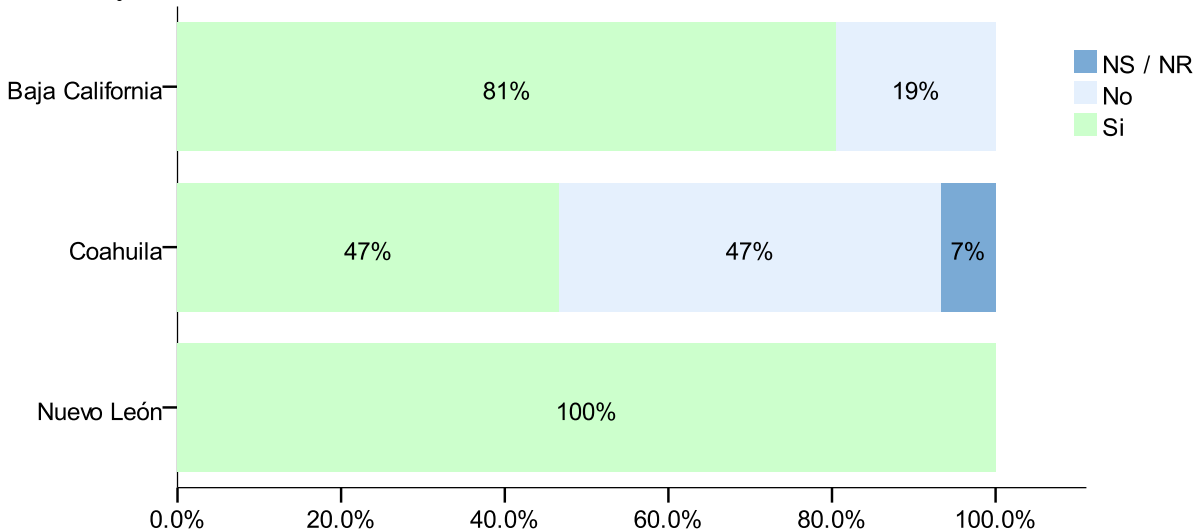
### Credibility Test: Judges



### Credibility Test: Prosecutors



### Credibility Test: Defenders



## Professional Bar Associations

In many countries, professional bar associations serve an important role for the legal profession, often providing a means of maintaining certain professional standards, regulating ethical conduct, and sustaining networks with colleagues. In some countries, membership in a local or regional bar association is even mandatory to practice law in that geographic area. However, as noted above, such associations have relatively low membership in Mexico.

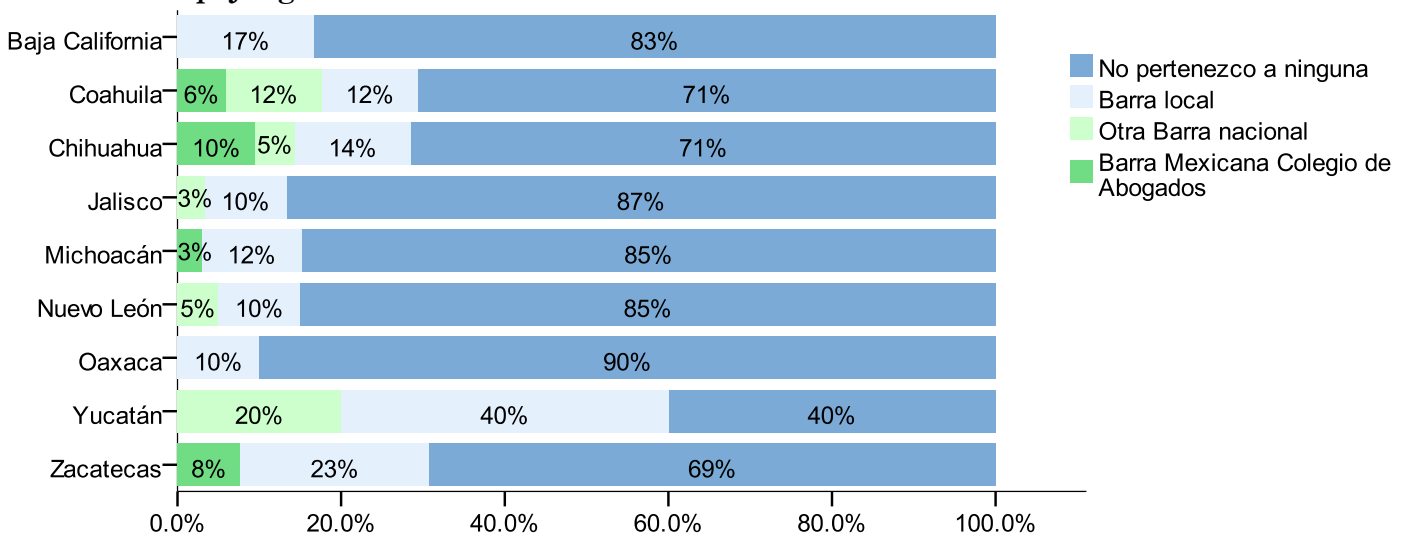
In our study, professional bar membership was least common among prosecutors, as more than 90% were not members of any such association. Indeed, *none* of the 12 prosecutors surveyed in Nuevo León belong to a bar. Participation was higher for the other two categories of respondents, since nearly a quarter of public defenders and approximately one fifth of judges were members of

some professional bar association. Of those who indicated such membership, roughly two-thirds belonged to a local bar association, while only about a third belonged to a national organization, such as the *Barra Mexicana Colegio de Abogados* or the *Ilustre y Nacional Colegio de Abogados*. By state, Yucatan stands out as having 60% of respondents saying they belong to a bar. However, we are cautious here because the state sample is small (n=5) and because these are all judges. Besides Yucatan, the highest state has 34% of respondents reporting they belong to a bar (Coahuila), and three states reveal low bar membership rates among respondents of 13%, 11%, and 11% (Jalisco, Nuevo León, and Oaxaca, respectively).

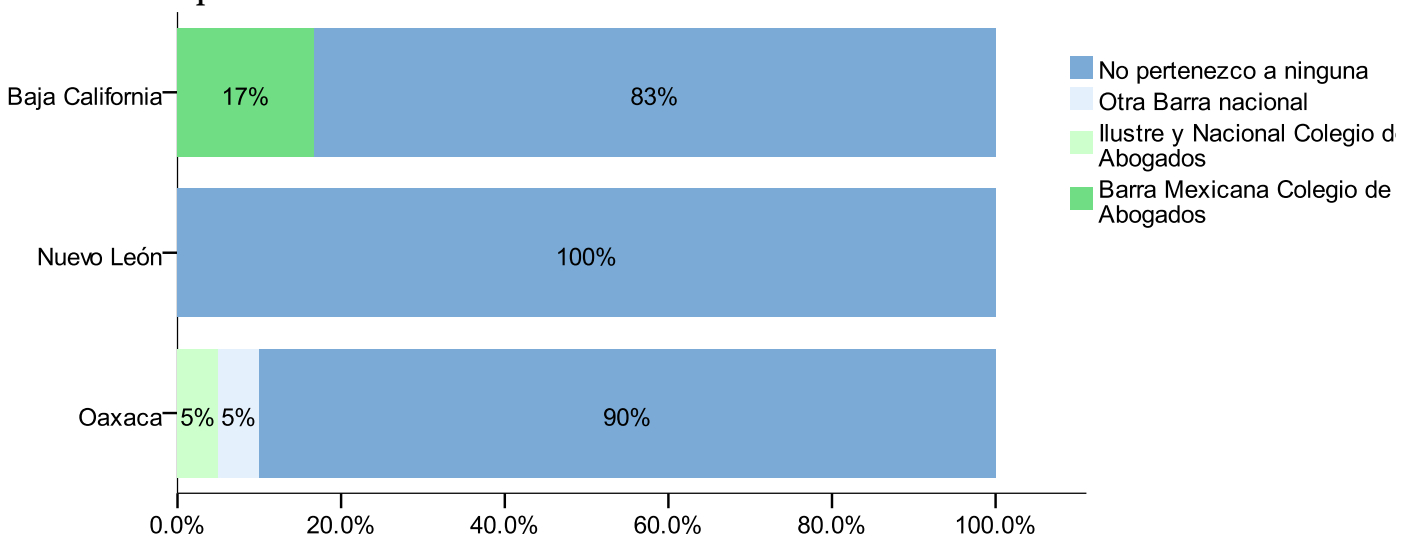
### Figure 7: Membership in a Bar Association

*Do you belong to a bar association (Barra o Colegio de Abogados)? (AII.1a)*

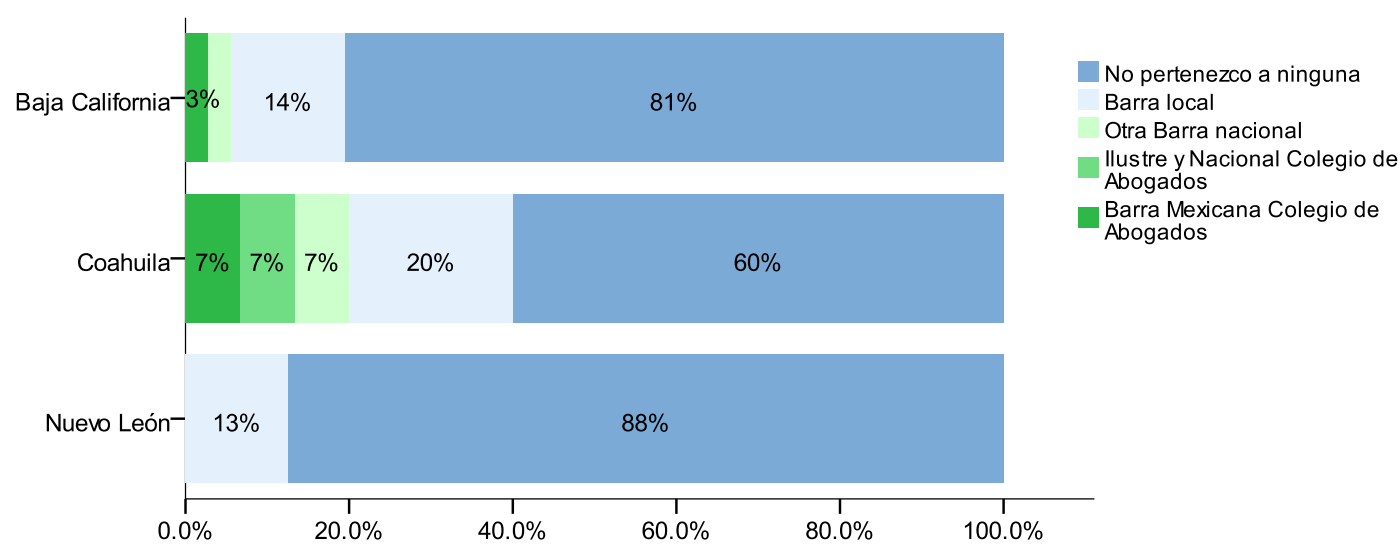
#### Bar membership: Judges



#### Bar membership: Prosecutors



## Bar membership: Defenders



## Remuneration and Salary Satisfaction

Salary levels among judges generally range above MX\$20,000 pesos per month (or approximately US\$1,626, based on a January 2011 exchange rate of 12.3 pesos to the dollar), with over 60% earning at least that amount. At an aggregate level, the rate of compensation was predictably higher overall for judges than for public defenders and prosecutors, of whom only 28.6% and 35%, respectively, were compensated at the same level or higher. At a more disaggregated level, judges in Jalisco stand out as reporting the largest percentage with low salaries, with 38% reporting that they make less than a fourth of the amount described above (i.e., less than MX\$5,000 per month).

Most respondents indicated they feel adequately remunerated for their services. This is especially the case for judges in Baja California and Zacatecas, and all three professions in Nuevo León. But there was variation in the responses. Notably, public defenders in Baja California, judges in Jalisco, and both prosecutors and judges in Oaxaca were more likely to see themselves as underpaid. These perceptions may be partly explained by the reality of low incomes (e.g., judge in Jalisco), but may also be explained by the disparity in salaries across professions within a single state. For instance, defenders in Baja California make more than defenders in Coahuila, but they also report that their salaries are more inadequate. This may be due in part to the fact that judges and prosecutors in Baja California make so much more than defenders.

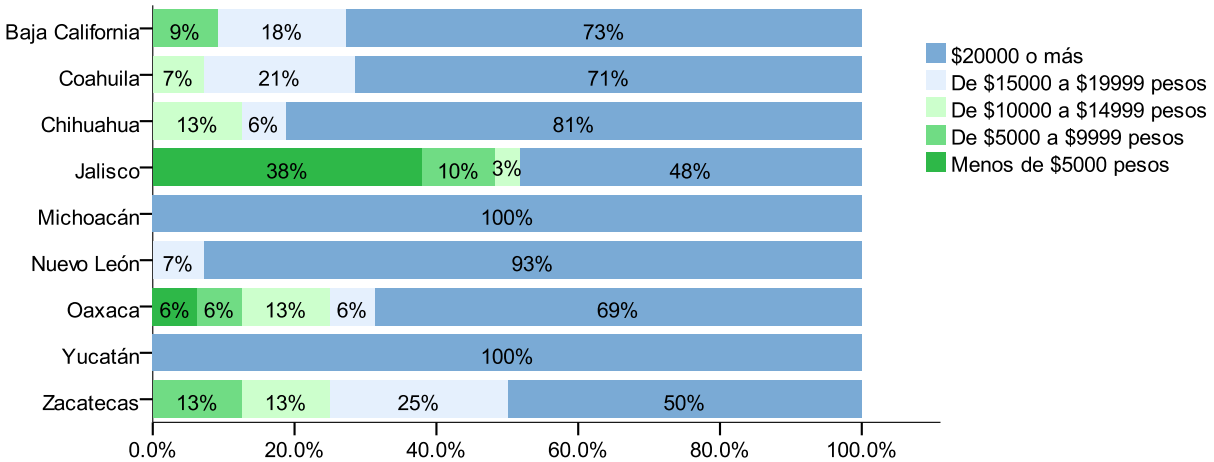
Respondents were not asked if they work full time, so it is difficult to discern whether individuals compensated at lower levels also functioned in a part-time capacity. However, respondents were asked about perceived workload, which is useful to compare with salary. Asked about their volume of work (*carga de trabajo*), substantial portions of judges in Baja California, Jalisco, Oaxaca, and Yucatan indicate they are overworked, along with prosecutors in Oaxaca. We return to this below in

our discussion of other attitudes, as the perception of being underpaid and/or overworked may affect the perception of what constitutes a corrupt practice. Specifically, lawyers and judges may be more likely to see at least some types of corruption as acceptable if they see themselves as underpaid or overworked.

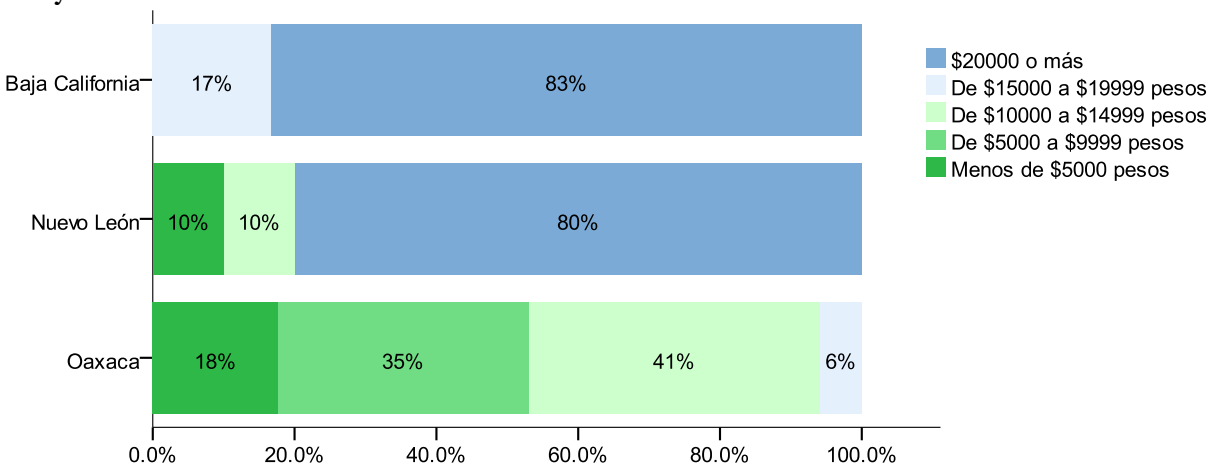
**Figure 8: Salary compensation for current position**

*In which of these ranges is your current monthly salary? [AI.3d1]*

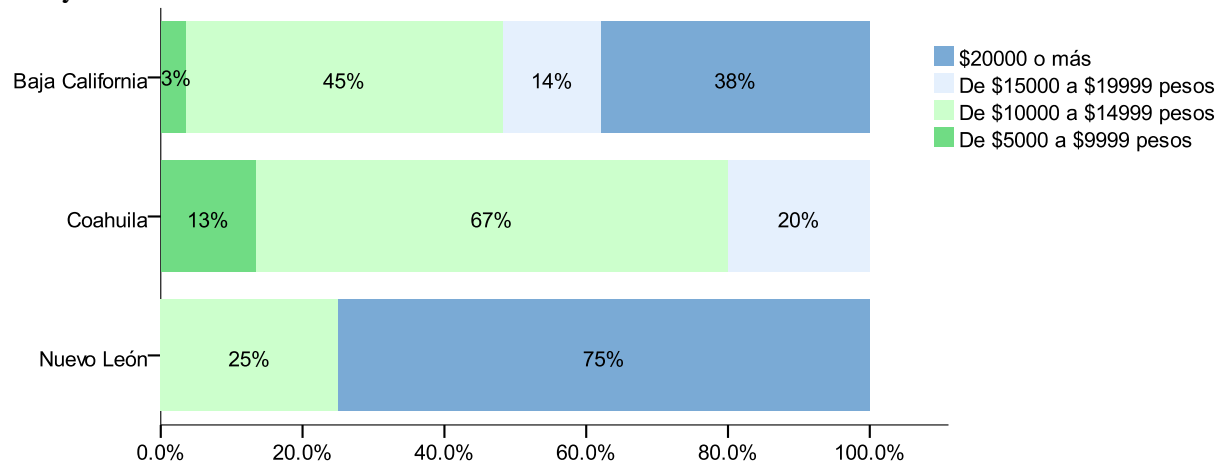
**Salary: Judges**



**Salary: Prosecutors**



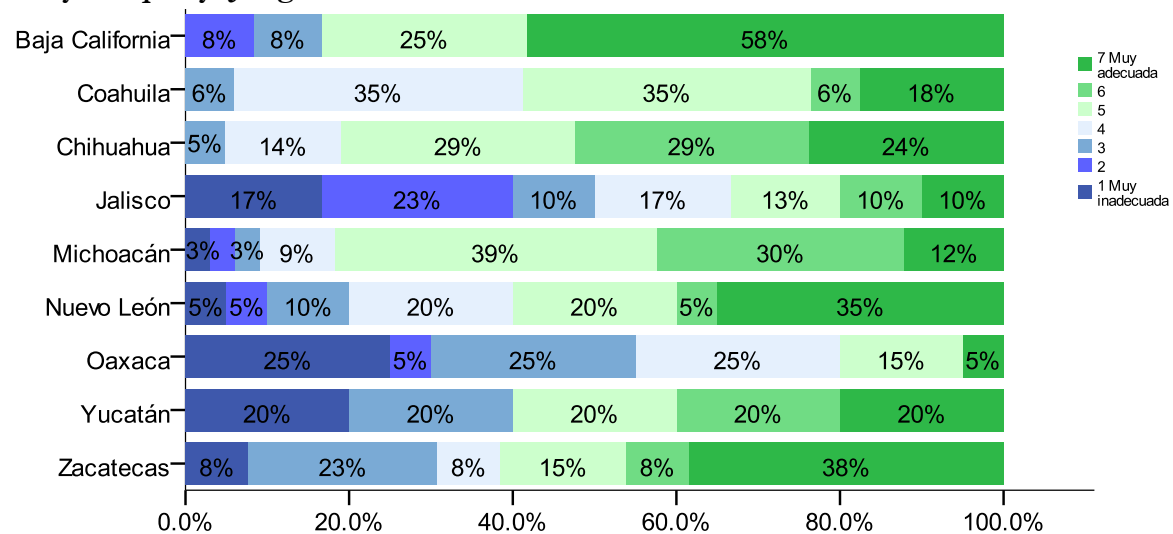
## Salary: Defenders



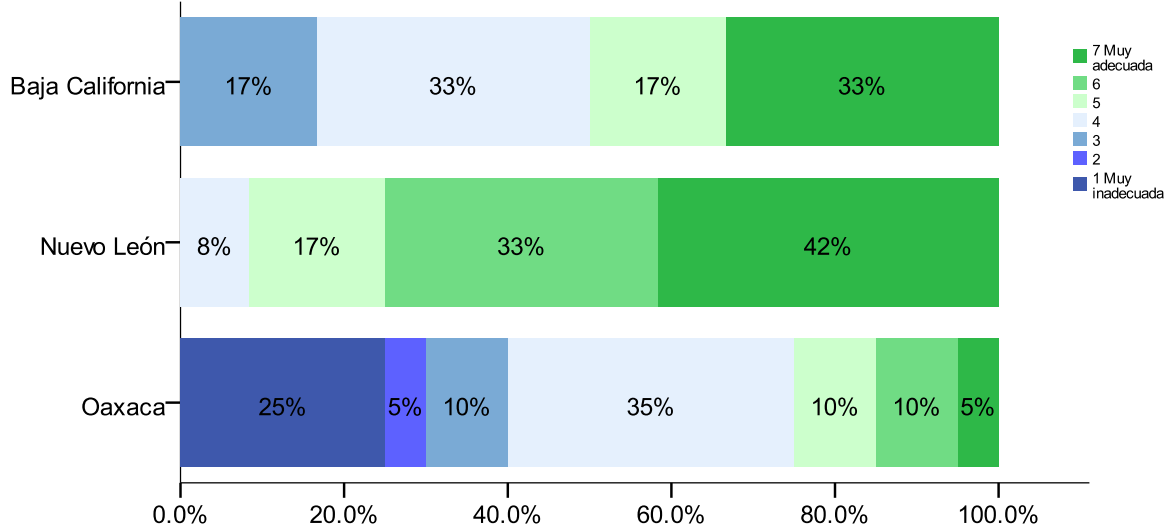
**Figure 9: Adequacy of current salary**

*How adequate is your current salary? (AIV.1d.i)*

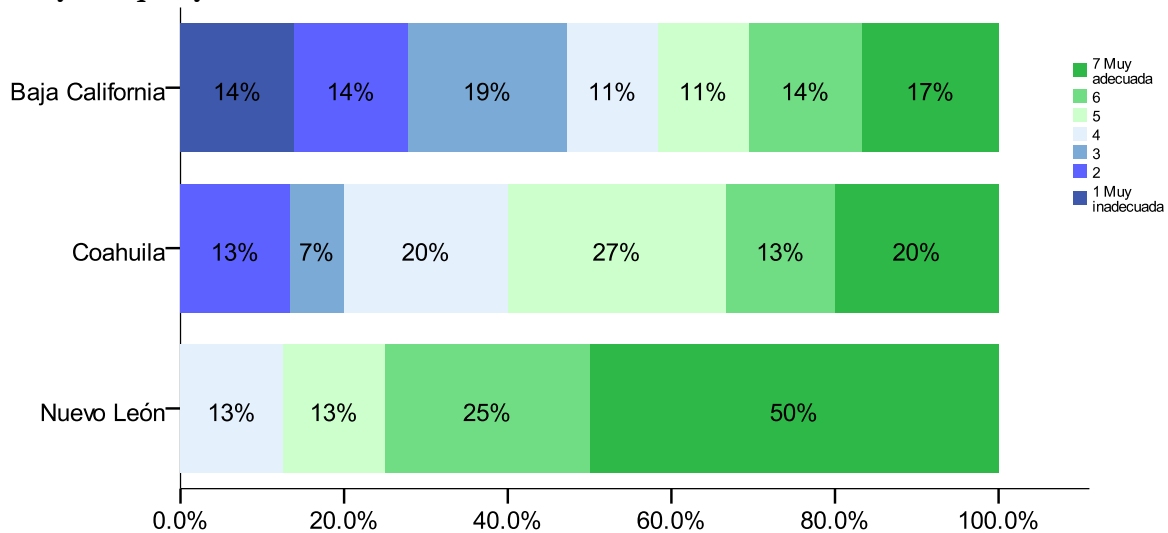
## Salary adequacy: Judges



### Salary adequacy: Prosecutors



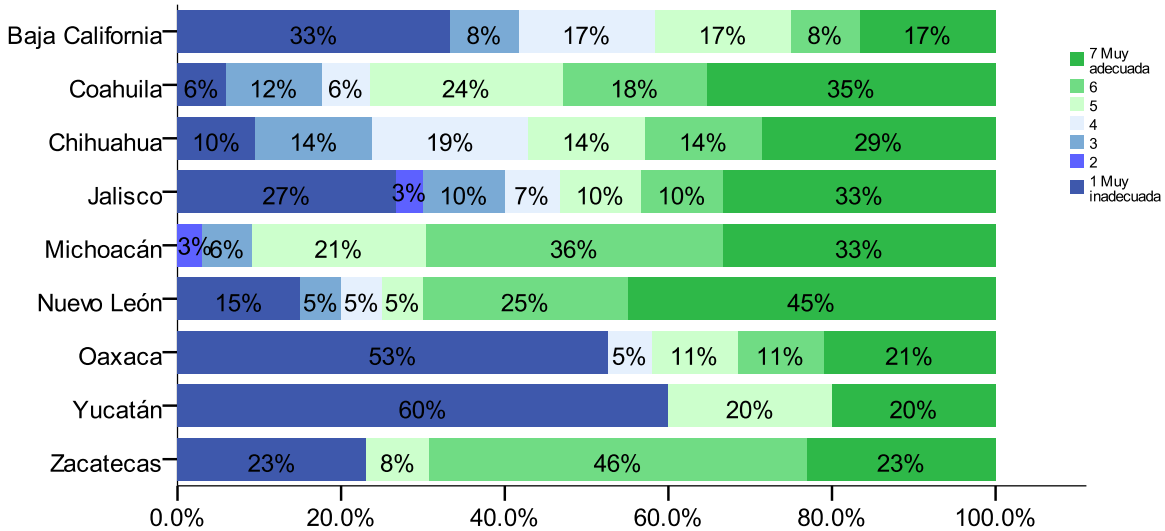
### Salary adequacy: Defenders



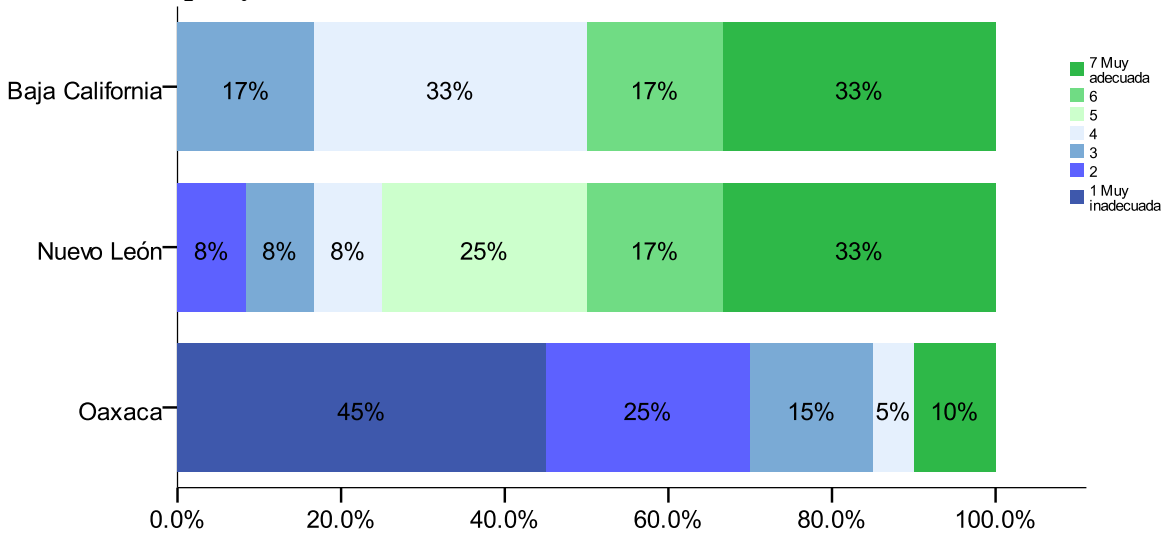
**Figure 10: Adequacy of workload for current position**

*How adequate is your workload? (AIV.1d.iii)*

**Workload adequacy: Judges**

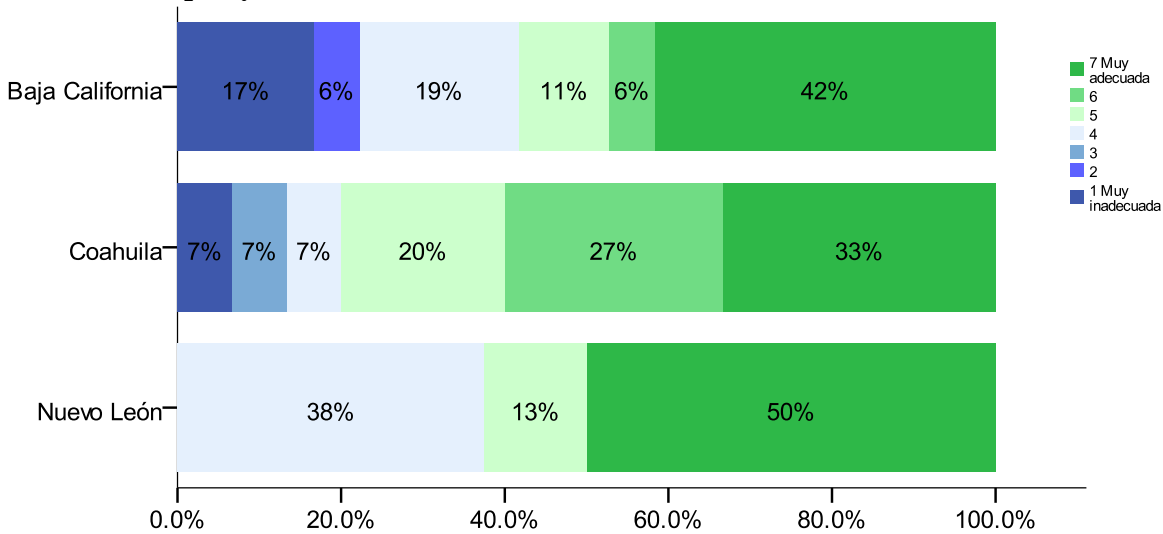


**Workload adequacy: Prosecutors**





### Workload adequacy: Defenders



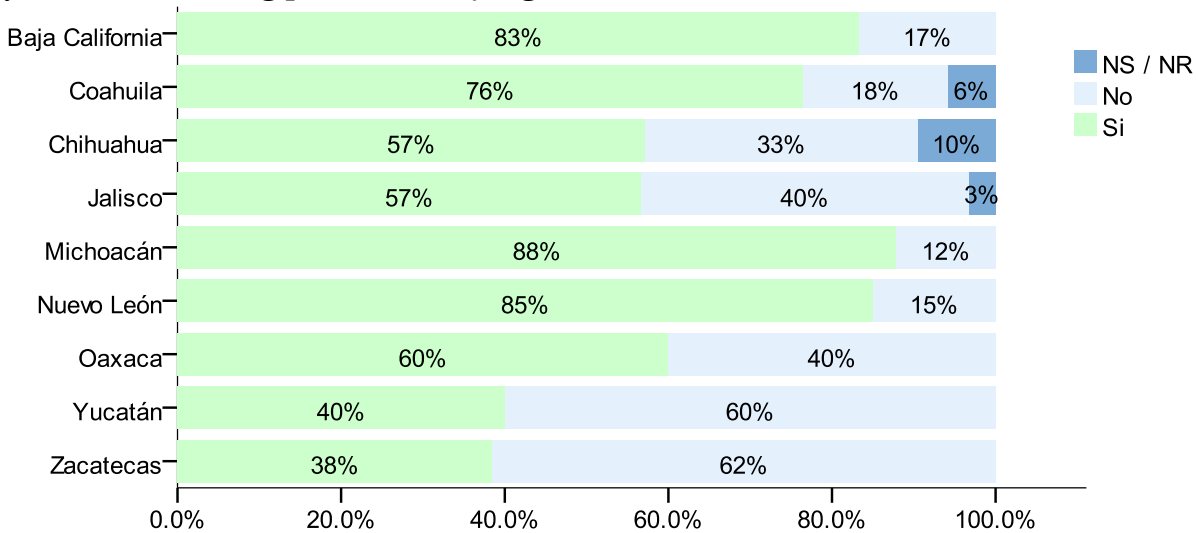
### Standards for Evaluation and Promotion within Profession

Closely related to standards for entry into the profession, standards for evaluation and promotion help to illustrate the professional standards among criminal justice attorneys and judges. The responses indicate that the systems for evaluating performance are fairly common. Among judges, at least half of those surveyed in seven out of nine states responded affirmatively. At least two thirds of the prosecutors and at least three quarters of public defenders similarly confirmed the existence of such systems. However, the results show substantial variation across states and professions. This is especially true among judges. In Yucatan and Zacatecas, less than half of judges report there is a system for evaluating performance. In three other states (Chihuahua, Jalisco, and Oaxaca), about half of judges respond this way, and in more than three quarters do so in the four remaining states, with a minimum of 76% of judges reporting performance evaluation systems (Coahuila, Baja California, Nuevo León, and Michoacán).

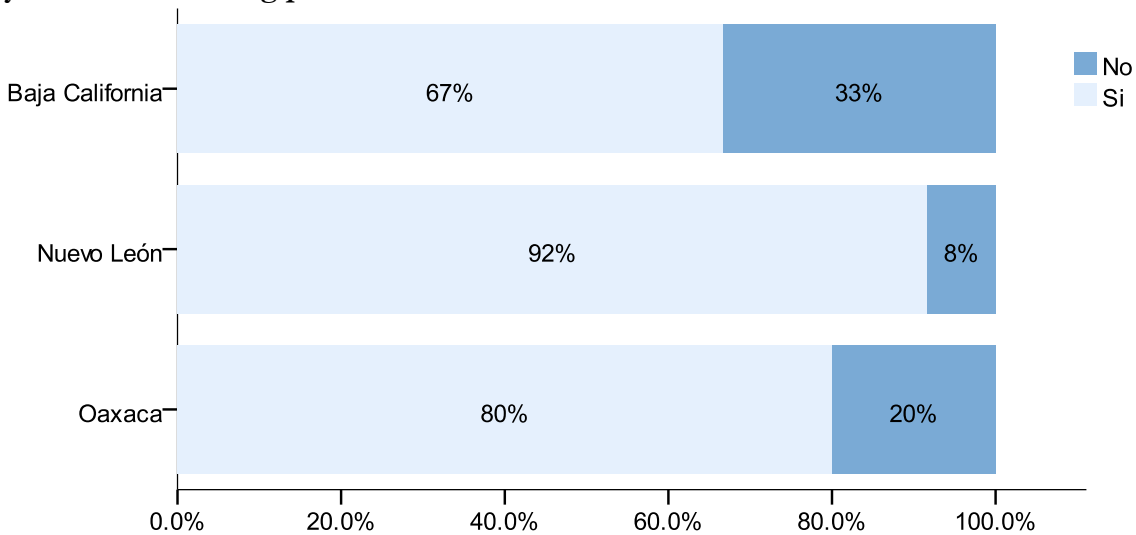
**Figure 11: Existence of systems for evaluating performance**

*In your institution, is there a system for evaluating performance?*

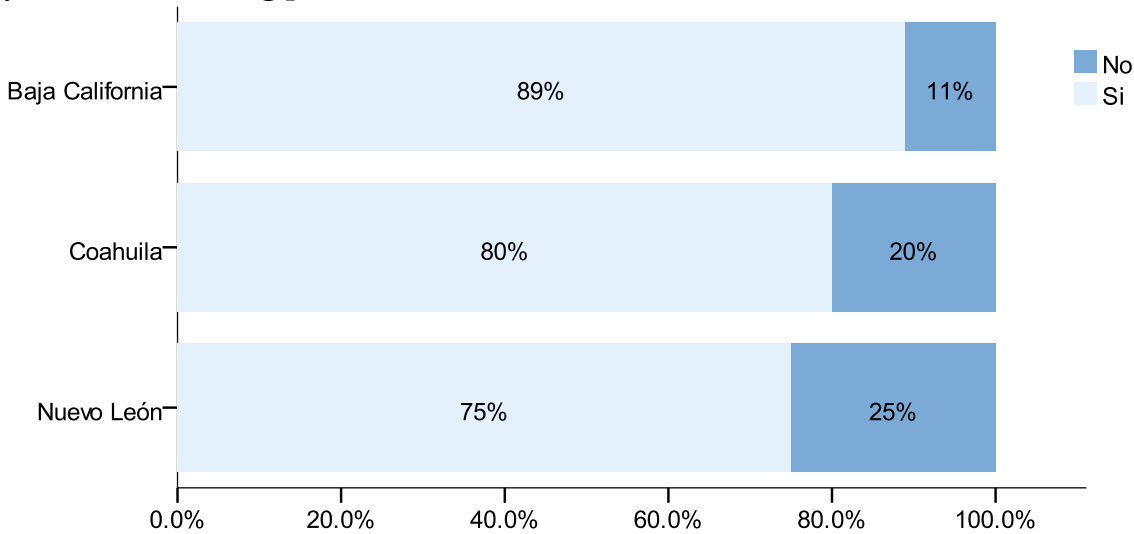
**System for evaluating performance: Judges**



**System for evaluating performance: Prosecutors**



### System for evaluating performance: Defenders



### Professional Incentives and Performance

The *Justiciabarómetro* survey asked questions to determine whether there are incentive systems or other requirements that might affect competency and job performance. Specifically, these questions asked respondents whether (a) there was an incentive system in place to encourage results or performance outcomes, (b) whether performance evaluations were based on quantitative measures, and (c) whether the respondent's home institution required ongoing courses or other on-the-job training (in the United States, this is called "continuing legal education", or CLE, which is required among U.S. lawyers and other legal professionals to maintain membership in state bar associations).

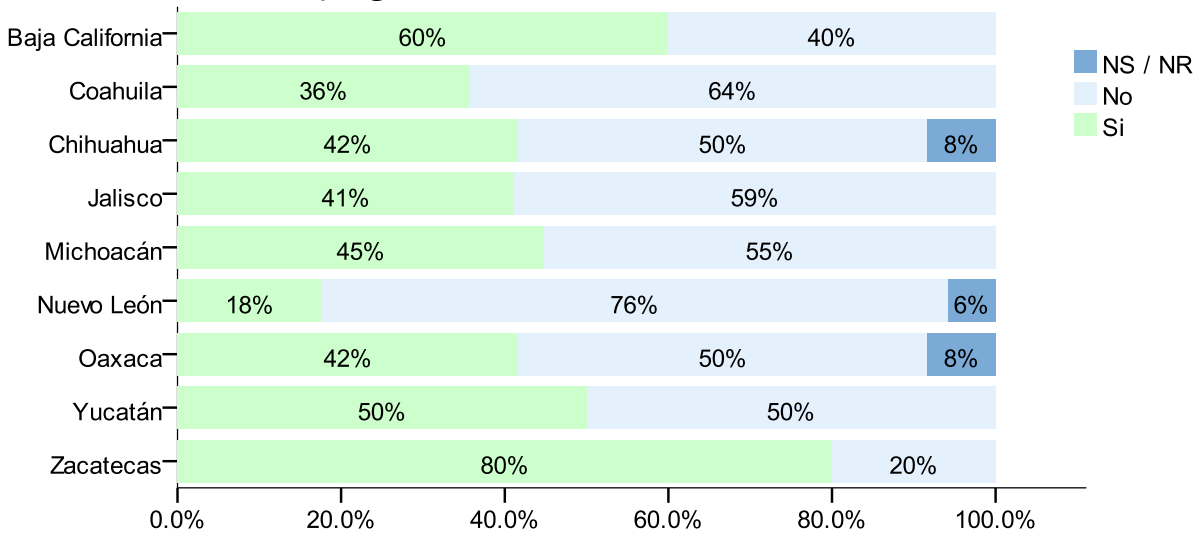
Generally speaking, incentive systems for performance do not exist for judges, prosecutors and public defenders in most of the states surveyed. However, 60% of judges in Baja California and 80% in Zacatecas indicated that some incentive system for performance exists in their states. Prosecutors in the state of Nuevo León and public defenders in the state of Coahuila evidently have some incentive systems in place, according to more than two-thirds of respondents in each case. To the extent that incentive systems for performance do exist, they appear to be mainly quantitative in nature in most states.

There was also widespread affirmation of the existence of required training or continuing education requirements for judges, prosecutors, and public defenders in all states. In Coahuila and Jalisco respectively 43% and 35% of judges indicated that their institution does not require such training or continuing education. However, in all other states at least three in four judges indicated the existence of such requirements in their institution. With just a handful of exceptions, there was near universal indication of such training and continuing education requirements among prosecutors and public defenders surveyed for this study.

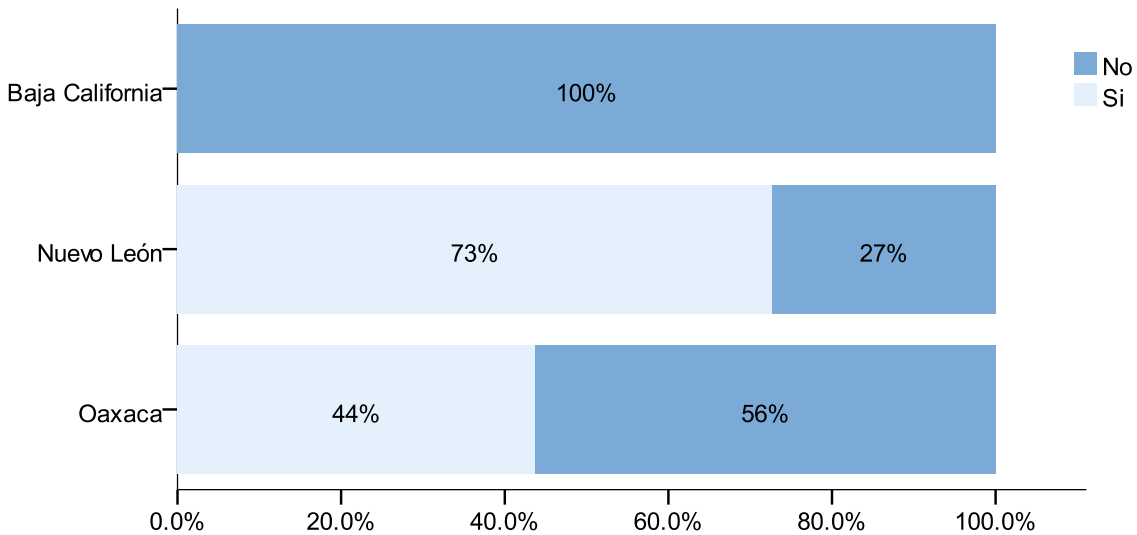
**Figure 12: Existence of performance incentives**

*Is there a system of performance incentives? (AIII.2c.ii)*

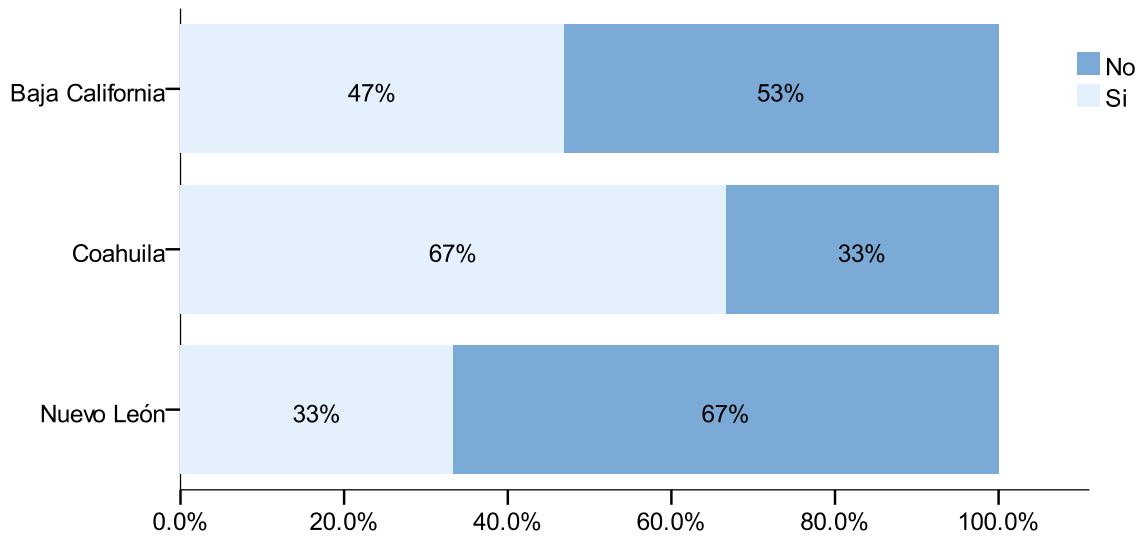
**Performance incentives: Judges**



**Performance incentives: Prosecutors**



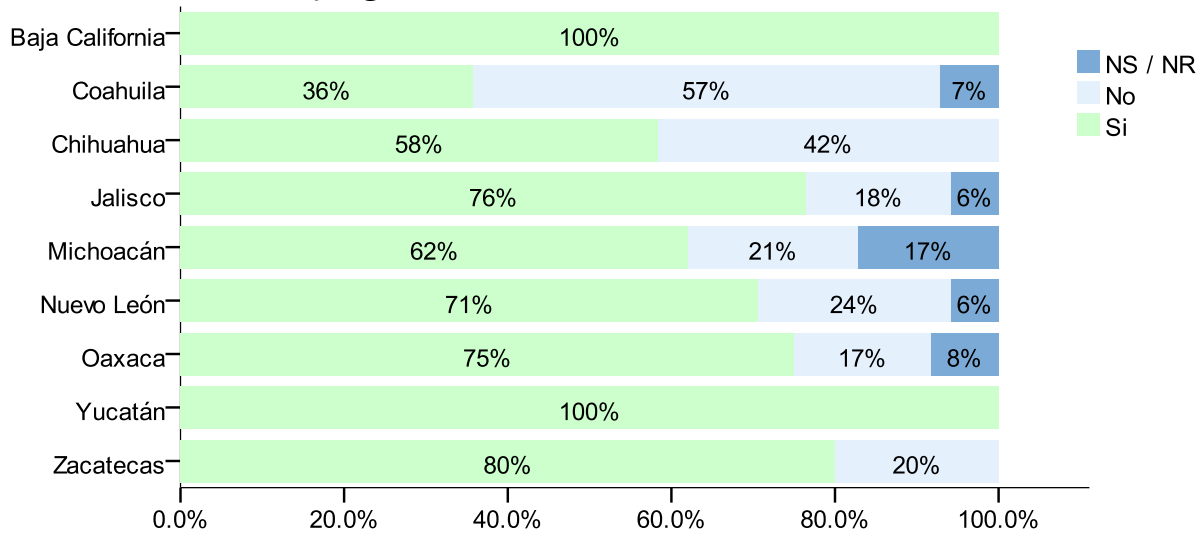
### Performance incentives: Defenders



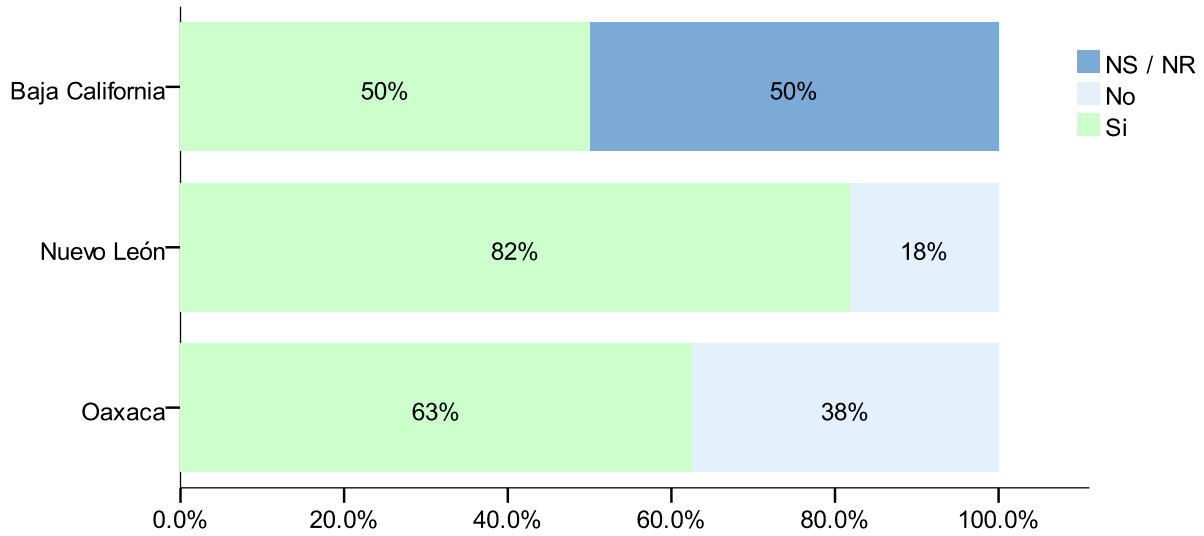
**Figure 13: Existence of quantitative performance evaluations**

*Most of the time, performance evaluations are based on quantitative standards (AIII.2c.iii)*

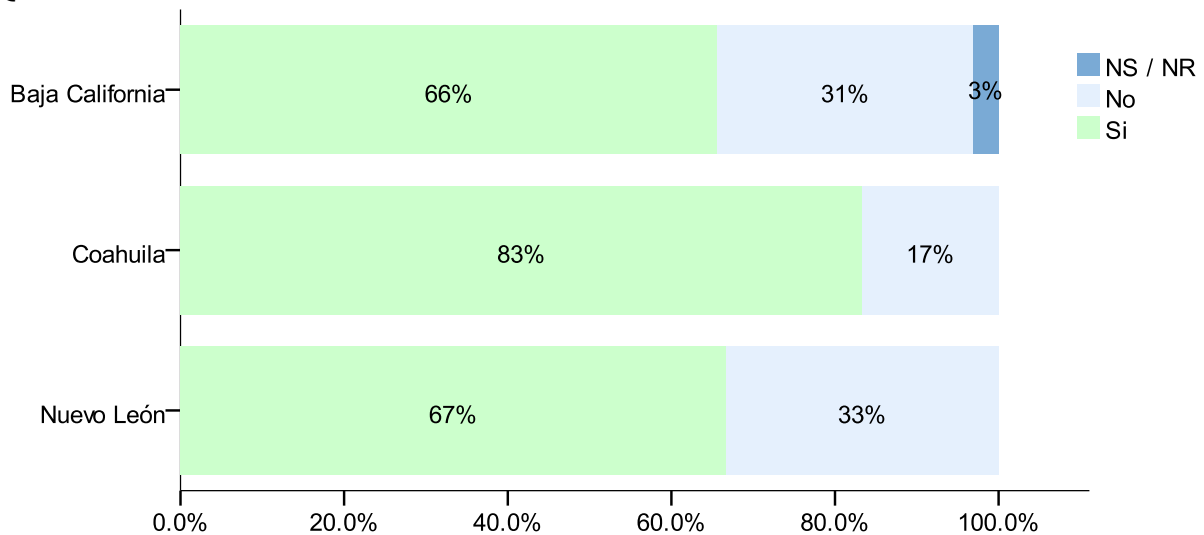
### Quantitative standards: Judges



### Quantitative standards: Prosecutors



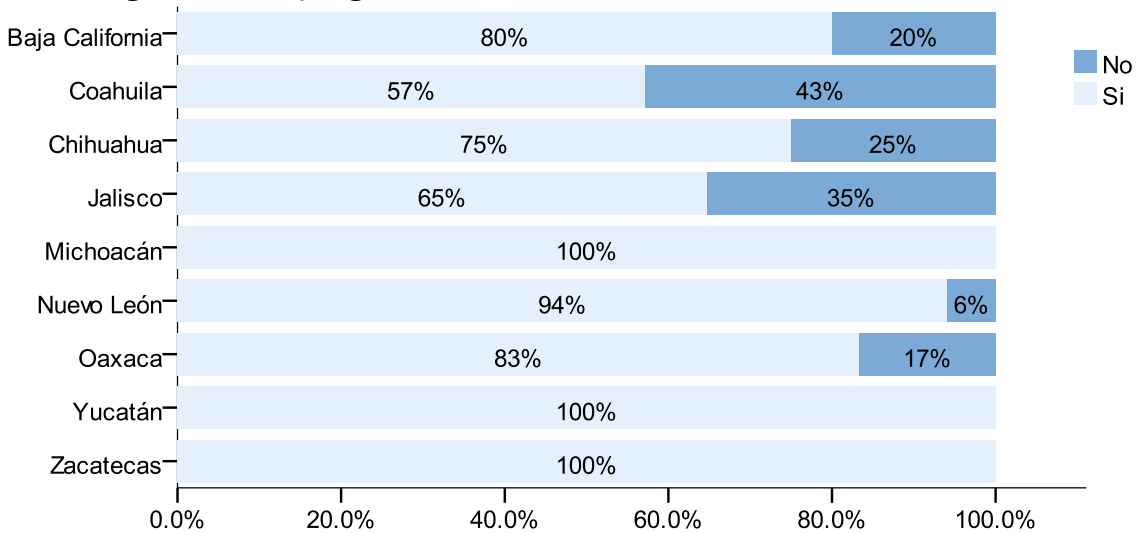
### Quantitative standards: Defenders



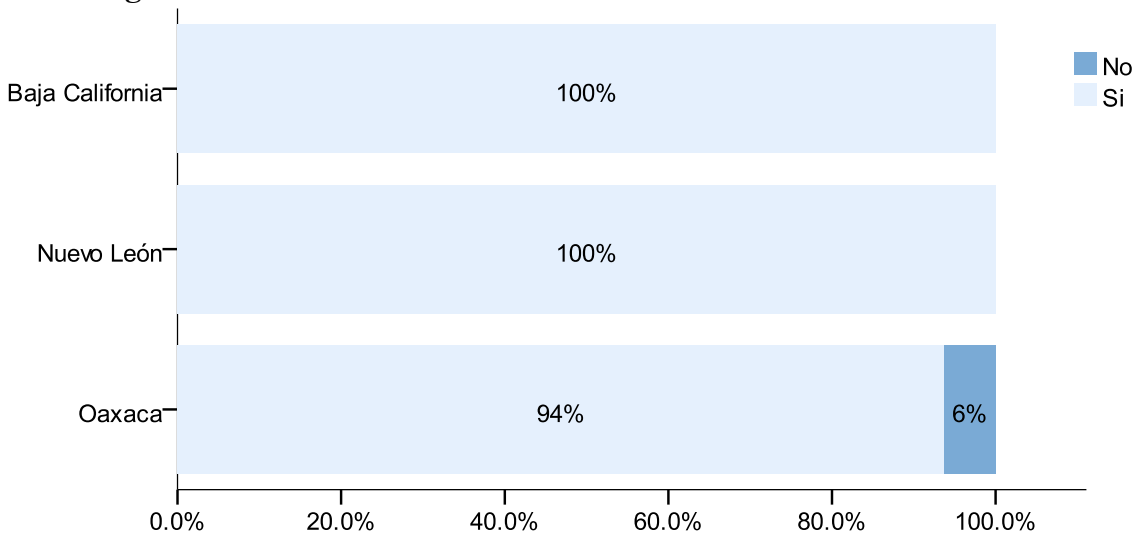
**Figure 14: Continuing education and ongoing training**

*Does your institution require ongoing training or continuing education? (AIII.2c.iv)*

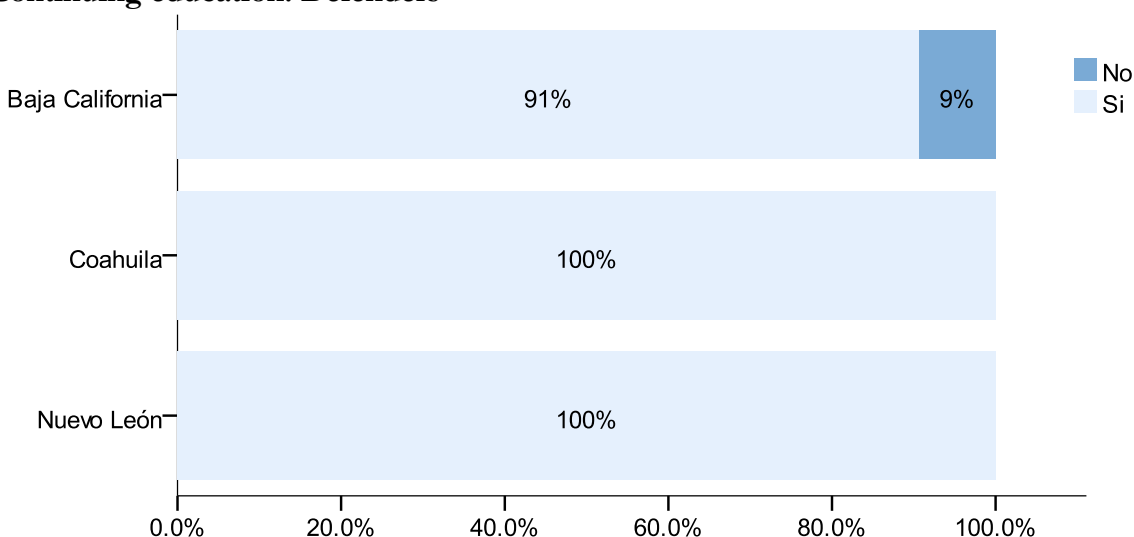
**Continuing education: Judges**



**Continuing education: Prosecutors**



### Continuing education: Defenders



### Merit and Promotion

Our survey also captures the degree to which respondents believe that promotion is based on objective, merit-based criteria or on more subjective, arbitrary criteria. The general pattern among respondents is agreement that permanence in one's position is based on merit. However, about a fifth of defense attorneys and judges in Coahuila disagree, along with a substantial portion of judges in Chihuahua, Jalisco, and Zacatecas, roughly one in eight public defenders in Baja California and Nuevo León, and about one in twelve prosecutors in Nuevo León.

Separate from the questions about standards for evaluation, other questions inquired about standards for promotion. Responses indicate promotions within each state and within each profession are merit based. Again, though, Coahuila is the starkest exception, with more than 20% of defense attorneys and judges disagreeing. In fact, these professionals in this state do not simply disagree, they "totally disagree" that promotion standards are based on merit. Meanwhile, among judges in most states, there was disagreement with the statement that political contacts and personal connections facilitate ratification or promotions on the bench. Indeed, at least half of the judges who responded to this question disagreed (in most states quite strongly). Still, a fairly significant portion of judges, indeed, at least half of respondents in the states of Coahuila and Jalisco (and at least 40% in Oaxaca and Yucatán), felt strongly that political connections were in fact important.

Disagreement that political contacts drive promotion was strong among public defenders in all three states where there is data on this profession (Baja California, Coahuila, and Nuevo León), and judges in Coahuila, Chihuahua, Jalisco, and Zacatecas. Coahuila is especially disturbing, as the modal response in both professions surveyed in this state is "totally agree" that promotions are based on political connections. Prosecutors were more likely to disagree than agree that political contacts drive ratification or promotion in Nuevo León and Oaxaca, but more likely to agree in Baja California. Meanwhile, public defenders in Baja California, Coahuila, and Nuevo León are more likely to disagree than agree that politics matters. That said, larger portions of public defenders —



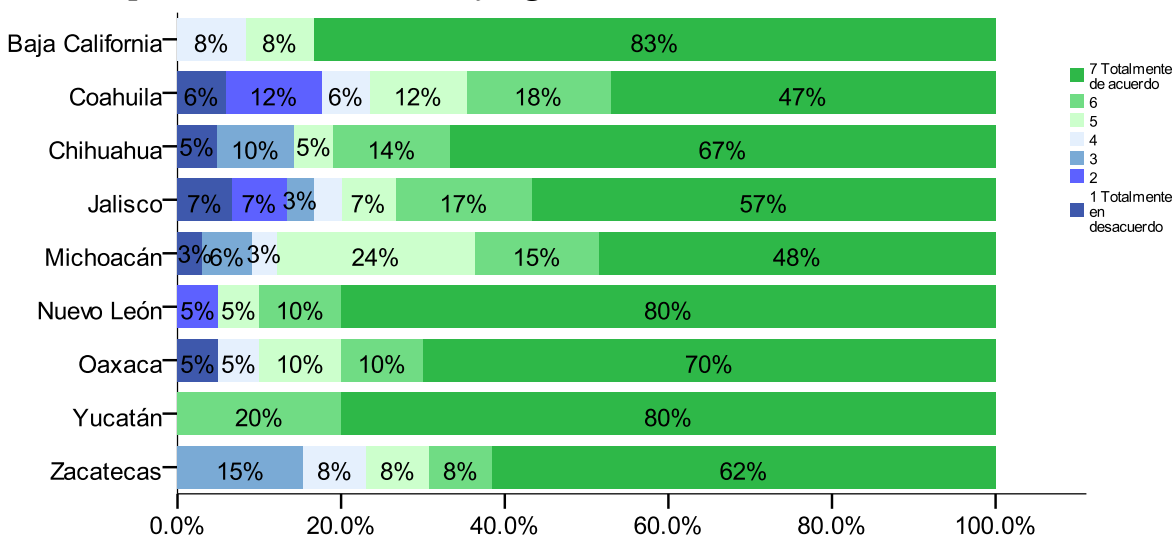
more than a quarter in Coahuila and Nuevo León, and over a third in Baja California— did feel very strongly that such contacts are important than was the case for prosecutors.

Finally, in all states surveyed, judges, prosecutors, and public defenders felt very strongly that friendships and other personal contacts were not important in determining the assignment of positions on the bench. There was some variation across the professions, with public defenders more likely to see some importance in these connections. However, the difference between the perceived importance of political and personal connections is striking. While neither is granted much importance by most respondents, politics is much more likely to be seen as important than personal relationships.

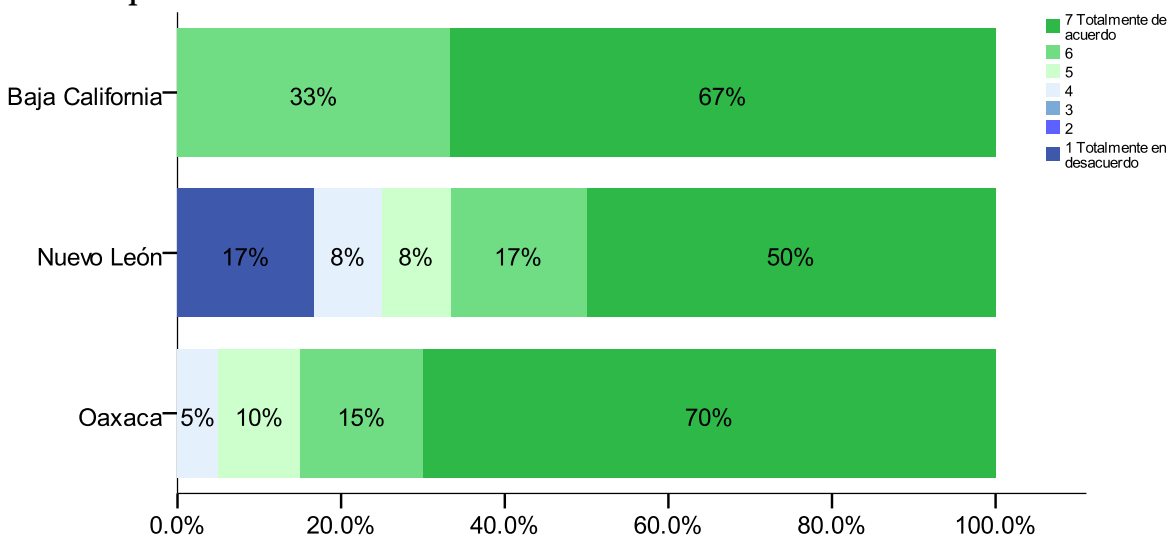
**Figure 15: Merit as a basis of permanence evaluations**

*Individuals with more experience and training are more likely to be ratified or kept in their positions [AIV.1e.i1-3]*

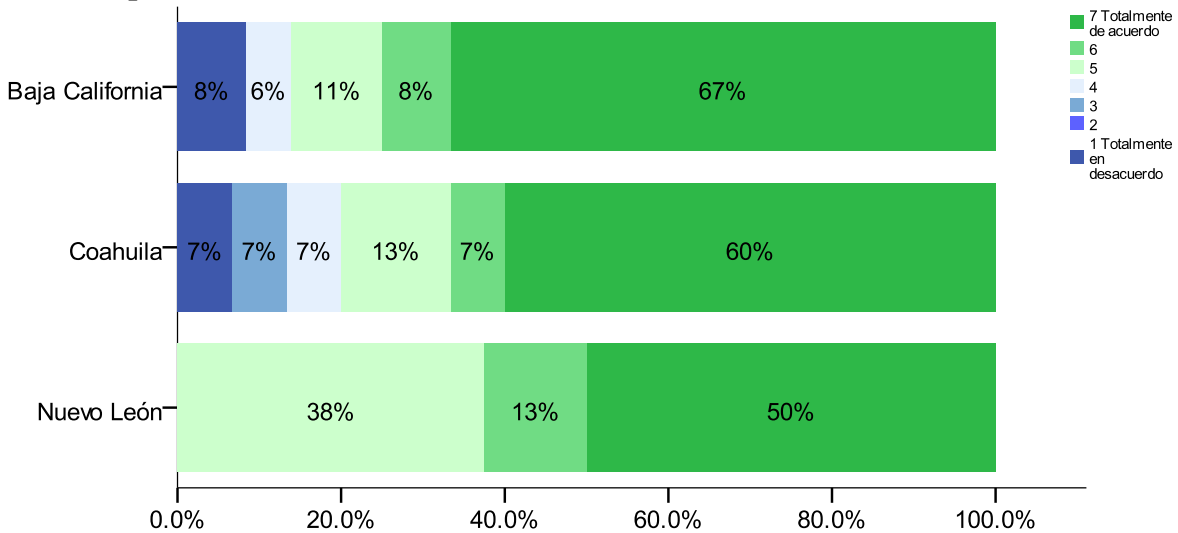
### Merit and performance evaluations: Judges



### Merit and performance evaluations: Prosecutors



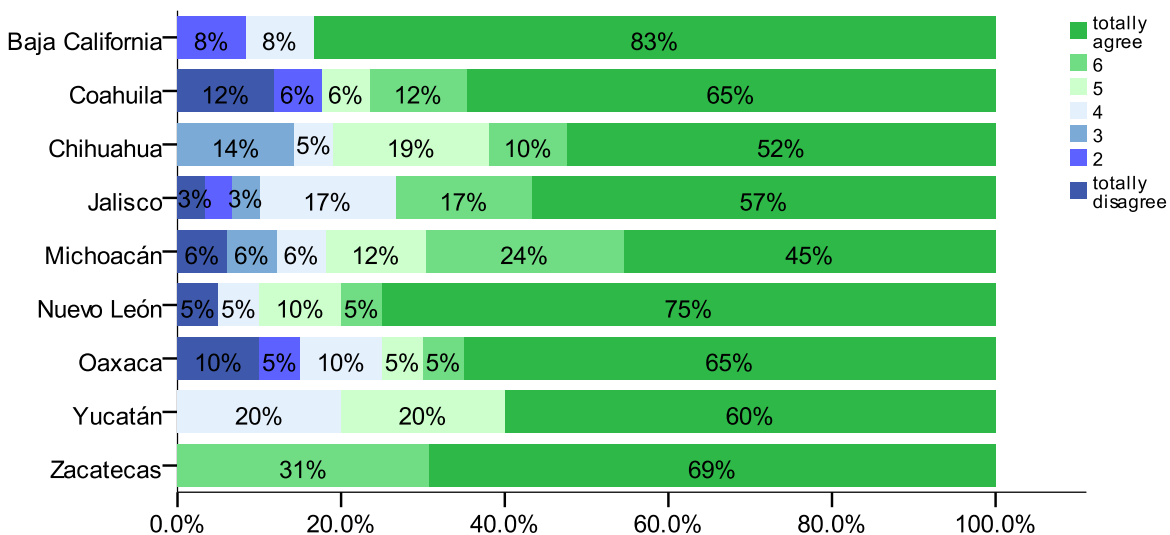
### Merit and performance evaluations: Defenders



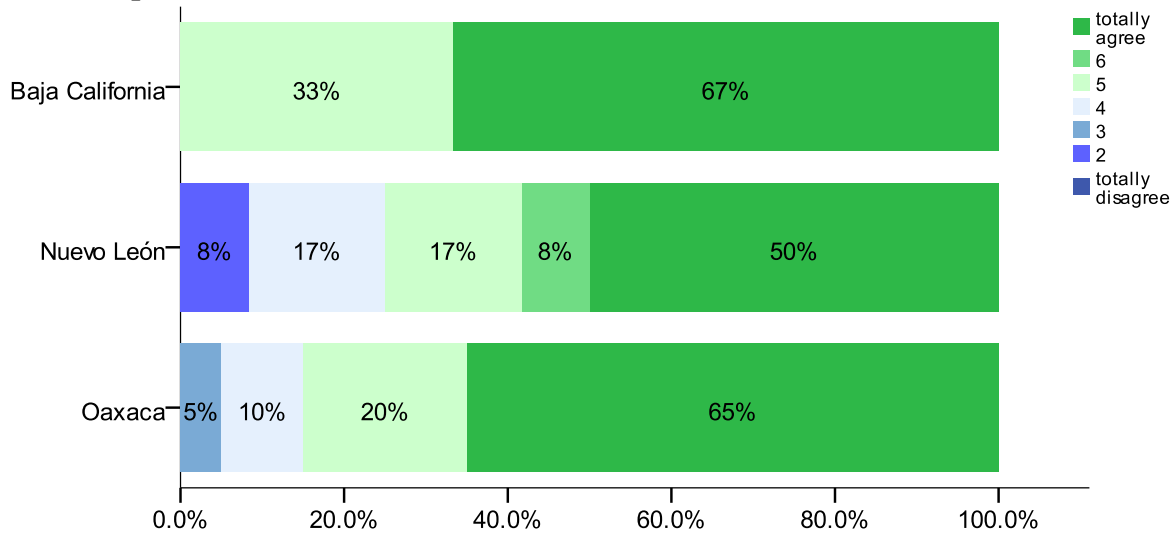
**Figure 16: Merit as a basis for promotion**

*Individuals with more experience and training are more likely to be nominated for promotions [AIV.1e.ii1-3]*

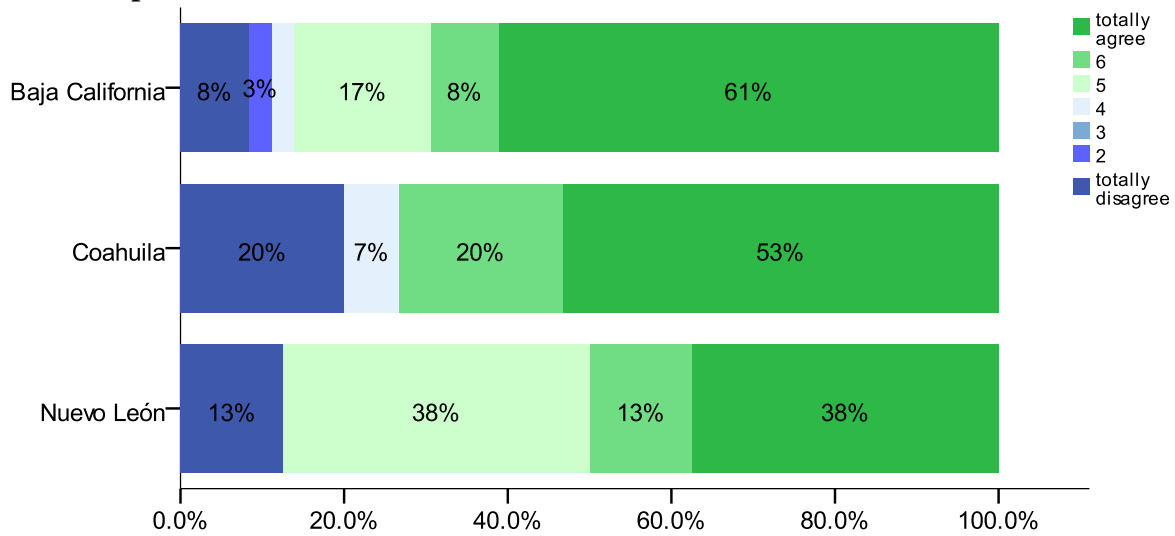
### Merit and promotion: Judges



### Merit and promotion: Prosecutors



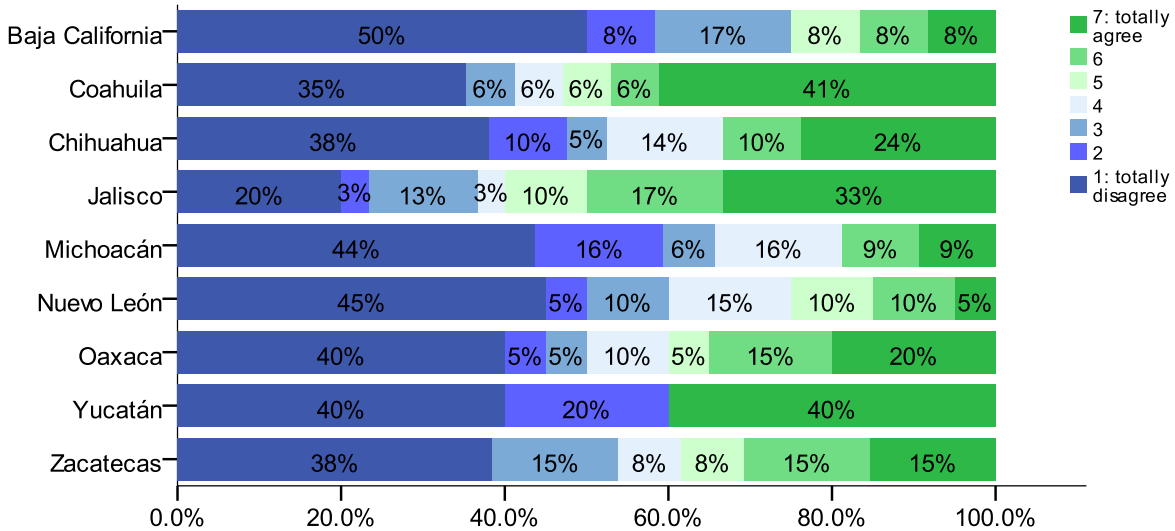
### Merit and promotion: Defenders



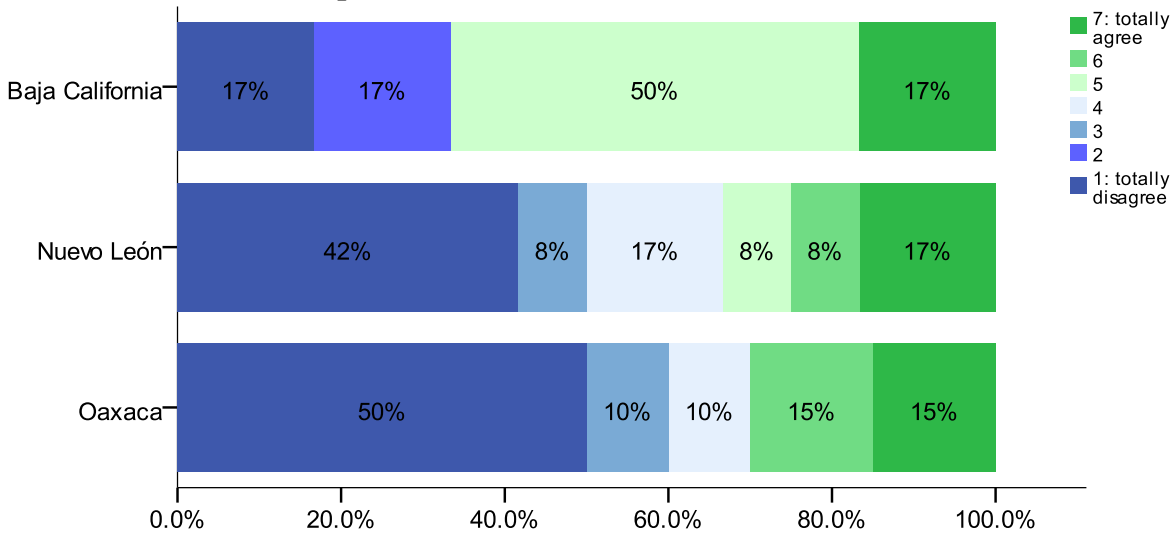
**Figure 17: Political connections and promotions**

*Individuals with political contacts have better chances of being ratified or nominated for promotion [AIV.1e.iii1-3]*

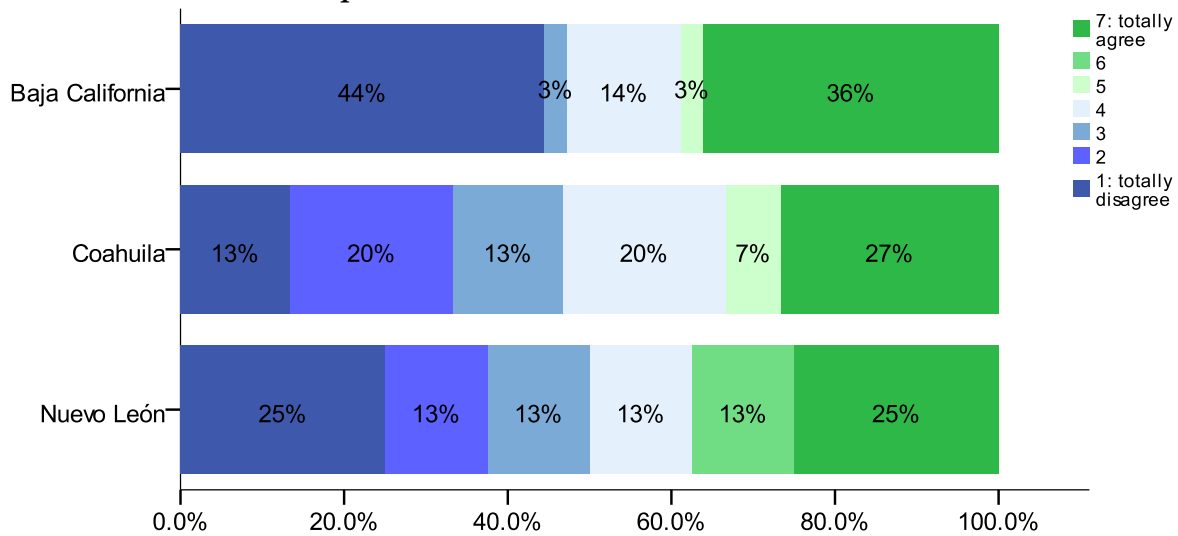
**Political connections and promotions: Judges**



**Political connections and promotions: Prosecutors**



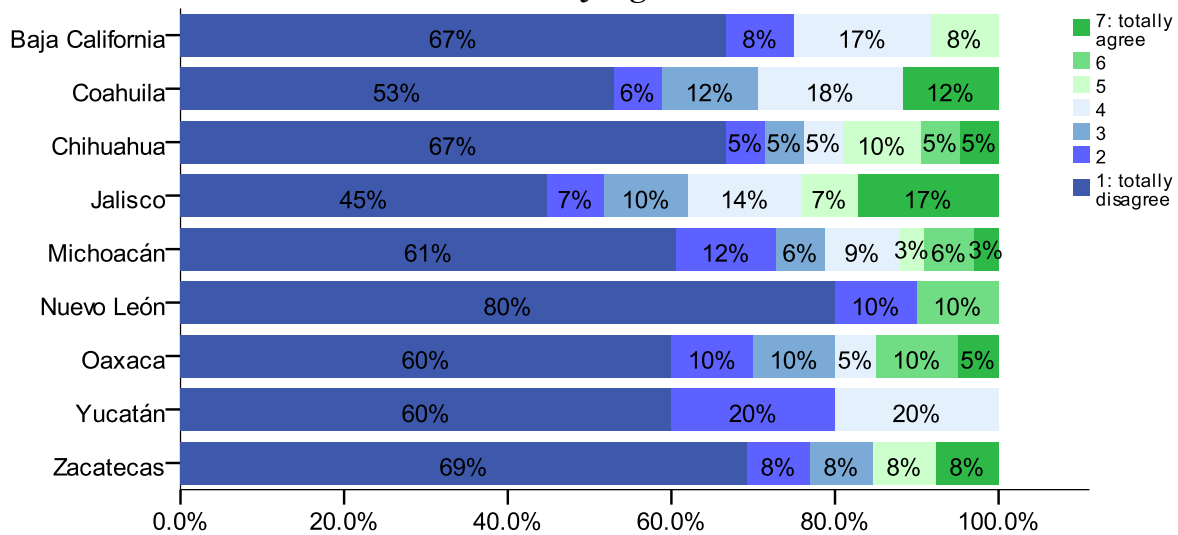
### Political connections and promotions: Defenders



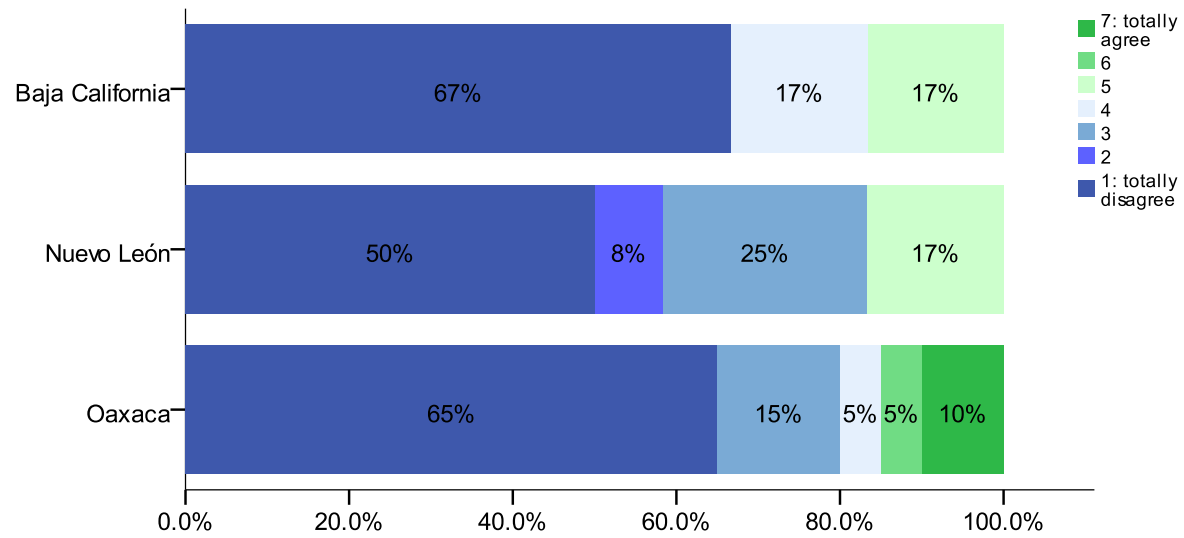
**Figure 18: Personal contacts and career advancement**

*Positions are assigned according to criteria like friendship and other personal contacts [AIV.1e.iv1-3]*

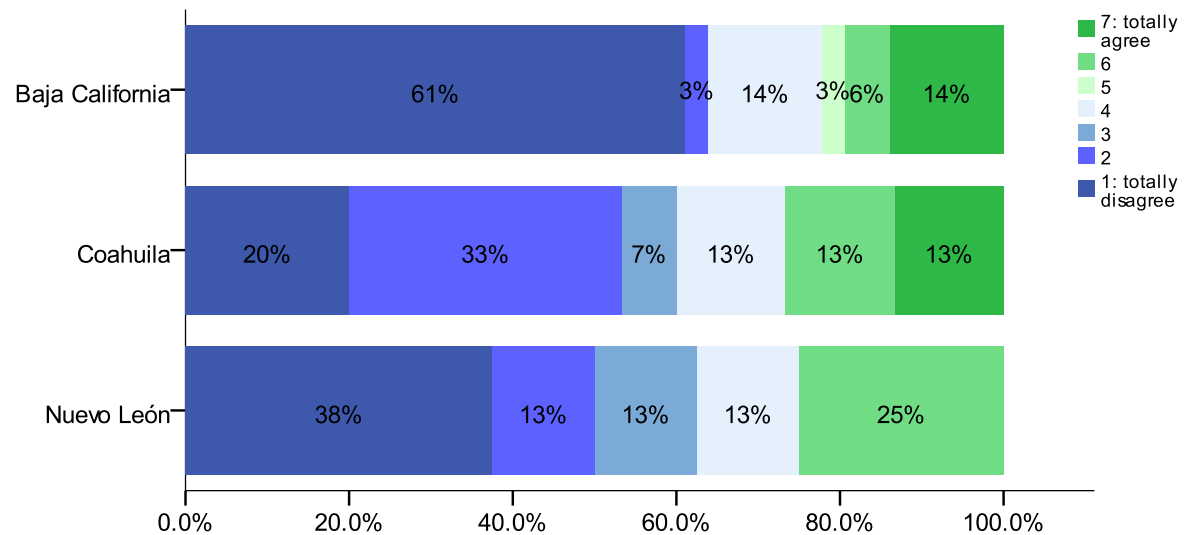
### Personal contacts and career advancement: Judges



### Personal contacts and career advancement: Prosecutors



### Personal contacts and career advancement: Defenders



## Perceptions of Judicial System Functioning

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

### Number of Personnel

With regard to staffing, there was general agreement among all categories of respondents that there is sufficient of personnel in their respective areas. With the exception of Yucatán, where most judges surveyed disagreed, at least 63% of judges in all other states agreed that there is a sufficient number of judges to deal with every case in a timely manner. Prosecutors in Baja California and Nuevo León similarly agreed that there were an adequate number of judges to deal with every case in a timely manner, though at least half of prosecutors in Oaxaca disagreed. In Baja California, Coahuila, and Nuevo León, respectively, 67%, 73%, and 75% of respondents agreed with the same statement. The general conclusion is that judges, prosecutors, and especially public defenders believe that there is an adequate number of judges to deal with each case in a timely manner.

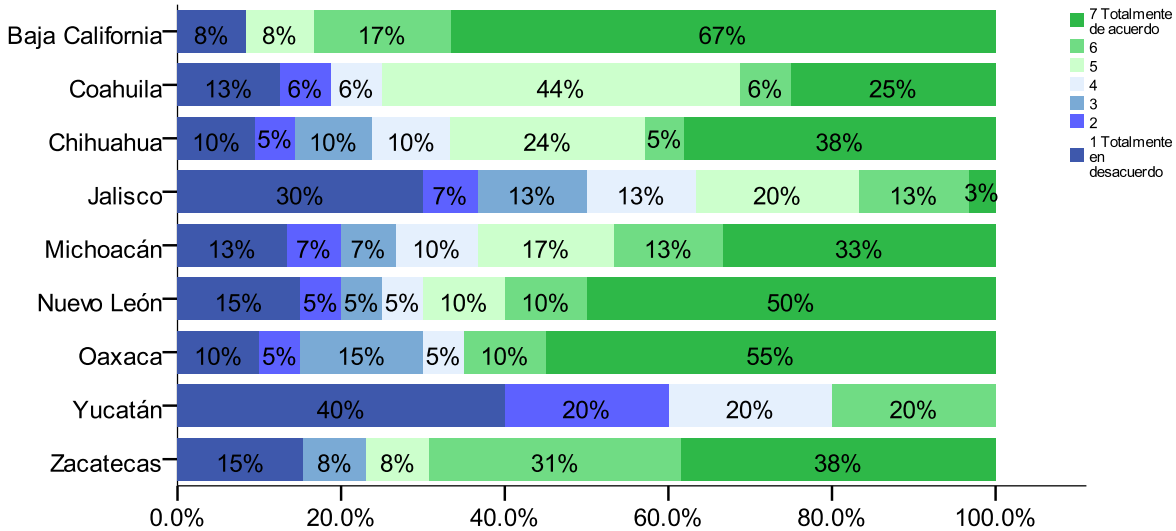
All three professions had somewhat stronger sentiments that the number of prosecutors was inadequate to handle cases in a timely manner. In the case of judges, at least 25% of judges (in Baja California) felt that there was an inadequate number of prosecutors, while as many as 70% of judges (in Jalisco) felt that more prosecutors were needed to deal with cases in a timely manner. Even among public defenders in Baja California and Coahuila, at least 38% expressed the view that there was an insufficient number of prosecutors.

Finally, there was a widespread sense, if not total agreement, among judges and prosecutors that there is a need for more public defenders in each state, even though a majority of public defenders surveyed did not themselves share this view. Among judges, at least half of respondents in six states (Coahuila, Jalisco, Michoacán, Nuevo León, Oaxaca, and Yucatán) felt that there is an inadequate number of public defenders to deal with cases in a timely manner. This sentiment was especially strong in Yucatán, Jalisco, and Coahuila. A majority of prosecutors in Baja California and Oaxaca shared this view, though more than two thirds of prosecutors in Nuevo León felt that the number of public defenders is adequate in that state. Meanwhile, over half of public defenders in Baja California and more than 60% in Nuevo León felt that their numbers were adequate to deal with cases effectively, while a majority in Coahuila disagreed.

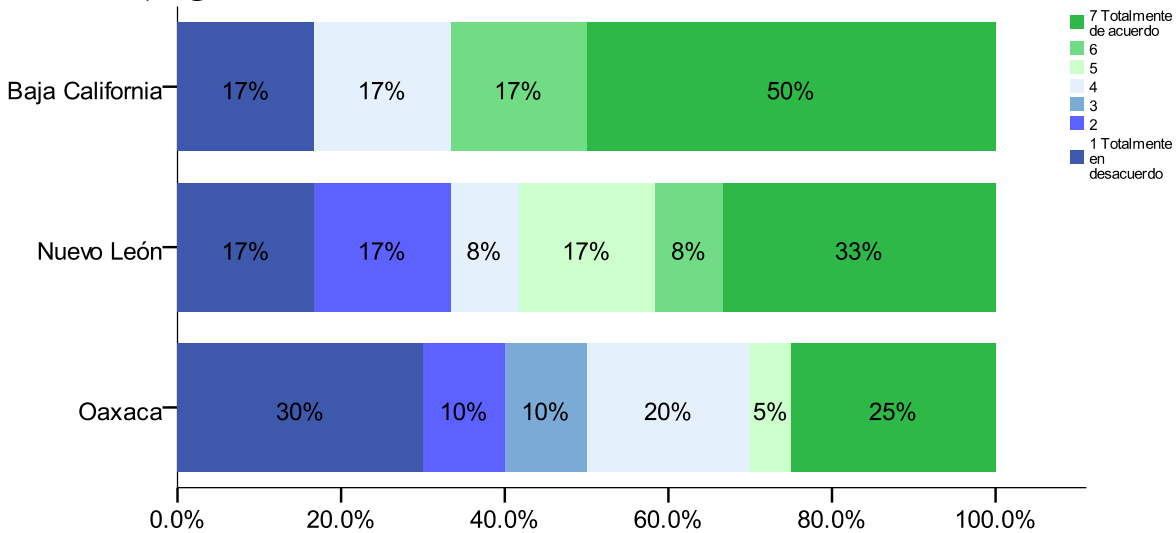
**Figure 19: Adequacy of number of judges**

*This state has a sufficient number of judges to deal with every case in a timely manner [CHH.10]*

**Number of judges: Judges**

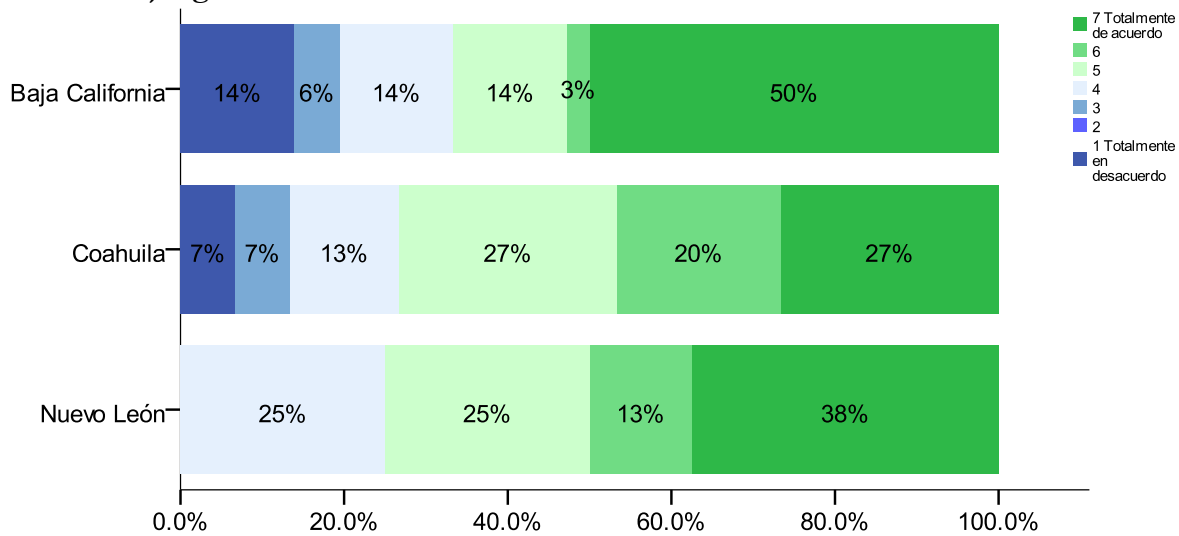


**Number of judges: Prosecutors**





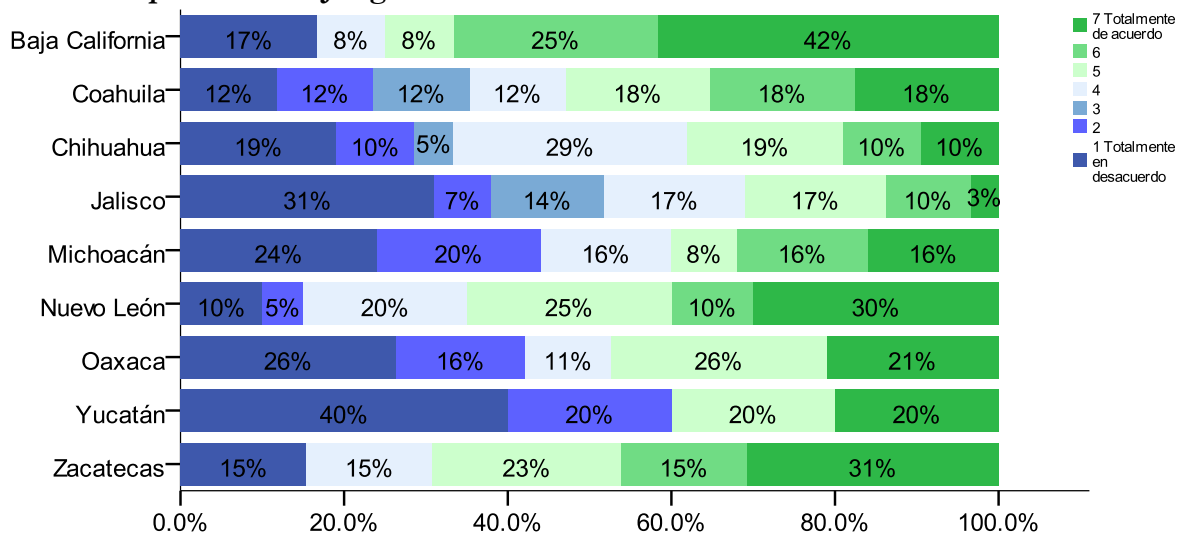
### Number of judges: Defenders



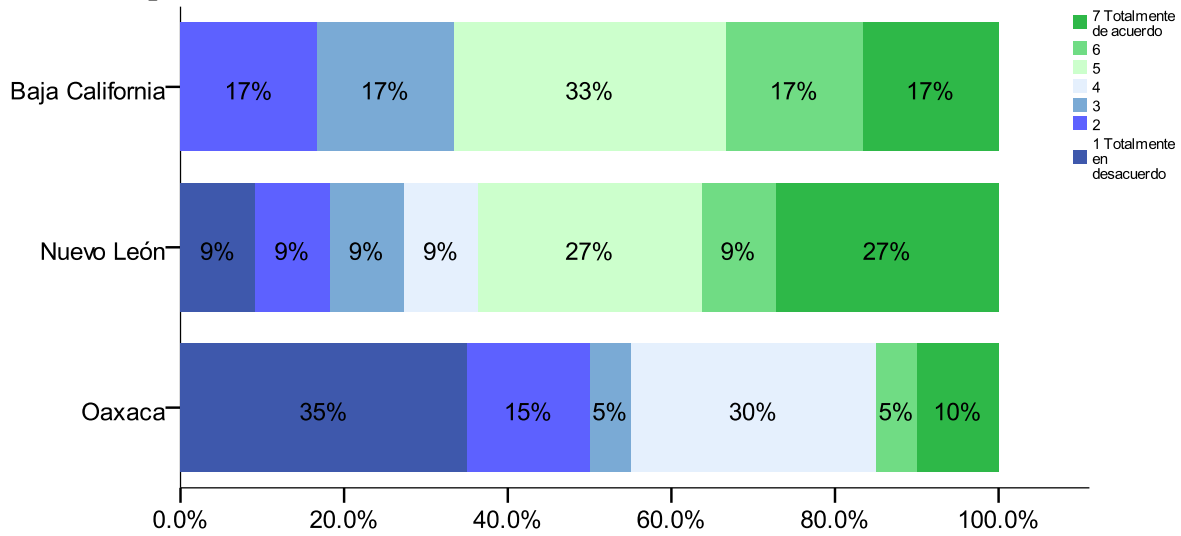
**Figure 20: Adequacy of number of prosecutors**

*This state has a sufficient number of prosecutors to deal in a timely manner with every case [CIII.11]*

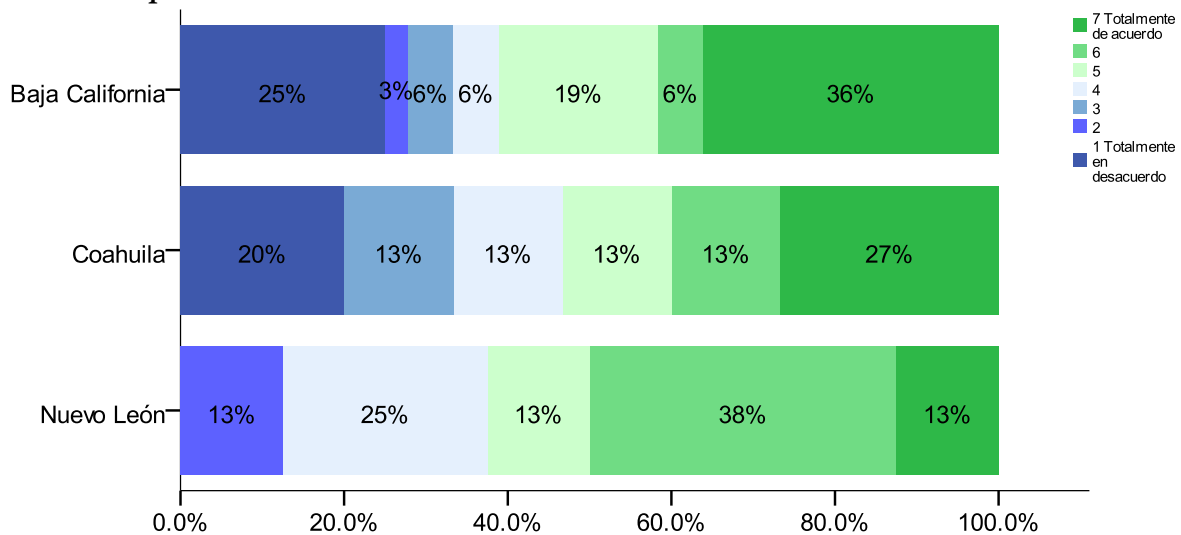
### Number of prosecutors: Judges



### Number of prosecutors: Prosecutors



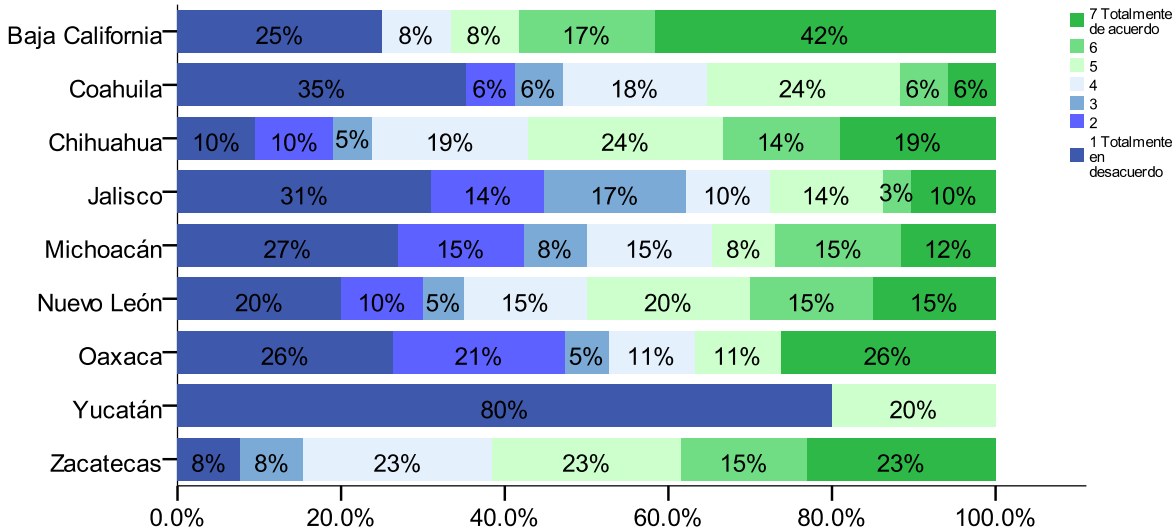
### Number of prosecutors: Defenders



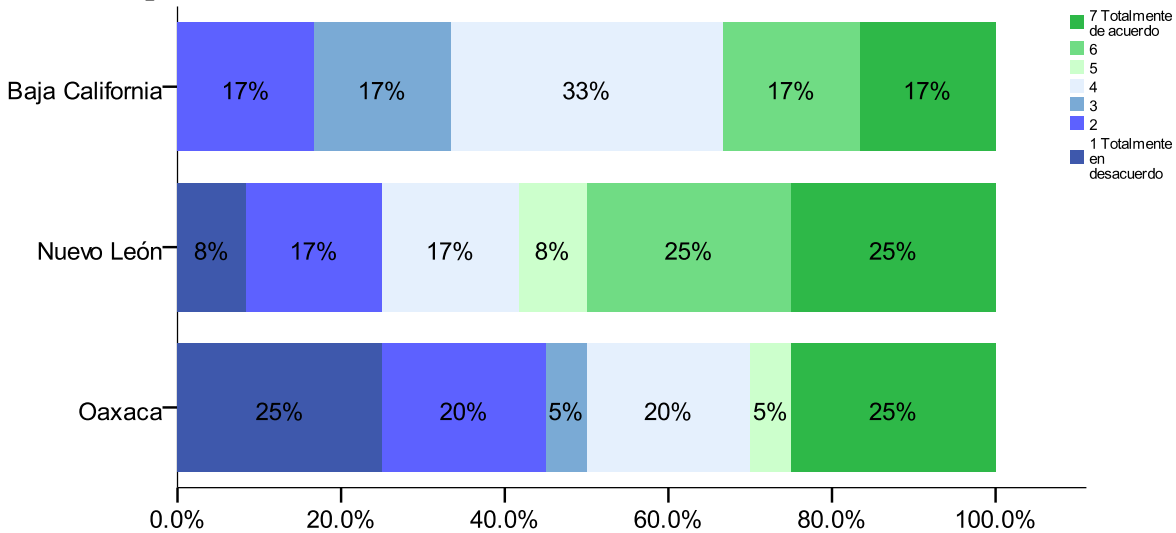
**Figure 21: Adequacy of number of public defenders**

*This state has a sufficient number of public defenders to deal in a timely manner with every case [CIII.12]*

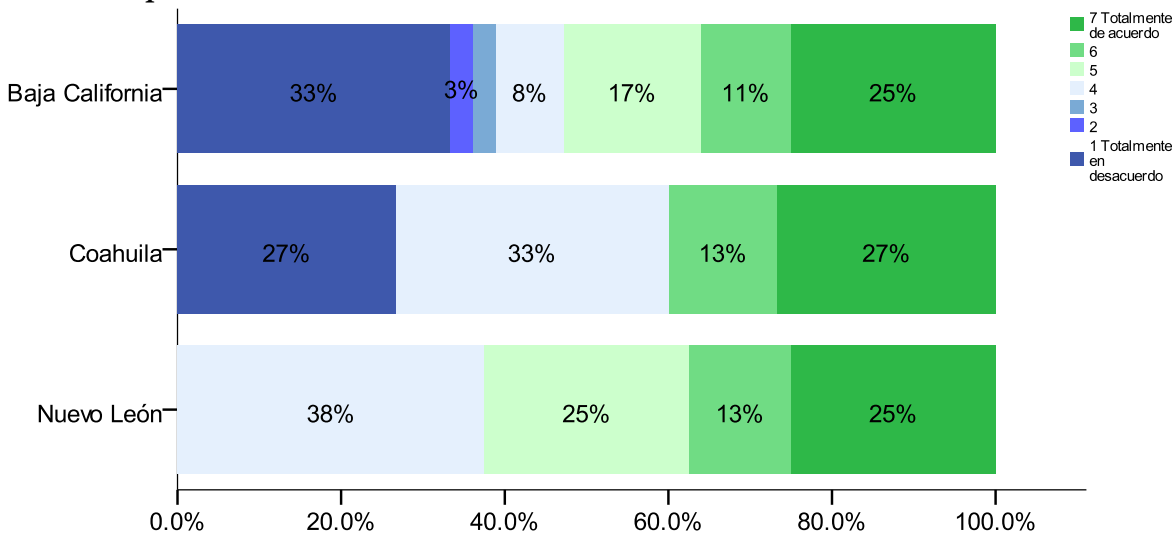
**Number of public defenders: Judges**



**Number of public defenders: Prosecutors**



## Number of public defenders: Public defenders



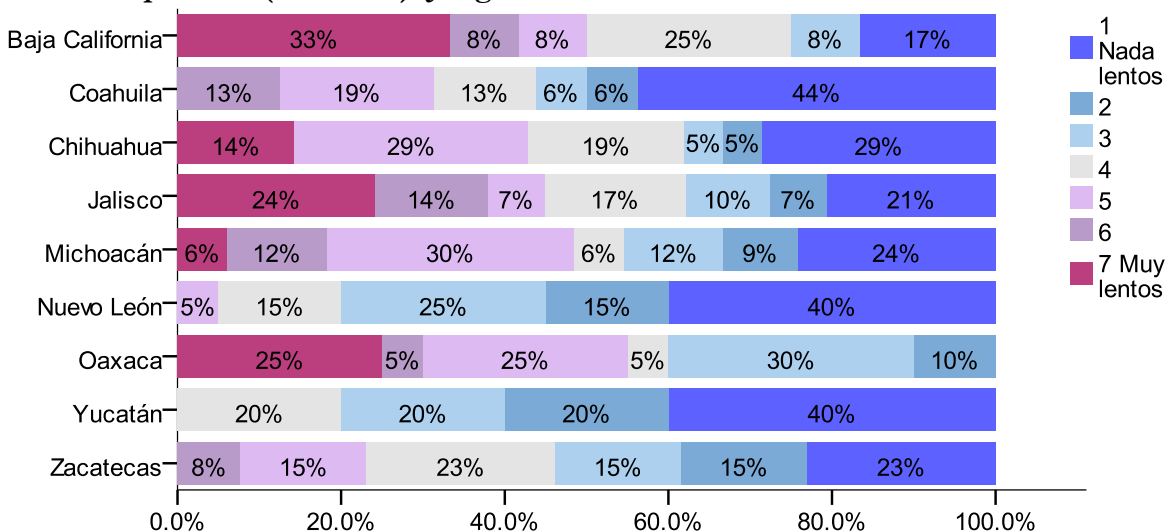
## Efficiency of Procedures

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

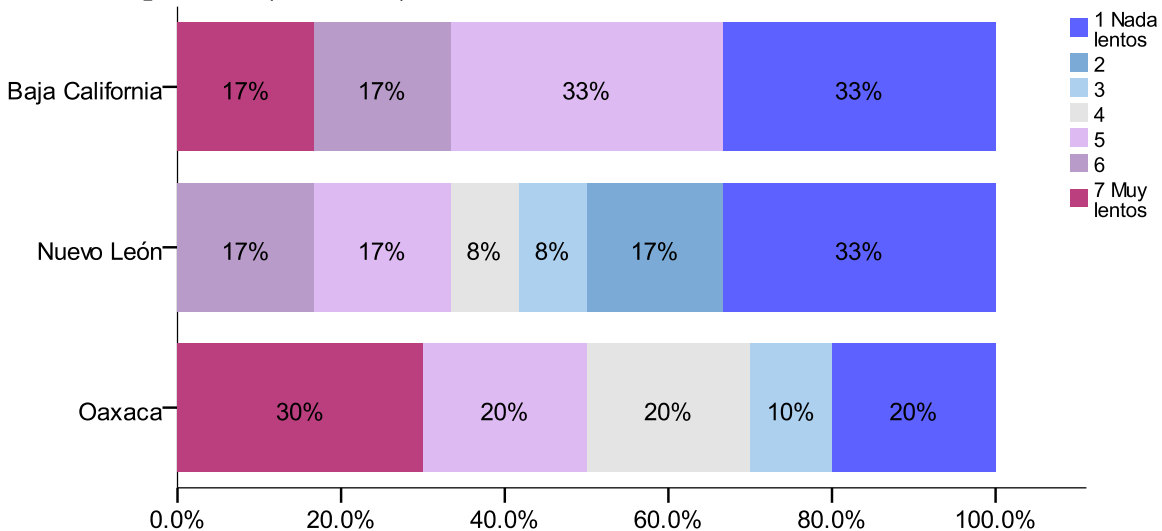
### Figure 22: Time to disposition (homicide)

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

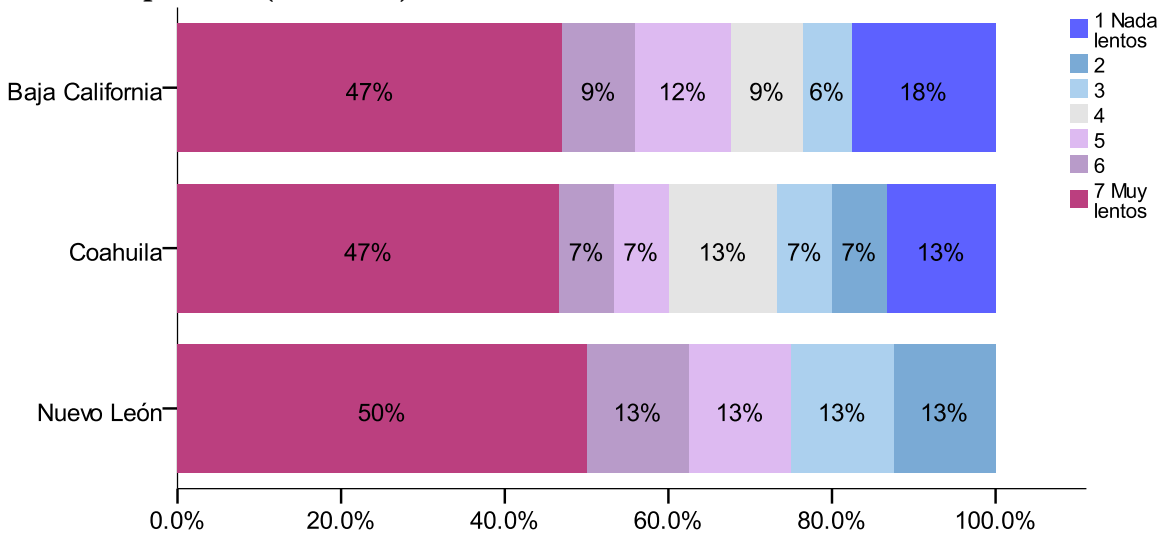
#### Time to disposition (homicide): Judges



### Time to disposition (homicide): Prosecutors



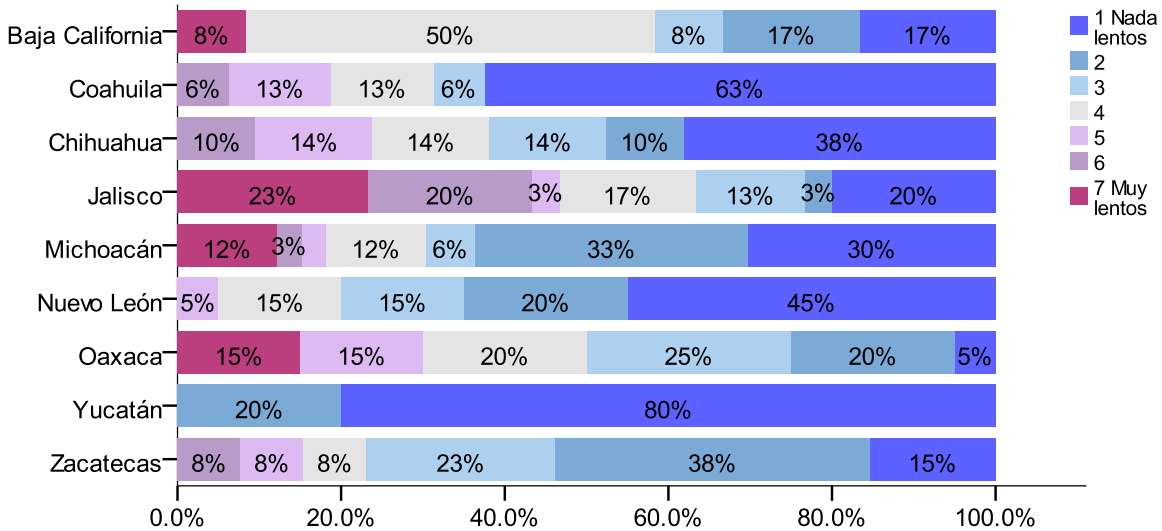
### Time to disposition (homicide): Defenders



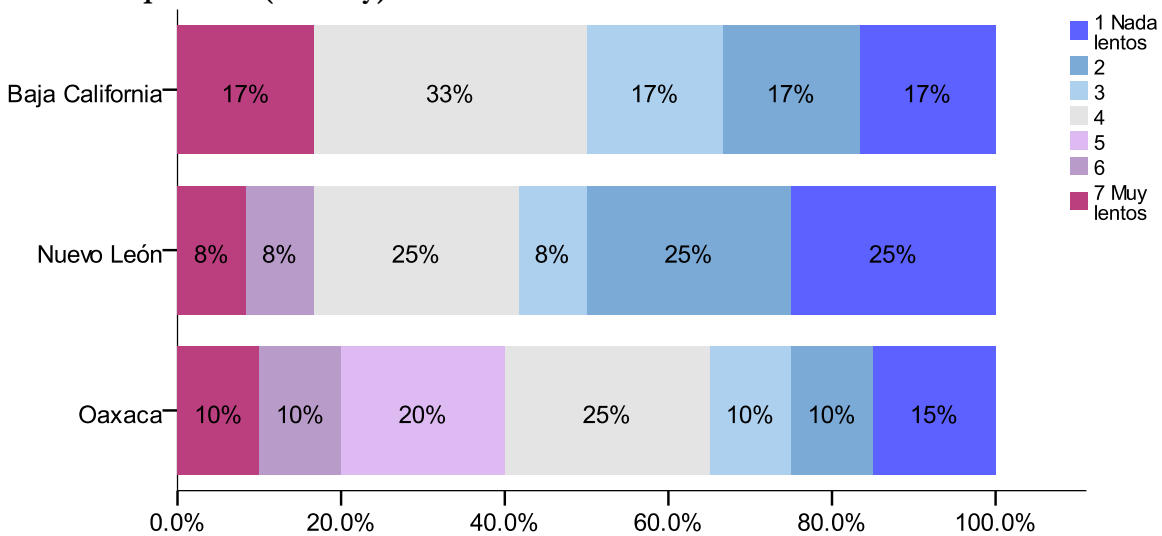
**Figure 23: Time to disposition (robbery)**

*What is your opinion about the average time that it takes for the resolution of criminal proceedings in the case of: robbery (robo) [bIII.1b.ii]?*

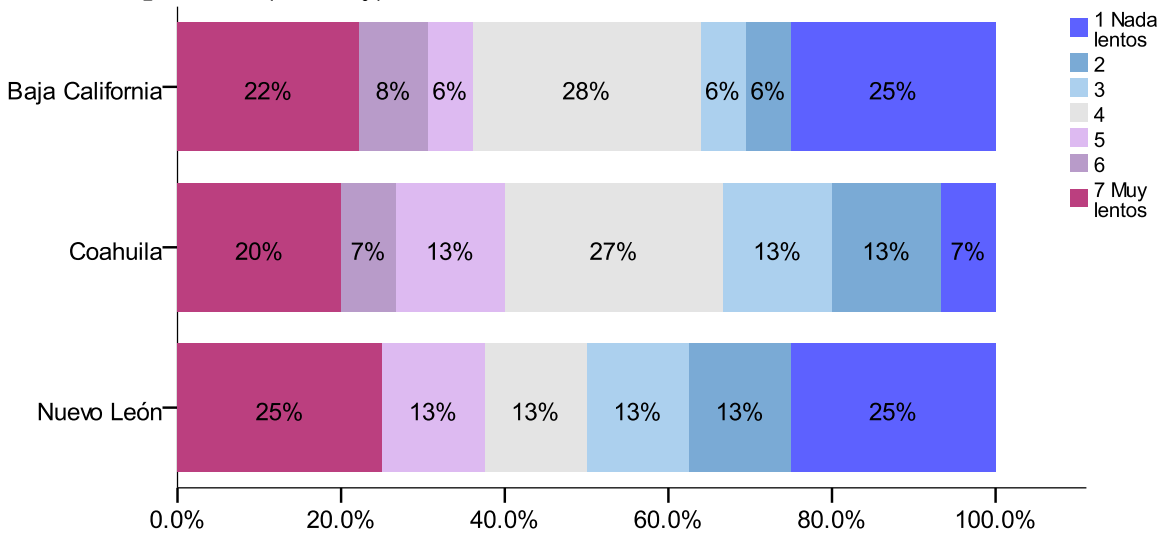
**Time to disposition (robbery): Judges**



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



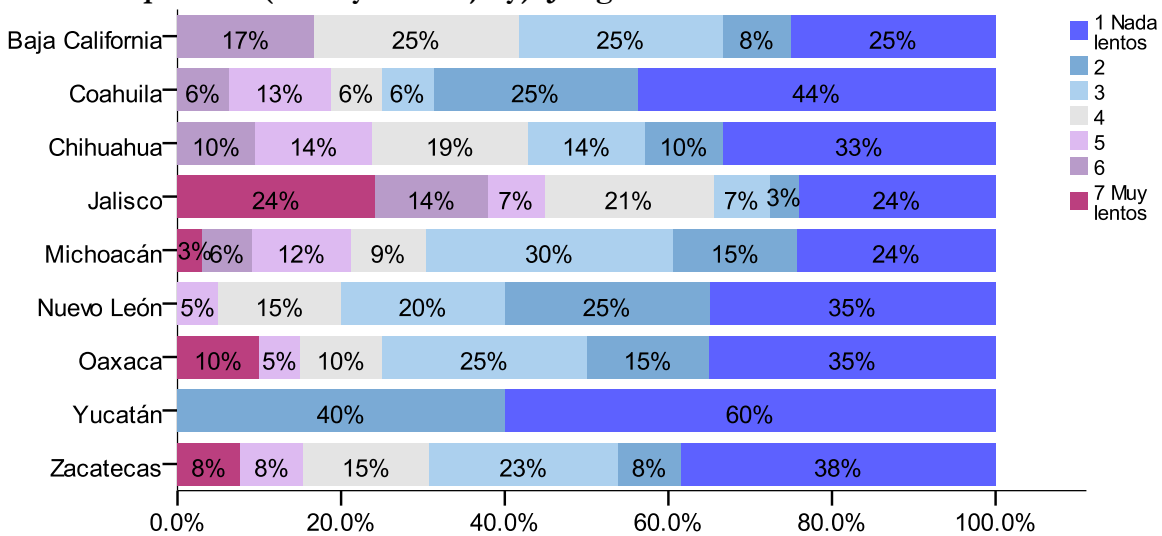
### Time to disposition (robbery): Defenders



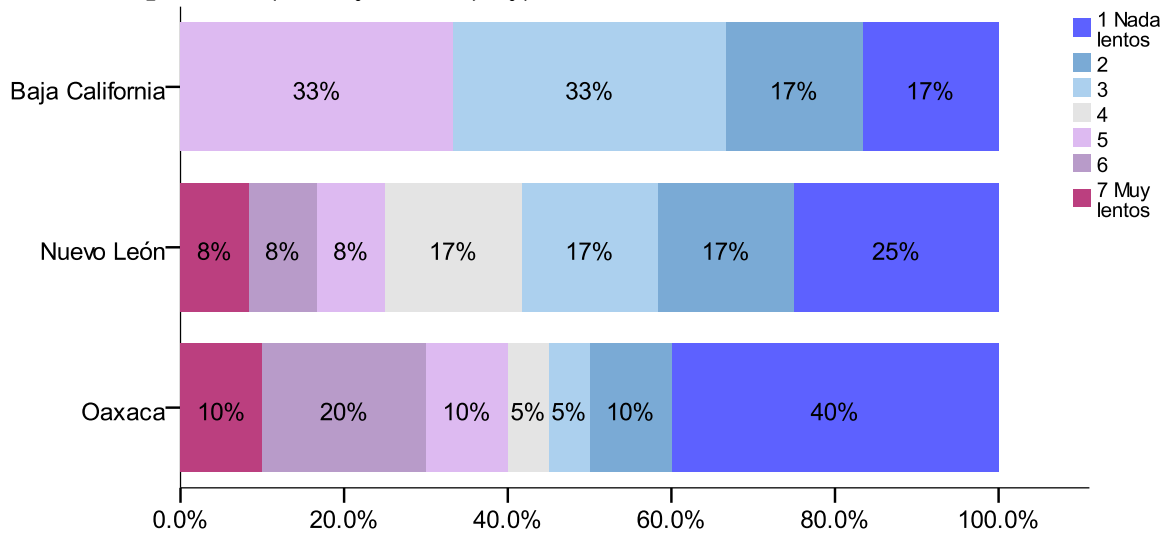
**Figure 24: Time to disposition (battery with injury)**

*What is your opinion about the average time that it takes for the resolution of criminal proceedings in the case of: battery with injury (lesiones dolosas) [bIII.1b.iii]?*

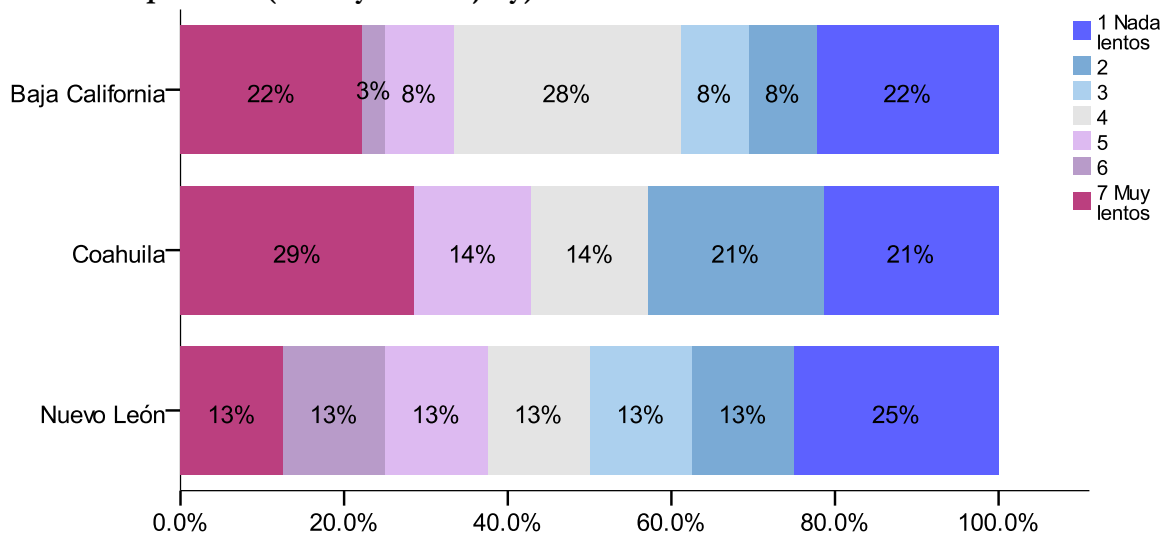
### Time to disposition (battery with injury): Judges



### Time to disposition (battery with injury): Prosecutors



### Time to disposition (battery with injury): Defenders

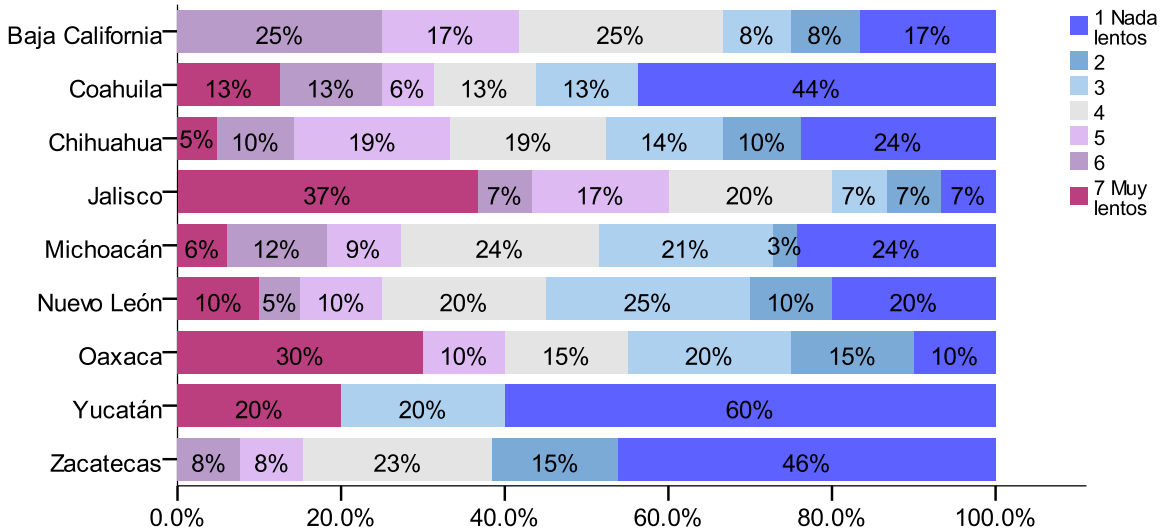




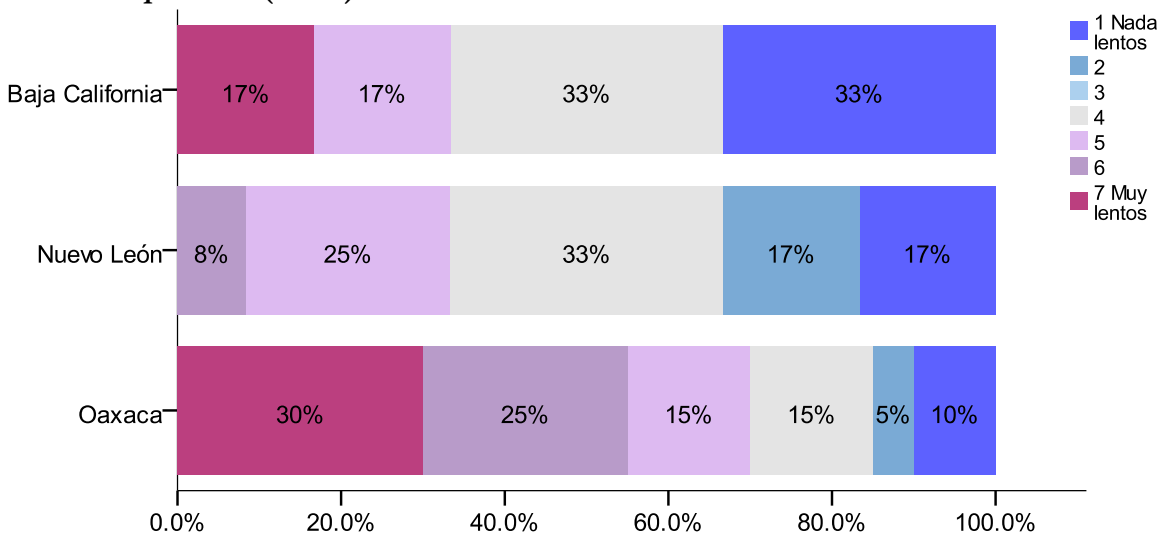
**Figure 25: Time to disposition (fraud)**

*What is your opinion about the average time that it takes for the resolution of criminal proceedings in the case of: fraud (fraude) [bIII.1b.iv]?*

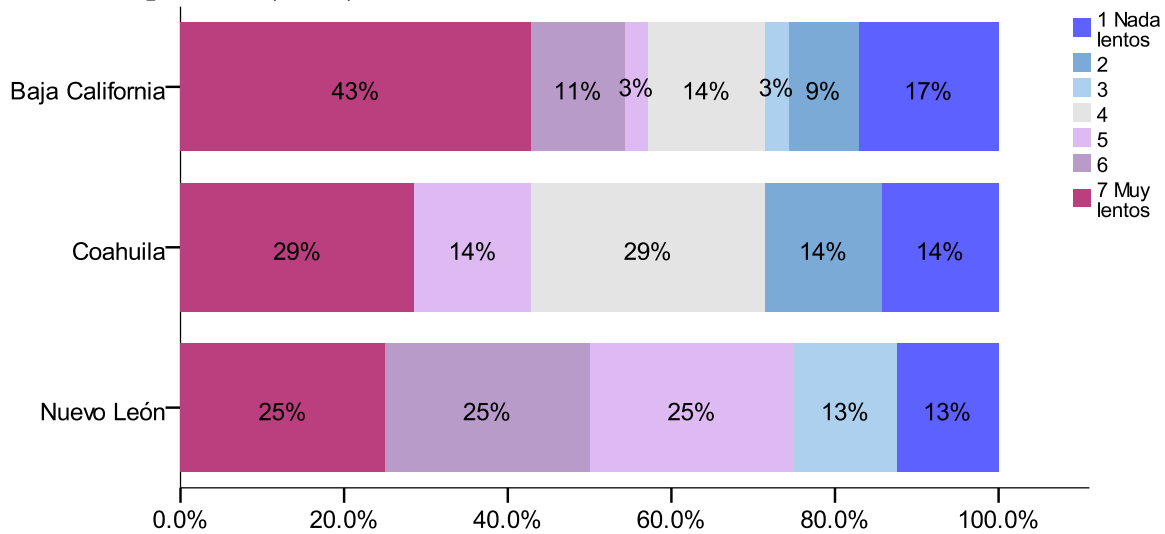
**Time to disposition (fraud): Judges**



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



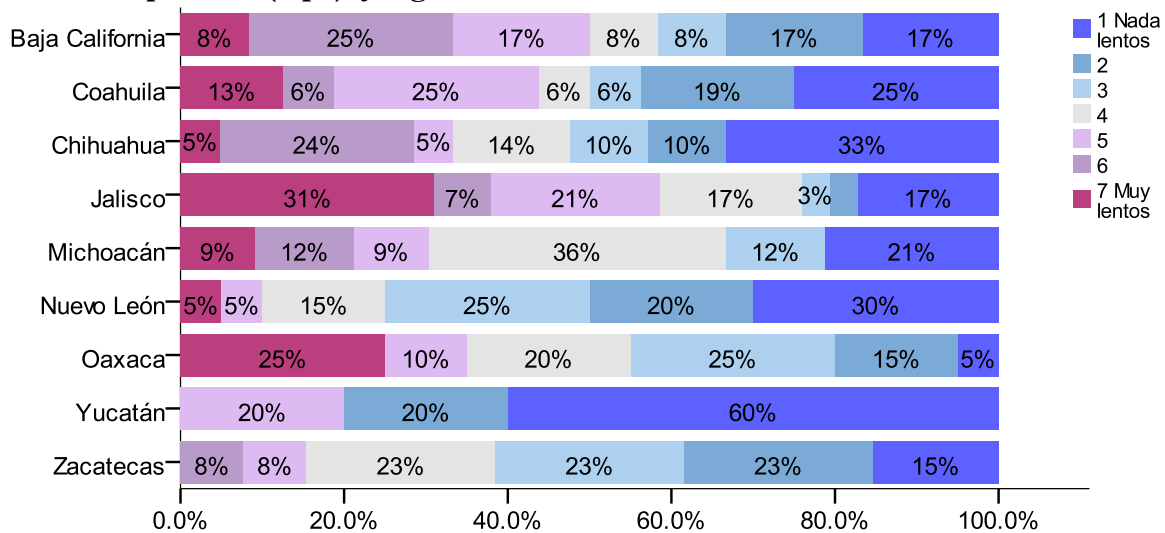
### Time to disposition (fraud): Defenders



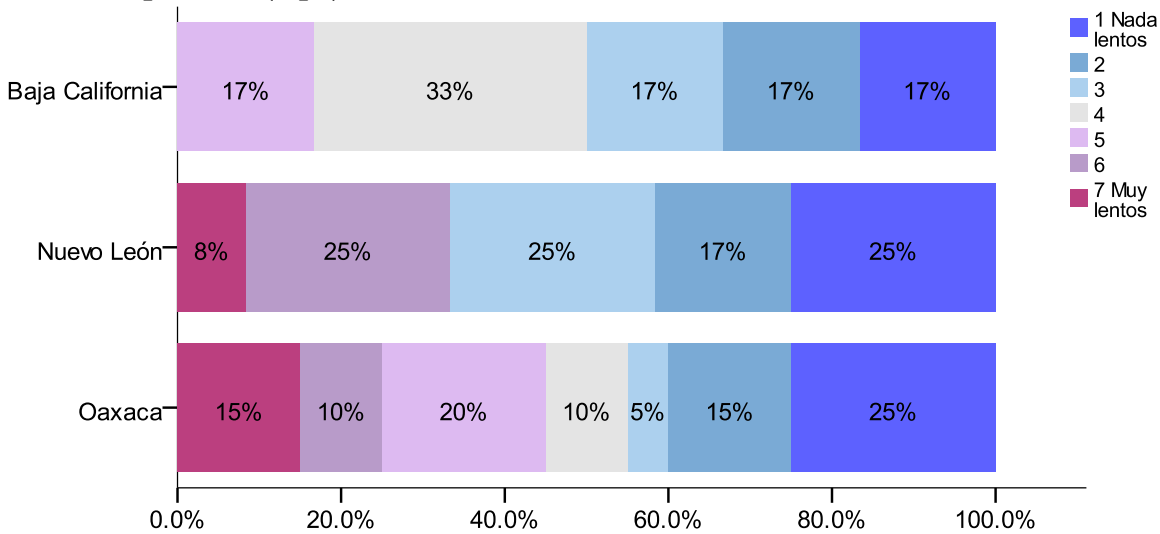
**Figure 26: Time to disposition (rape)**

*What is your opinion about the average time that it takes for the resolution of criminal proceedings in the case of: rape (violación) [bIII.1b.iv]?*

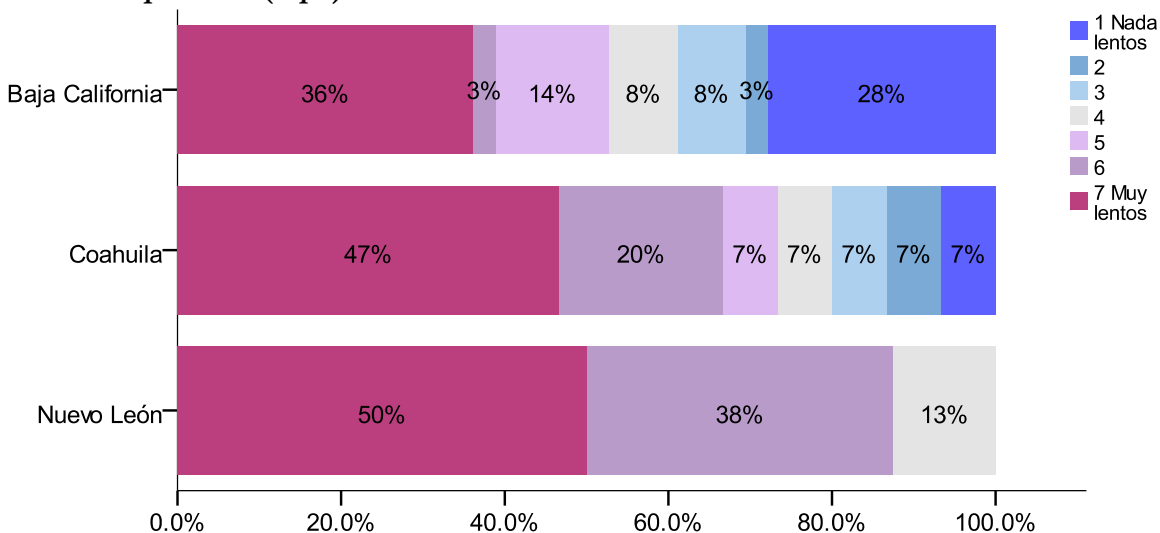
### Time to disposition (rape): Judges



### Time to disposition (rape): Prosecutors



### Time to disposition (rape): Defenders



## Reduction of Backlog and Delay

Alongside time to resolution (discussed above), another way to operationalize the concept of efficiency is to measure the extent to which existing backlogs or delays are being reduced. To this end, the survey asked respondents to gauge whether this reduction was taking place in the first-instance courts in their state (*abatimiento del rezago en los juzgados*). Again, there is wide variation in responses. However, in no state or profession is there a majority that thinks this is not happening, which is a good sign. Conversely, though, there are some states or professions without a majority saying this reduction is happening, which could point to a need for greater effort to promote efficiency in the states. For instance, among judges in Jalisco and Oaxaca, prosecutors in Oaxaca, and public defenders in both Baja California and Nuevo León, less than half of respondents expressed some level of positive response that backlogs and delays are being reduced. On the

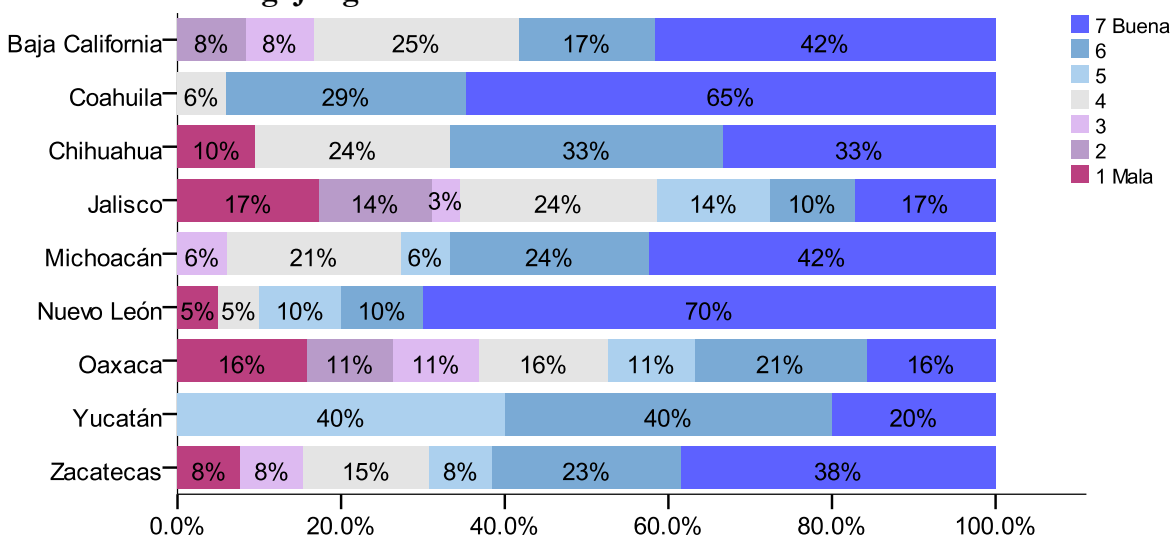
positive side, more than 60% of judges in Coahuila, Michoacán, Nuevo León, Yucatán and Zacatecas report that backlogs are being reduced. Indeed, 90% of judges or more fall into this category in Coahuila, Nuevo León, and Yucatán.

Among attorneys, 100% of prosecutors in Nuevo León express some positive response to this question, while about half of prosecutors do so in Baja California and Oaxaca. Among public defenders, 87% report a positive assessment of reductions in delays in Coahuila, but only about a third do so in Baja California and only a fourth in Nuevo León. The disparity in perception between legal professionals in Nuevo León is particularly stark; specifically, while 90% of judges and 100% of prosecutors positively assess reductions in delays, only 26% of public defenders do so, revealing at least a 64-point gap between (a) defenders and (b) judges and prosecutors.

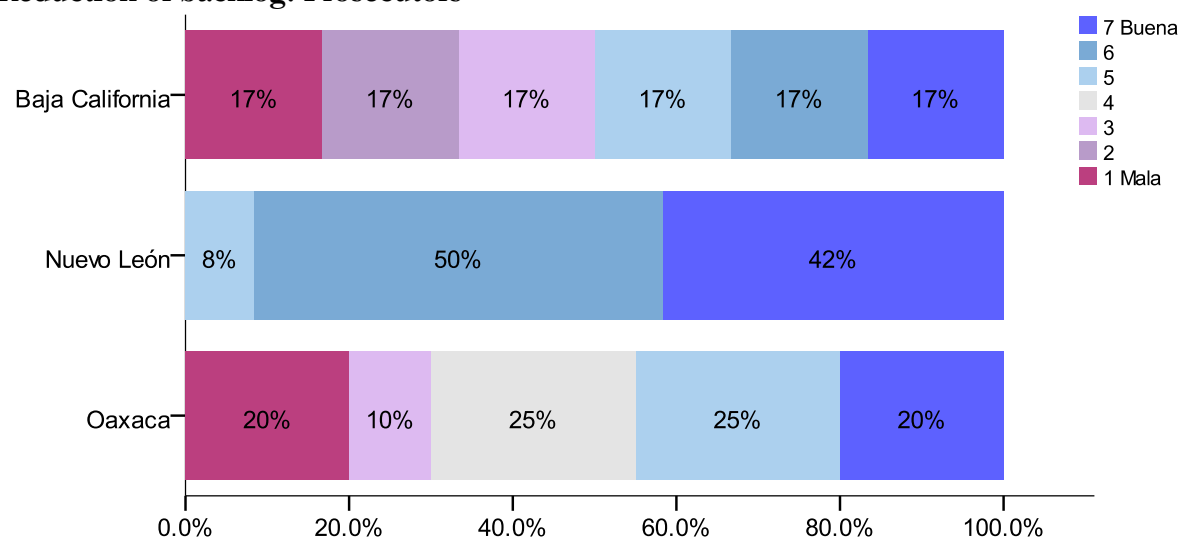
**Figure 27: Reduction of backlog and delay**

*What is your opinion of the effort to reduce backlogs/ delays in first-instance courts (abatimiento del rezago en los juzgados) [bIII.1d.iv]?*

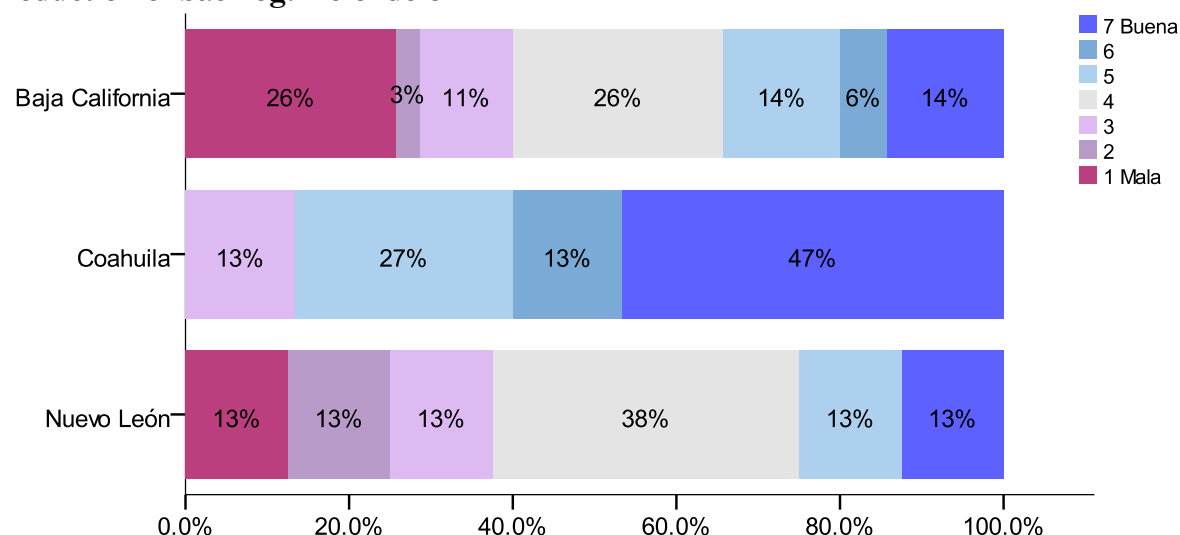
**Reduction of backlog: Judges**



### Reduction of backlog: Prosecutors



### Reduction of backlog: Defenders



## Quality of Criminal Court Decisions

In an effort to measure the satisfaction of judicial actors with the real outcomes of criminal cases, the *Justiciabarómetro* survey inquired about the quality of decisions made by local criminal courts (*calidad de las decisiones emitidas por los juzgados penales*). It should be noted that this is a measure of judicial performance that has thus far largely escaped systematic attention and has been neglected by the expanding literature on judicial politics, comparative courts, and justice reform. Most of this literature examines variables that are easier to measure, such as institutional design or the direction of votes.<sup>19</sup> Thus, this variable alone constitutes a novel contribution to studies in this area.

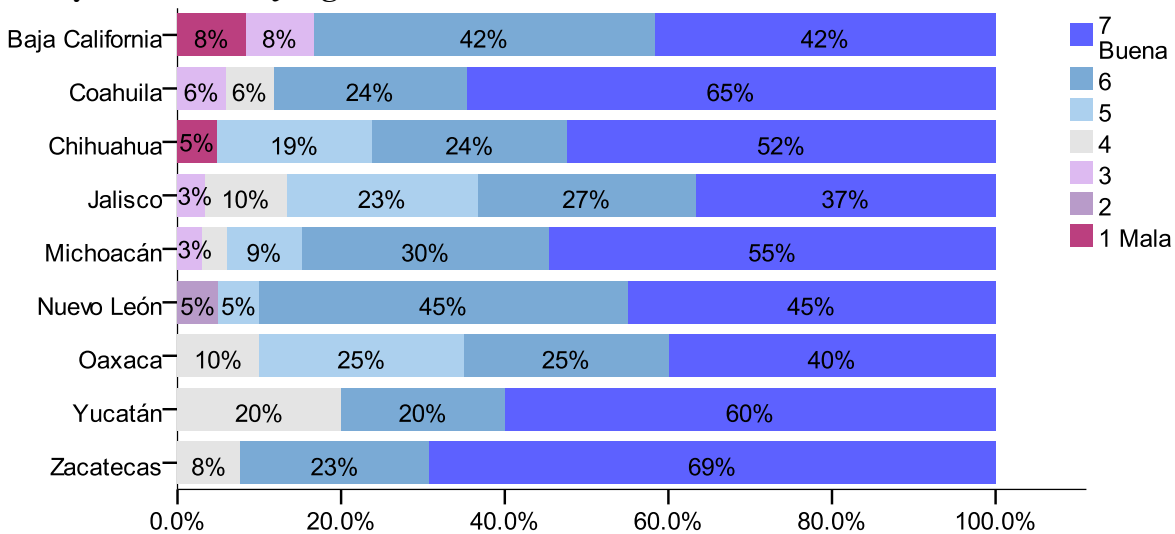
Overall, a majority of legal professionals are satisfied with these outcomes. Indeed, including all 276 respondents, 84% expressed some positive assessment (5-7) of the quality of criminal court

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

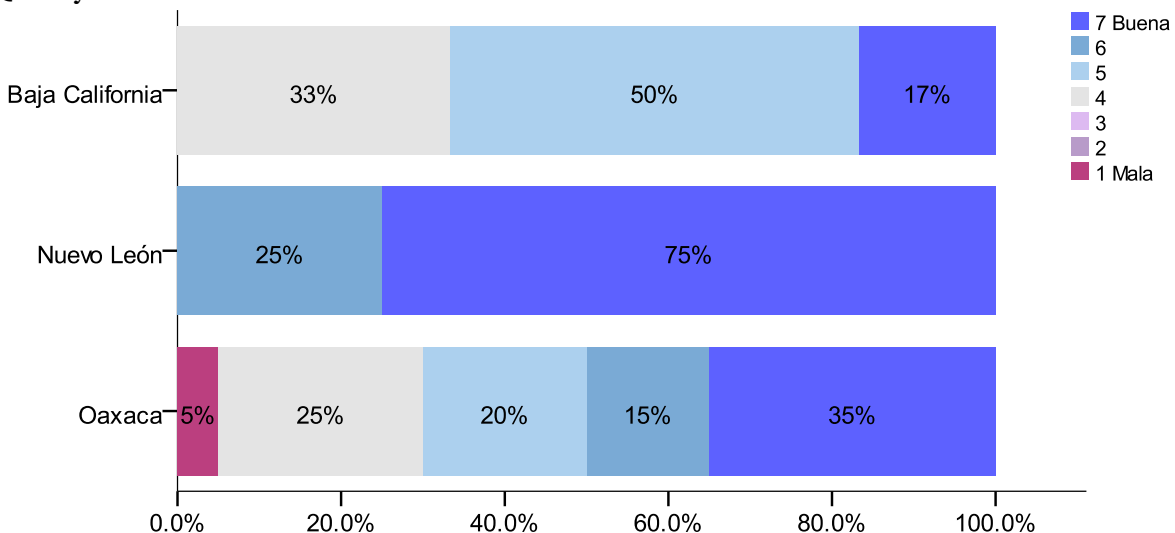
**Figure 28: Quality of criminal court decisions**

*What is your opinion of the quality of decisions in first-instance criminal courts in your state [bIII.1d.i]?*

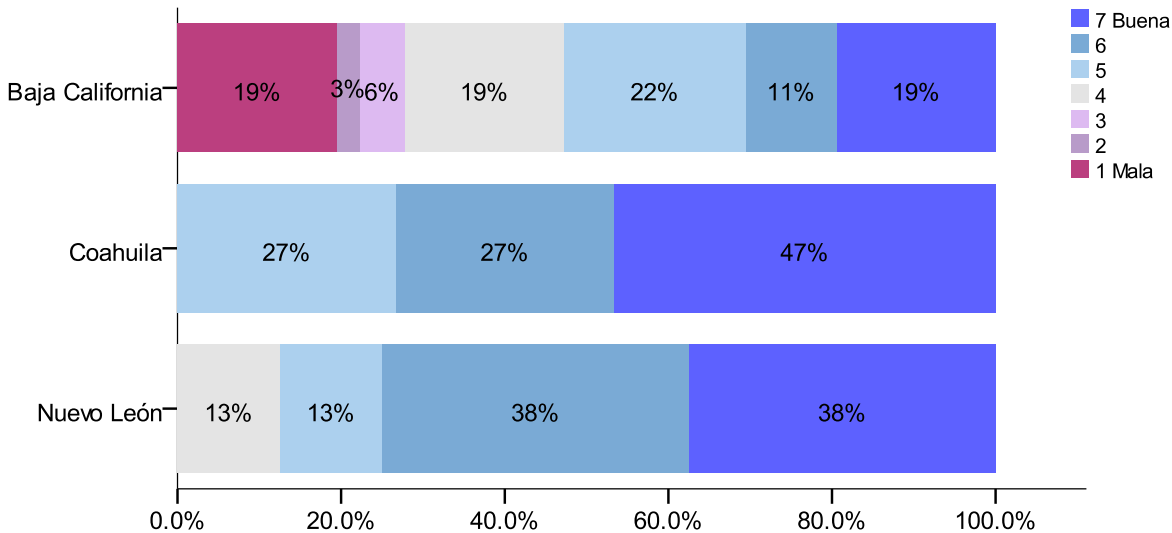
**Quality of decisions: Judges**



**Quality of decisions: Prosecutors**



**Quality of decisions: Defenders**



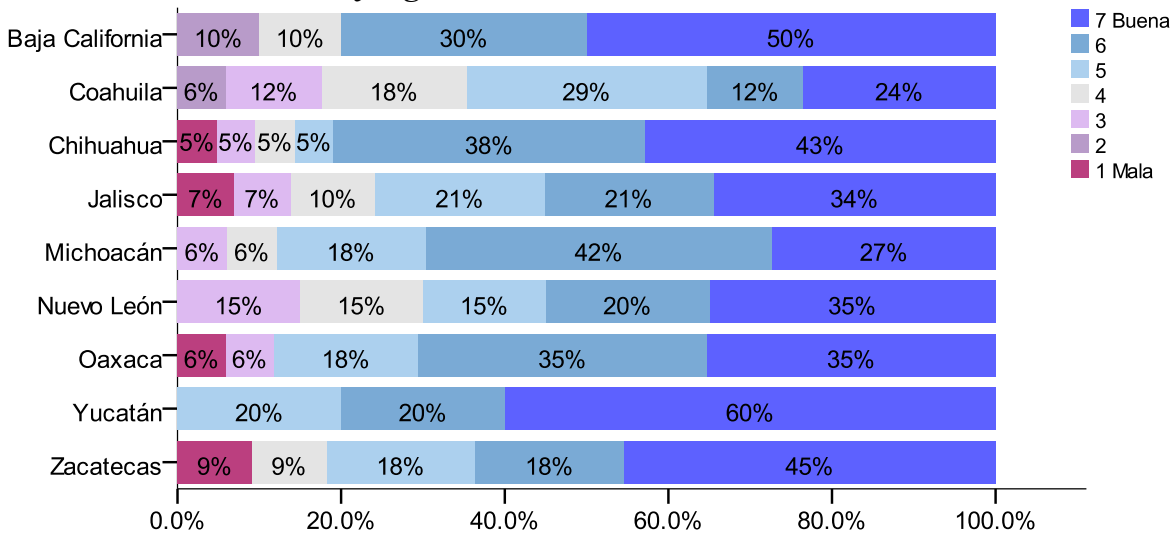
## Enforcement of Sentences

While many of the prior questions address inputs to courts and the judicial process, and the last section on the quality of decisions addresses outputs to some extent, studies of the justice sector are also concerned with the extent to which judicial outputs have any real traction beyond the courtroom. That is, are judicial decisions -- even the good ones described above -- really observed. Notably, the 2008 criminal justice reform highlights the need for the creation of "enforcement judges" precisely to ensure that decisions are followed, and followed in lawful manner. To this end, the *Justiciabarometro* survey asked respondents to rate the enforcement of decisions. Overall, 71.4% of 266 respondents that answered this question expressed a positive assessment.<sup>20</sup> Further, within each profession, every state had a majority expressing some level of positive opinion. The major exceptions to this general pattern include judges in Coahuila, Jalisco, Nuevo León, and Oaxaca, prosecutors in Oaxaca, and defenders in Baja California and Nuevo León.

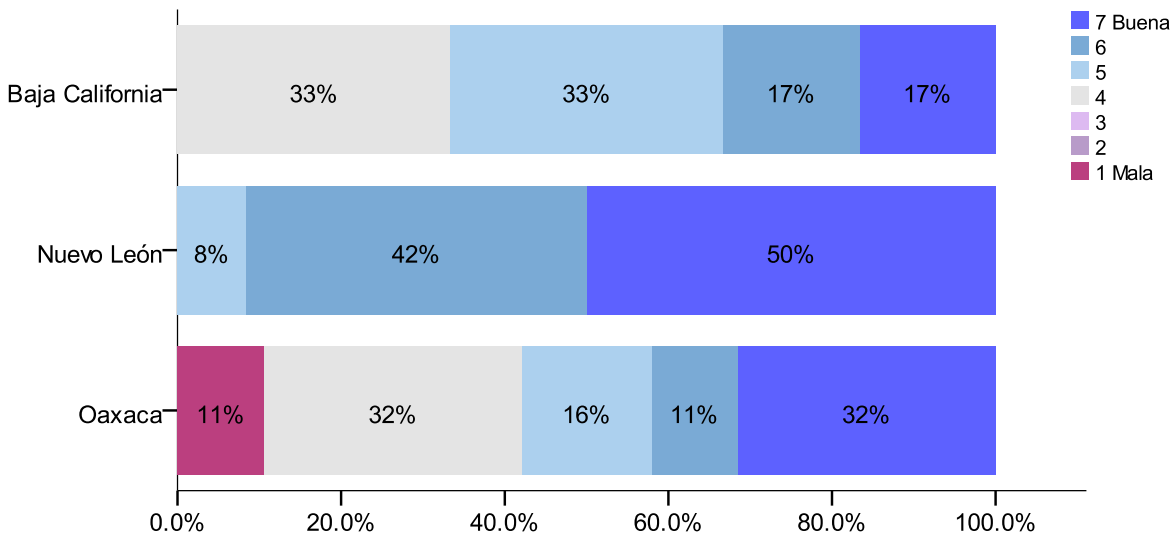
**Figure 29: Enforcement of sentences**

*What is your opinion of the enforcement of sentences (ejecución de sentencias) in first-instance criminal courts in your state [bIII.1d.ii]?*

**Enforcement of sentences: Judges**

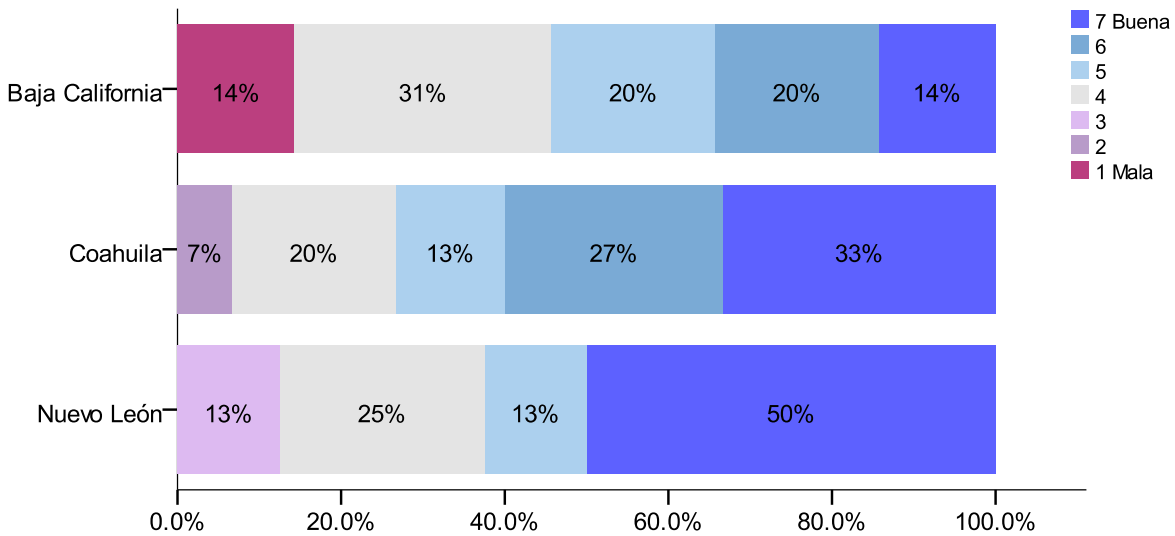


**Enforcement of sentences: Prosecutors**





### Enforcement of sentences: Defenders



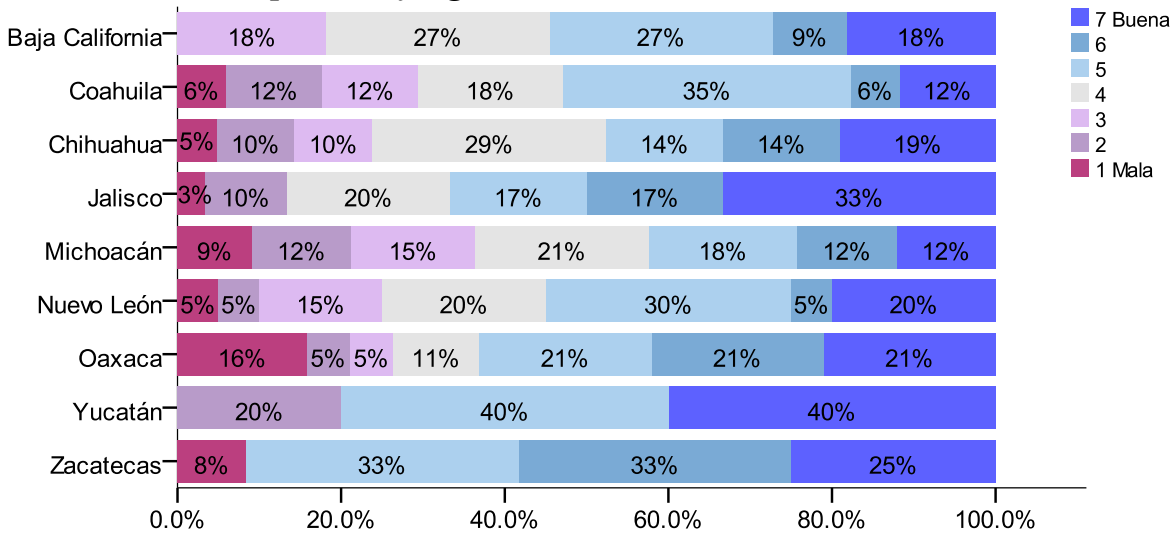
### Victim Restitution/Reparation

The *Justiciabarometro* survey also asked respondents' opinions regarding victim restitution and reparation (*reparación del daño*). Attitudes in this area are currently important because, like the enforcement of sentences above, victim restitution, reparation agreements (*acuerdos reparatorios*) and restorative justice in general (*justicia restaurativa*) are part of the 2008 criminal justice reform (addressed in detail below) that has been filtering through the states. Gauging the attitudes of legal professionals can help identify sources of support or opposition to this central feature of the reform. Overall, approximately 60% (59.8) of 273 respondents expressed some level of positive opinion regarding restitution/reparation (3 did not answer). Across states, there is substantial variation, bounded by Zacatecas on the positive end (84.7% expressing some positive opinion;  $n = 12$ )<sup>21</sup> and Michoacán on the negative end (only 42% positive opinion and 36.4% expressing a negative opinion;  $n = 33$ ). Across professions, majorities in each express some kind of positive opinion, led by prosecutors with 70% expressing a favorable impression. The figures below report the more disaggregated picture across states within each profession. Prosecutors in Nuevo León stand out as none of these respondents expressed any negative opinion regarding restitution/reparation, and 92% of them expressed some level of positive opinion.

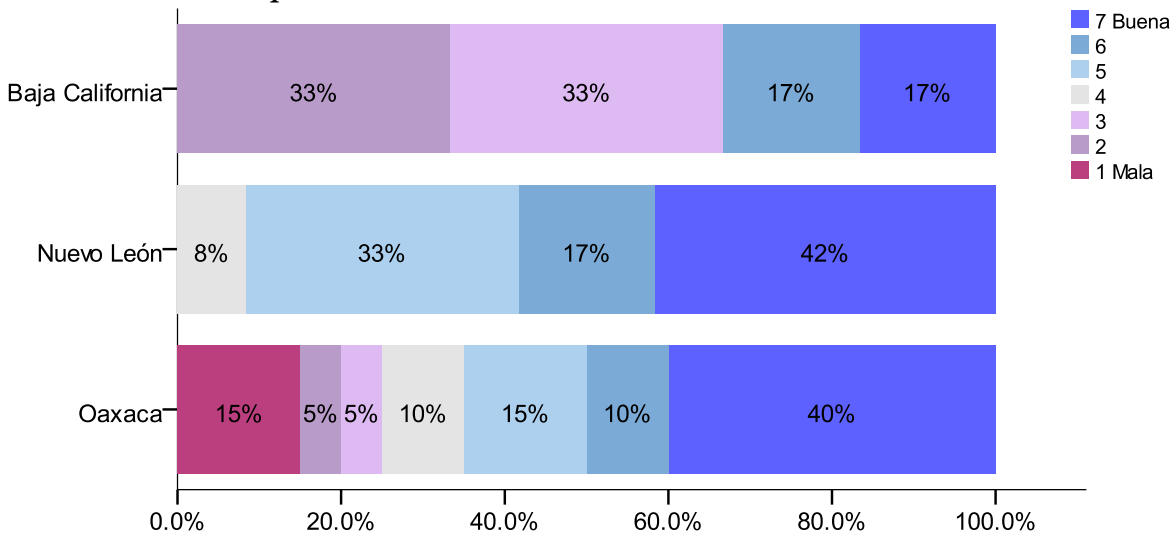
**Figure 30: Victim restitution/reparation**

*What is your opinion of victim restitution/reparation (reparación del daño) [bIII.1d.iii]?*

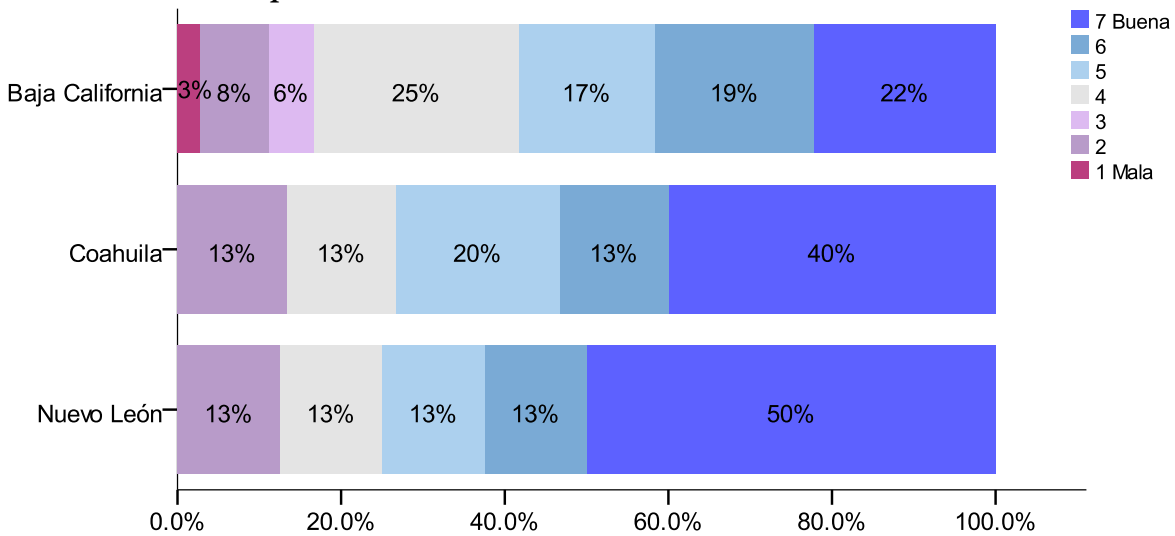
**Victim restitution/reparation: Judges**



**Victim restitution/reparation: Prosecutors**



### Victim restitution/reparation: Defenders



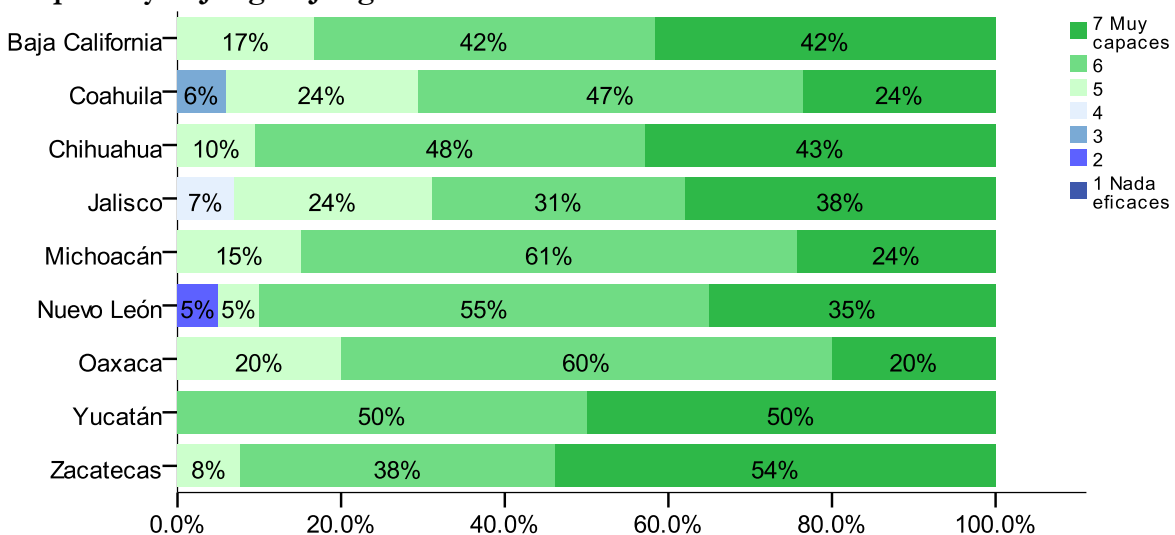
## Competency of Judicial Actors: Judges, Prosecutors, and Public Defenders

The survey also asked questions about the competency of judges. There was widespread agreement across all groups that Mexican judges are very capable, though there was some significant disagreement with this view among a small number of judges and public defenders in a few states. By contrast, judges and public defenders in all states were far more critical of prosecutors, and less likely to say that prosecutors were “very capable.” Prosecutors tended to score themselves roughly as competent as their colleagues.

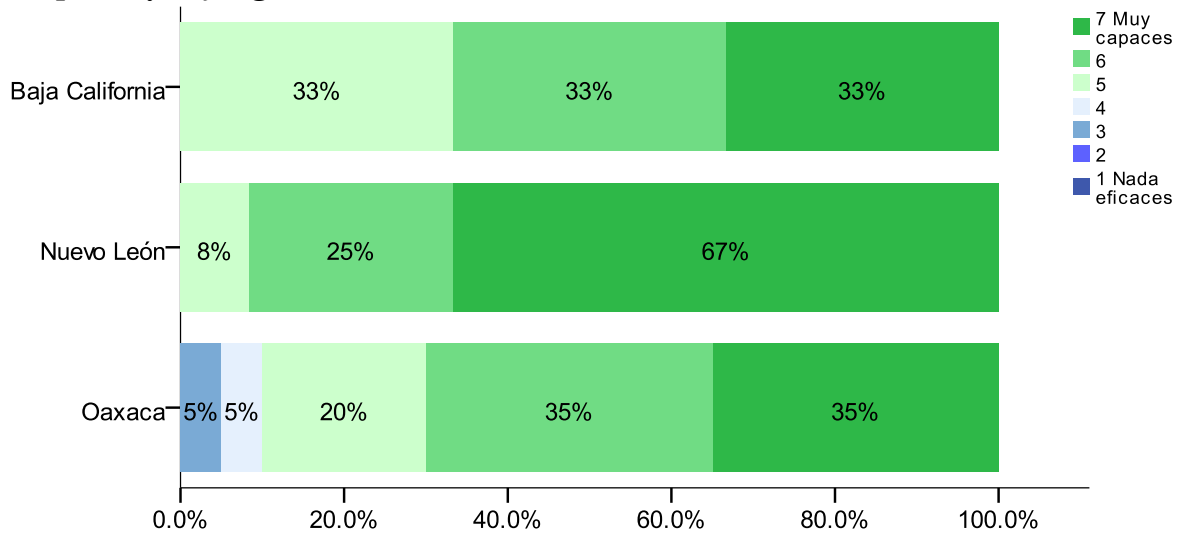
**Figure 31: Competency of judges**

*What is your opinion about the competency of judges? [CII.3f.iii]*

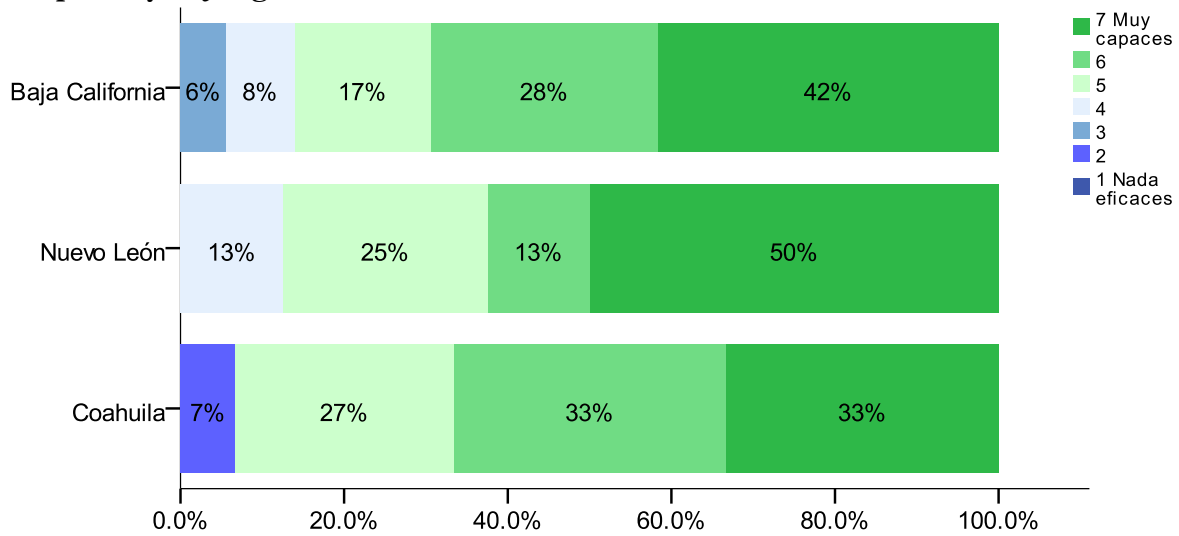
### Competency of Judges: Judges



### Competency of Judges: Prosecutors



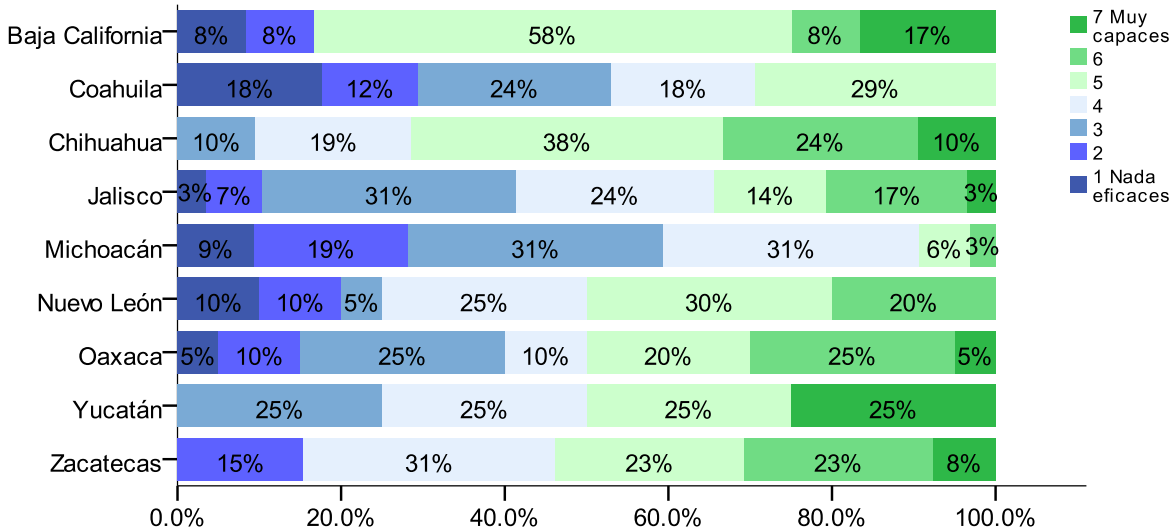
### Competency of Judges: Defenders



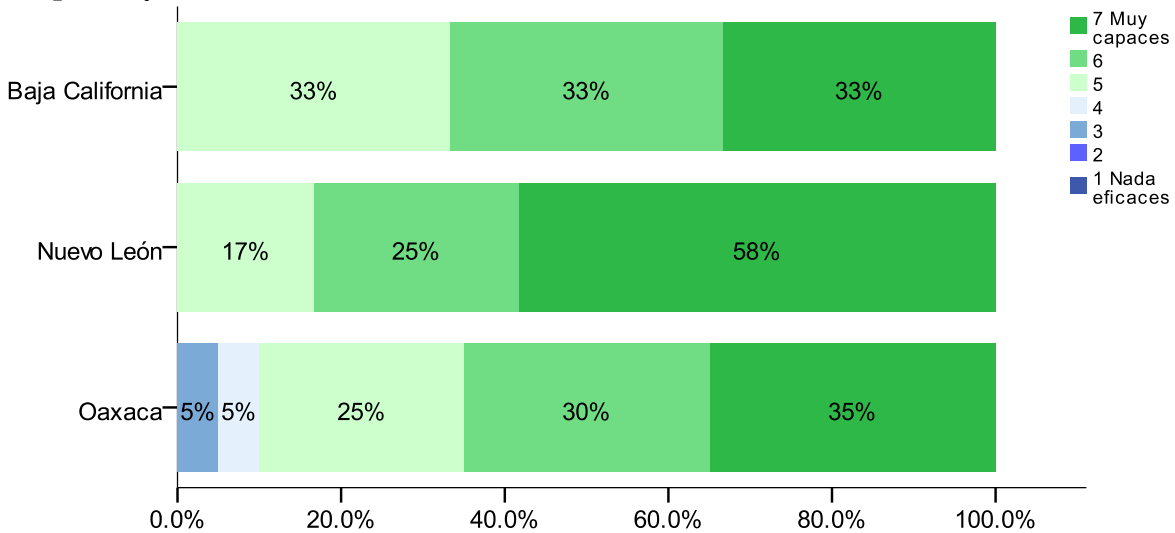
**Figure 32: Competency of prosecutors**

*What is your opinion about the competency of public prosecutors? [CII.3f.i]*

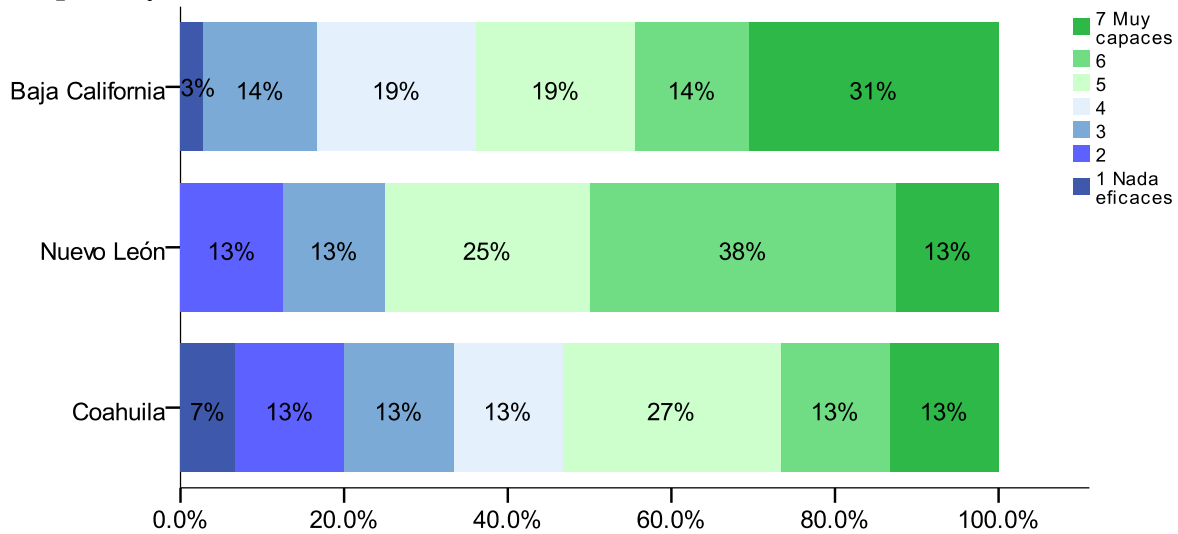
**Competency of Prosecutors: Judges**



**Competency of Prosecutors: Prosecutors**



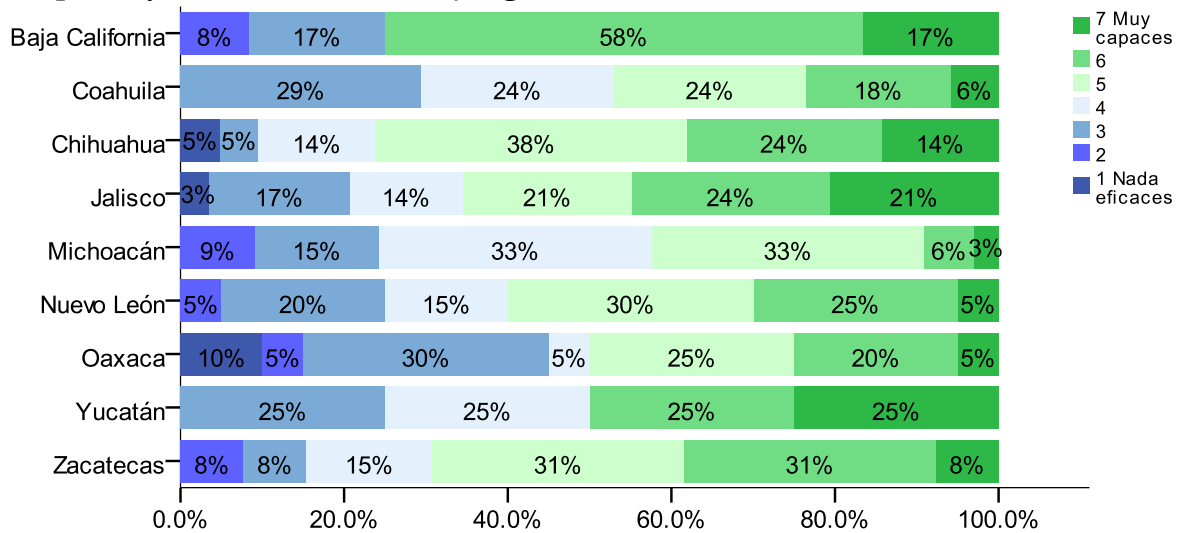
### Competency of Prosecutors: Public Defenders



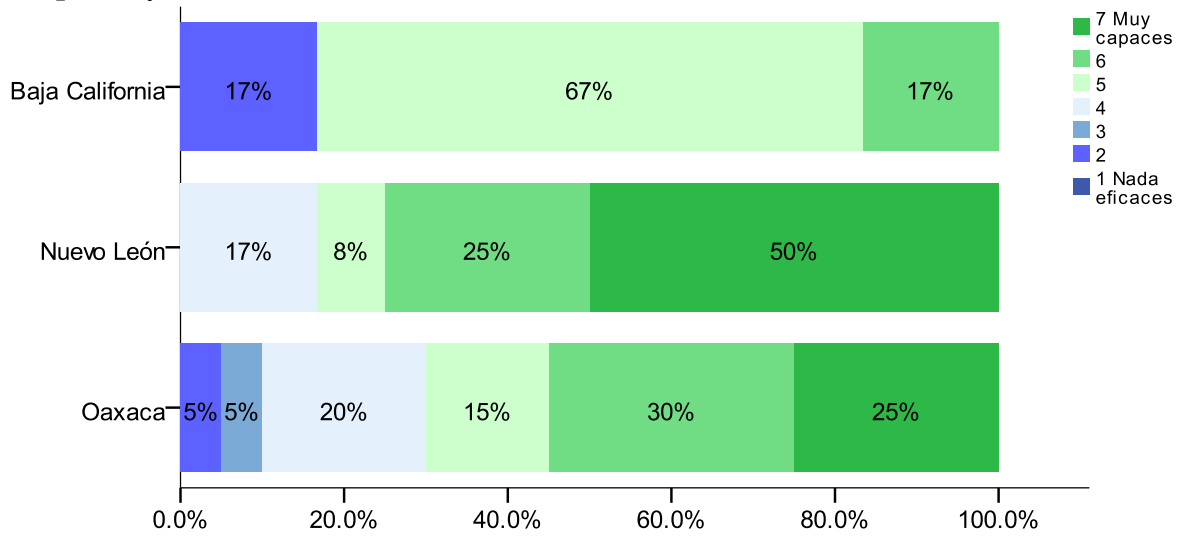
**Figure 33: Competency of public defenders**

*What is your opinion about the competency of public defender? [CII.3f.ii]*

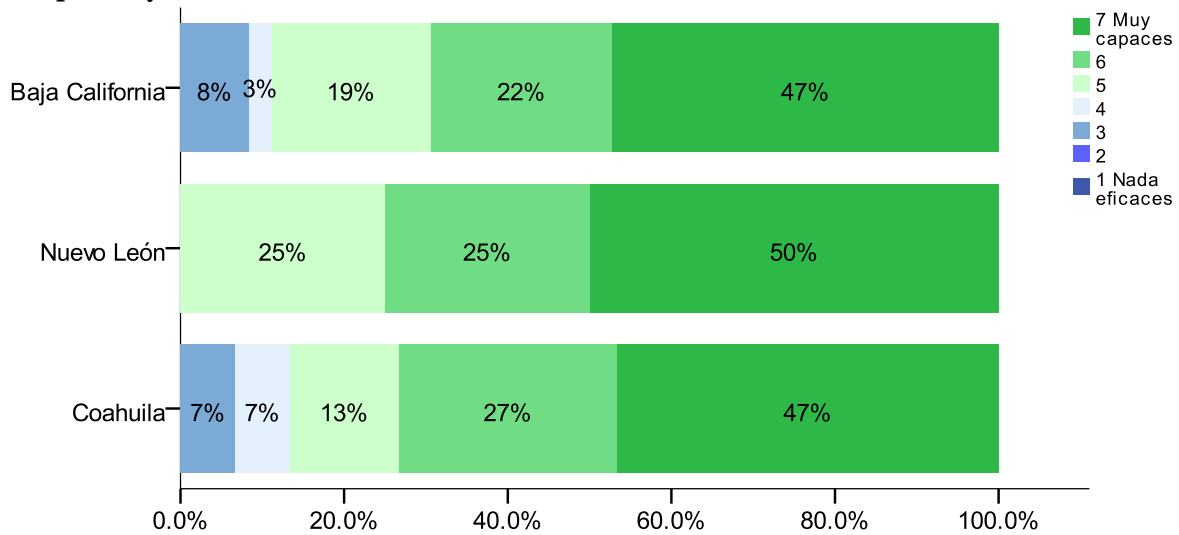
### Competency of Public Defenders: Judges



### Competency of Public Defenders: Prosecutors



### Competency of Public Defenders: Defenders



## Perceptions of Lawfulness, Corruption, and Due Process

An issue of enduring concern in studies of the Mexican justice system -- and Latin American justice systems generally -- is the presence and extent of corruption and abuse by authorities. From police officers to high-level judges and government officials, corrupt practices erode both (a) the real functioning of legal institutions, diminishing their productive output, and (b) the public image of these institutions, diminishing public trust and confidence and thereby tearing further at the social fabric of democracy. Related to this concern are questions regarding the development of a “culture of lawfulness” within the criminal justice system itself, as well as adherence to basic due process to protect the rights of the accused. For example, previous surveys of prisoners suggest that corruption and abuse are significant problems in the criminal justice system, including the use of bribery and torture by investigative police and prosecutors (Azaola and Bergman, 2007).

Several questions in the Justiciabarómetro survey capture attitudes among judges, prosecutors, and public defenders regarding these issues. These questions inquire directly about perceptions of corruption, but also inquire about attitudes towards lawful- versus extra-judicial conduct (e.g., acting outside the law to capture criminals) and adherence to due process (e.g., protecting the rights of the accused in judicial proceedings). We begin by examining respondents' attitudes toward “lawfulness,” which reveal that there is widespread acknowledgement that authorities at least *should* be bound by law in their efforts to combat crime.

### Lawfulness

First, we consider the extent to which there is tolerance for illegal conduct among respondents. Even in an anonymous survey, few respondents may willingly proclaim their acceptance of or participation in illegal conduct. At a minimum, such a question ensures that respondents are paying attention to the survey, and help to establish respondents' acknowledgement of the broader social expectation that lawful conduct *should* be the norm, whether or not they truly believe this to be the case or act accordingly. Predictably, among nearly all respondents, there was generalized rejection of the idea that “illegal conduct” is acceptable, provided no one gets hurt. Baja California and Coahuila are the only states that register substantial “noise” on this kind of attitudinal radar, especially Baja California, where about 10% of judges expressed “total agreement” with this statement. However, respondents overwhelmingly rejected the acceptability of illegal conduct, as 91% of respondents (248 of 273) expressed “total disagreement” with this idea.<sup>22</sup>

Another perspective on this question emerges from a comparison of responses to two questions: (1) whether, in order to capture criminals, authorities must always respect the law; and (2) whether, in order to capture criminals, it is occasionally acceptable for authorities to operate outside the law (*al margen de la ley*). These two questions (AIV.1e.iv4 and AIV.1e.v4) are essentially mirror images of each other -- alternative ways of asking the same thing -- and allow us to verify the consistency of respondents. That is, respondents who answer affirmatively to the first question should answer negatively to the second. Preliminary statistical tests reveal that this is the case, as the two variables



are negatively correlated, though not very strongly ( $r=-.104$ ), and a simple bivariate regression shows the first variable is a significant predictor of the second (at the .10 level;  $p=0.088$ ).<sup>23</sup> As can be seen in the figures below, the modal category of the responses to these two questions essentially flips from "total agreement" that authorities should respect the law to "total disagreement" that authorities can occasionally operate outside the law. In short, those who answer that the law should always be respected also tend to answer that occasional departures from lawful behavior are not acceptable.

Even so, with regard to the second question, while approximately 68% of respondents among all professions and states disagreed to at least some extent that authorities can occasionally operate outside the law, roughly a fourth (28.2%) agreed on at least some level that authorities can do this. In fact, the responses produced a marked bimodal distribution, indicating a polarization of views on the topic, with 62.3% expressing the most law abiding opinion ("totally disagree") and a full 22% expressing the polar opposite opinion ("totally agree"). Overall, 28.2% of the 273 respondents who answered this question expressed at least some tolerance for occasional illegal conduct in the pursuit of criminals. Disaggregating by profession, the overall bimodal distribution remains, demonstrating that it is not necessarily a professional dynamic driving the polarized views on this issue. Again, there is overwhelming agreement with the first question -- that in capturing criminals the law should always be respected -- but the bimodal patterns emerge with regard to the second question -- that it is occasionally acceptable to operate outside the law.

Disaggregating further, the differences between the two questions remain and the bimodal distribution of responses to the second question breaks down in some states, though it remains in most others to some degree or another. First, regarding the question about always respecting the law, every state in each of the three professions reports at least 80% agreement with this statement. Second, regarding the question about occasionally operating outside the law, the bimodal distribution appears for each profession in certain states. Among judges, the split distribution remains in Baja California, Jalisco, Nuevo León, and Oaxaca. For instance, in Nuevo León, 70% report total disagreement with this statement, while 25% report total agreement. The polarization of view is perhaps starker in Baja California, where 67% of judges report total disagreement and 33% report total agreement. Among prosecutors, similar polarization is apparent in Nuevo León and Oaxaca, and among defenders in Baja California and Nuevo León. Thus, Nuevo León exhibits polarization on this question across all three professions, suggesting that while a majority support strict adherence to lawful behavior, a sizeable minority tolerate occasional violations of regulations or laws in order to capture criminals.

Conversely, other states report attitudes reflecting support for more consistent adherence to lawful behavior. Among judges in Coahuila, Yucatán, and Zacatecas —as well as prosecutors in Baja California— not a single one expressed agreement with the idea of operating outside the law, suggesting a very "by the books" mentality among respondents in these professions in these states. Meanwhile, public defenders seem the least likely to support departures from lawful behavior, with

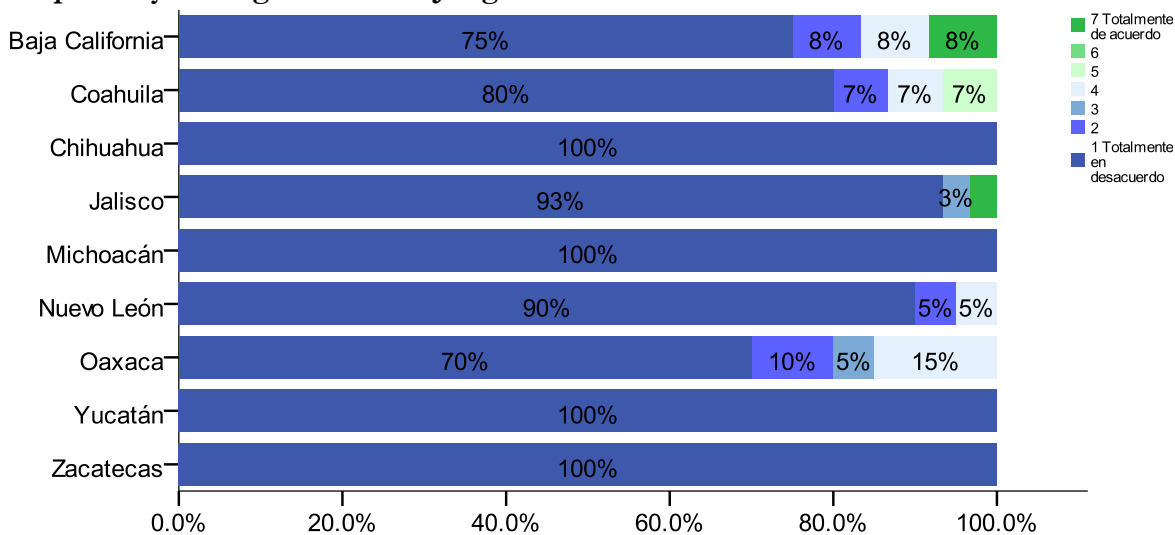
the exception of Baja California where a striking 64% expressed some level of agreement with the underlying proposition. The permissive attitudes of public defenders in Baja California toward occasional illegal conduct by authorities is especially noteworthy and curious when contrasted against the attitudes of Baja California prosecutors, 100% of whom expressed total disagreement with the idea of operating outside the law.

Drawing on data available from other surveys, it is notable that the general pattern found among Mexican judges, prosecutors, and public defenders is not unique to this study. Indeed, among other populations surveyed with regard to illegal conduct in the pursuit of justice, there appears to be a similar degree of tolerance for authorities to operate outside the law than expressed by respondents to this survey. For example, in answers to this same question in a previous *Justiciabarómetro* survey of municipal police in Guadalajara in 2009, only 64.9% said authorities should always act within the law, and 30.7% said they can outside the law in order to capture a suspect.<sup>24</sup> Similarly, nearly 70% (69.35) of respondents in the LAPOP survey, conducted among ordinary citizens throughout Mexico, said that authorities should always act within the law, while 30.65%, roughly the same proportion as among judges, attorneys, and police officers, said authorities can act outside the law.<sup>25</sup> Thus, this distribution of responses does not appear to be unique to our respondents.

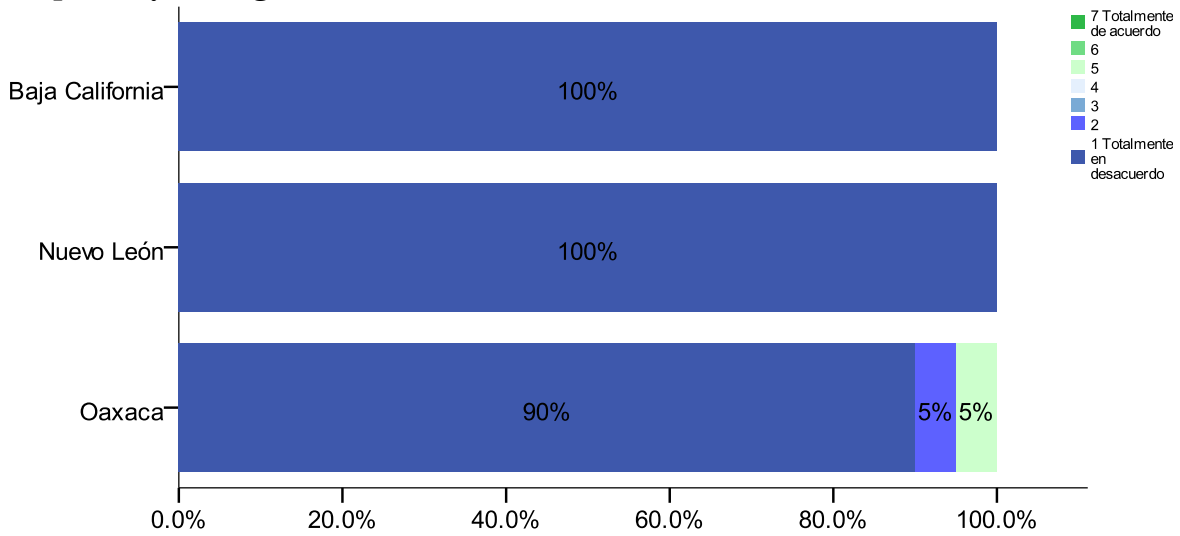
**Figure 34: Acceptability of illegal conduct that is deemed otherwise harmless**

*Indicate to what extent to you agree or disagree with the following statement: “Is it acceptable to be involved in some illegal activities, as long as no one gets hurt” [AIV.1e.i4]*

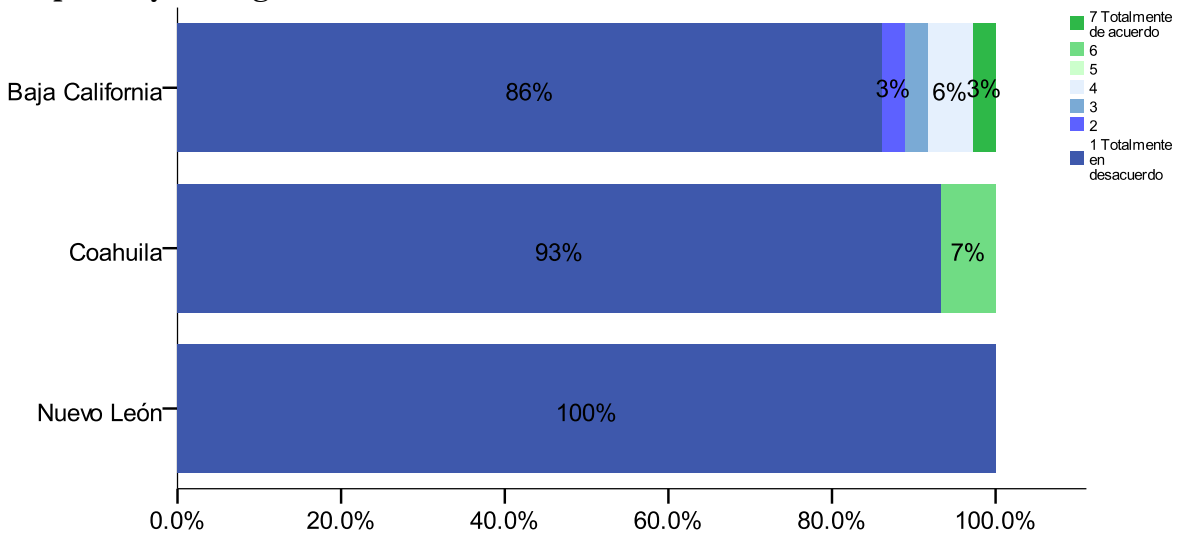
**Acceptability of Illegal Conduct: Judges**



### Acceptability of Illegal Conduct: Prosecutors



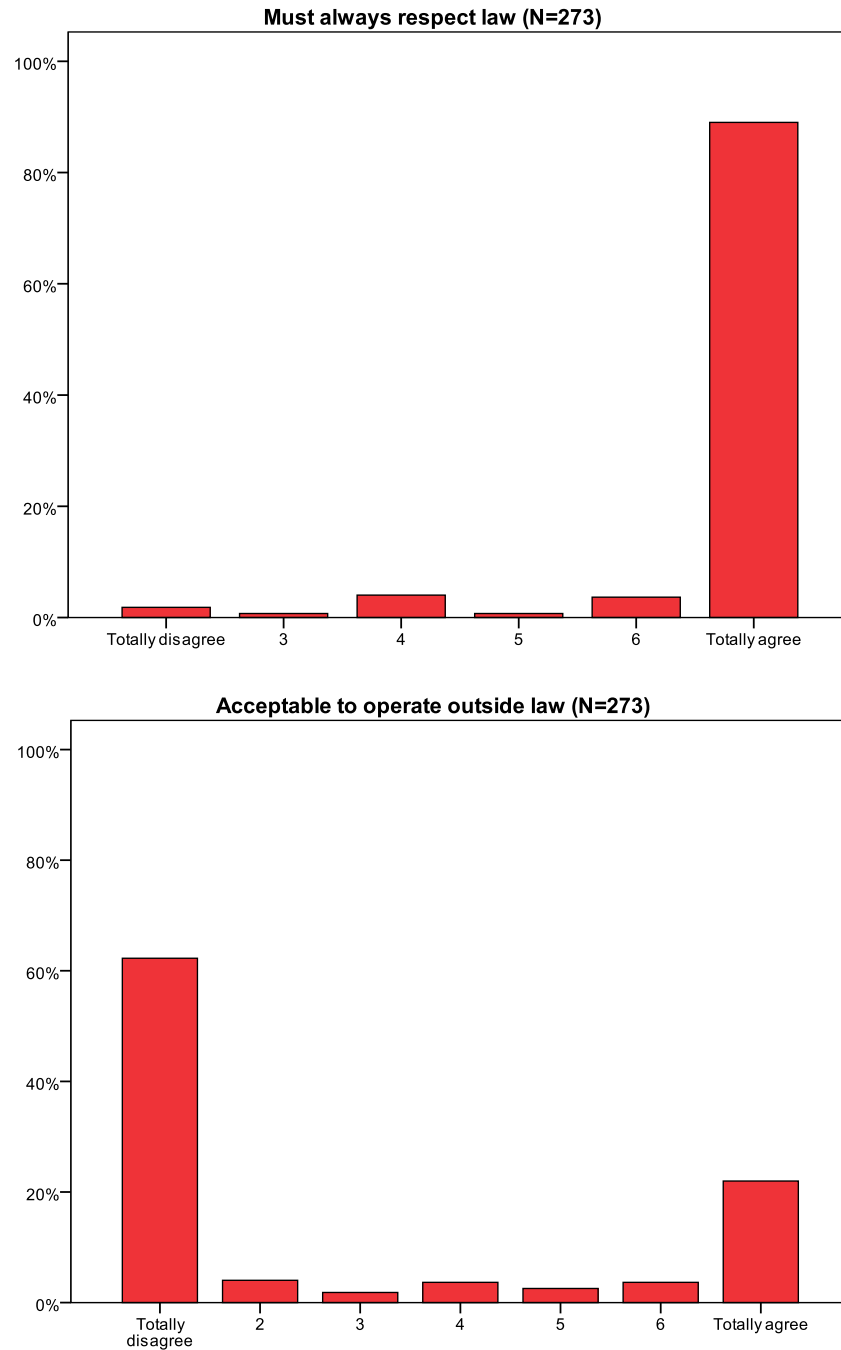
### Acceptability of Illegal Conduct: Public Defenders



**Figure 35: Adherence to the law in the pursuit of justice (All)**

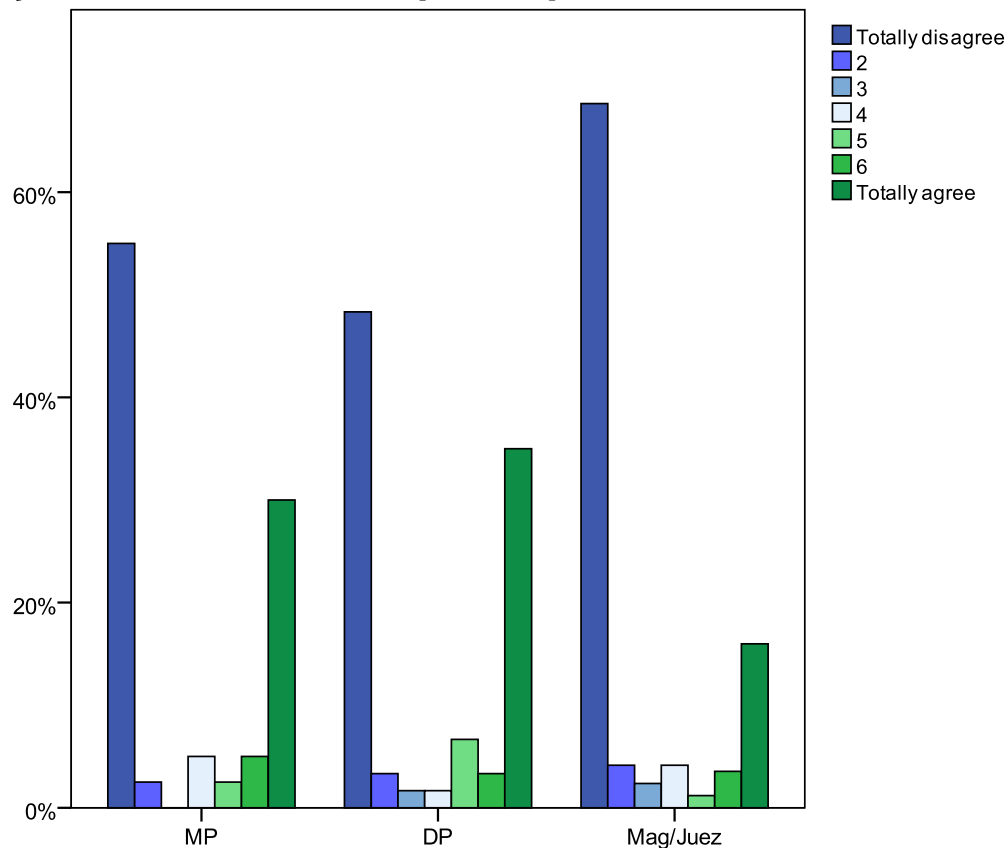
(1) Indicate to what extent to you agree or disagree with the following statement: “In order to capture criminals, authorities should always respect the law” [AIV.1e.iv4]

(2) Indicate to what extent to you agree or disagree with the following statement: “Occasionally, to capture criminals, it is acceptable for authorities to act outside the law” [AIV.1e.v4]



**Figure 36: Adherence to the law in the pursuit of justice (by profession)**

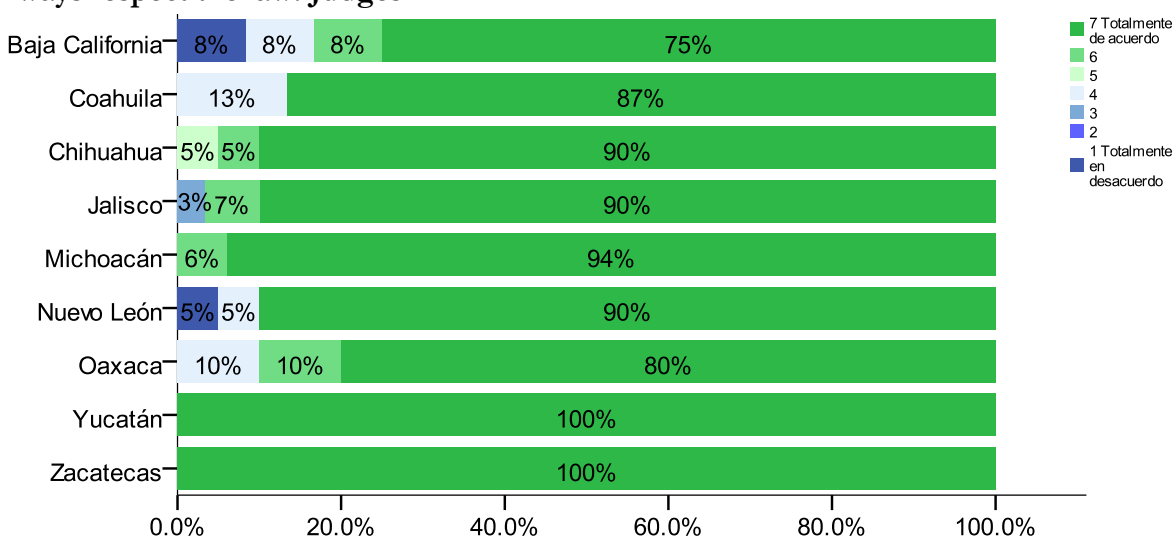
Indicate to what extent to you agree or disagree with the following statement: “Occasionally, to capture criminals, it is acceptable for authorities to act outside the law” [AIV.1e.iv4]



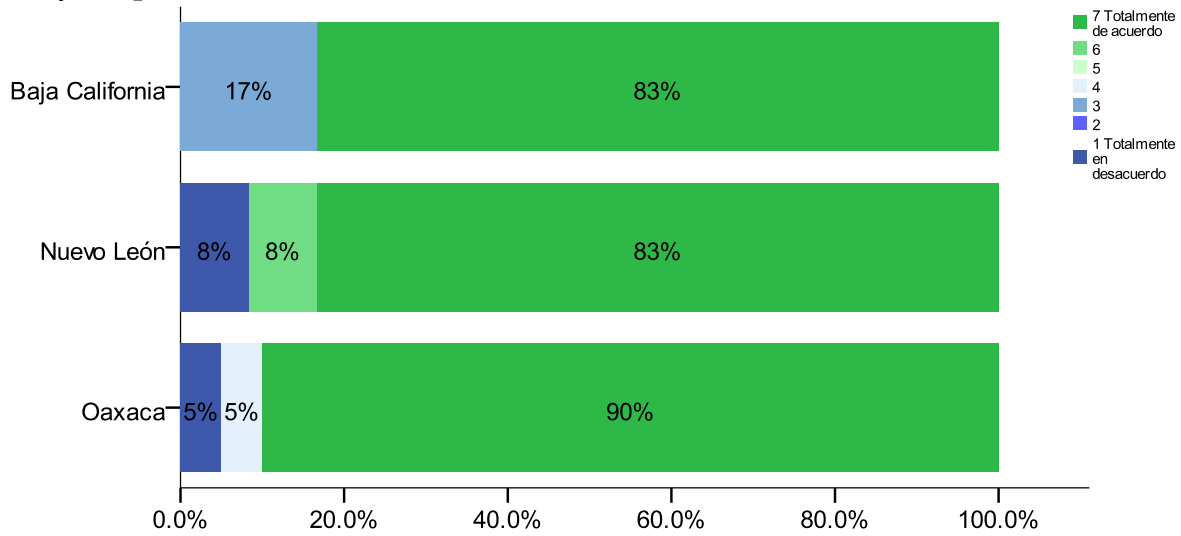
**Figure 37: Adherence to the law in the pursuit of justice I (By profession and state)**

Indicate to what extent to you agree or disagree with the following statement: “In order to capture criminals, authorities should always respect the law” [AIV.1e.iv4]

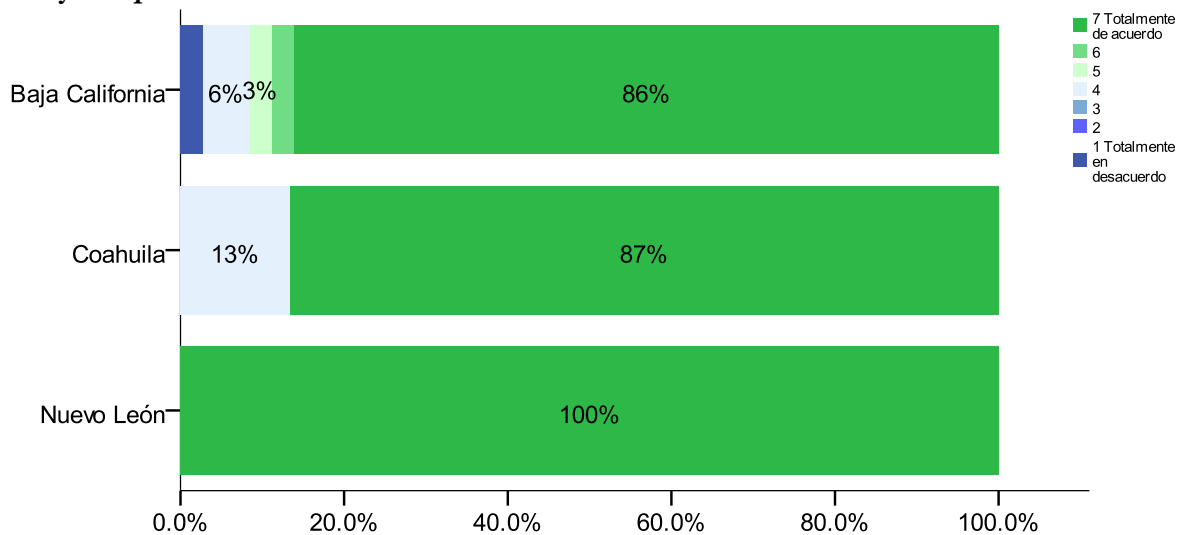
**Always respect the law: Judges**



### Always respect the law: Prosecutors



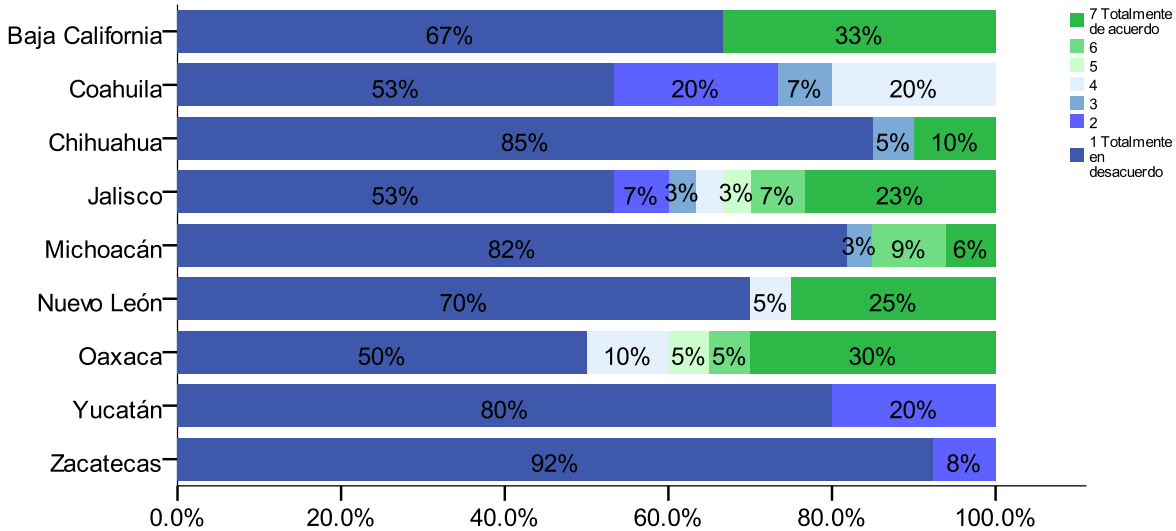
### Always respect the law: Defenders



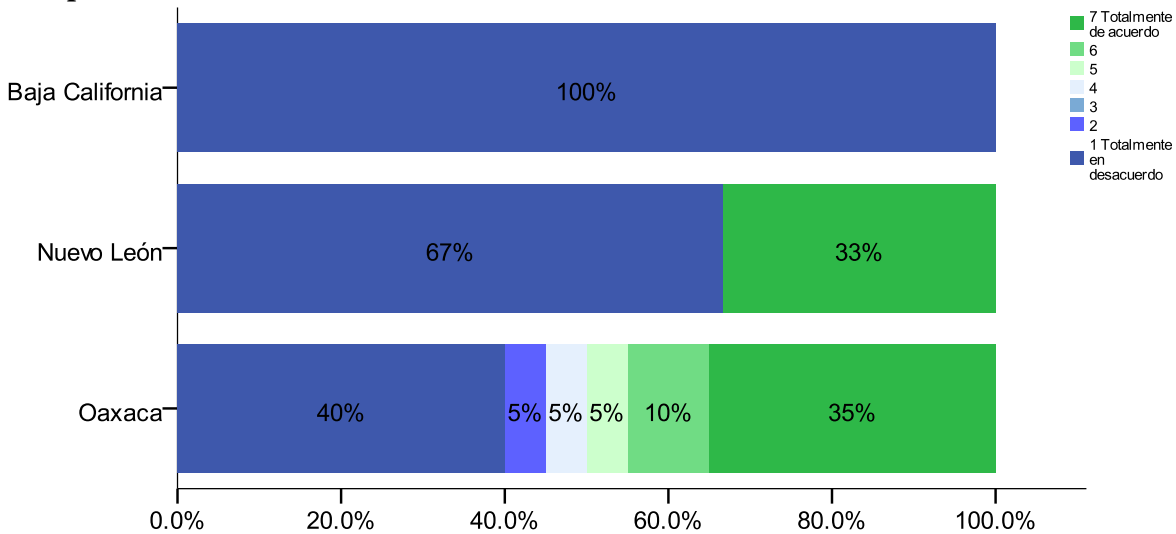
**Figure 38: Adherence to the law in the pursuit of justice II (By profession and state)**

Indicate to what extent to you agree or disagree with the following statement: “Occasionally, to capture criminals, it is acceptable for authorities to act outside the law” [AIV.1e.v4]

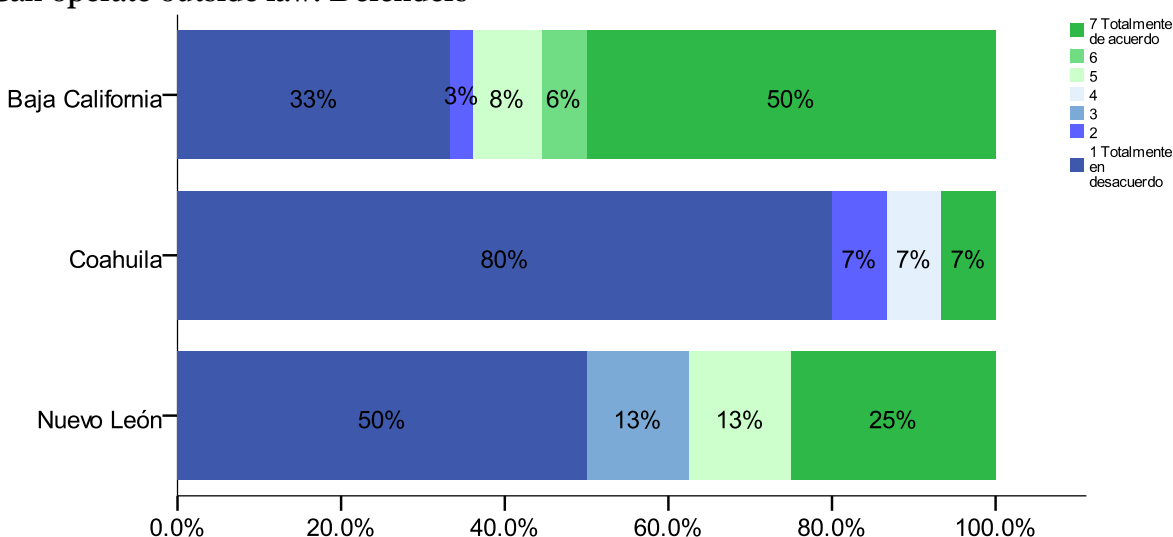
**Can operate outside law: Judges**



**Can operate outside law: Prosecutors**



### Can operate outside law: Defenders



## Judicial Integrity and Corruption

The *Justiciabarómetro* included a series of questions regarding levels of integrity or corruption among judges, prosecutors, and defense attorneys in the criminal justice system. Generally speaking there was a great deal of respect among all three professions for the honesty and integrity of judges, albeit with slightly less strong support among prosecutors. The integrity of public defenders was also generally perceived to be respectable both among public defenders and prosecutors, though judges had less positive appraisals. Both judges and public defenders had distinctly less positive views of prosecutors, despite the generally favorable views prosecutors had of their own integrity.

Disaggregating responses by profession and by state, it is notable that judges had overwhelmingly strong views of their own honesty and integrity, with some exceptions (fewer than 15%) in the states of Baja California, Coahuila, Jalisco, Nuevo León, and Oaxaca.<sup>26</sup> Views of judges' honesty were also overwhelmingly positive among prosecutors and defenders. There were some neutral views among prosecutors in the states of Baja California (17%) and Oaxaca (25%), and some dissenting views among public defenders in Baja California (3%) and Coahuila (7%). Chihuahua, Michoacán, Yucatán, and Zacatecas stand out as the states where judges have the highest regard for themselves, given no dissenting views in these states. It is also noteworthy that both prosecutors and public defenders in Nuevo León uniformly expressed strong respect for the integrity of judges in their state (even when 10% of judges themselves disagreed with this view).

Regarding the integrity of prosecutors, a significant portion of judges in six out of nine states had noticeably negative views: Coahuila (42%), Jalisco (34%), Michoacán (47%), Nuevo León (30%), Oaxaca (35%), and Yucatán (40%). There were only three states where strongly favorable views of prosecutors prevailed among judges: Baja California (66%), Chihuahua (90%), and Zacatecas (69%). Neutral views among judges prevailed only in the state of Yucatán (60%), where there was not a



single judge among five respondents who expressed any level of positive attitude regarding prosecutorial integrity.

A large majority of public defenders in both Baja California (66%) and Nuevo León (75%) expressed positive views of their counterparts in the prosecutor's role. Indeed, overall, public defenders tended to view prosecutors more favorably than judges. Still, a significant portion of public defenders had negative views about the integrity of prosecutors in Baja California (20%), Coahuila (46%), and Nuevo León (26%). In Coahuila, particularly, assessments of public defenders regarding prosecutorial integrity tended to be more unfavorable than favorable. These views of judges and public defenders were contrasted by those of prosecutors themselves, who had overwhelmingly positive views of their own integrity. Indeed, not a single prosecutor expressed doubts about the honesty of prosecutors, and only in the state of Oaxaca did 20% express a merely “neutral” view. The gap between self-perception and the perceptions of both judges and opposing counsel suggests that prosecutors may need to examine their own shortcomings before they can begin repairing their reputations among colleagues in the justice sector.

With regard to the integrity of public defenders, there is a generally positive perception among all three professions in all nine states, though it is again noticeable that the harshest views are expressed by judges. First, in eight of nine states, clear majorities among judges expressed a positive assessment of the honesty of defenders. However, in seven out of nine states there was at least a portion — between 8% and 40%— of judges who dissented from the generally positive appraisal of public defenders’ integrity. Among prosecutors in the three states surveyed, only 5% in Oaxaca expressed any doubts about public defenders integrity. A small percentage of public defenders —3% in Baja California and 7% in Coahuila— also questioned the integrity of their own profession.

A separate question asked about the respondent’s sense of their personal obligation to combat corruption. In the results, we see generalized agreement that respondents believe they, as individuals, do bear such responsibility. This is most striking among prosecutors in Baja California (n=6), defense attorneys in Coahuila (n=15), and judges in Yucatan (n=5), where 100% of these respondents stated they “totally agree” with this statement. Given the higher number of respondents in Coahuila, it might be expected that at least one of the 15 public defenders would state some lower level of agreement with this statement. The fact this does not happen makes the results there particularly impressive.

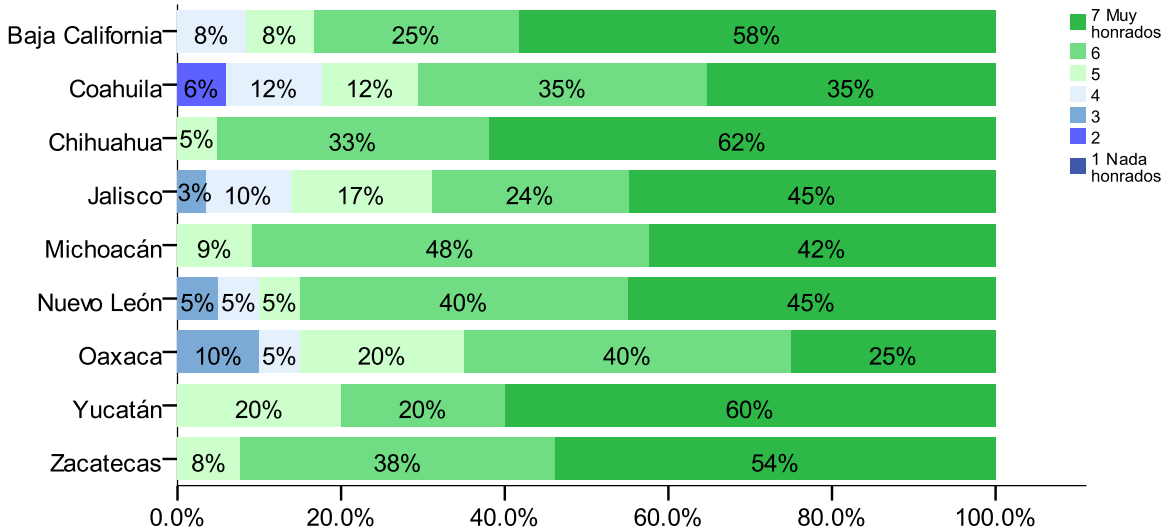
More starkly than in previous figures, respondents choose the extreme “totally disagree” response with greater frequency in this question. Prosecutors in Baja California and Nuevo León, public defenders in Nuevo León, and judges in Yucatán and Zacatecas all stated total disagreement. Baja California, Jalisco, and Oaxaca are the states that register major anomalies. What is striking and disturbing is that it is all judges who are stating “total agreement” with this statement. Two questions arise for further research. Are they speaking for themselves? Or are they just making an observation about the role of corruption in society?

Finally, generally speaking, the high degree of salary satisfaction found in other questions in the survey suggested that low salaries are probably not a likely cause of corruption. A survey question on this specific point yielded results that confirm this assumption, since responses in all three professions and across all states overwhelmingly rejected the idea that corruption is a way of compensating low salaries.<sup>27</sup>

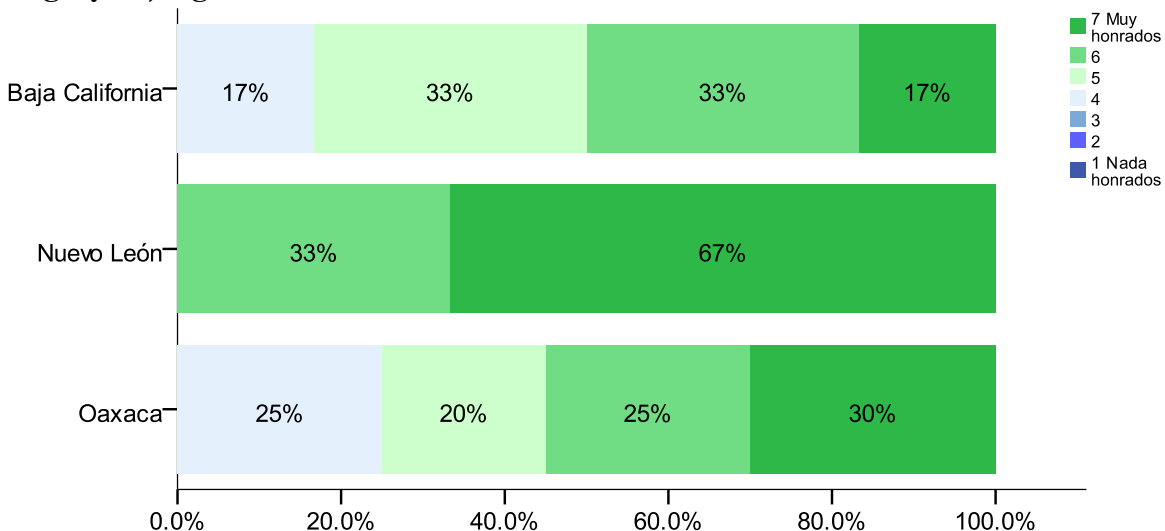
**Figure 39: Integrity of judges**

*What is your opinion regarding the honesty/ respectability of judges [II.3d.iii]*

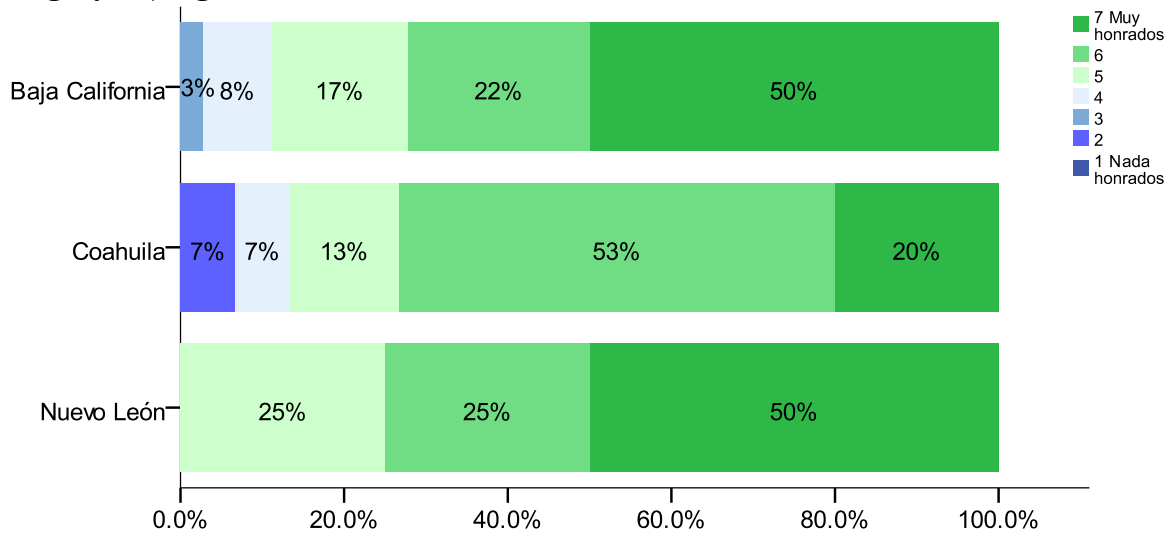
**Integrity of judges: Judges**



**Integrity of judges: Prosecutors**



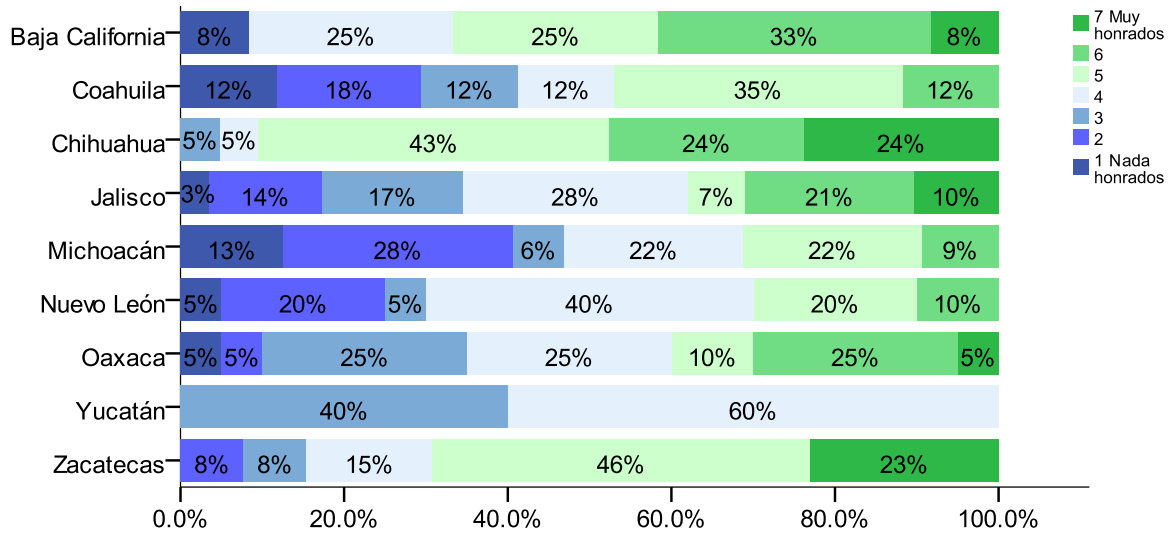
### Integrity of judges: Defenders



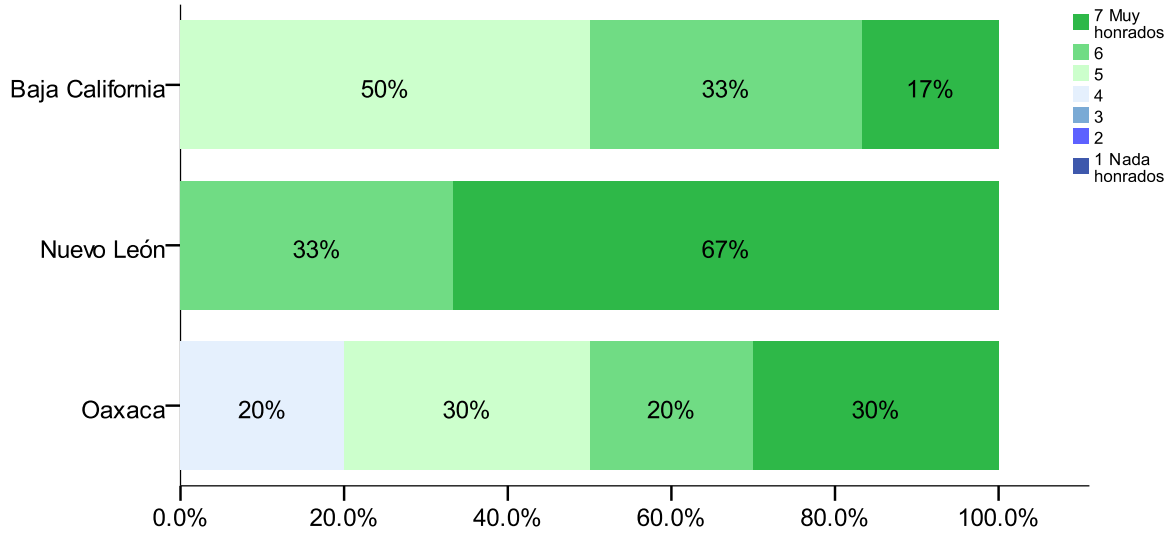
**Figure 40: Integrity of prosecutors**

*What is your opinion regarding the honesty/ respectability of prosecutors [II.3d.i]*

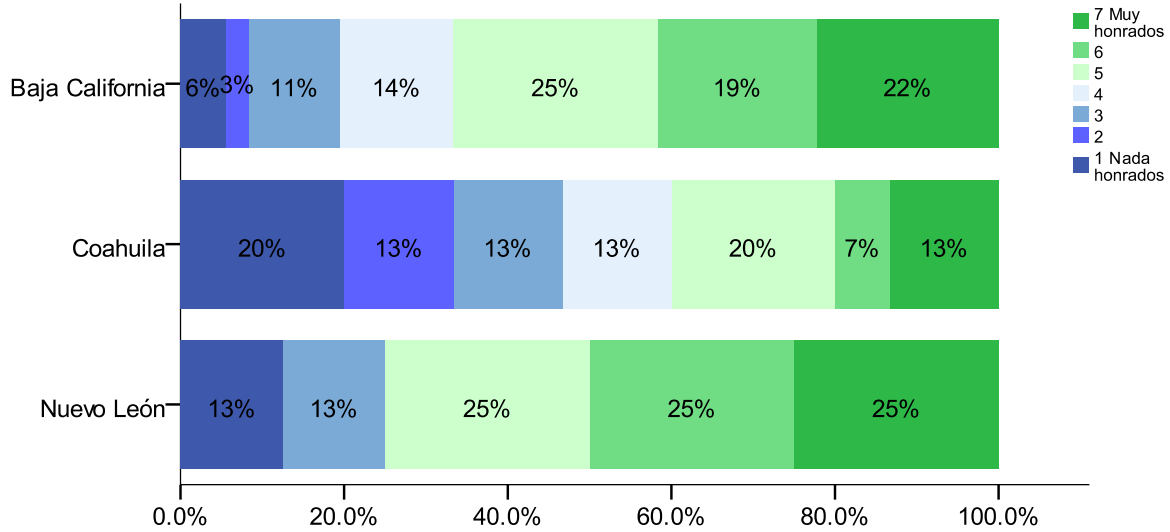
### Integrity of prosecutors: Judges



### Integrity of prosecutors: Prosecutors



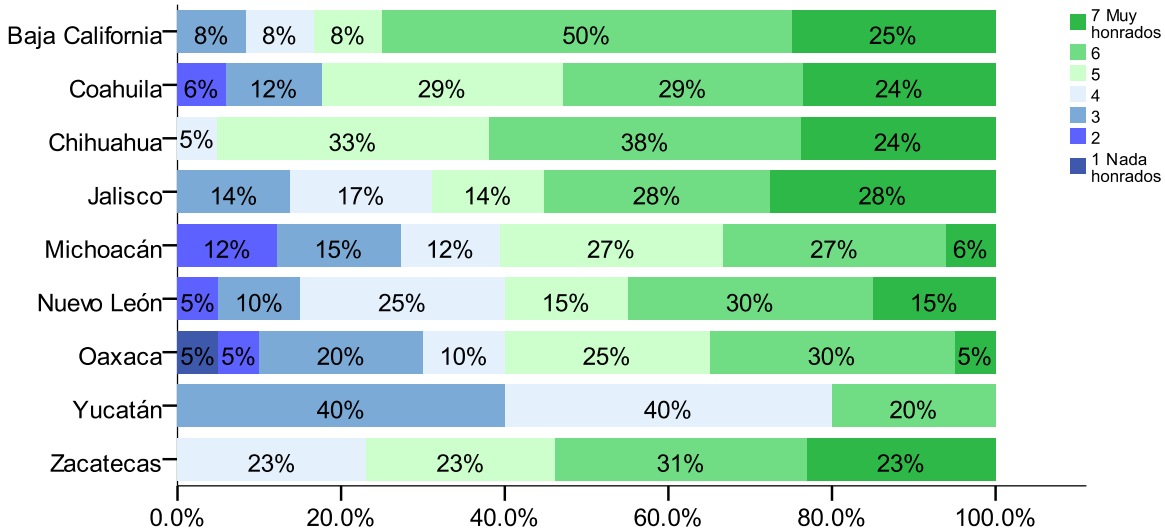
### Integrity of prosecutors: Defenders



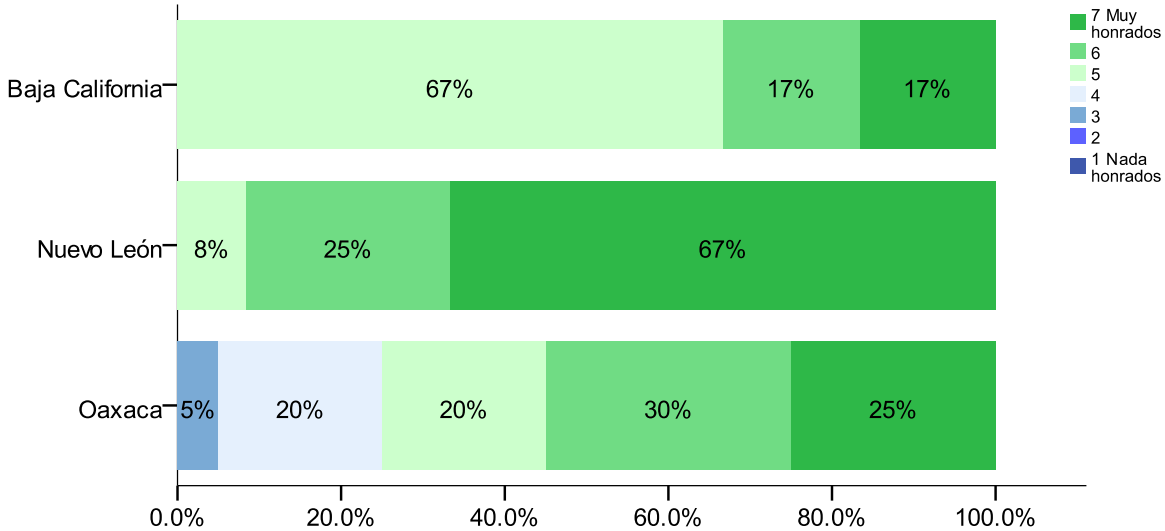
**Figure 41: Integrity of public defenders**

*What is your opinion regarding the honesty/ respectability of public defenders [II.3d.ii]*

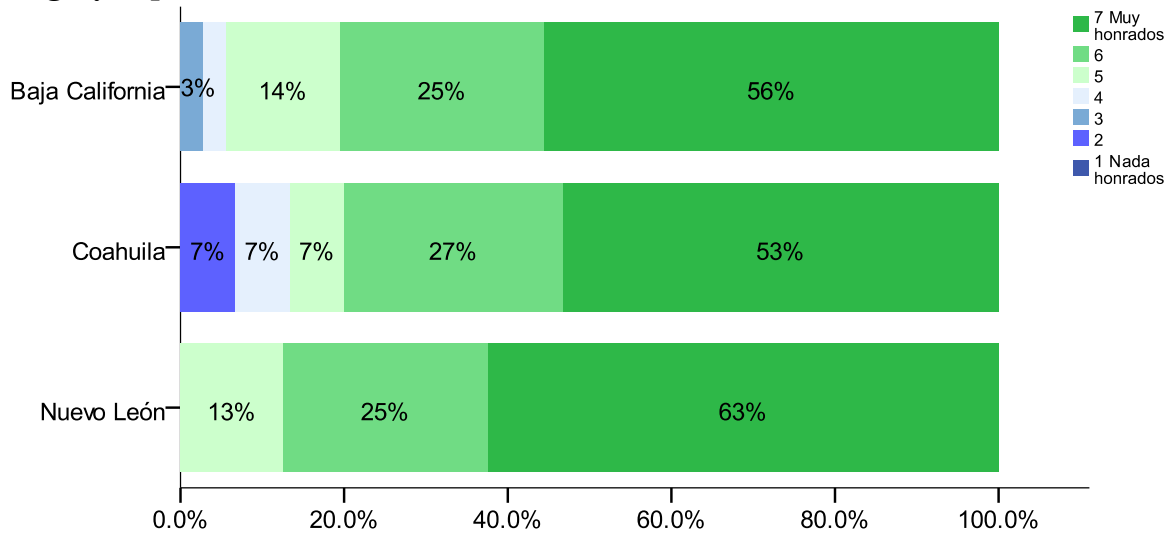
**Integrity of public defenders: Judges**



**Integrity of public defenders: Prosecutors**



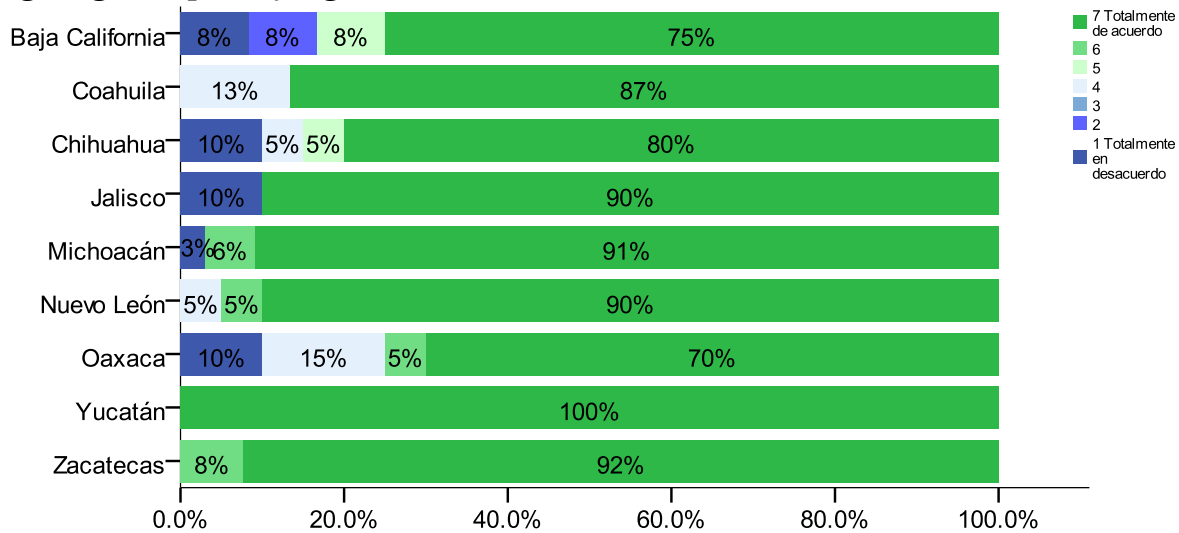
### Integrity of public defenders: Defenders



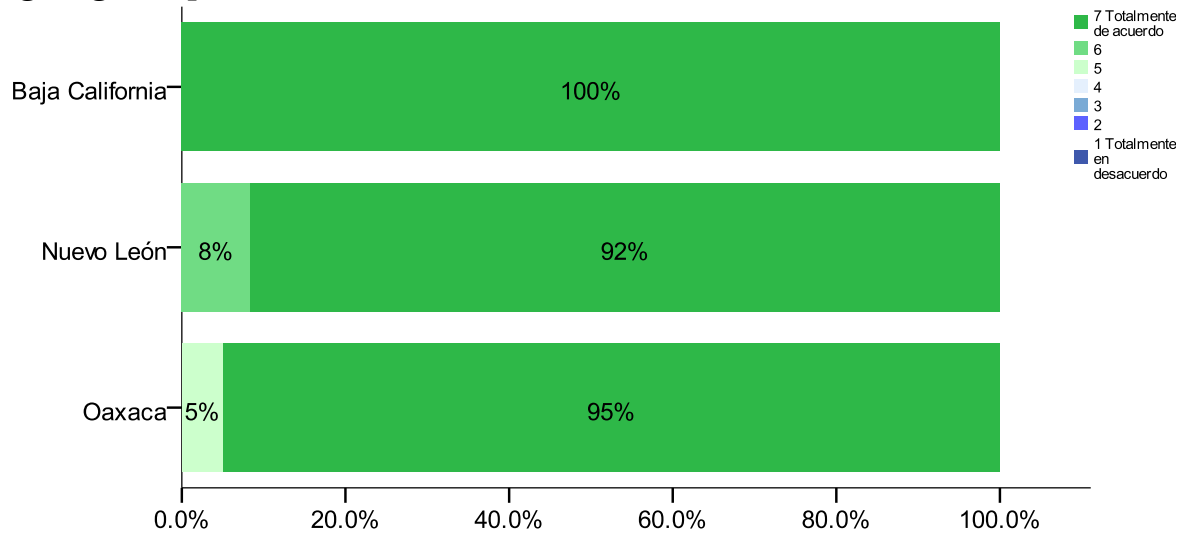
**Figure 42: Fighting corruption**

*I, as an individual, have a responsibility to fight corruption [AIV.1e.ii4]*

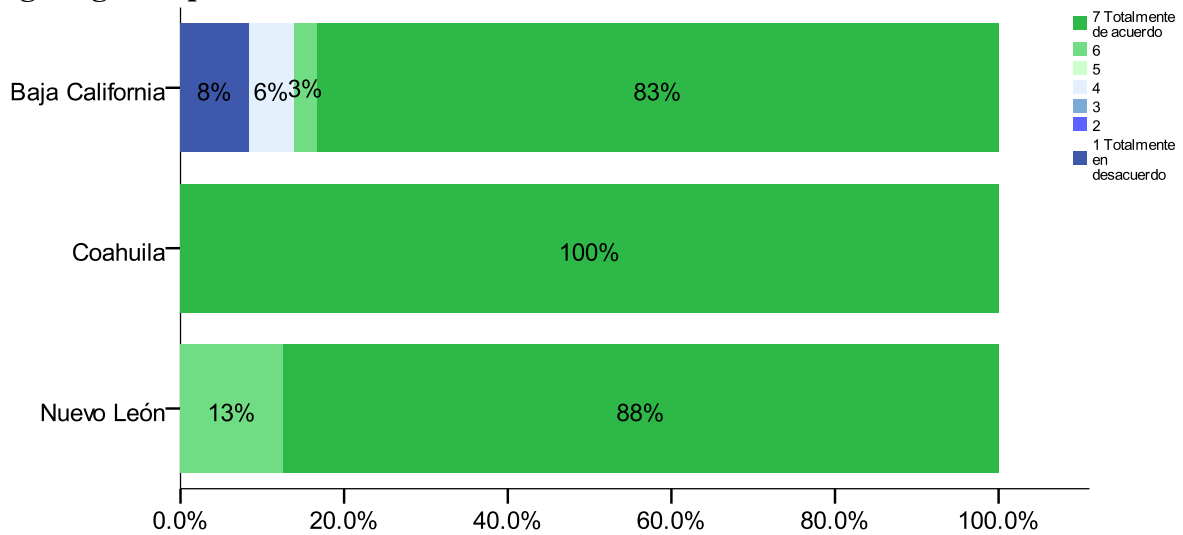
### Fighting corruption: Judges



### Fighting corruption: Prosecutors



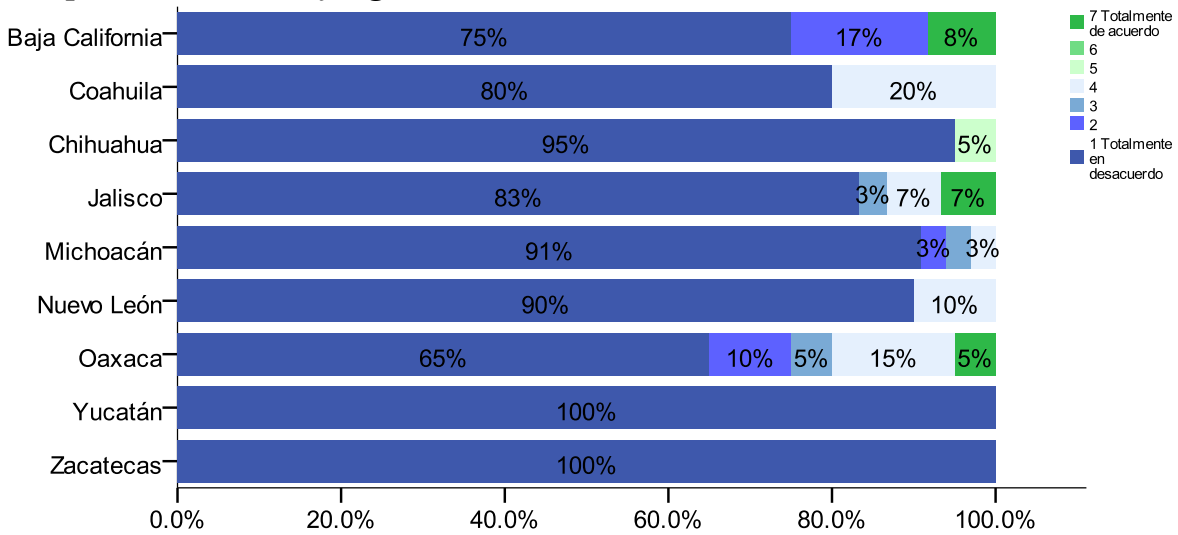
### Fighting corruption: Defenders



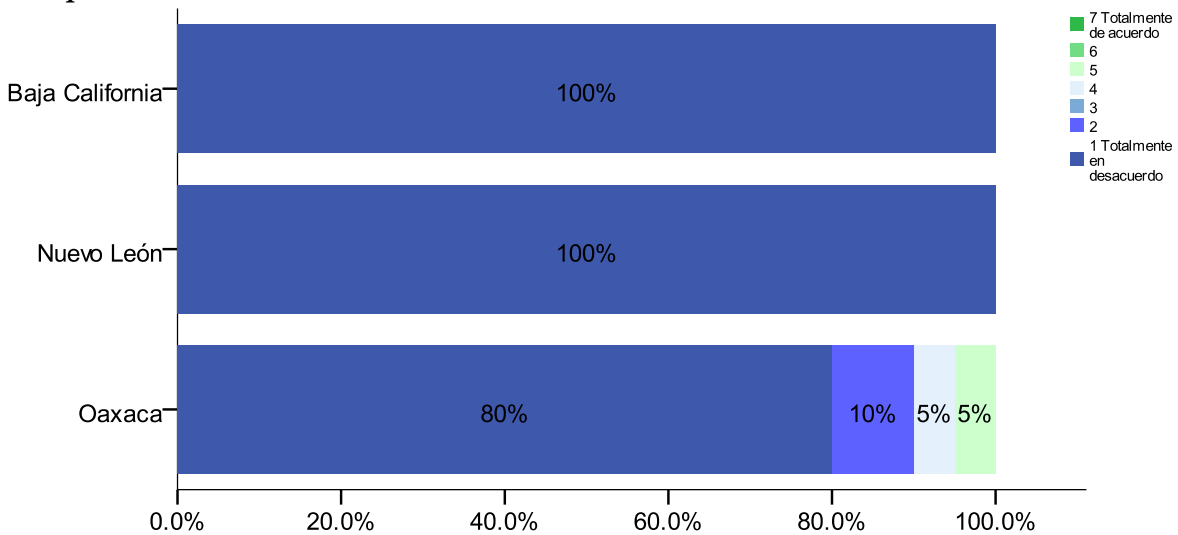
**Figure 43: Corruption and salaries**

*Corruption is a way of compensating low salaries [AIV.1e.iii4]*

**Corruption and salaries: Judges**

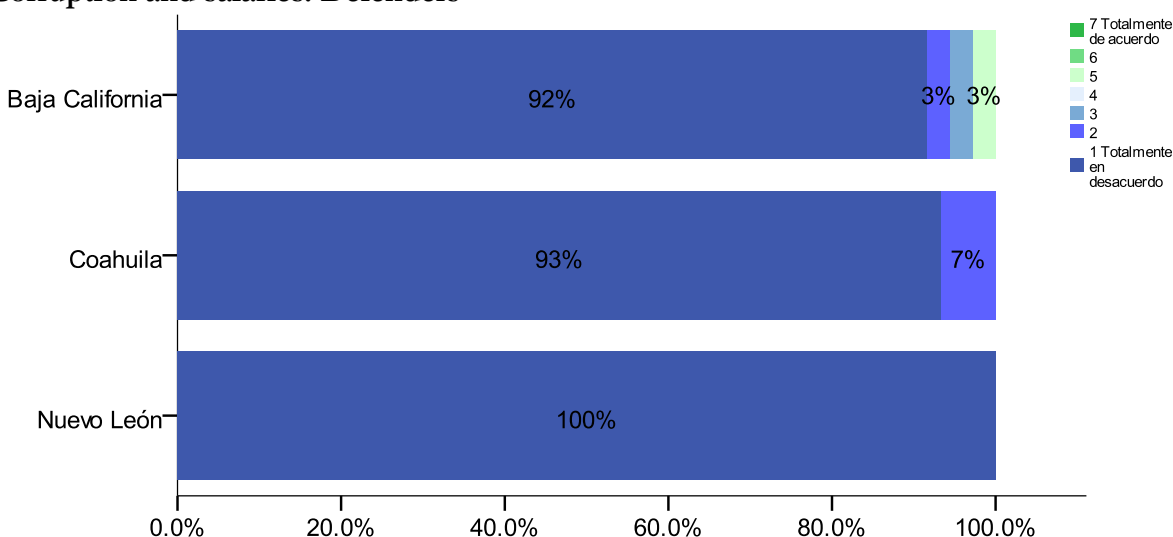


**Corruption and salaries: Prosecutors**





## Corruption and salaries: Defenders



## Adherence to Due Process

The survey contained a variety of questions about due process and the rights of the accused, including whether suspect was photographed or filmed by media, had access to defense attorneys, and was guaranteed the right to remain silent. Here we focus on one of the worst violations of due process: whether detained persons are coerced to make statements against themselves. While the overall opinion of respondents suggests that such coercion is not used very often, significant percentages of judges and, especially, public defenders disagree with this view. Public defenders are the most likely to indicate that coercion is used, and over half of them in the state of Coahuila claim that it is used often or always. Indeed, in the responses to this survey, it is especially worrying that at least some percentage of judges in seven out of nine states say that detained persons are “always” coerced by authorities.

We might reasonably expect that any affirmative indication of coerced confessions would suggest significant violations of due process in other areas. That is, if law enforcement officers are coercing confessions out of suspects, they are likely mistreating suspects in less severe ways, and if officials acknowledge this high level of mistreatment they are likely to acknowledge less severe forms of mistreatment. Overall, the responses we received suggest this expectation is correct. There is less respect for “lesser” rights of those detained. For example, where judges in seven states said coercion occurred “always,” judges in eight states give this response for the media filming or photography of suspects, and to a much higher degree, and now even some prosecutors say this happens “always” in two states.

Moreover, at least some respondents say that a suspect’s right to remain silent is not guaranteed. Ideally, we should see the kind of pattern evident among judges in Zacatecas and prosecutors in Nuevo León, 100% of respondents say the right to remain silent is “always” guaranteed. However,

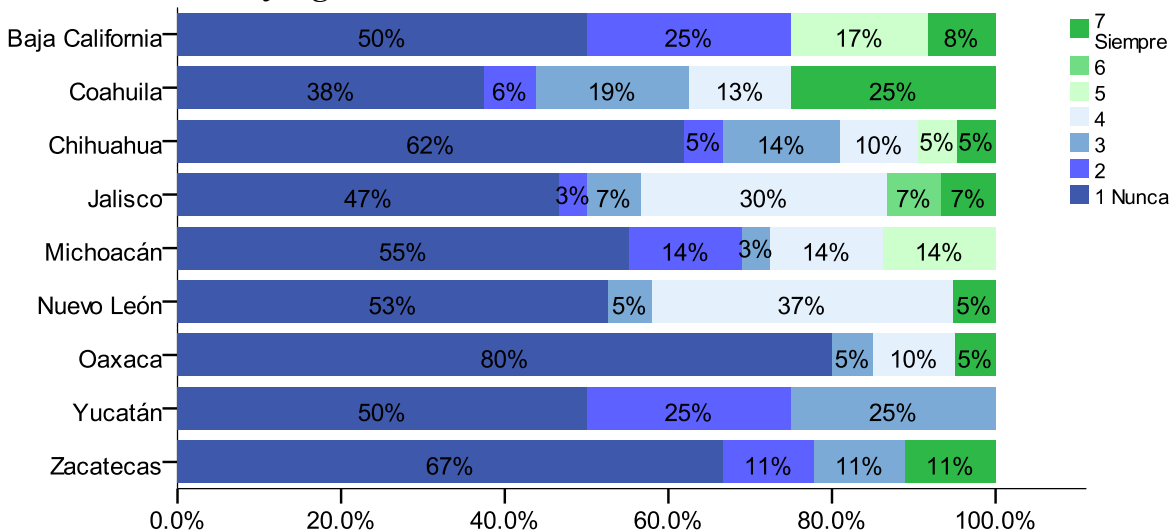
this is not the case in any other state. Since any departure from the "always" category communicates at least some erosion of this guarantee, up to 59% of judges in Coahuila and 50% of public defenders in Nuevo León think this right is not always guaranteed. More disturbing are the "never" response categories. This is an extremely negative response to this question, one expressed by at least 10% of judges in Yucatán (33%), Jalisco (17%), Chihuahua (10%), and Oaxaca (10%). No prosecutors express this opinion, and only in Baja California do public defenders do so (6%).

Regarding a suspect's right to a confidential interview with his/her defense attorney, the response patterns are similar. Only among prosecutors in Nuevo León is there 100% agreement that this right is "always" guaranteed. In contrast, only 50% of defenders answer this way, with 13% saying the right is "never" guaranteed. Overall, there is general agreement that the right to meet privately with one's attorney is guaranteed, but there is variation, including 65% of judges in Coahuila who think this right is not always guaranteed. Among public defenders, no less than 36% in any state think this right is not always guaranteed. Again, most responses suggest that authorities follow due process in most cases, but the significant percentages of individuals who indicate some degree of violation of due process is suggestive of significant problems —or at least misperceptions— that ought to be addressed.

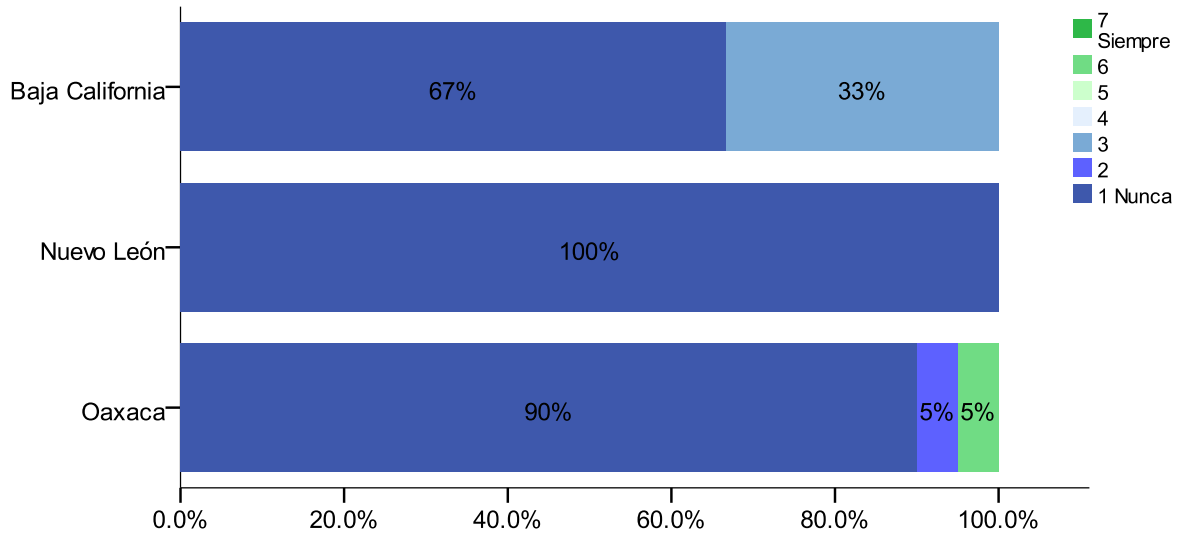
**Figure 44: Forced confessions in detention**

*During detention, how often is coercion used to extract confessions [BI.4a.ii]*

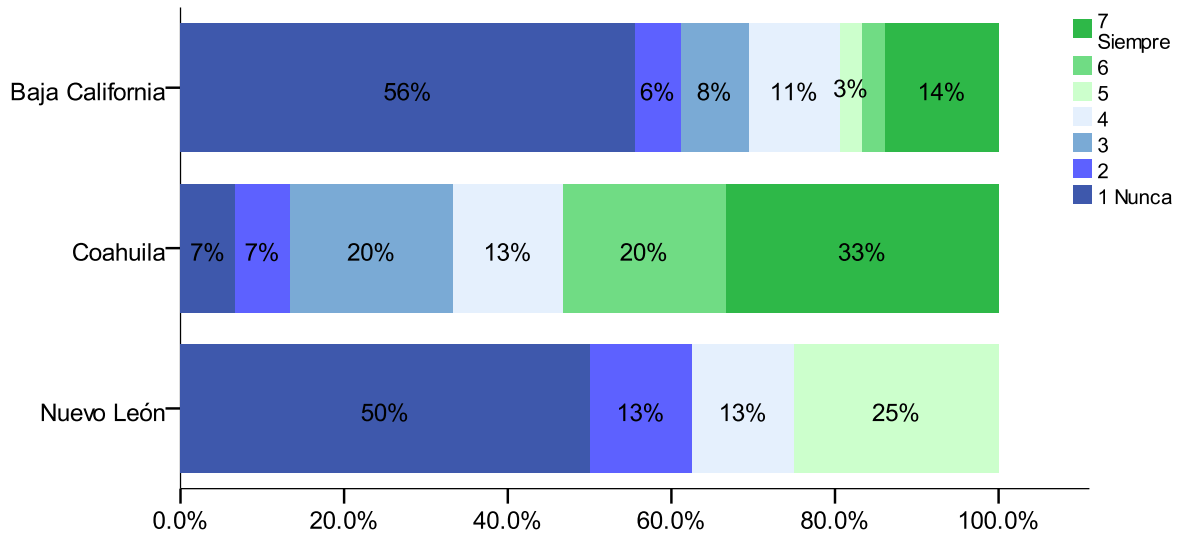
**Forced confessions: Judges**



### Forced confessions: Prosecutors



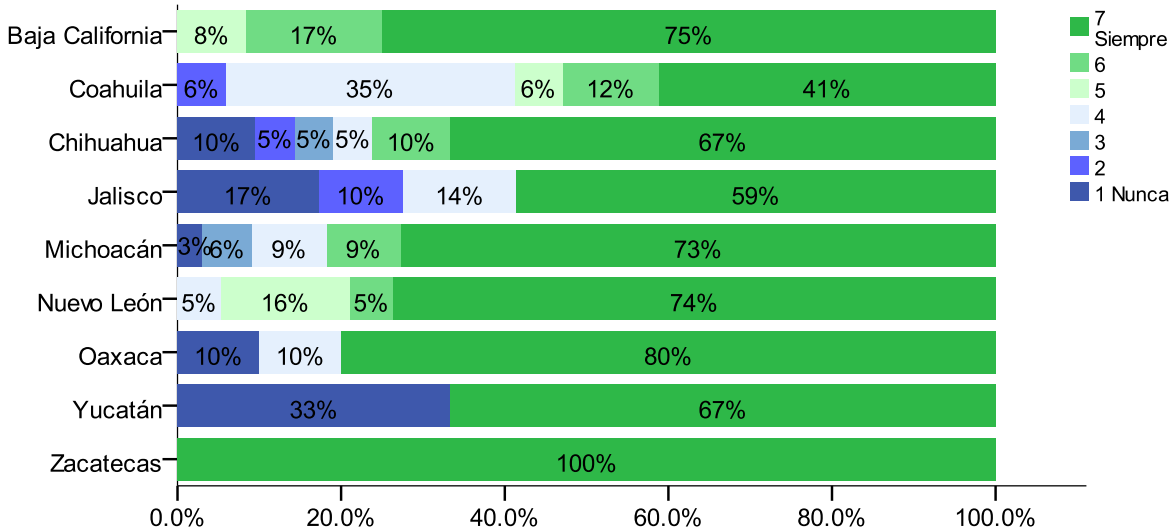
### Forced confessions: Public Defenders



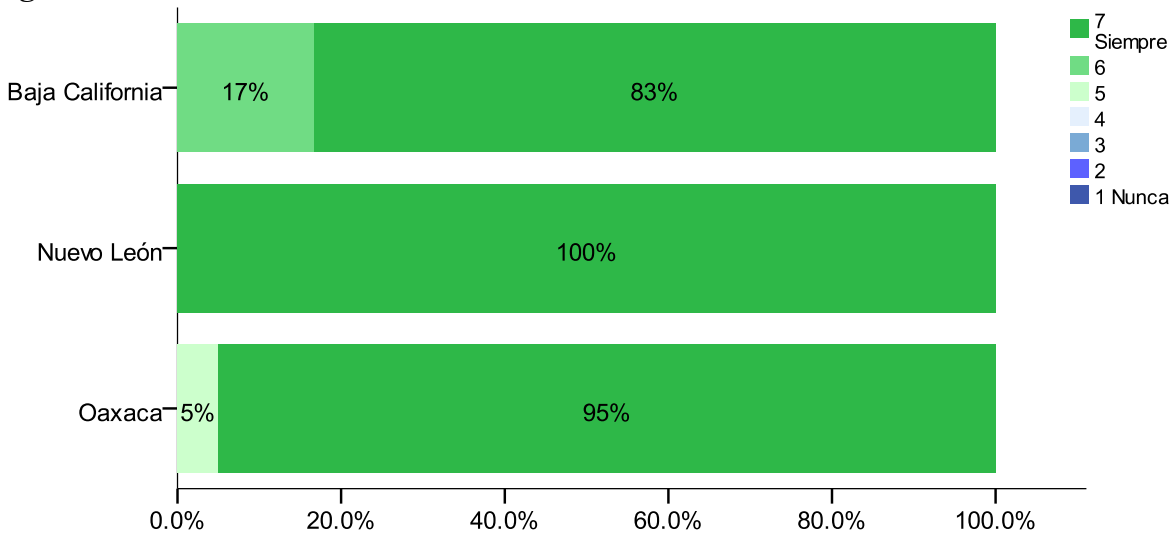
**Figure 45: Right to remain silent**

*During detention, a defendant's right to remain silent is guaranteed [BI.4a.iii]*

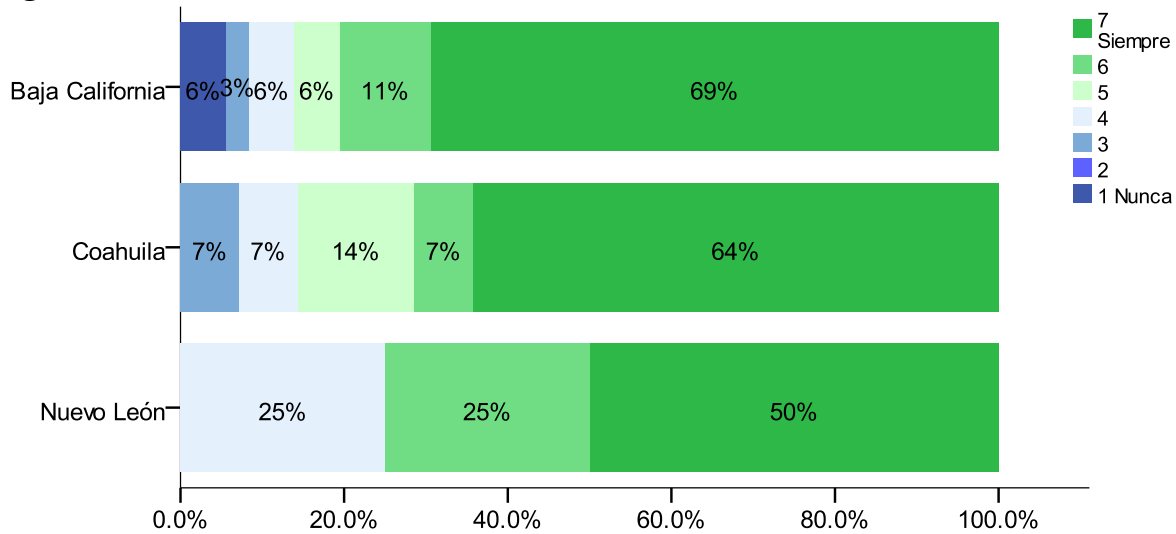
**Right to remain silent: Judges**



**Right to remain silent: Prosecutors**



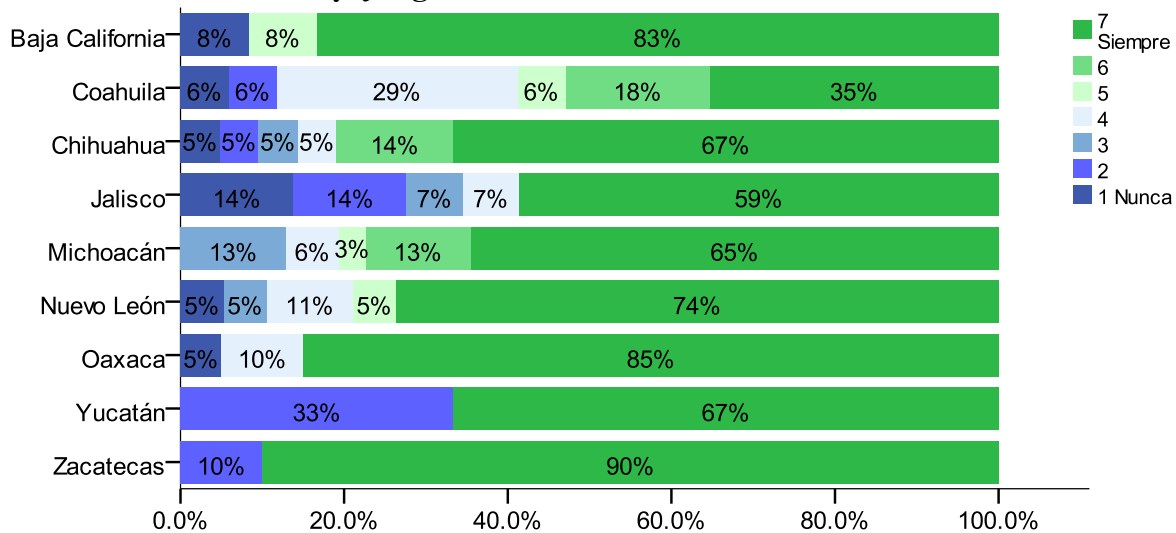
### Right to remain silent: Defenders



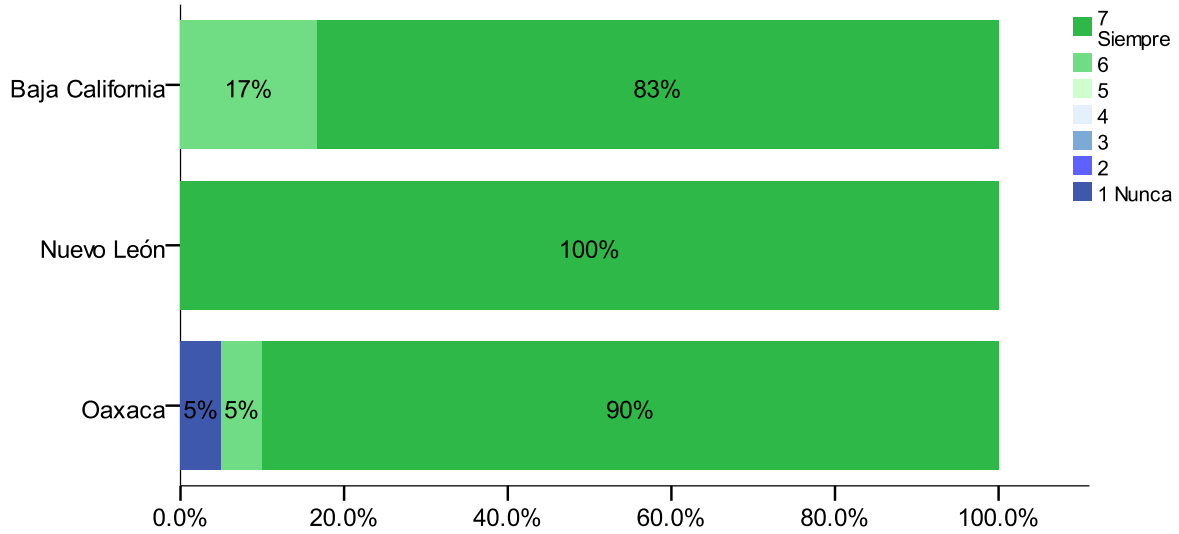
**Figure 46: Access to defense attorney**

*During detention, the defendant's right to a confidential interview with their defense attorney is guaranteed [BI.4a.iv]*

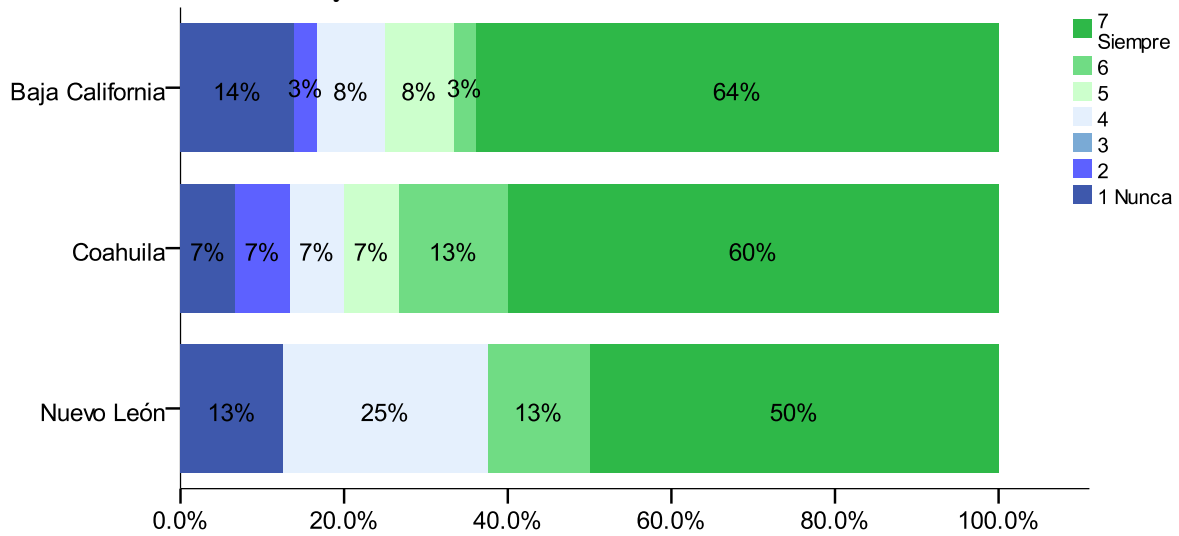
### Access to defense attorney: Judges



### Access to defense attorney: Prosecutors



### Access to defense attorney: Defenders



## Criminal Justice Reform of 2008

As noted at the outset of this report, in 2008 the Mexican Congress approved a series of constitutional and legislative reforms that aim to bring major changes to the criminal justice system. These reforms include: 1) changes to criminal procedure through the introduction of new oral, adversarial procedures and alternative dispute resolution (ADR) mechanisms; 2) a greater emphasis on the rights of the accused (i.e., the presumption of innocence, due process, and an adequate legal defense); 3) a similar emphasis on the rights of victims and restorative justice; 4) modifications to police agencies and their role in criminal investigations; and 5) tougher measures for combating organized crime.

The scope and scale of change contemplated under the 2008 judicial reforms is enormous. Existing legal codes and procedures need to be radically revised at the federal and state level, courtrooms need to be remodeled and outfitted with recording equipment, judges and lawyers need to be retrained, police need to be professionalized and prepared to assist with criminal investigations, and citizens need to be prepared to understand the purpose and implications of the new procedures. After the reforms passed, the federal and state governments were given until 2016—a period of up to eight years—to adopt the reforms. When this survey was conducted (October–December 2010), there were five years remaining in this timeframe and fewer than half of Mexico’s 32 states (including the Federal District) had approved complementary state-level reforms, and less than a quarter of had begun to implement the new procedures.<sup>28</sup>

The 2008 reforms have faced serious criticisms, even provoking concerns about a possible “counter-reform” movement. Critics fear that Mexico’s sweeping judicial reforms may be trying to do too much, too fast, with too few resources, and with little promise of success. Some critics also initially complained that the reforms were being actively promoted by outside forces, particularly from the United States, and lacked consideration of the intricacies, nuances, and benefits of Mexico’s existing system. Also, given the recent proliferation of violent crime, many Mexicans are understandably reluctant to place greater emphasis on the presumption of innocence and pre-trial release, since the new rights-focused approach of the adversarial system may excessively favor criminals to the detriment of the rest of society. Hence, counter-reform currents in Mexico have expressed the view that “oral trials only protect the criminals.”<sup>29</sup>

On the other hand, others worry that the reforms have not gone far enough. In the eyes of some critics, the reforms ultimately fail to address the major institutional weaknesses of the judicial sector.<sup>30</sup> At the same time, as noted above, the 2008 reforms introduced new measures that may actually undermine fundamental rights and due process of law. For example, the use of *arraigo*—sequestering of suspects without charge for up to 80 days—has been criticized for undermining *habeas corpus* rights and creating an “exceptional legal regime” for individuals accused of organized crime.<sup>31</sup> Although not usable as evidence in trial, confessions extracted (without legal representation) under *arraigo* can still be submitted as supporting evidence for an indictment.<sup>32</sup>

In short, there is a wide array of opinions about Mexico's 2008 reforms. However, as of yet, there has been no systematic effort to survey judges and lawyers who operate within the criminal justice system to measure the level of criticism or support that exists among these institutional "insiders". Nor are there assessments of the views held by different professions regarding the 2008 reforms. This survey therefore constitutes a tentative first effort to gauge the perspectives of those who will be charged with implementing the 2008 reforms.

## Effectiveness and Efficiency of Mexico's Traditional System

First, it is worth noting how respondents felt about the traditional system that was in place prior to the passage of the 2008 judicial reform. Approximately 51% of respondents agreed that the traditional justice system was effective and efficient (*eficaz y eficiente*). About 17% reported a neutral position on this question, leaving about 31% of respondents who expressed any level of disagreement with this statement. This is a provocative result because it suggests that a majority of criminal justice professionals considered the traditional system as adequate prior to the 2008 reform.<sup>33</sup>

Across professions, there was greater variation. Those that expressed some level of agreement that the old system was effective and efficient included 59% of judges, 44% of prosecutors, and 37% of defenders. Among judges, the modal response was mild agreement (26%) and the next most frequent response category was "totally agree" (17%) (mean=4.69). Among prosecutors, the modal response was neutral (25%) and the next most frequent response was "totally agree" (23%) (mean=4.35). Among defenders, the modal response was "totally disagree" (37%) and the next most frequent response was mild agreement (15%) (mean=3.42). In sum, judges seem to be the most likely to think the old system was performing well, prosecutors were fairly evenly split, and defenders were most likely to believe the old system was performing poorly.

Comparing each profession across the states included in the study, this pattern remains. For instance, in seven of nine states, a majority of judges agreed that the old system was effective and efficient. Indeed, this majority opinion never falls below 57% in these seven states. Only in two states (Coahuila and Nuevo León) was this pattern absent, and even here there is not a majority of judges who disagreed with the underlying statement. In fact, in Coahuila a plurality (45%) agreed with the statement and only 30% disagreed. Thus, only in Nuevo León did the largest group of judges disagree with this statement (45%). Even there, 35% of judges agreed, and 20% expressed the highest level of agreement.

These patterns among judges should give pause to scholars, policy makers, and practitioners alike, as they suggest that judges, in general, may not have believed that the 2008 reform was really necessary. If this is the case, then these attitudes may be a source of opposition to the reform or a source of resistance to the full implementation of its provisions. Ultimately, such attitudes could lead to future efforts to repeal the reform, since the persistence of traditional attitudes among judges after reforms may surface years later as significant counter-reform movements.<sup>34</sup> Future research might examine



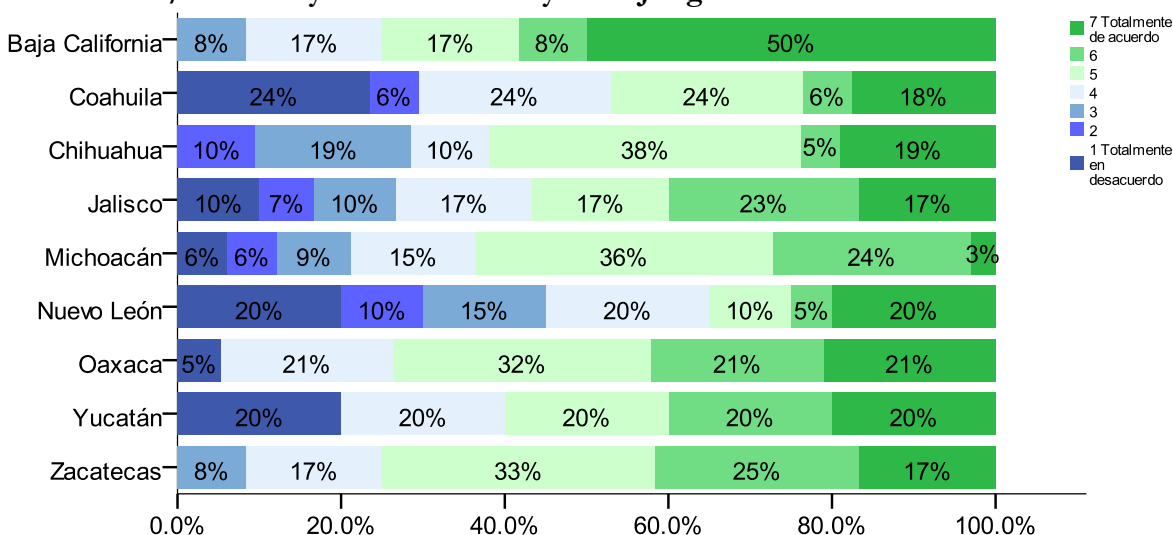
the reasons behind these attitudes, clarifying whether there is disagreement with the substantive provisions of the reform or whether the opposition is motivated by narrower interests (e.g., an unwillingness to learn a new way of running a courtroom).

Turning to lawyers, there is also wide variation in attitudes regarding the old system. Excluding neutral responses, the agree-versus-disagree distribution among prosecutors was 50-34 in Baja California and 72-18 in Nuevo León, but 20-40 in Oaxaca. Oaxaca is particularly interesting because a large majority of judges agreed with this proposition, but a plurality of prosecutors disagreed. Among defenders, these distributions mostly reversed and were 31-59 in Baja California, 40-54 in Coahuila, and 63-25 in Nuevo León. That is, opinions regarding the traditional justice system were essentially mirror images of each other among prosecutors and defenders in Baja California (50-34 and 31-59), but they were very similar in Nuevo León (72-18 and 63-25). One possible explanation is that the baseline performance of the traditional criminal justice system was simply better in Nuevo León than in Baja California.

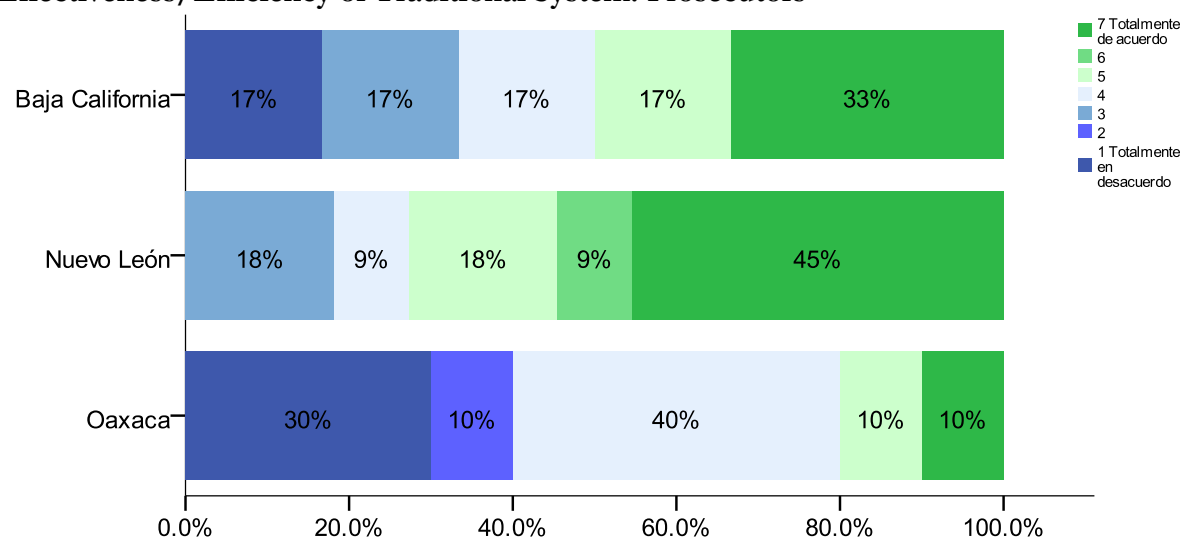
#### Figure 47: Effectiveness/Efficiency of Mexico's Traditional Justice System

*Please note whether you agree or disagree with this statement: The traditional criminal justice system was effective and/or efficient*

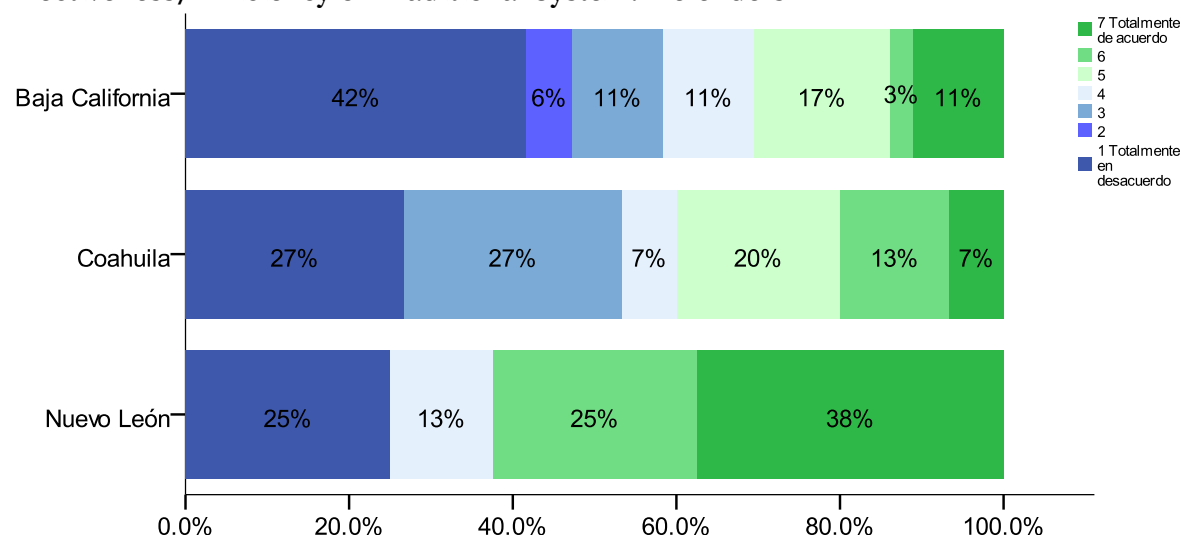
##### Effectiveness/Efficiency of Traditional System: Judges



### Effectiveness/Efficiency of Traditional System: Prosecutors



### Effectiveness/Efficiency of Traditional System: Defenders



## Efforts to Discredit the Traditional Criminal Justice System

Approximately 36% of respondents believed that there has been a campaign to discredit the traditional criminal justice system in order to pass the 2008 reform. Across professions, about 38% of judges, 35% of prosecutors, and 31% of defenders agreed that there has been a deliberate campaign to discredit the old, pre-reform system. Notably, the three professions were very divided on this issue, as about 48% of judges, 50% of prosecutors, and 60% of defenders disagreed with this proposition. Thus, opinions on this topic were very dispersed, which is reflected in the general bimodal distribution of responses.

Across states within each profession, this bimodal distribution remains strong and consistent only among judges. At least 25% of judges in all states expressed the strongest level of disagreement with

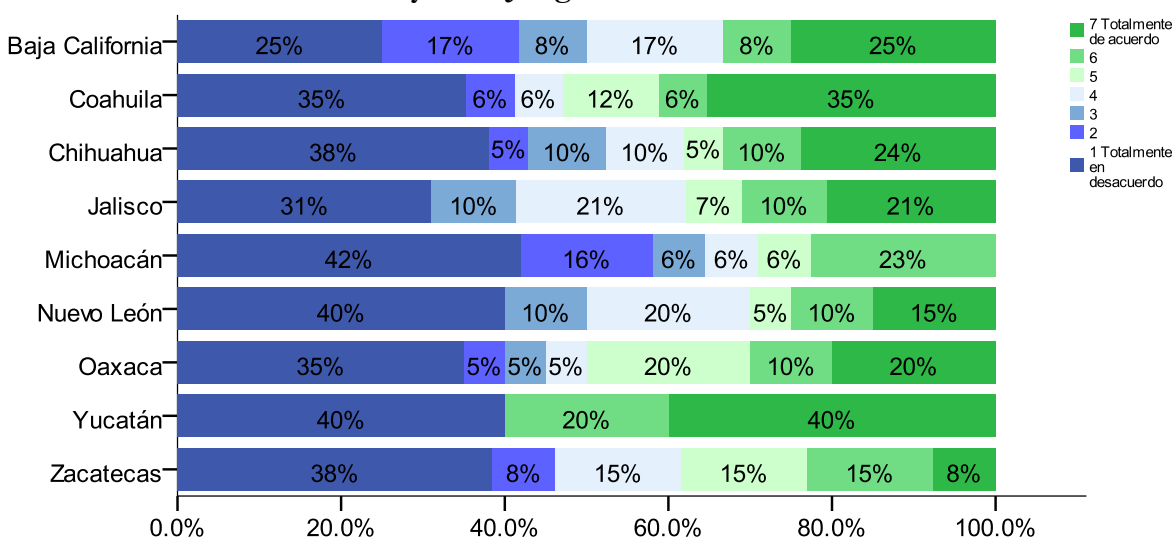
the underlying proposition, and in seven of these states at least 15% of judges expressed the highest level of agreement. In Zacatecas, the portion expressing high agreement was only 8%, and only in Michoacán is there an absence of people in this category ("totally agree"). Indeed, Michoacán exhibited the most pro-reform attitudes on this question, as about 64% of judges did not think there was any campaign to discredit the reform. The pattern among lawyers is more positive, since at least 50% of prosecutors and defenders across the states included disagreed that there was any campaign to discredit the traditional system. The only exception to this pattern is Baja California. Here, the distribution of responses is fairly spread out: 33% of prosecutors expressed moderate disagreement, another third are neutral, and about 34% expressed agreement.

In sum, the distribution is fairly dispersed within all three professions. That is, while a sizeable plurality think there was not a negative campaign, about a third of professionals in each category answered some form of "yes" to the idea that the old system was deliberately discredited in order to approve the 2008 reforms. This is a worrying finding for advocates of reform. It provides evidence that many established professionals are invested in the prior system, and divergent interests are in play. In this context, reform is neither an easy nor a simple proposition.

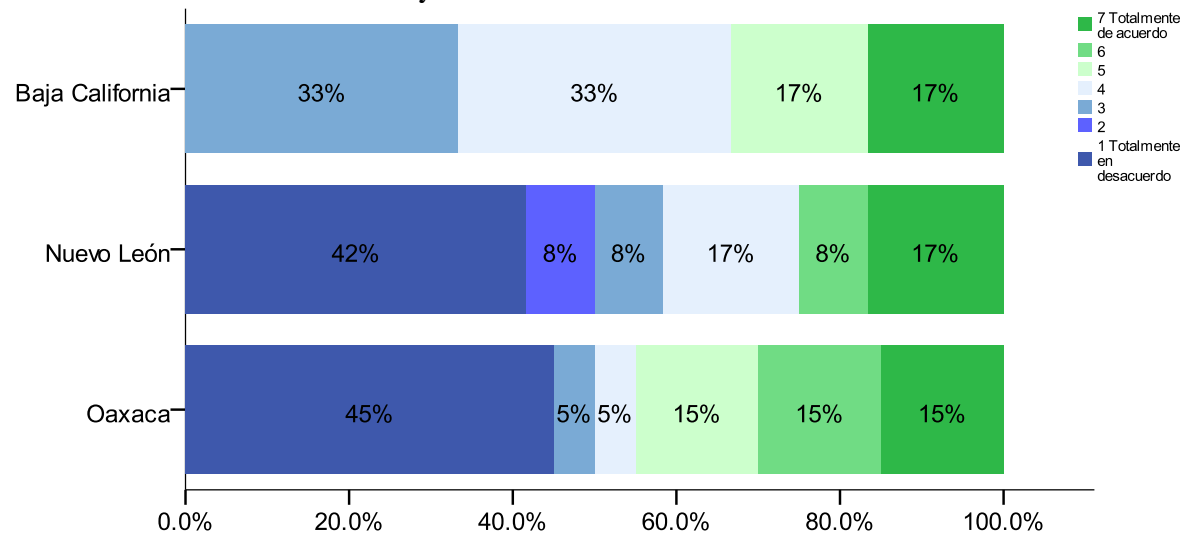
#### Figure 48: Efforts to Discredit the Traditional System

*Please note whether you agree or disagree with this statement: There has been a campaign to discredit the traditional system in order to approve the 2008 reform [CIII.3ai]*

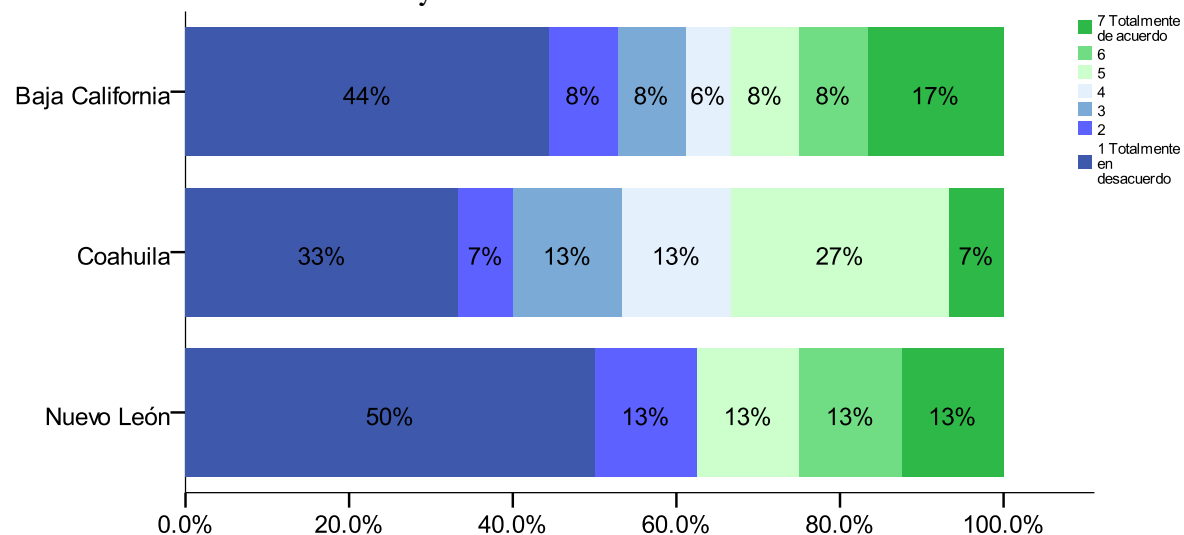
##### Efforts to discredit traditional system: Judges



### Efforts to discredit traditional system: Prosecutors



### Efforts to discredit traditional system: Defenders



## Reform was result of pressure from foreign governments and organizations

One of the frequently mentioned accusations against the 2008 reform is that it was the result of pressure from foreign governments and organizations, particularly from the United States. Overall, approximately 40% of respondents agreed that the 2008 reform was the result of pressure from foreign governments and organizations. Across the professions, about 39% of judges, 38% of prosecutors, and 45% of defenders agree with this statement. Again, the distribution within professions is very dispersed, with at least 20% in each profession expressing the highest level of agreement (7="totally agree") and at least another 20% expressing the highest level of disagreement (1="totally disagree").

Across states within each profession, responses were also very dispersed. Among judges, every state reports at least about 20% of responses in the highest level of disagreement, and at least another 16% in the highest level of agreement. Among prosecutors, majorities disagree with this statement in Baja California and Nuevo León, but in Oaxaca 30% expressed the highest level of disagreement and another 30% expressed the highest level of agreement. Among defenders, at least 50% of respondents in Baja California and Nuevo León agreed that foreign pressure was decisive. However, across all three states where public defenders participated in the survey (Baja California, Coahuila, Nuevo León), at least 13% of responses can be found in the polar-opposite answer category.

Returning to the overall percentages, the fact that more than a third of respondents in each profession indicated that foreign pressure was responsible for the reform seriously undermines the legitimacy of the reform project. In a country where nationalist currents run deep and sensitivities about foreign intervention are strong, this may help to explain why the reform has been slow to spread and develop across the 32 Mexican states. Particularly disturbing is the fact that judges were the ones most likely to believe foreign pressure played a major role in the reform.

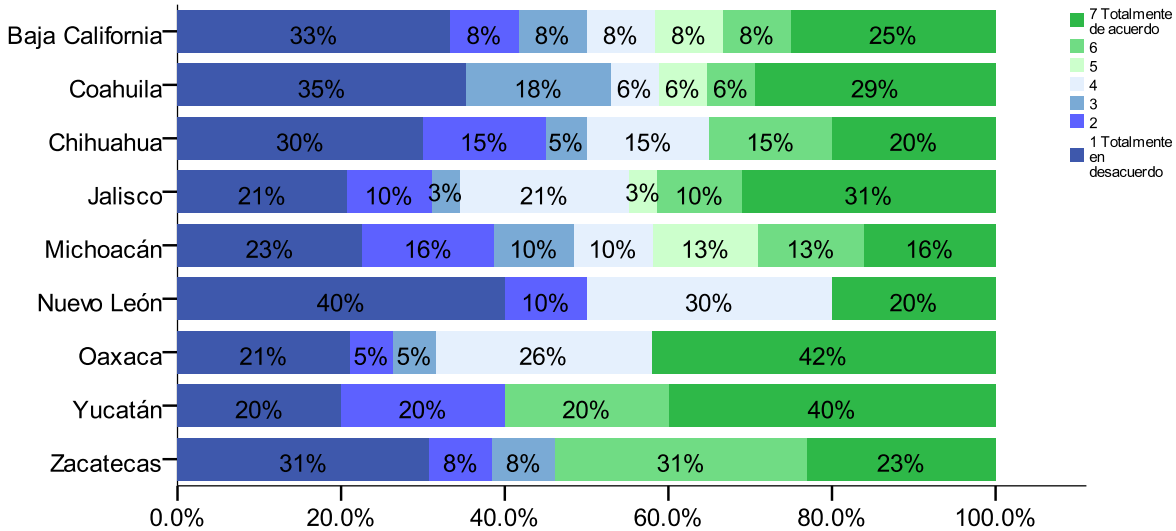
Part of the reason this perception persists may be due to the fact one of the most active proponents of the reform, the non-profit organization known as PRODERECHO, was essentially created and funded by USAID, then contracted out to Management Systems International (USAID 2007, 4-5; Ingram and Shirk 2010). After the failure of a major legislative package of judicial reforms initiated by then-President Vicente Fox in 2004, PRODERECHO's explicit strategy was to pursue criminal procedure reforms in the states, "where the governments had more flexibility and the ability to pass reforms more quickly than at the federal level" (USAID, 5).<sup>35</sup>

Still, it should be noted that it was not just U.S. governmental or non-governmental organizations that worked in Mexico. Spanish, German, Chilean, and European Union organizations were also at work. Perhaps more importantly, it should also be noted that some states in Mexico were already progressing towards a reform of criminal procedure before Fox's 2004 proposal. For instance, Oaxaca already had a Draft Code of Criminal Procedure in 2003; this draft actually served as the template for the Model Code promoted by PRODERECHO (USAID, n.4 and n.10). Thus, to at least some extent, there has been interplay between domestic and foreign influences in the debate about reforming the criminal justice system.

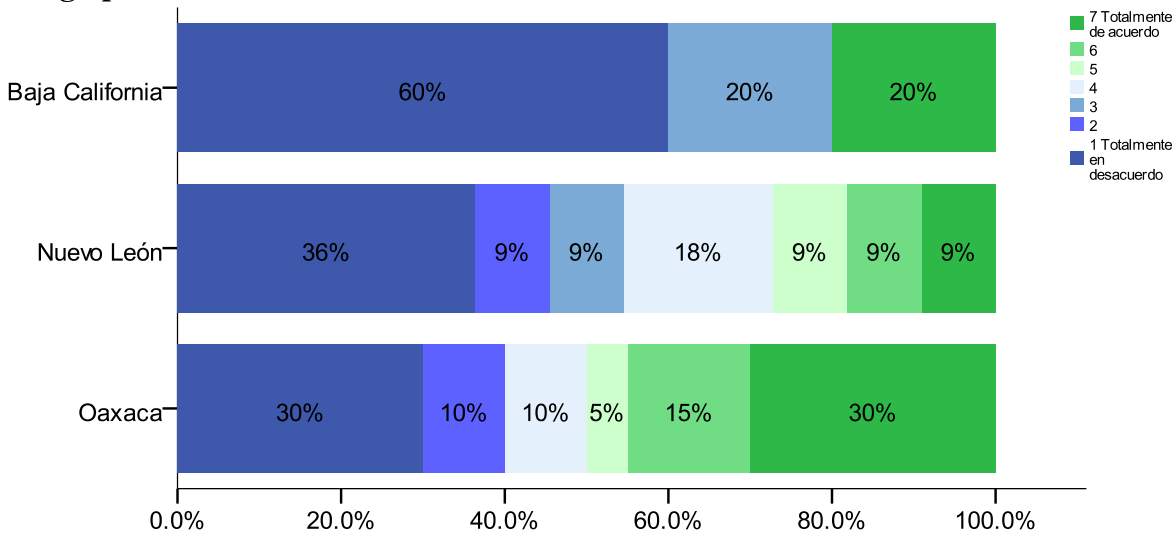
**Figure 49: Foreign Pressure for 2008 Reform**

*Please note whether you agree or disagree with this statement: The 2008 reform was the product of pressure from foreign groups and organizations [CIII.3a.ii]*

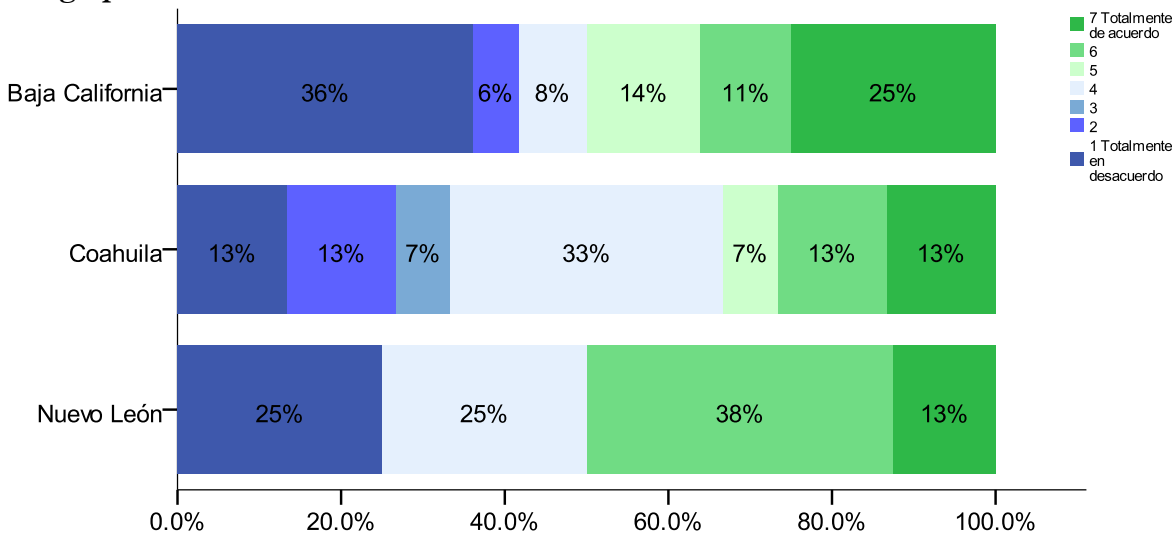
**Foreign pressure: Judges**



**Foreign pressure: Prosecutors**



### Foreign pressure: Defenders



### General Opinion of 2008 Reform

Despite the above findings, views toward the 2008 reform were remarkably positive. Approximately 84% of respondents expressed some level of agreement with the 2008 reform.<sup>36</sup> Across all three professional categories, support for the reform was fairly strong. More than 80% of respondents within each category reported a positive assessment of the reform, stating that they were somewhat in agreement, in agreement, or totally in agreement with the reform. Indeed, in all three professional categories, approximately half of respondents reported the highest level of agreement with the reform. Among public defenders, above all, there is no opposition to the reform. Such opposition registers only among prosecutors and judges. Specifically, while five prosecutors (12.5%) and 15 judges (8.8%) expressed some level of opposition to the reform, *none* of the 59 public defenders that were interviewed for this study expressed any level of opposition to the reform.

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

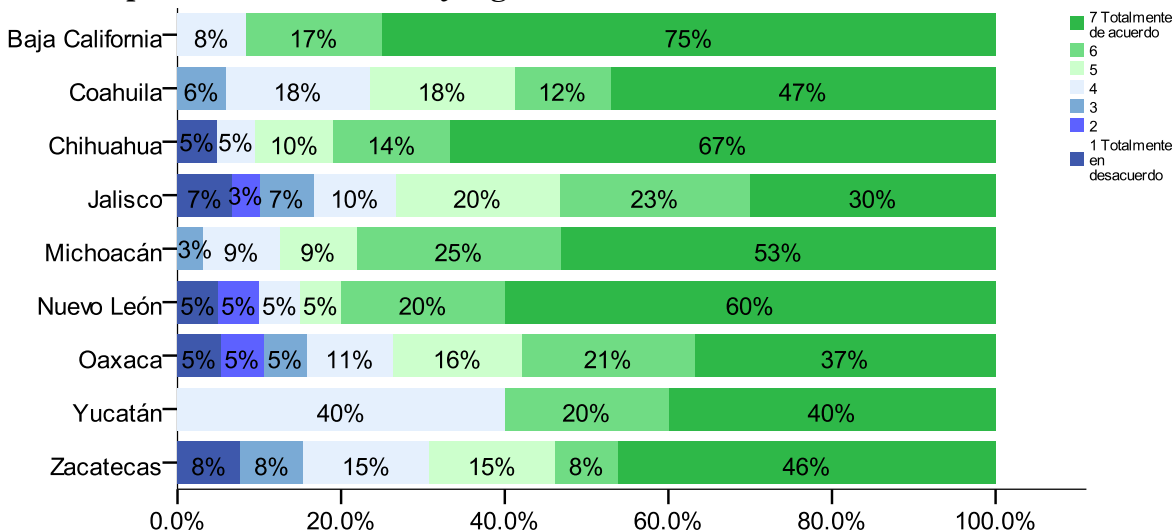
That such negative views persist in these states provides ammunition for opponents to the reform and does not bode well for other states that are at earlier stages in the reform process. Still, it is worth noting that the majority of respondents do seem to give the reforms the benefit of the doubt.

In the subsections below, we examine responses regarding specific aspects of the 2008 reform, including the use of oral trials, efforts to strengthen the presumption of innocence, the use of alternative dispute resolution mechanisms, and the likely impact of reforms on the speed of criminal proceedings, criminality, and corruption. All of these help to identify perceived strengths and weaknesses of the reform effort.

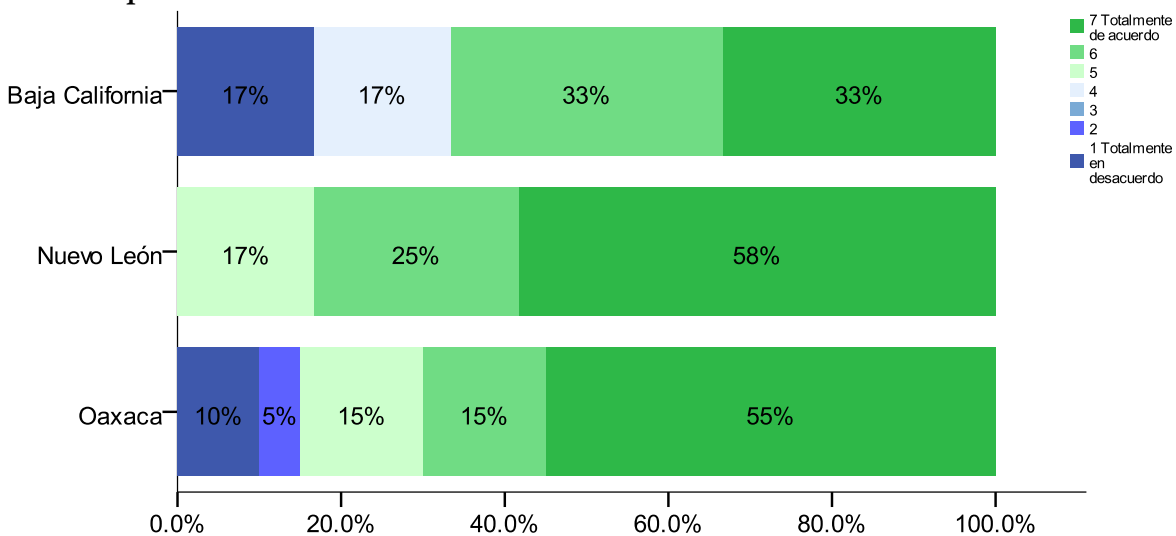
**Figure 50: General Opinion Regarding 2008 Judicial Reform**

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

**General Opinion of 2008 Reform: Judges**

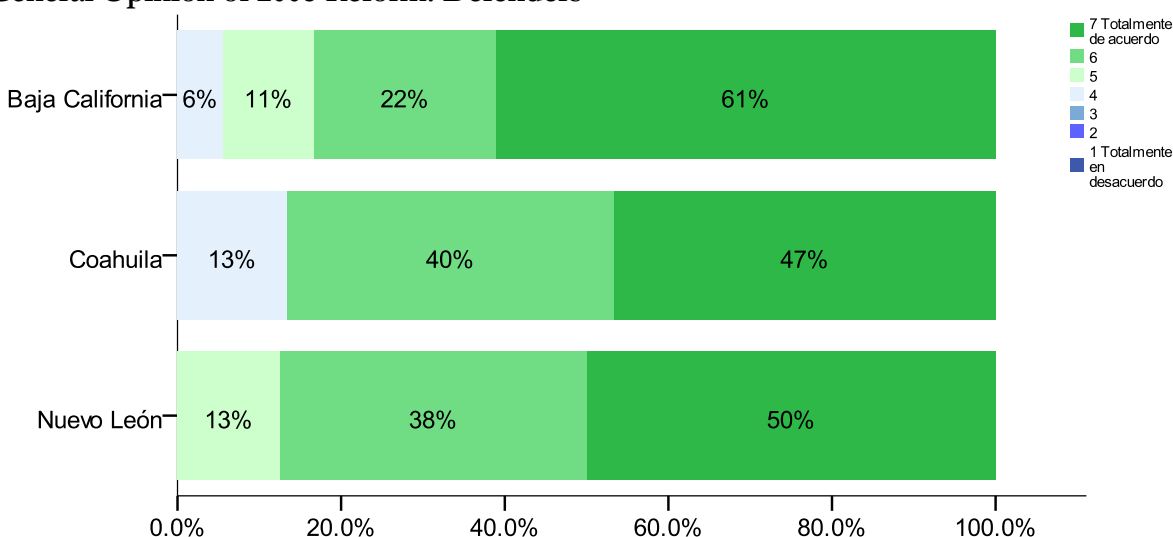


**General Opinion of 2008 Reform: Prosecutors**





## General Opinion of 2008 Reform: Defenders



## Oral trials (*juicios orales*)

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

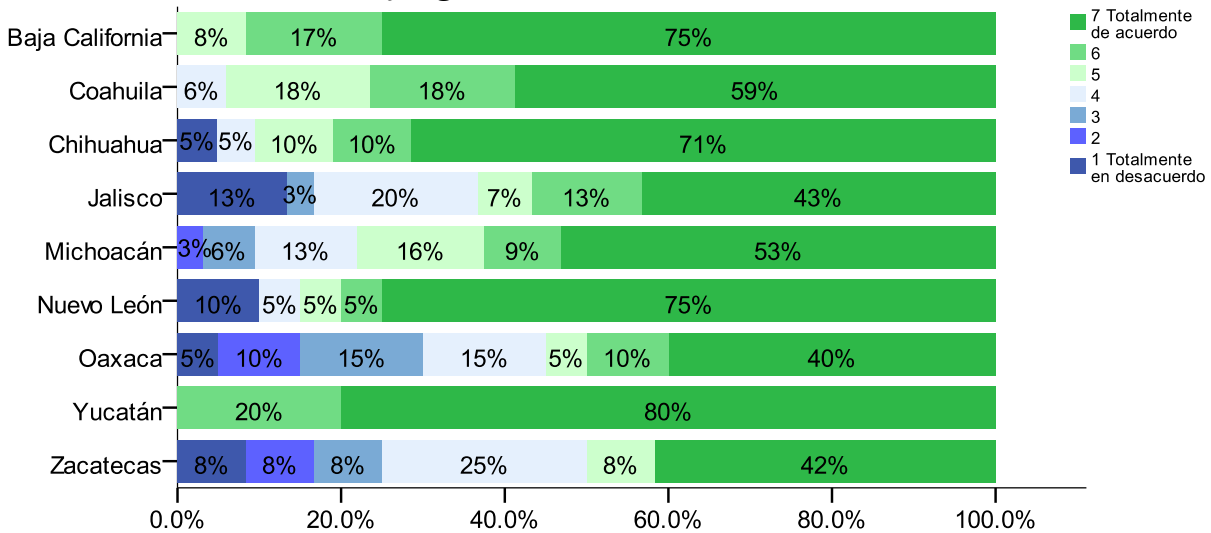
Among public defenders, there was broad support for oral trials. Only in Baja California did public defenders express any level of disagreement with oral trials, and that was only among 3% of respondents. Among judges, the extremes were marked by Baja California (where 100% of judges expressed some level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

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

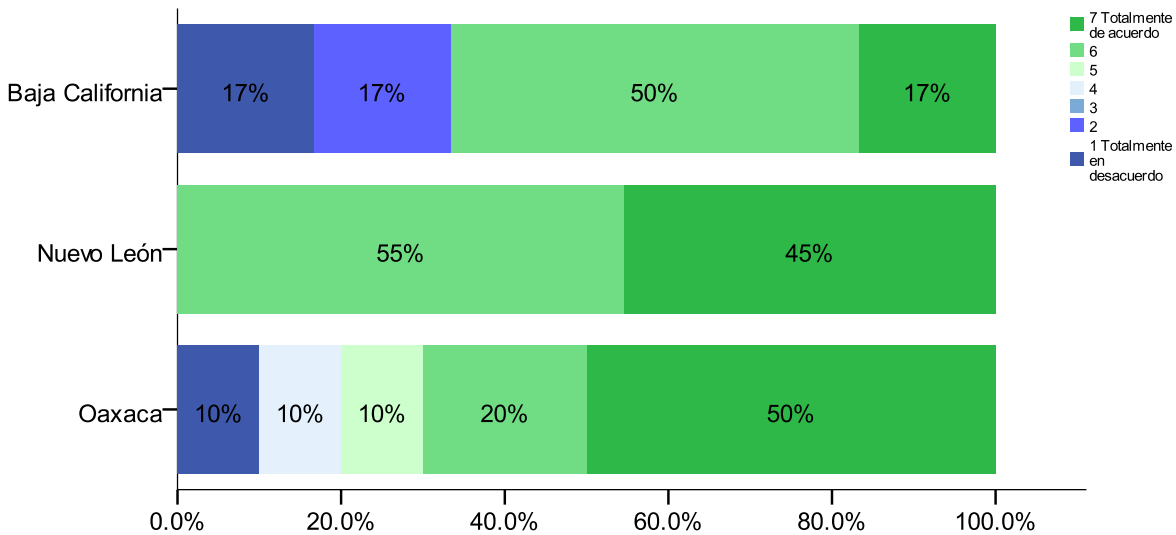
**Figure 51: Opinions Regarding Oral Trials**

*Please note whether you agree or disagree with this statement: Trials should be oral rather than written [CIII.3]*

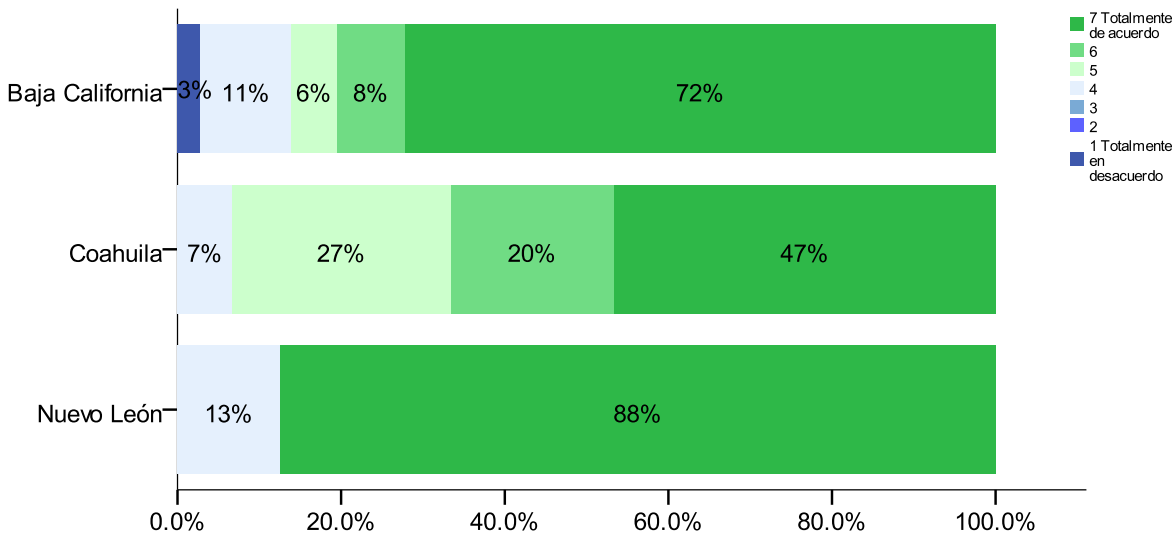
**Prefer oral trials over written: Judges**



**Prefer oral trials over written: Prosecutors**



### Prefer oral trials over written: Defenders



### Presumption of Innocence

One of the central pillars of the 2008 reform was the strengthening of the presumption of innocence. Overall, about 76% of respondents agreed that the presumption of innocence should be respected, even if that means releasing suspects in cases involving minor offenses. Perhaps the most striking aspect of the answers to this question is that there is any major variation in responses at all. The question asked clearly whether the presumption of innocence should be observed by freeing pre-trial detainees in minor cases until their guilt or innocence is determined.

We anticipated that all responses to this question would fall to the right of the scale, indicating at least some level of agreement with this statement. The vast majority of replies fit this expected pattern. That is, most judges, prosecutors, and defense attorneys support the presumption of innocence, even if in minor cases this means letting the defendant go free. However, two aspects of the results are worth highlighting. First, 13% of all respondents expressed at least some level of disagreement with this proposition. Second, prosecutors are most likely to express this opposition to the presumption of innocence, with 25% doing so, compared with 14.2% of judges and only 3.3% of defenders. Stated otherwise, even though most prosecutors expressed some level of support for the presumption of innocence, the level of this support is the lowest among all professional categories at 70%, compared with 77.5% of judges and 85% of defenders.

Taking a closer look at variation across states within each profession, we anticipated that most results would look like the pattern for judges in Baja California, Yucatán, or Zacatecas. That is, that most would express some degree of support for this statement (as in Baja California and Yucatán), or at worse a cautious ambivalence (as in Zacatecas). We anticipated that none of the respondents would actually express opposition to the presumption of innocence, especially since the question was situated in the context of minor cases. However, about 20% and 24% of judges expressed disagreement with the presumption of innocence in Chihuahua and Jalisco, respectively, and this

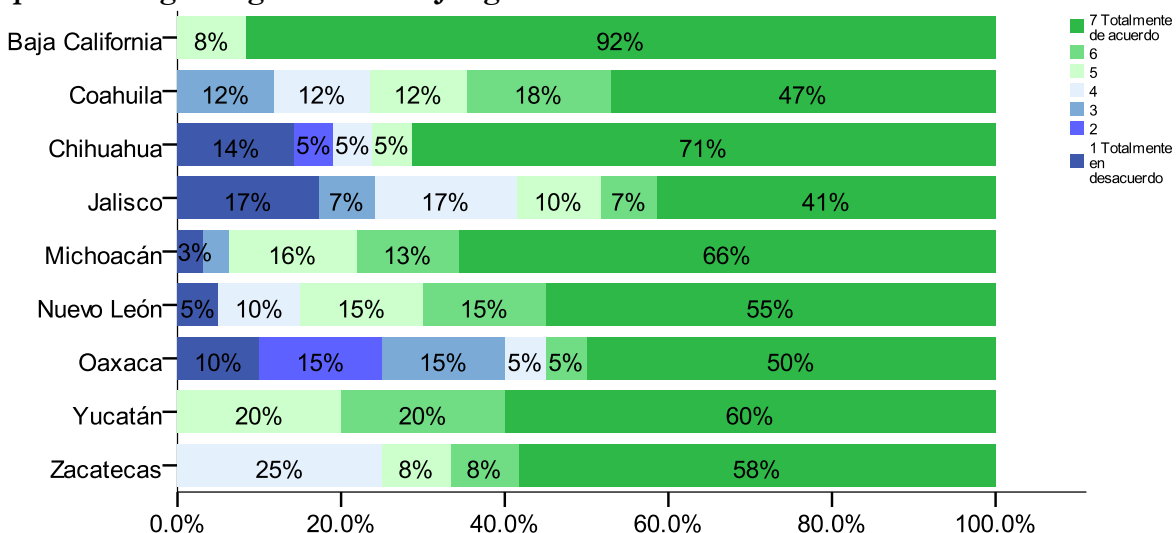
risers to 40% in Oaxaca. Notably, Oaxaca is not one of the national hotspots of drug-related violence (Shirk 2010; Rios and Shirk 2011), so a common correlate of coercive public security policies is absent and the high level of opposition to the presumption of innocence in minor cases in this state is rather preoccupying.

Additionally, about 17% of prosecutors in Baja California and 25% of prosecutors in Nuevo León and Oaxaca expressed some level of disagreement with the presumption of innocence. Among defenders, none expressed disagreement with the proposition in Baja California, 7% do so in Coahuila, and 13% in Nuevo León. Opposition to the presumption of innocence is disturbing at any level, but, among all professionals, it is perhaps most disturbing in Chihuahua, Nuevo León, and Oaxaca, where the criminal procedure reforms are deepest and we would expect judicial awareness of this issue to push judges to agree with the statement.

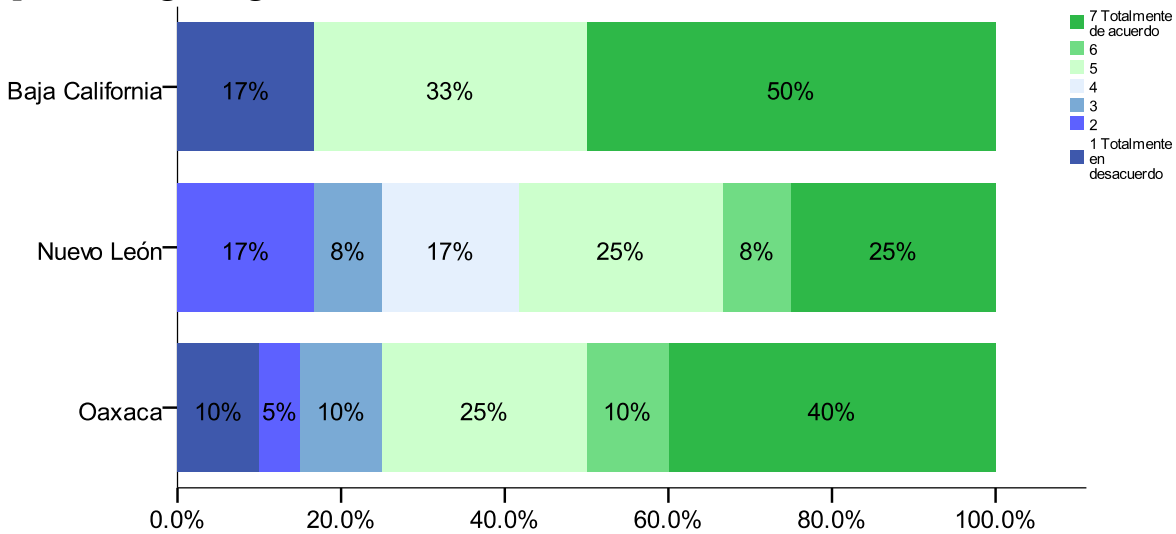
### Figure 52: Opinions Regarding Presumption of Innocence

*Please note whether you agree or disagree with this statement: The presumption of innocence should be respected, leaving suspected criminals out of custody in minor cases [CIII.3]*

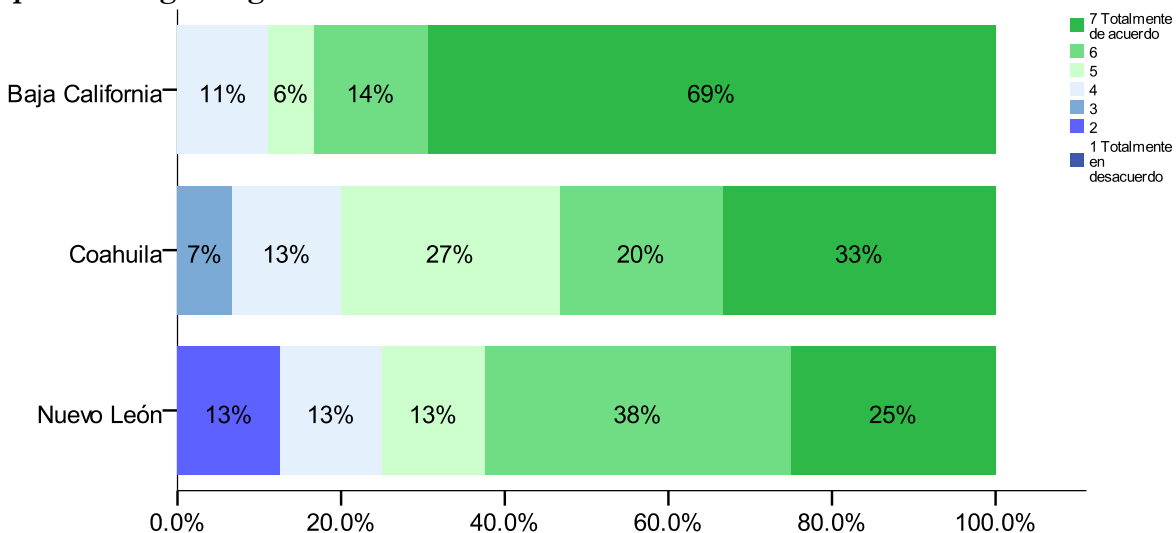
#### Opinions Regarding Oral Trials: Judges



### Opinions Regarding Oral Trials: Prosecutors



### Opinions Regarding Oral Trials: Defenders



### Alternative Dispute Resolution (ADR)

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

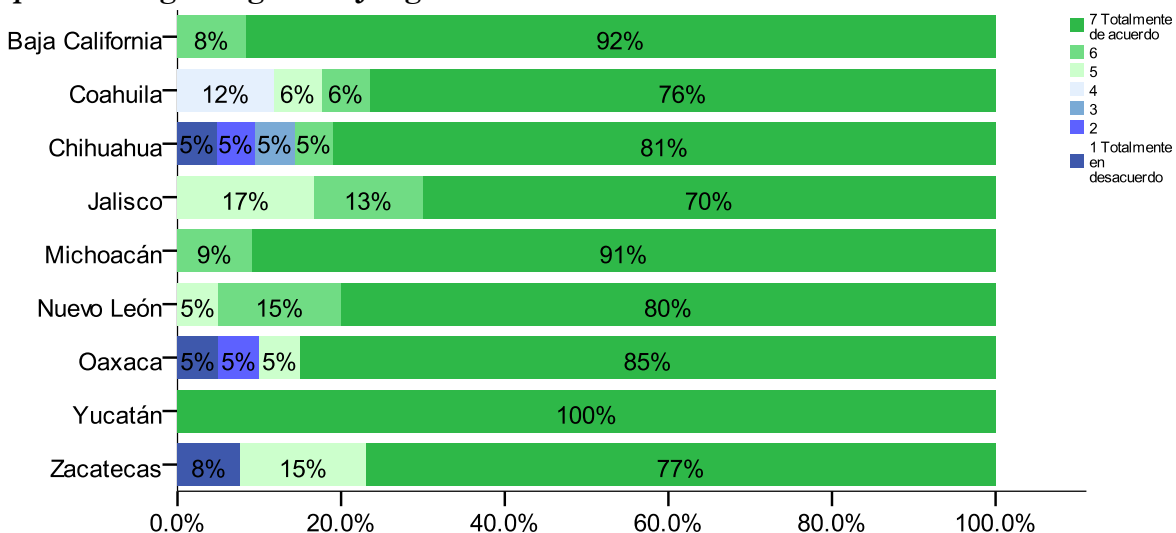
One cautionary note regarding these results is that ADR can mean different things to different people. It can mean methods for resolving disputes that are not litigation-based, such as mediation, conciliation, and arbitration. Many criminal procedure codes across the Mexican states explicitly use

this language to describe ADR. However, many of the 32 state civil procedure codes also refer to "alternative exits" from the typical criminal process (*salidas alternas*), including plea bargaining and procedures that are equivalent to alternative sentencing options like diversion or probation that are found in many U.S. jurisdictions. In short, respondents may be answering this question with any one of these procedural "alternatives" in mind.

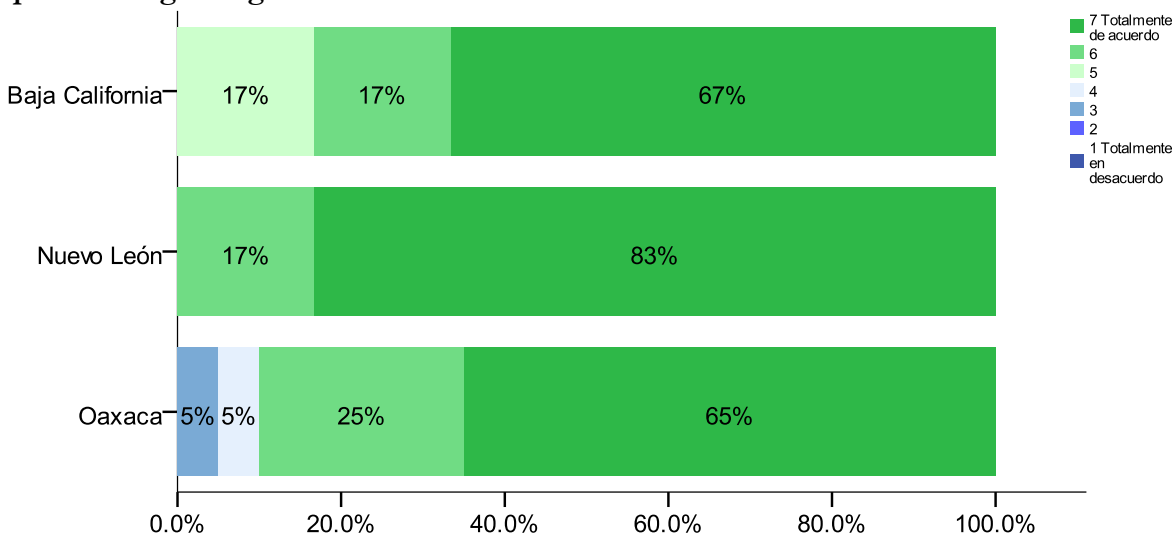
### Figure 53: Opinions Regarding Alternative Dispute Resolution (ADR)

*Please note whether you agree or disagree with this statement: There should be mechanisms of alternative dispute resolution [CIII.5]*

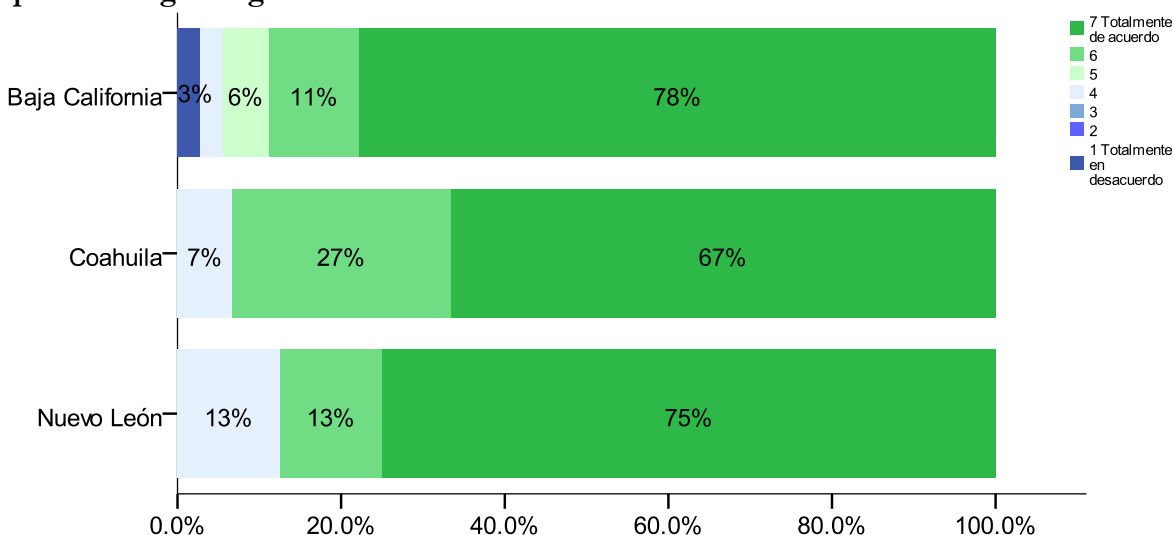
#### Opinions Regarding ADR: Judges



#### Opinions Regarding ADR: Prosecutors



## Opinions Regarding ADR: Defenders



## Speed of Criminal Proceedings

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

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

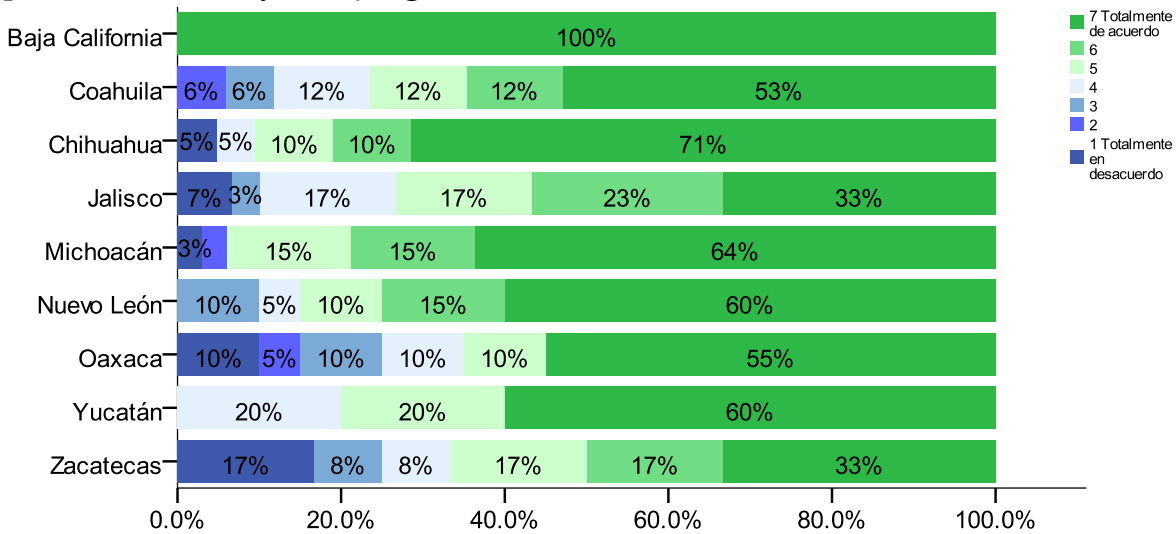
Overall, these results appear to give good news. That is, there is widespread agreement among judges, prosecutors, and public defenders that the speed of the criminal process should increase as a result of the new reform. Presumably, therefore, the criminal justice system will become more

efficient, leading to fewer delays. Given that one of the main criticisms of the justice system in Mexico is the prevalence of long delays, this is good news, indeed.

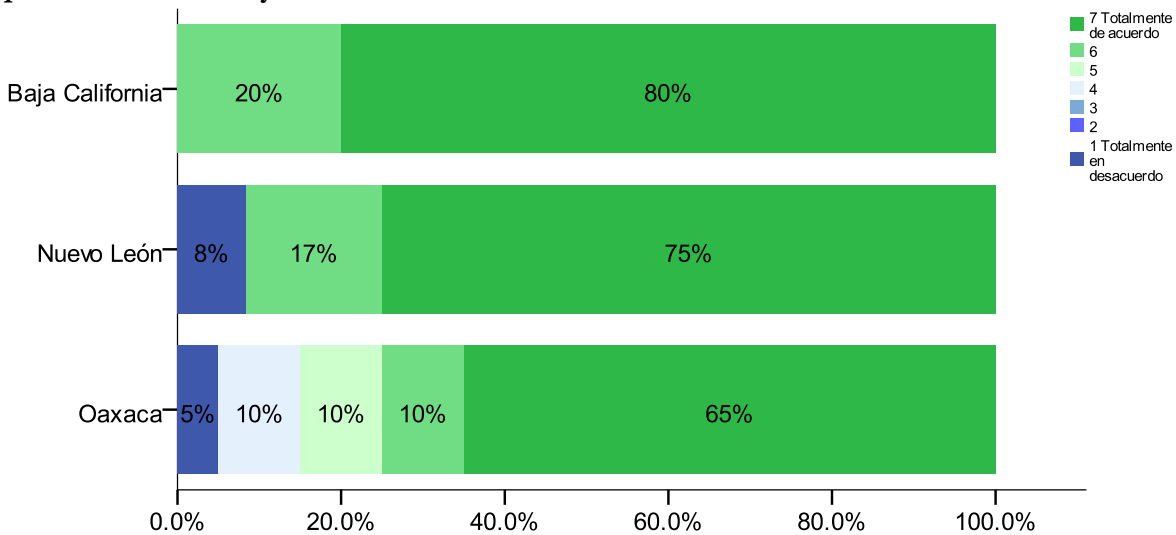
**Figure 54: Speed of Criminal Proceedings**

*Please note whether you agree or disagree with this statement: The 2008 reform will increase the speed of the criminal justice process [CIII.7]*

**Speed Under New System: Judges**

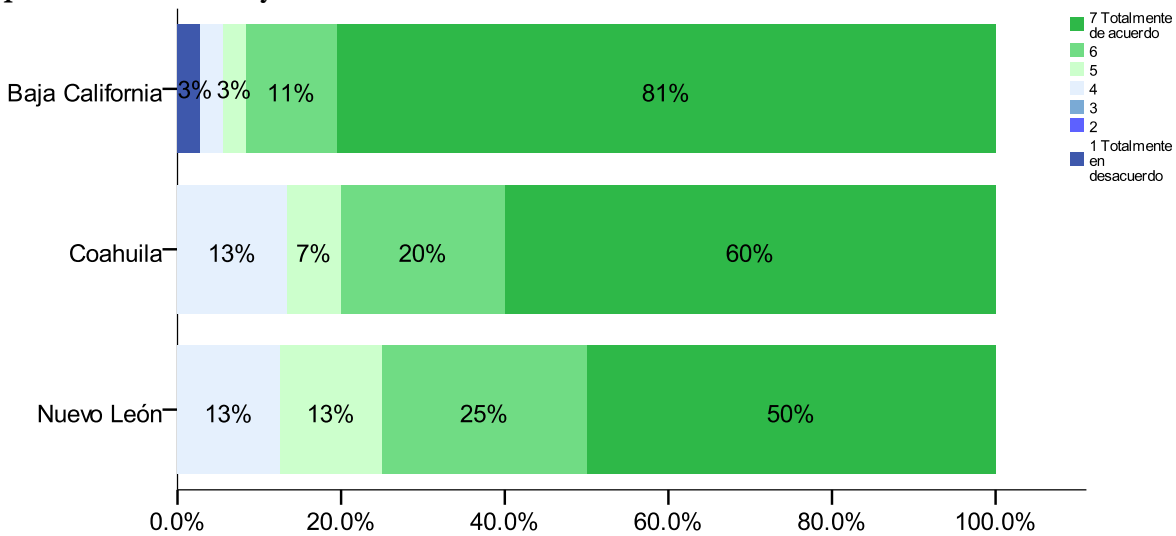


**Speed Under New System: Prosecutors**





### Speed Under New System: Defenders



### Impact of New System on Criminality

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

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

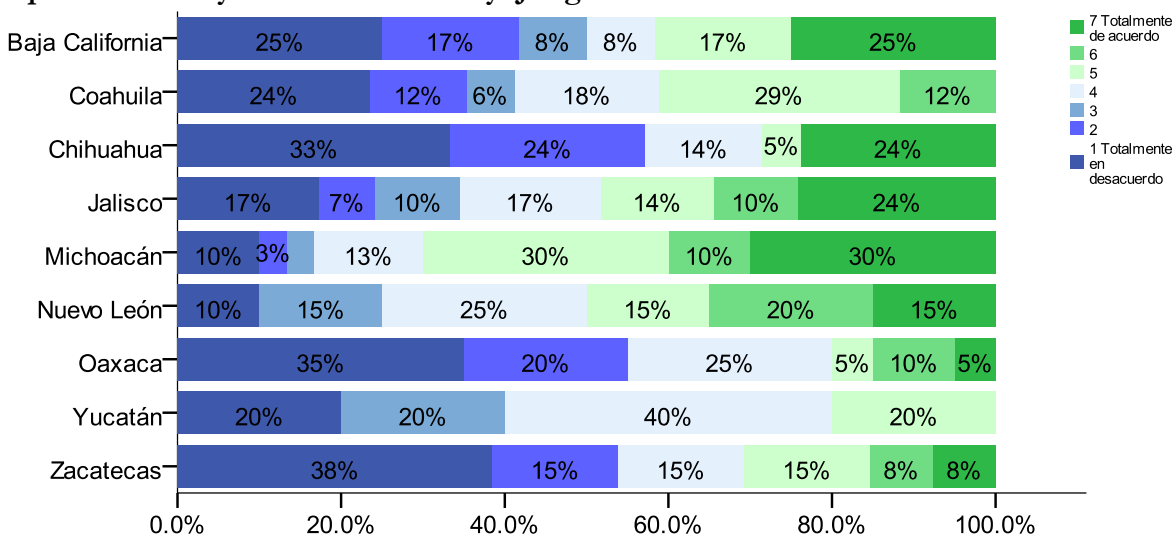
In contrast to the prior question on the increased speed of the new criminal procedure, these results present a rather pessimistic picture. There is substantial disagreement that the reform will help reduce criminality. Notably, this disagreement exists across professions, across states, and even

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

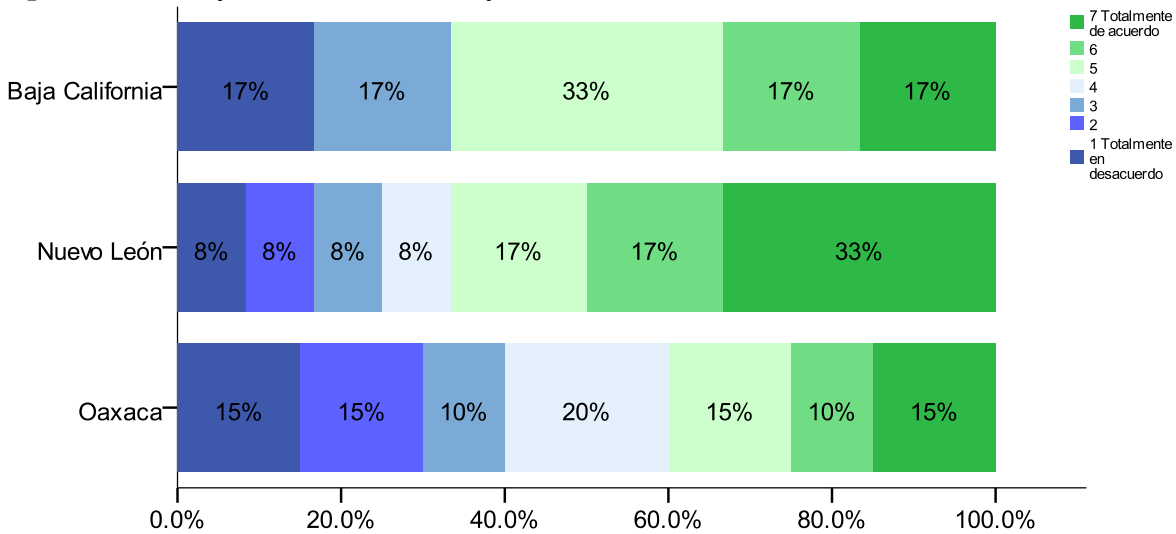
### Figure 55: Impact of New System on Criminality

*Please note whether you agree or disagree with this statement: The new criminal justice system will help reduce criminality [CIII.8]*

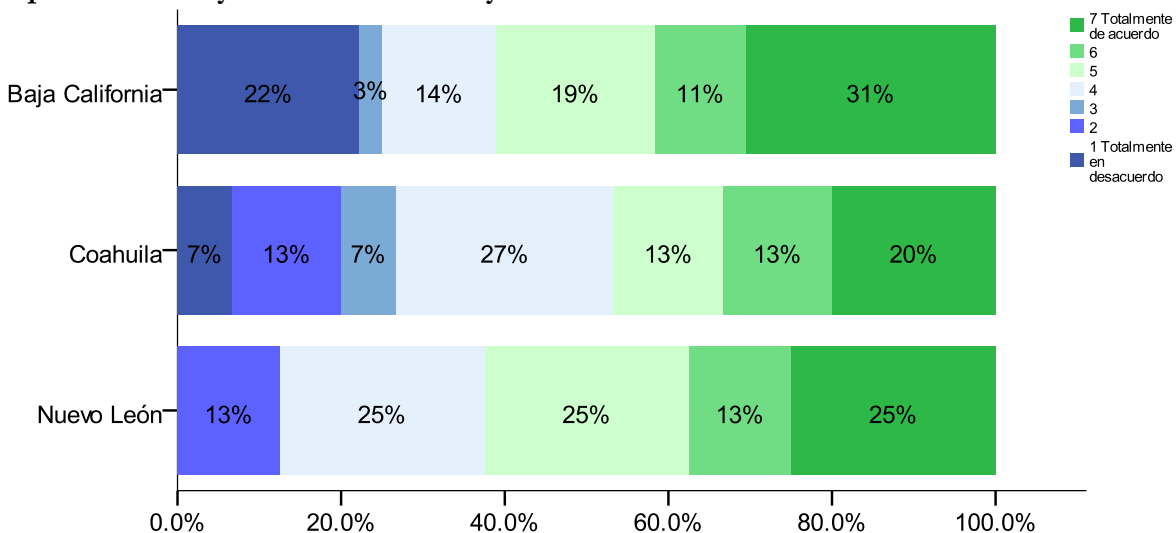
#### Impact of New System on Criminality: Judges



### Impact of New System on Criminality: Prosecutors



### Impact of New System on Criminality: Defenders



### Impact of New System on Corruption

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

Across states within each profession, at least 50% of respondents in each state agree to some extent that the reform will reduce corruption. This percentage is highest among judges in Baja California, where 91% agree (58% "totally agree"). The lowest is in Oaxaca (50%), and in no states does the

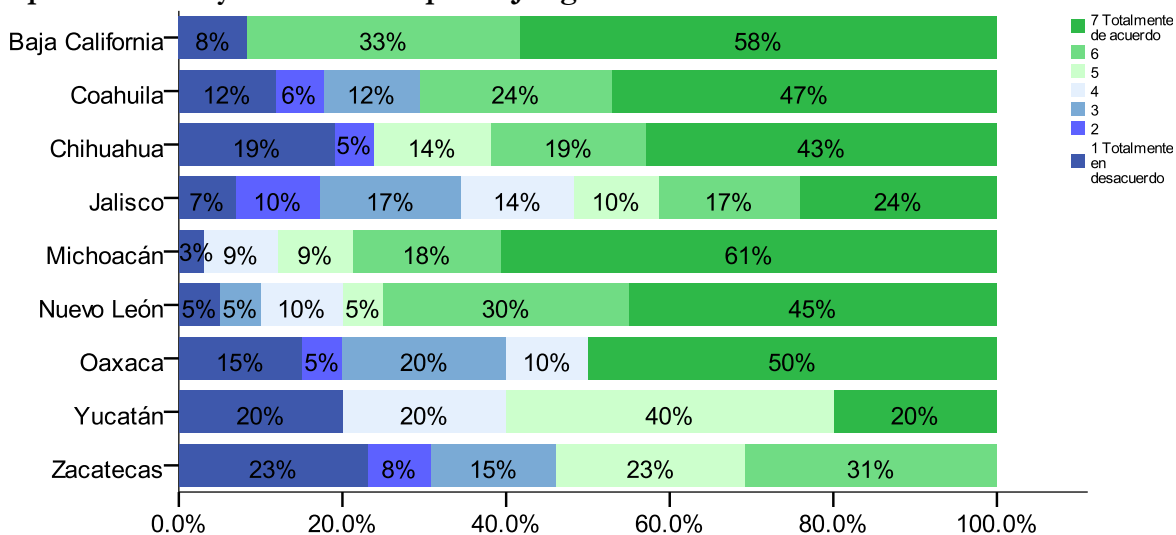
percentage expressing disagreement exceed 46% (Zacatecas, where a majority, 54%, expressed agreement). Overall, three states are very divided on this question (Jalisco, Oaxaca, and Zacatecas). Among prosecutors, about two-thirds in all three states think the reform will reduce corruption. In no state does the percentage that disagrees exceed 17%. Among defenders, at least 53% in each state agree with the proposition, and the highest level of disagreement is 20% (Coahuila).

Recalling earlier results that roughly a quarter of all respondents thought corruption was the biggest problem facing the judiciary prior to the 2008 reform, the results here are rather encouraging. Specifically, in keeping with advocates' claims that the reforms will achieve greater transparency in the criminal justice system, more than two-thirds of respondents think the 2008 reform will help reduce corruption. However, while those who disagree are in the minority, it is important to remember that their sentiments are quite strong.

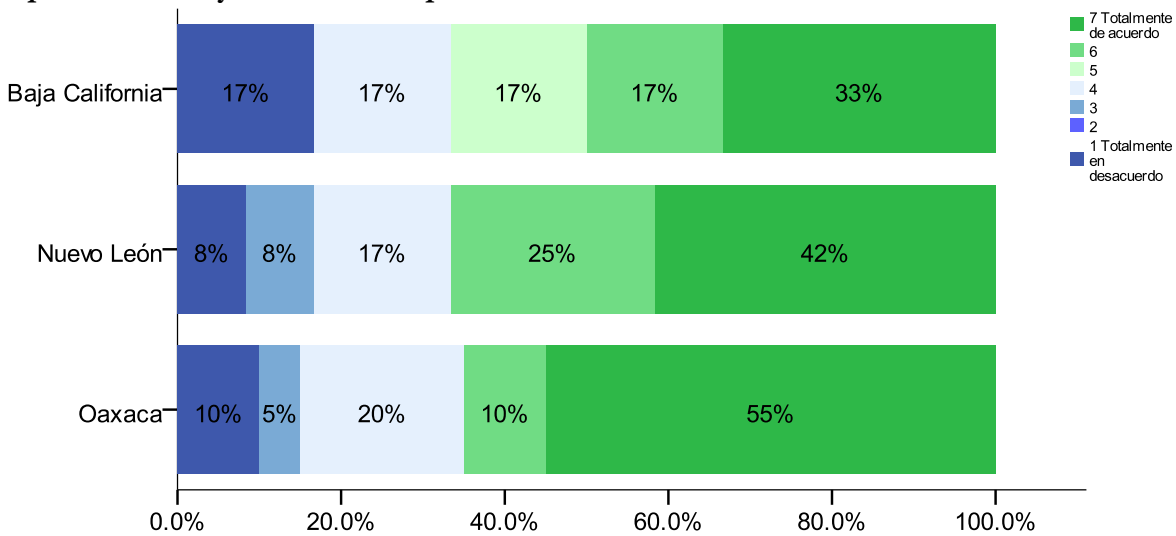
### Figure 56: Impact of New System on Corruption

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

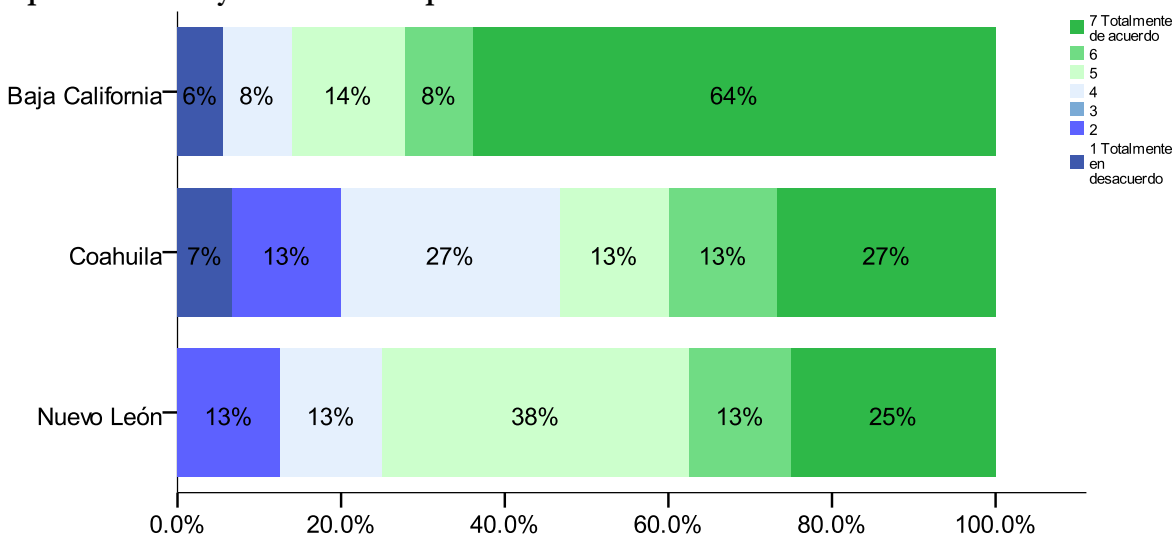
#### Impact of New System on Corruption: Judges



### Impact of New System on Corruption: Prosecutors



### Impact of New System on Corruption: Defenders



## Results of Reform Efforts

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

The results remained mixed even disaggregating by state and profession. Approximately 55% of judges expressed some level of approval of the results of the reform, compared with 80% of defenders and 67% of prosecutors. Even within professions, though, there is wide variation. For

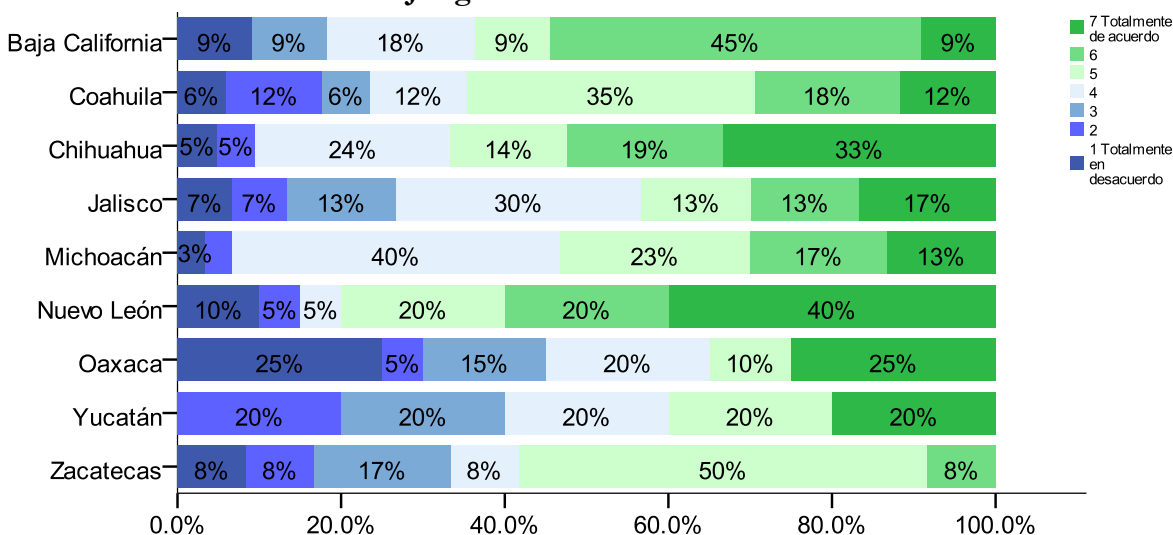
instance, 100% of prosecutors in Nuevo León agree with the reform's results, but 34% of prosecutors in Baja California disapproved of the results of the reform. Among judges, respondents in several states reported disagreement with the results of the reform in excess of 20% of respondents, but in Michoacán only 6% of judges reported any level of disagreement. In Oaxaca, 25% of judges expressed "total disagreement" with the results of the reform, and a total of 45% of judges in this state expressed some level of disagreement with the reform's results. Given that 20% of Oaxacan judges expressed a neutral position on the reform (4), this leaves a plurality of judges (45%) opposed to the results of the reform and only 35% in favor.

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

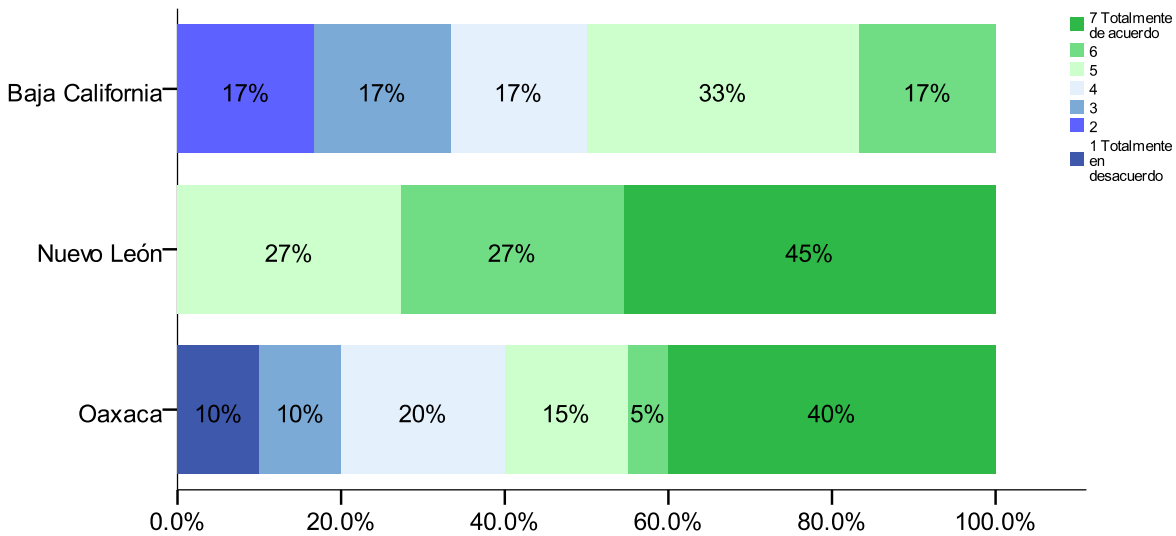
**Figure 57: Results of 2008 Judicial Reform**

*Please note whether you agree or disagree with this statement: The results of the 2008 reform have been good [CIII.1]*

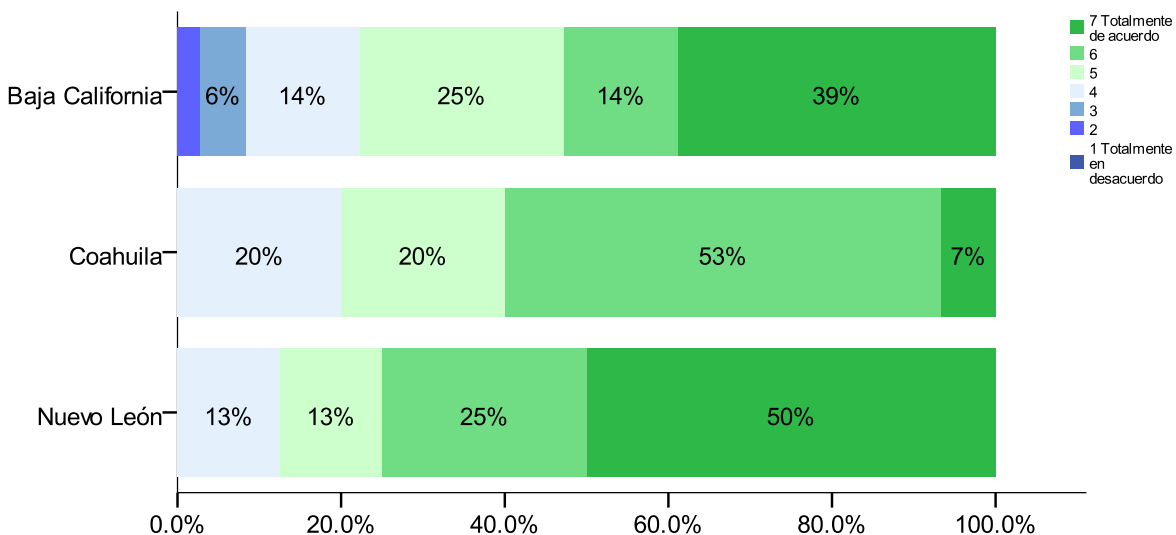
**The results of the 2008 reform: Judges**



### The results of the 2008 reform: Prosecutors



### The results of the 2008 reform: Defenders



## Effectiveness of Similar Reforms in Other Countries

Overall, about 53% of respondents agreed that other countries that have adopted similar criminal procedure reforms have demonstrated the effectiveness of the new system. Across the professions, about 49% of judges, 60% of prosecutors, and 62% of defenders expressed some level of agreement with this statement. Large numbers of respondents, however, were ambivalent, since at least 20% in each profession gave neutral responses. Across different states, other patterns emerge within each profession.

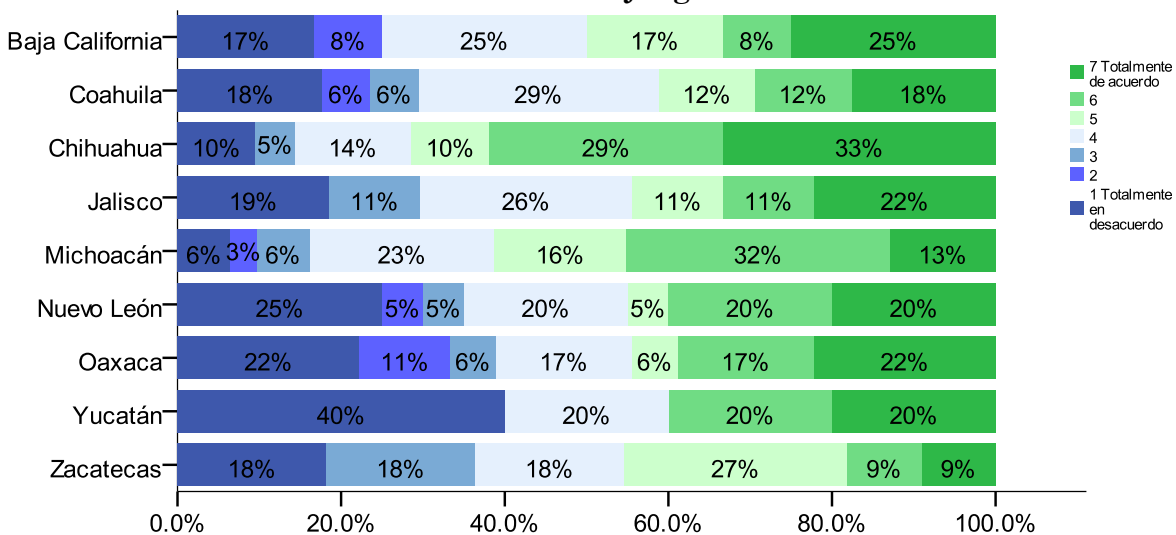
Among judges, only two states report majorities that agreed that the new criminal justice system has demonstrated its effectiveness in other countries that have implemented it. In these two states — Chihuahua and Michoacán— about 72% and 61% of judges, respectively, expressed some level of

agreement with the underlying statement. In Baja California, 50% of judges agreed with this statement, but this percentage did not exceed 45% in any other state. Conversely, at least 35% of judges in Nuevo León, Oaxaca, Yucatan, and Zacatecas disagreed that the system has demonstrated its effectiveness in other countries. Once again, these percentages are particularly worrisome in places like Nuevo León, Oaxaca, and Zacatecas due to their longer history with local versions of the reform and therefore closer familiarity with its intricacies. Among lawyers, public defenders had majorities expressing agreement with the underlying statement in all three states. A majority of prosecutors also expressed agreement in two of three states. Only in Nuevo León did this percentage drop below 60%, and then only to 45% agreement.

### Figure 58: Demonstrated Effectiveness of Model Countries for the Reform

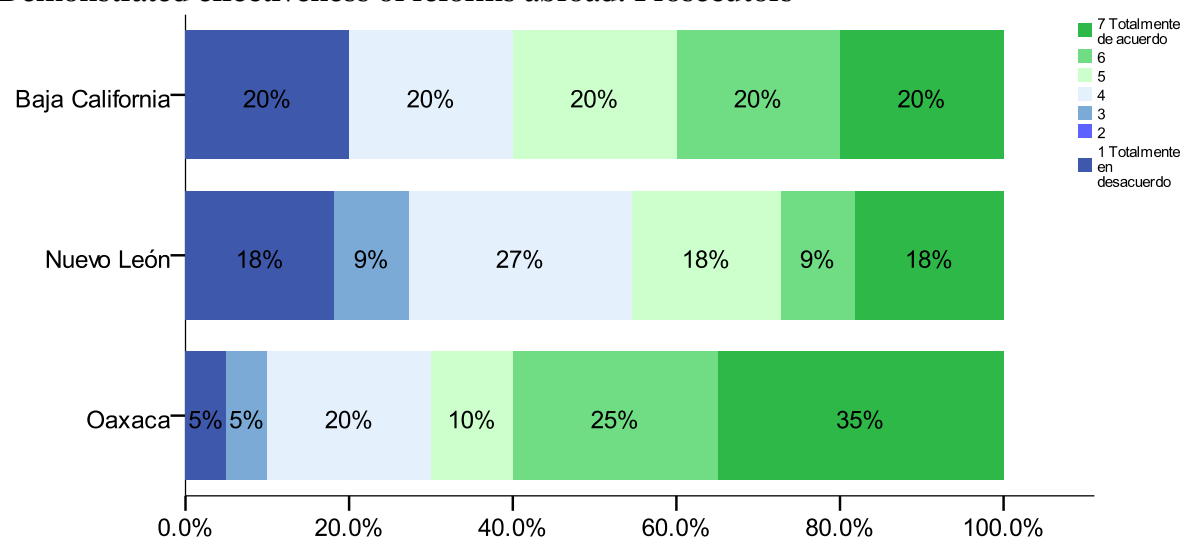
*Please note whether you agree or disagree with this statement: The criminal justice system of countries on which the 2008 reform was based have demonstrated its effectiveness [CIII.3a.iii]*

#### Demonstrated effectiveness of reforms abroad: Judges

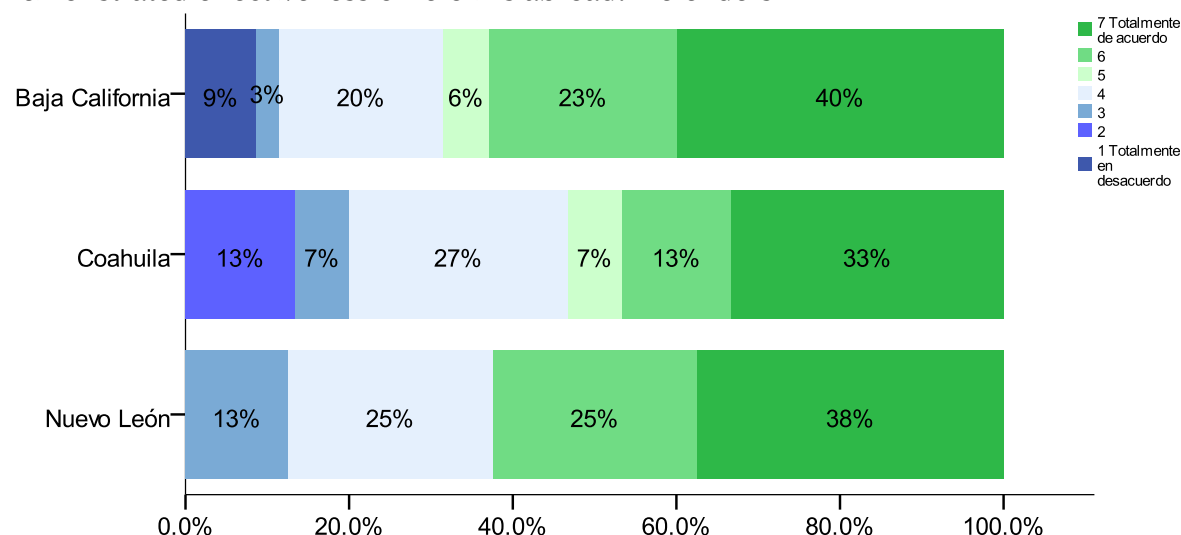




### Demonstrated effectiveness of reforms abroad: Prosecutors



### Demonstrated effectiveness of reforms abroad: Defenders



## Foreign Research and Training Efforts

Approximately 70% of respondents agree expressed some level of agreement that foreign institutions should promote research and training related to the new criminal justice system. Across professions, substantial majorities also agree with this proposition: 63% of judges, 75% of prosecutors, and 85% of defenders. However, these high aggregate levels of support for foreign-supported research and training conceal wide variation across states within each profession, principally among judges and prosecutors.

First, the extremes among judges range from 100% agreement in Yucatán to 47% disagreement in Jalisco. In Chihuahua, 43% of judges do not think foreign institutions should promote research and

training, and 38% expressed the highest level of opposition to this proposition. This pattern deserves more attention and further research, as foreign-supported groups have had a very strong presence in Chihuahua (e.g., USAID and PRODERECHO), so the intensity of the responses here may reflect a kind of backlash. Setting aside Chihuahua and Jalisco, majorities of judges in all of the other seven states agreed that foreign-supported institutions should promote research and training related to the justice system.

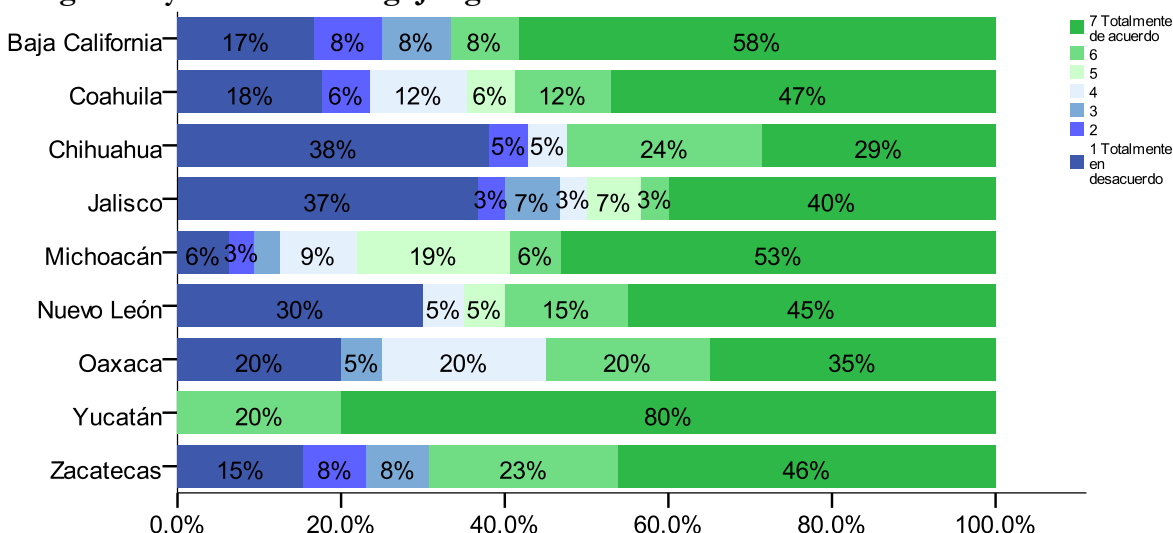
Second, among prosecutors, majorities in all three states agree with the underlying statement. Indeed, in Nuevo León there are no negative responses to this statement. However, 33% of prosecutors in Baja California expressed the highest level of disagreement with this proposition. In Oaxaca, despite the fact that 85% of prosecutors expressed some level of agreement with the proposition, 15% expressed the highest level of disagreement. Separately, among public defenders opposition never rose above 13%.

One possible explanation for the negative responses to this question is that some of the survey participants may be responding to the different parts of the question. That is, some may object to the fact that foreign institutions should have any role at all, while others may approve of these institutions doing research but not training and preparation of professionals. Others may also be responding negatively to the presumption that lawyers and judges in Mexico need to be trained or re-trained.

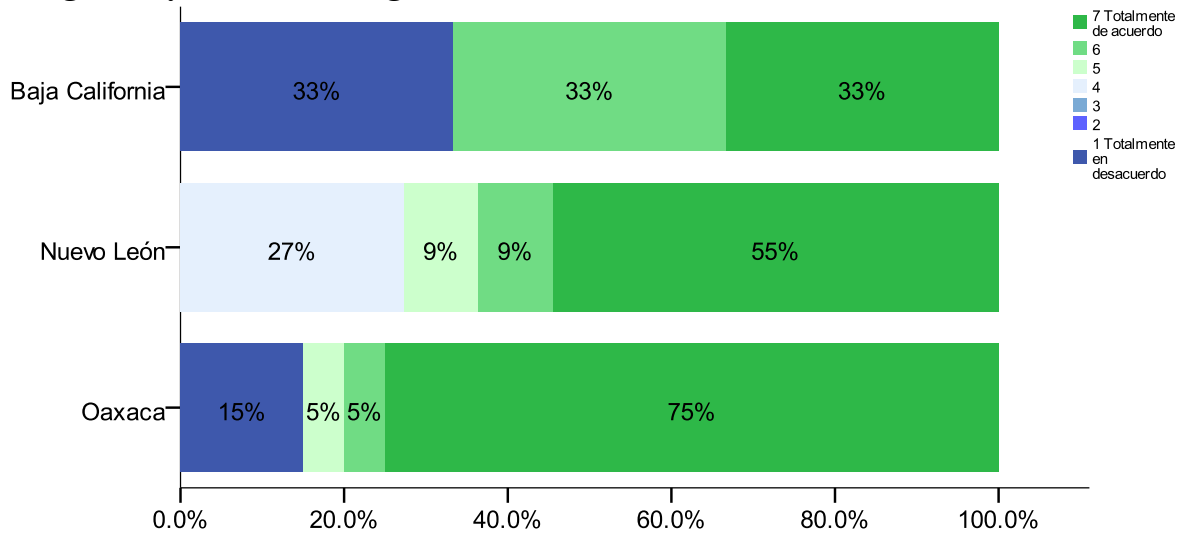
### Figure 59: Foreign Analysis and Training for the Reform

*Please note whether you agree or disagree with this statement: Institutions and organizations from other countries should provide the analysis of and training for the 2008 reform [CIII.3a.iii]*

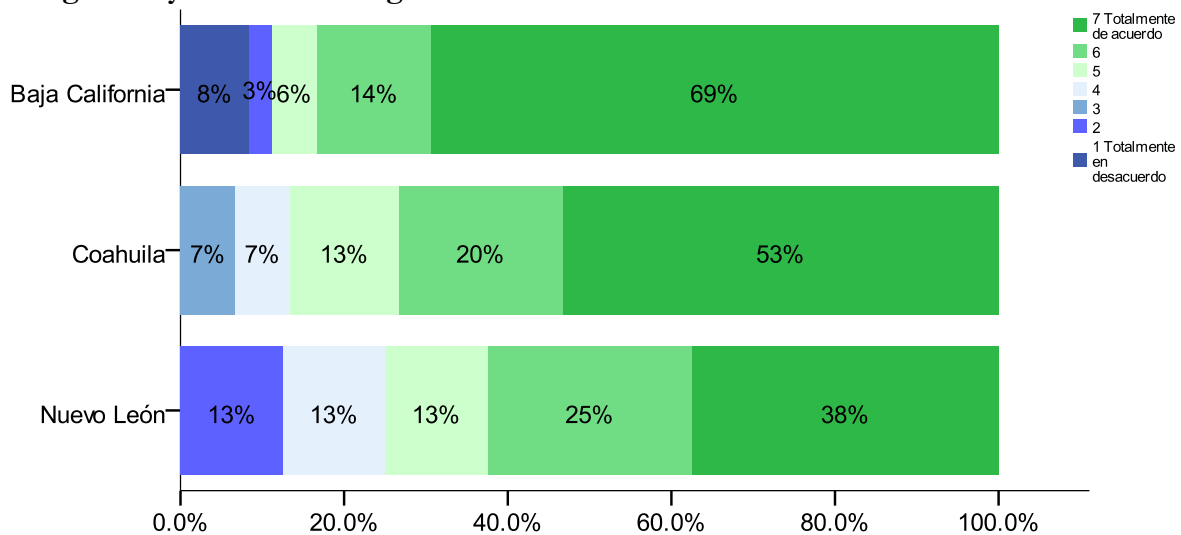
#### Foreign Analysis and Training: Judges



### Foreign Analysis and Training: Prosecutors



### Foreign Analysis and Training: Defenders



## Conclusions

The *Justiciabarómetro: 2011 Judicial Survey* constitutes a significant advance in efforts to study the criminal justice system in Mexico —and Latin America, more generally— at a critical time in the development of the judicial sector. The study is particularly ground breaking in terms of the number of judicial actors surveyed, the diverse sub-national jurisdictions included, and the breadth of issues examined. The findings shed new light on the profile and attitudes of the principal actors responsible for the administration of justice in Mexico as they work toward the implementation of the new judicial reforms initiated in 2008.

To be sure, the 2011 *Justiciabarómetro* survey provides only a glimpse of an enormously complex justice system, and takes the pulse of judicial actors at a specific moment in time. At this particular moment, Mexico is embroiled in a severe public security crisis and there is intense public frustration with the inability of the criminal justice system to effectively resolve it. Advocates hope that the 2008 reforms will improve the justice sector by introducing greater transparency, accountability, and due process. Because these reforms will demand greater professionalism and effectiveness from police and prosecutors in the long term, there is hope that judicial reform will eventually help Mexico to address the problems of rising crime, judicial sector corruption, and systemic human rights abuses.

The *Justiciabarómetro* study helps to evaluate the progress and prospects of these reform efforts, drawing on the insights and opinions of those responsible for their implementation. As the first of its kind, this study faced resource constraints and methodological challenges that would be important to overcome in the future application of this survey. For future studies, it would be very desirable to include a greater number of states and conduct in-person interviews (rather than telephone interviews), both of which would add significantly to the cost of implementing the survey. It would also be desirable to achieve a more uniform response rate across different states, which may require more substantial preparation and promotion in different states prior to the application of the survey. Still, future studies now have a stronger foundation for further attitudinal research on justice sector professionals in Mexico.

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

- Mexico's criminal justice system is administered by relatively young professionals, with inconsistent barriers to enter, remain, or ascend within the profession.
- Judges, prosecutors, and public defenders appear to be generally satisfied with the levels of compensation they receive, though frustration with salary and workload vary by state (being most negative in Oaxaca and Yucatán).

- While quantitative systems to evaluate performance are in existence in many cases and requirements for continuing education across all three professions, performance incentives are generally lacking.
- Most respondents agreed that experience and training are a primary basis for employment and promotion, a significant portion of respondents feel that political contacts also play a role.
- Generally speaking, respondents had a sense that the number of judges is adequate to handle cases in a timely manner (with relatively strong dissenting opinions in Jalisco, Oaxaca, Yucatán, among other states).
- Respondents reported that there is a need for more prosecutors and especially public defenders to adequately handle the workload in several states, most notably Jalisco, Oaxaca, Yucatán, Michoacán and Coahuila.
- On the efficiency of procedures in criminal cases, there were relatively sharp differences between the views of judges and prosecutors, on the one hand, and public defenders, on the other.
- While all respondents tended to have a high opinion of the professional competency and integrity of judges and public defenders, prosecutors were viewed as less competent by their colleagues in other professions, despite favorable self-assessments among prosecutors themselves.
- On ethical questions regarding lawful behavior, there was nearly universal agreement among respondents that “illegal conduct” is unacceptable, even if no one gets hurt, and the law should always be respected. However, in an alternative phrasing of the question, there was substantial tolerance for illegal conduct in order to capture criminals. Specifically, one in four respondents -- 28.2% -- tolerate occasional illegalities in the pursuit of justice.
- Generally speaking, judges and prosecutors tend to believe that violations of due process — such as forced confessions— are very rare or never used, while public defenders are much more likely to disagree.
- Respondents were significantly split on the effectiveness and efficiency of Mexico’s traditional criminal justice system, on whether that system had been deliberately discredited to make way for the 2008 judicial reform, and on whether the new judicial system was the result of pressure from foreign interests.
- Still, the provisions included in the 2008 reforms —introducing oral, adversarial criminal procedures— were well regarded, particularly in states where they had not yet taken effect; the most significant reservations tended to register among respondents from states that had already adopted the reforms for some time.
- Many respondents do not believe that the 2008 reform will help to reduce criminality, but a large proportion is optimistic that it will improve efficiency and reduce corruption in the judicial system.

These are important findings because they point to the strengths and weaknesses of the Mexican criminal justice system, and illustrate the sources of support for and resistance to the reforms

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

Meanwhile, within the available data from this survey, there are numerous additional questions that are outside the scope of this report but must be explored in greater detail in the future. Indeed, the database of responses to this survey provides a rich resource to help address a wide range of questions about the judicial profession in Mexico, such as the different perceptions of men and women working in different professions in the criminal justice system, the influence of prior study abroad on attitudes toward foreign influence in the Mexican legal system, and the experience of crime victimization and trust toward prosecutors. Likewise, this study provides new data well worth comparing to existing research on other professionals working in the criminal justice system, including previous *Justiciabarómetro* studies of police attitudes in Guadalajara and Ciudad Juárez.

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

## Endnotes:

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

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

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

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

<sup>5</sup> For detailed discussion of reform see Matthew C. Ingram and David A. Shirk, "Judicial Reform in Mexico: Toward a New Criminal Justice System," Special Report, Trans-Border Institute, University of San Diego, May 2010.

<sup>6</sup> David A. Shirk, "Judicial Reform in Mexico: Changes and Challenges in the Justice Sector," Working Paper, Trans-Border Institute, University of San Diego, 2010; United States Agency for International Development (USAID), *Mexico Rule of Law Strengthening: Final Report to USAID*. Dec. 31 (prepared by Management Systems International, MSI), 2007.

<sup>7</sup> For public opinion surveys about crime, see for example those generated since 2007 by Consulta Mitofsky and México Unido Contra la Delincuencia (<http://mucd.org.mx/secciones/informate/encuesta-mitofsky-sobre-seguridad>). For a study of how Mexican society is influenced by crime, see also: Pablo Paras, "Unweaving the Social Fabric: The Impact of Crime on Social Capital," in *Reforming the Administration of Justice in Mexico*, edited by Wayne A. Cornelius and David A. Shirk, Notre Dame, Ind.; San Diego: University of Notre Dame Press; Center for U.S.-Mexican Studies, University of California, 2007.



<sup>8</sup> For victimization surveys, see the series generated by the Instituto Ciudadano de Estudios Sobre la Inseguridad (ICESI), known as the *Encuesta Nacional Sobre la Inseguridad (ENSI)* which has been conducted regularly since 2002 (<http://www.icesi.org.mx>). For groundbreaking studies of prison inmates, Azaola, Elena and Marcelo Bergman (2007). "The Mexican Prison System," in *Reforming the Administration of Justice in Mexico*. Wayne A. Cornelius and David A. Shirk. Southbend, IL; La Jolla, CA, Notre Dame Press; Center for U.S.-Mexican Studies. Azaola, Elena and Marcelo Bergman (2009). *Delincuencia, marginalidad y desempeño institucional: Resultados de la tercera encuesta a población en reclusión en el Distrito Federal y el Estado de México*. Mexico City, Centro de Investigación y Docencia Económicas.

<sup>9</sup> For studies of the role of lawyers and judges in the Mexican criminal justice, see Héctor Fix Fierro, "The Role of Lawyers in the Mexican Justice System," in *Reforming the Administration of Justice in Mexico*, edited by Wayne A. Cornelius and David A. Shirk, Notre Dame, IL; La Jolla, CA: University of Notre Dame Press; UCSD Center for U.S.-Mexican Studies, 2007. For studies of police in Mexico, see Elena Azaola, "Imagen y autoimagen de la policía de la ciudad de México," *Revista Dfensor*, 2007, pp. 15 - 21; John Bailey, Dammert, Lucia, *Public Security and Police Reform in the Americas*. Pittsburgh: University of Pittsburgh Press, 2006; Manuel González Oropeza, *Política y constitución*. México: Universidad Nacional Autónoma de México, 1988; José Octavio López Presa, *Corrupción y cambio*. Mexico City: Fondo de Cultura Económica, 1998; Sara Lovera, *Policias violadores, violadores policías*. Tema actual ; 1. México, D.F.: Editorial Majo S.A. de C.V., 1990; Genaro García Luna, *¿Por qué 1,661 corporaciones de policía no bastan? : pasado, presente y futuro de la policía en México*. Mexico, 2006; Jesús Martínez Garnelo, *Policia nacional investigadora del delito: antología del origen, evolución y modernización de la policía en México*. 1. ed. México: Editorial Porrúa, 1999; Jorge Nacif Mina, *La policía en la historia de la Ciudad de México (1524-1928)*. México: Departamento del Distrito Federal Secretaría General de Desarrollo Social Dirección General de Acción Social Cívica Cultural y Turística, 1986; Máximo Sozzo, Lucía Dammert, and John Bailey, *Seguridad y reforma policial en las Américas: experiencias y desafíos*. México, D.F.: Siglo XXI Editores; FLACSO Chile; Naciones Unidas ILANUD, 2005; Elisa Speckman Guerra, *Crimen y castigo: legislación penal, interpretaciones de la criminalidad y administración de justicia, Ciudad de México, 1872-1910*. 1. ed. México: El Colegio de México Centro de Estudios Históricos : Universidad Nacional Autónoma de México Instituto de Investigaciones Históricas, 2002; María Eugenia Suárez de Garay, *Los policías: Una averiguación antropológica*. Guadalajara: ITESO/Universidad de Guadalajara, 2006; Felipe Victoria Zepeda, "Perro rabioso" : la corrupción policiaca : si es posible exterminarla : carta abierta al Presidente de México, 1994-2000. 2a ed. México: Edamex, 1994; José Arturo Yáñez Romero, *Policia mexicana: cultura política, (in)seguridad y orden público en el gobierno del Distrito Federal, 1821-1876*. México, D.F.: Universidad Autónoma Metropolitana: Plaza y Valdés Editores, 1999. Regarding other Justiciabarómetro research, see Marcos Pablo Moloeznik, David A. Shirk, and María Eugenia Suárez (2009). *Justiciabarómetro: Zona Metropolitana de Guadalajara*. San Diego, Trans-Border Institute, as well as a study in progress by Marcos Pablo Moloeznik, David A. Shirk, and María Eugenia Suárez, "Justiciabarómetro: Ciudad Juárez." San Diego, Trans-Border Institute (forthcoming).

<sup>10</sup> The polling firm Data-OPM, based in Mexico City and directed by Pablo Parás, administered the survey. The advisory council met and corresponded to develop the lines of inquiry and to review the specific questions to be included in the survey instrument. In advance of administering the survey, the research team travelled to each of the state included in order to identify respondents and disseminate information about the study and its objectives.

<sup>11</sup> An additional two interviews were with respondents who listed profession as "other" so they are not included.

<sup>12</sup> Joseph L. Staats, Shaun Bowler, Jonathan T. Hiskey, "Measuring Judicial Performance in Latin America," *Latin American Politics and Society* 47(4), 2005; Simeon Djankov et al. *Legal Structure and Judicial Efficiency: The Lex Mundi Project*. Washington, DC, 2001: World Bank; John Huber and Ronald Ingelhart, "Expert Interpretations of Party Space and Party Placement in 42 Societies," *Party Politics*, v. 1, 1995, pp. 73-112; Michael Laver and Ben Hunt. *Policy and Party Competition*. London: Routledge, 1992; Michael Coppedge, "The Dynamic Diversity of Latin American Party Systems." *Party Politics*, v. 4, 1998, pp. 547-68.; G. Bingham Powell, *Elections as Instruments of Democracy: Majoritarian and Proportional Visions*. New Haven: Yale University Press, 2000; Leonard Ray, "Measuring Party Positions on European Integration: Results from an Expert Survey," *European Journal of Political Research* 36, 1999, pp. 283-306; Leonard Ray and Hanne Marthe Narud, "Measuring the Issue Positions of Norwegian Parties: Results from an Expert Survey," *Party Politics* 6, 2000, pp. 225-39.

<sup>13</sup> Laver and Hunt (1992) and Huber and Ingelhart (1995), Ray (1999: 286) and Staats, Bowler and Hiskey (2005).

<sup>14</sup> Staats, Bowler and Hiskey, p. 84.

<sup>15</sup> Staats, Bowler, and Hiskey include data on Brazil and Ecuador even though only 4 respondents replied to particular questions, p. 98-99.

<sup>16</sup> Respectively, see Aníbal Pérez-Liñán, Barry Ames, and Mitchell A. Seligson. "Strategy, Careers, and Judicial Decisions: Lessons from the Bolivian Courts," *Journal of Politics*, 68 (2), 284-295, 2006; and Staats, Bowler, and Hiskey (2005).



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<sup>17</sup> Dato'Param Kumaraswamy, *Independence of the Judiciary, Administration of Justice, Impunity: Report on the Mission to Mexico*, 2002.

<sup>18</sup> One of the authors (Ingram) had to take these exams twice in California -- first to become a probation officer (1994) and later to become a police officer (1995).

<sup>19</sup> See, for example, Helmke, Gretchen. 2005. *Courts Under Constraints: Judges, Generals, and Presidents in Argentina*.

Cambridge: Cambridge University Press; Beer, Caroline. 2006. "Judicial Performance in the Mexican States." *Latin American Politics and Society* 48(3): 33-61; Rios-Figueroa, Julio. 2007. "Fragmentation of Power and The Emergence of an Effective Judiciary in Mexico, 1994-2002," *Latin American Politics & Society*, 49(1); Kapiszewski, Diana. 2011. "Tactical Balancing." *Law and Society Review* 45(2); Ingram, Matthew C. [forthcoming]. "Crafting Courts in New Democracies: Ideology and Judicial Council Reforms in Three Mexican States." *Comparative Politics*.

<sup>20</sup> 10 respondents did not know or did not respond ("NS/NR").

<sup>21</sup> One judge did not respond to this question in Zacatecas.

<sup>22</sup> Three respondents did not answer this question.

<sup>23</sup> Results obtained using SPSS Statistics 19.

<sup>24</sup> Marcos Pablo Moloeznik, David Shirk, and María Eugenia Suarez de Garay, *Justiciabarómetro: Zona Metropolitana de Guadalajara*, San Diego, 2009 .

<sup>25</sup> The AmericasBarometer by the Latin American Public Opinion Project (LAPOP), [www.LapopSurveys.org](http://www.LapopSurveys.org).

<sup>26</sup> In the future, analysts may want to rescale this and other variables generated by this survey. In some questions (e.g., regarding honesty/integrity, professional capacity, or effectiveness), respondents are reporting their own professional group's placement, but may also be reporting their own self-placement vis-a-vis other professions. Thus, respondents may be interpreting the answer scale differently, and also interpreting their placement in relation to other professions. Carrying out this kind of rescaling assumes that each profession has a fixed, objective location on a scale for each of these responses; for instance, judges are objectively more honest than prosecutors in state A. For rescaling applications to candidate positions and ideological placement of parties, respectively, see John Adrich and Richard McKilveney (1977), "A Method of Scaling with Applications to the 1968 and 1972 Presidential Elections," *American Political Science Review* 71 (1): 111-130; Timothy Power and Cesar Zucco (2009), "Estimating Ideology of Brazilian Legislative Parties, 1999-2005", *Latin American Research Review* 44(1): 218-246.

<sup>27</sup> Additional questions asked in this area of integrity include questions about perceived trust or confidence in judges, prosecutors, and defenders.

<sup>28</sup> As of Dec. 31, 2010, eight (8) states had approved and implemented the new system: Baja California, Chihuahua, Durango, State of Mexico, Morelos, Nuevo León, Oaxaca, and Zacatecas. Another two -- Guanajuato and Puebla -- had reforms approved by January 2011 and were scheduled to begin implementing in the second half of 2011. See Ingram, Matthew C. [forthcoming]. "State of the States: Local Criminal Procedure Reforms in Mexico." In Octavio Rodríguez Ferreira and David A. Shirk, eds. *La reforma penal en Mexico*. Trans-Border Institute, University of San Diego.

<sup>29</sup> Nancy J. Blake and Kathleen Blake Bohne, "The Judicial System in Mexico (Part 3)," *Open Democracy*, August 8, 2009.

<sup>30</sup> Patrick Corcoran, "Corruption Could Be Undoing of Mexico's Judicial Reforms," *Mexidata*, March 17, 2008.

<sup>31</sup> As Zepeda (2008) argues, the worst miscarriage of justice is when the coercive apparatus of a democratic state deprives an innocent person is deprived of their liberty; without a formal charge against an individual, the presumption of innocence should prevail. Guillermo Zepeda Lecuona, "La reforma constitucional en materia penal de junio de 2008: Claroscuros de una oportunidad histórica para transformar el sistema penal mexicano," In *Análisis plural*, 2008.

<sup>32</sup> One concern about the *arraigo* is that it undermines the reforms' torture prohibitions. According to Deaton (2010), "The detaining authorities have a powerful incentive to torture a detainee in order to get them to make false confessions so that they may then have the "evidence" to file charges against them. Not only do they have the incentive, but given the secret nature of *arraigo* and its placement of detainees incommunicado, without adequate access to their attorney, *arraigo* is an invitation to torture. That is, it is an invitation to commit the very abuse that the constitutional prohibition against torture is designed to prevent." Liliana Alcántara, "Naciones Unidas urge a desaparecer la figura del arraigo," *El Universal*, December 1, 2006, Janice Deaton, "Arraigo and the Fight Against Organized Crime in Mexico." Working paper presented at the NDIC-TBI Bi-national Security Conference hosted at the University of Guadalajara.: Trans-Border Institute (University of San Diego); Strategic Intelligence Program (National Defense Intelligence College), 2010, p. 16.

<sup>33</sup> Preliminary cross-tabulations show a relationship between general opinion regarding the 2008 reform and this variable (chi-square=11.66;  $p < .05$ ), as well as opinion regarding results of the 2008 reform and this variable (chi-square=14.56;  $p < .01$ ). Thus, as might be expected, at least some part of the assessment of the traditional system is shaped by one's attitude towards the 2008 reform; put simply, if one has a negative opinion of the 2008 reform one is likely to think that the traditional system was just fine.

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<sup>34</sup> Ingram's study of judicial councils examines how this process can unfold. See Matthew C. Ingram, (forthcoming), "Crafting Courts in New Democracies: Ideology and Judicial Council Reforms in Three Mexican States," *Comparative Politics*.

<sup>35</sup> In full disclosure, for similar reasons, in 2007 the Trans-Border Institute, the host institution of the *Justiciabarómetro* study, initiated a series of studies and public forums to examine the prospects and merits of judicial reform in key reform states, including eight Mexican states: Aguascalientes (September 2007), Baja California (May 2007), Chihuahua (March 2008), Coahuila (March 2007), Jalisco (July 2007), Nuevo León (January 2008), Oaxaca (November 2007), and Zacatecas (September 2007). Such initiatives were developed with the intent of promoting public discussion and reasoned debate among the very professionals surveyed in this study. The rationale for these activities was that the involvement of U.S. institutions could play a positive role in facilitating an understanding of the strengths and weaknesses of oral, adversarial model.

<sup>36</sup> Aggregate percentages are based on the full set of 276 responses, of which only 268 can be broken down by profession and location (see methodological section).

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## About the Authors

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



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