



# Hallazgos 2022 **10** AÑOS

Follow-up and evaluation  
of criminal justice in Mexico





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# Presentation

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From whatever vantage point one observes the 10 years of the *Hallazgos* series and, indeed, the evolution of the most ambitious reform of the justice system in recent decades, it is hard not to feel deeply discouraged. When all is said and done, the movement toward a justice that is *more just*, more effective, more capable of curbing unfettered impunity –more disposed, in short, to respond to citizens’ expectations– has been, to say the least, arduous, obstacle-ridden, improvised, a project marked by enormous gaps among the states and a lack of the required leadership on the part of the Federation (and, lately, with severe reversals that accentuate its punitive nature and militarization in a context of attacks on judicial independence).

It would be easy to reach the conclusion that there is little, or nothing, to celebrate on this anniversary. But let’s do something different: not exactly *celebrate*, but recognize the many people who with exceptional constancy and conviction have constructed *Hallazgos* piece-by-piece, and built bridges so it can be read, utilized, and, yes, questioned, by its natural readers> decision-makers, system operators, public servants, civil society, academic specialists, and the citizenry in general. They will not find many other examples of ongoing, disciplined observation of such complex phenomena (perhaps the most complex in our public

lives) elaborated from a space that is independent, citizen-based, and has no political affiliation.

If *Hallazgos* has become a reference, it is because since its birth it has integrated mechanisms of self-evaluation and adaptation. That is to say, *Hallazgos* is not a rigid, academic, one-directional exercise, remote from its object of study. The series reacts to what reality is telling us, to begin: changes in the legal framework and political processes. At the outset, five years after the introduction of the reform that established the accusatory system, *Hallazgos* was oriented toward measuring the *implementation* of the new system. Later, at the end of the ‘first phase’ of the legal period, we set out to evaluate its *consolidation* in state and federal institutions.

In this period we have seen how the context has become more challenging than ever; thus, the crisis of justice and security that envelopes Mexico demands a new adaptation of *Hallazgos*. In the pages that follow, readers will learn about this in detail, but I would define this approach as a kind of *return to our origins* or, perhaps better, a rekindling and reaffirmation of the type of justice that users of the system and the wider society truly need (and clamor for). More concretely, we have shifted the focus from the functioning of the system *per se* to the ends that criminal justice pursues, or should pursue (including safeguarding human rights).



This change required adjusting not only the theoretical framework, but also the structure of the document. We felt the need to propose a more didactic, direct approach to our main findings, one that would be useful to both the *classic* users of *Hallazgos* and new readers, some of the perhaps not so specialized. It brought me great satisfaction to confirm that these pages function, *in addition*, as an introduction to the nature of criminal justice, its institutions and, above all, its purpose. Making these changes called for boldness and imagination, and the 10th anniversary of the series offered the perfect occasion. *Hallazgos* has, then, initiated a new cycle but we shall never falter in our vigilance and insistence on achieving high-quality justice. Let this stand as a statement of our willingness to collaborate with the authorities.

I recognize and applaud the commitment and diligent work of *México Evalúa's* Justice Program, its Coordinator, Christel Rosales, and researchers, Denise González, Paola Berenzon, Alejandra Hernández, Nancy Manzo, and Jorge Carbajal, as well as Edna Jaime, whose vision and guidance made it possible to reach the 10th anniversary of this publication and consolidate it as an exercise that seeks a true rule of law.

Special thanks to the civil organizations, academics, journalists, and members of the private sector, at the national and local levels, who decided to contribute their demands, proposals, and labors to improve the quality

and effectiveness of criminal justice through "Networks of Justice" (*Redes de Justicia*). I also send my deepest thanks to the United States Agency for International Development (USAID) and the Friedrich Naumann Foundation for their support during the realization of this effort.

I acknowledge the governments of Baja California, Baja California Sur, Ciudad de México, Coahuila, Guanajuato, Hidalgo, Estado de México, Jalisco, Nayarit, Nuevo León, Puebla, San Luis Potosí, Sinaloa, Sonora, Tabasco, Querétaro, Yucatán, and Zacatecas for the interest and effort they manifested in improving the generation and systematization of information, for their openness and trust, and for their clearly demonstrated commitment to continual improvement. Collaboration with these governments established solid bases for a model of governance in the field of justice by strengthening transparency and citizen participation, and consolidating exercises of dialogue and accountability. At the federal level, I thank the Institute of Public Defenders (*Instituto de la Defensoría Pública*) and the Executive Commission for Attention to Victims (*Comisión Ejecutiva de Atención a Víctimas*) for their accessibility. I also recognize the invaluable support we receive year after year from the Consolidation Unit of the New Criminal Justice System (*Unidad de Consolidación del Nuevo Sistema de Justicia Criminal*), an institution of Federal Judicial Power whose commitment to openness permits independent evaluations, like the ones readers now have in their hands.



## CHAPTER 1

# Introduction

**O**n June 18 2008, Mexico's Official Bulletin of the Federation (*Diario Oficial de la Federación*, DOF) published the constitutional reform of the criminal justice and security systems that established the accusatory system nationwide; thus, initiating an eight-year transition process that uprooted Mexico's long standing inquisitorial system of criminal justice.

Five years after the publication of that reform, in 2013, *México Evalúa* –then the *Centro de Investigación para el Desarrollo, A.C.*, CIDAC– presented the “Report of Findings for the Follow-up and Evaluation of the Implementation and Operation of the new Criminal Justice System in Mexico” (*Reporte de Hallazgos para el Seguimiento y la Evaluación de la Implementación y Operación del Nuevo Sistema de Justicia Criminal en México*). That event marked the birth of the *Hallazgos* series, which celebrates 10 years of existence this year.

The objective of that first publication was to analyze the ‘implementation’ of the reform –that is, the degree of advance achieved in transforming the criminal justice system– and making the results of that analysis available to the public. Above all, we sought to **generate information that would serve as inputs for the operating institutions of the justice system during these transformation processes**, and serve civil society through strategies of citizen influence and participation.

Thus, we designed a “Methodology for the follow-up and evaluation of the implementation and operation of the new criminal justice system in Mexico” based on

two instruments elaborated to ensure the quality of our performance: 1. the “International Framework for Judicial Excellence” (*Marco Internacional para Excelencia Judicial*); and 2. the so-called “Common Assessment Framework”.

Inspired in these two instruments, *Hallazgo's* methodology served to gather, systematize, and analyze information on factors we identified as *conditioners* and *facilitators* of the criminal system; for example, interinstitutional coordination, capacitation of personnel, installing information and communication systems that interconnect institutions, and introducing management models adapted to the accusatory criminal system, among others.

In addition, we gathered, systematized, and analyzed information to present a clear account of the *results* of the system; for example, the number and types of responses to the investigative files opened, and response times, among others. Finally, we presented a *ranking* that reflected the varying degrees of advance in implementing the reform at the state level.

*México Evalúa* repeated that exercise in the ensuing two years, 2014 and 2015, focusing our attention, once again, on the processes of the transition from the previous systems of the institutions of the justice sector and *interinstitutional coordination*, a key aspect for achieving simultaneous, adequately integrated advances. In this way, **over a three-year period we were able to document the marked unevenness of the implementation of the reform in a process that was characterized by improvisation and disarticulation among the institutions involved.**

In 2016, we presented the fourth report in the series, entitled “Follow-up and Evaluation of the Operation of the Criminal Justice System in Mexico” (*Seguimiento y Evaluación de la Operación del Sistema de Justicia Criminal en México*). By that time, the eight-year period stipulated for the full implementation of the reform had ended. In consequence, we adjusted our methodology in order to continue evaluating the system, but now with a focus on the ‘consolidation’ of the reform.

This was not a simple recalibration, for we sought to incorporate feedback from operators of justice and specialists in the field regarding the legislative changes that occurred, especially with the publication of the National Code of Criminal Procedure (*Código Nacional de Procedimientos Criminales*, NCPP) in the DOF, on March 5, 2014, and the institutional changes registered since the implementation of the reform.

We published five reports under this adjusted focus, from 2016 to 2022, that documented the chiaroscuro of the process of consolidating the accusatory system. We obtained evidence of how **the new rules of the criminal process entailed a radical paradigm change**, as the system underwent a deep restructuring in both organic-institutional and procedural terms.

At the same time, we continued to observe practices that revealed the persistence of certain modes of operation characteristic of the old system, and even attitudes that found expression in regressive reforms that opposed the principles of the accusatory system (for example, reforms that tended to broaden the catalog of crimes for which *ex officio* pretrial detention could be imposed). We were able to observe, as well, that **the consolidation process was heterogeneous, as we registered important gaps among states**; for example, throughout the *Hallazgos* series one sees that states like Querétaro and Nuevo León achieved much higher levels of consolidation than Campeche or Guerrero.

As mentioned above, *Hallazgos’* methodology was designed from the outset to present and contrast the

conditioning and facilitating factors of the transition to the accusatory system, based on the results observed and with a focus on efficiency in the implementation and consolidation of the reform. On that basis, we set out to *induce reflections on the state of the system*.

In addition, in 2017 we daringly set out to connect the indicators of the *Hallazgos* series with the country’s reality more clearly and solidly, concretely through one of the most palpable plagues of the justice system; namely, impunity. This led us to calculate an index for that phenomenon. For six consecutive years (counting the present report), we have published this index due to our conviction that it provides public opinion with a tool that allows it to evaluate the performance of the institutions of criminal justice. In so doing, we have assessed the distinct types of responses that the accusatory system admits to resolve the conflicts that arise and repair damages, including convictions and alternative and anticipated solutions.

## Theoretical framework 2023

In the context of the 10th anniversary of the *Hallazgos* series, we deemed it important to, once again, adjust our methodology. In contrast to the first modification, seven years ago, this second adaptation was planned to adopt a broader scope. In reality, it entailed a *change of course*, for we now strive to reflect with greater fidelity on the current context, the challenges that prevail in the field of justice, and the expectations that weigh upon the institutions of this sector in such a challenging setting.

We recognize that **15 years from the publication of the constitutional reform, speaking of ‘consolidation’ may not respond to current reality**. We know that, at least formally speaking, the accusatory system is now completely installed, and we have written that the publication of the 2008 reform led to a reengineering of institutions and processes that, by 2016, were in full operation, though imperfectly and with deficiencies in many aspects.



Today we are convinced **that it is necessary to return the focus of our methodology to the quality of criminal justice**; that is, shift our perspective from a primary focus on adjectival and procedural aspects –the implementation and consolidation of the reform– and, once again, place in the center substantive elements that include not only the current state of criminal justice, but also the kind of criminal justice that would be desirable.

Over the past decade, the *Hallazgos* series evolved to incorporate elements that have led us in this direction, but now it is time to make this explicit. We want to place greater emphasis on criminal *justice* than on *the system* itself, understanding that this is not a goal in and of itself, but only a means to accomplish future objectives. While we will never deviate our gaze from the institutions and their performance, we wish to contribute to defining the horizon we seek to attain.

This methodological turn, we believe, will allow us to better identify the structural challenges that go beyond the 2008 reform. It will also allow us to specify much more conclusively possible solutions in terms of public policy for the transformation of behaviors, practices, and attitudes that are incompatible with our value system but that, despite the changes in constitutional and criminal law, continue to prevail. Here, we are referring to the values associated with a democratic society, the authentic rule of law, and a criminal process that respects and guarantees the rights of all parties, but simultaneously ensures efficacy and guarantees.<sup>1</sup>

In order to achieve this, **it is essential that we return to the original questions on the meaning, frontiers, and expectations of criminal justice**, in order to elucidate our vision of how *Hallazgos* fits into this discussion.

In this regard, it is important to point out that at *México Evalúa* we set out from the idea that criminal justice is a set of institutions and norms designed to promote diverse values.<sup>2</sup> In this sense, criminal justice certainly entails establishing and applying sanctions for the commission of social and morally reprehensible behaviors –crimes and human rights violations– in a way proportional to their seriousness.<sup>3</sup> But we also recognize that criminal **justice fulfills a social function by discouraging people from committing reprehensible behaviors**<sup>4</sup>

in the first place. In our view, criminal justice contributes to public security to this degree (though only indirectly). Finally, we **support the idea that criminal justice entails expressing certain messages related to accountability and the reparation of damages.**<sup>5</sup>

While criminal justice operates to achieve diverse objectives, like those mentioned above, we are convinced **that guaranteeing rights must remain in the center of the exercise of State power.** Hence, all people (regardless of their conditions or affiliation with a certain population) can accede to justice if their rights have been violated. At the same time, individuals who are suspected of having committed some criminal conduct and are formally accused and processed must be able to accede to justice in procedural terms that include juridical security, due legal process, and dignified treatment, among others. The rights of both groups must be guaranteed, but this demands strengthening the institutions entrusted with overseeing them.

At *México Evalúa* we are well aware that only a minimal portion of the conflicts that occur in society reach the attention of the authorities. Many of them should not even do so, for we argue that some behaviors currently classified as criminal need to be decriminalized. By the same token, many cases that should be brought to the attention of the authorities never do. We further recognize that **not all the conflicts that become crimes can be processed in the same way by the authorities.** This means that it is necessary to develop strategies of prioritization and the strategic channeling of resources to ensure that the criminal behaviors which most deeply harm society –homicide, femicide and other forms of violence against women, forced disappearances, torture, and kidnapping– must be the focus of significant institutional efforts in the justice sector.

In summary, these are the parameters under which *Hallazgos* proposes studying, understanding, and evaluating criminal justice. The new theoretical framework, and the resulting review of indicators, are designed to align with those parameters. Without ceasing to provide useful information for decision-making by the institutions of the justice sector, *Hallazgos* now seeks to present a narrative that accords with the meaning and functions of criminal justice.

<sup>1</sup> Ferrajoli, Luigi. (2006), *Garantismo criminal*. Universidad Nacional Autónoma de México, p. 66.

<sup>2</sup> Hart, H.L.A. (2008), *Punishment and Responsibility. Essays in the Philosophy of Law* (2nd edition). Oxford University Press, p. 3 Hoskins, Z., "Hybrid Theories of Punishment", in Focquaert, F. et al. (2020), *The Routledge Handbook of the Philosophy and Science of Punishment*. Routledge Taylor & Francis Group, p. 38.

<sup>3</sup> Brooks, Th., "Retribution", in Focquaert, F. et al. (2020), *The Routledge Handbook of the Philosophy and Science of Punishment*. Routledge Taylor & Francis Group.

<sup>4</sup> Bagaric, M., "The Contours of a Utilitarian Theory of Punishment in Light of Contemporary Empirical Knowledge about the Attainment of Traditional Sentencing Objectives", in Focquaert, F. et al. (2020), *The Routledge Handbook of the Philosophy and Science of Punishment*. Routledge Taylor & Francis Group.

<sup>5</sup> Stahn, C. (2020), "Justice as Message: Expressivist Foundations of International Criminal Justice", Oxford University Press; Stahn, C. Justice as Message Symposium: Message from the Author (14 December 2020) available at: <http://opiniojuris.org/2020/12/14/justice-as-message-symposium-message-from-the-author>

## CHAPTER 2

# The state of criminal justice in Mexico

## Results

As we have described, at *México Evalúa* we are convinced of the need to shift the focus of attention to high priority aspects, those that, minimally, must form the core of any evaluation of criminal justice. Such a substantial change of perspective requires, at the outset, a reordering of the information.

We shall analyze separately the indicators that explain the expected results (that is, what criminal justice must provide in order to be considered effective, efficient, and of high quality), and those that elucidate its operation at the level of processes, institutions, and specific rubrics.

To elaborate a balance of the results of criminal justice, we analyze two dimensions: *efficacy* and *effectiveness*. In future editions we will incorporate the dimensions of *quality*, *aperture*, *governance*, and *gender* (GESI).<sup>6</sup>

- *Efficacy* is understood as the expected effects or impact of the optimal functioning of criminal justice in relation to the rule of law and the construction of a process of pacification.
- *Effectiveness* is proposed as the capacity of the institutional structure to maximize its resources and apply them in solutions that respond to the expectations of justice.

## Efficacy

### Citizen trust

We have long maintained<sup>7</sup> that the level of citizen trust in the institutions of justice depends on many factors, from levels of violence, the commission of crimes, and the types of victimization that a society experiences, to

<sup>6</sup> Indicators in the framework of gender equality and social inclusion (GESI). <https://www.cverreferenceguide.org/en/gender-equality-and-social-inclusion-gesi>

<sup>7</sup> *México Evalúa* 2016, "Justicia a la medida", p. 18. Available at: <https://www.mexicoevalua.org/justicia-a-la-medida/>



the results achieved by the institutions of the sector and their capacity to dialogue with the citizenry and respond to its demands.

The legitimacy of the institutions of justice, understood as the norms, processes, and organs responsible for resolving conflicts in a society, rests to a large degree on the trust they inspire among citizens and their capacity to provide efficacious responses.

**Citizen trust is a vital asset of any democratic structure, for greater trust establishes a bridge between State institutions and society** and ensures that a greater number of social conflicts will be resolved through formal, legal channels, thus generating expectations of dignified attention and effective responses on the part of those organs.

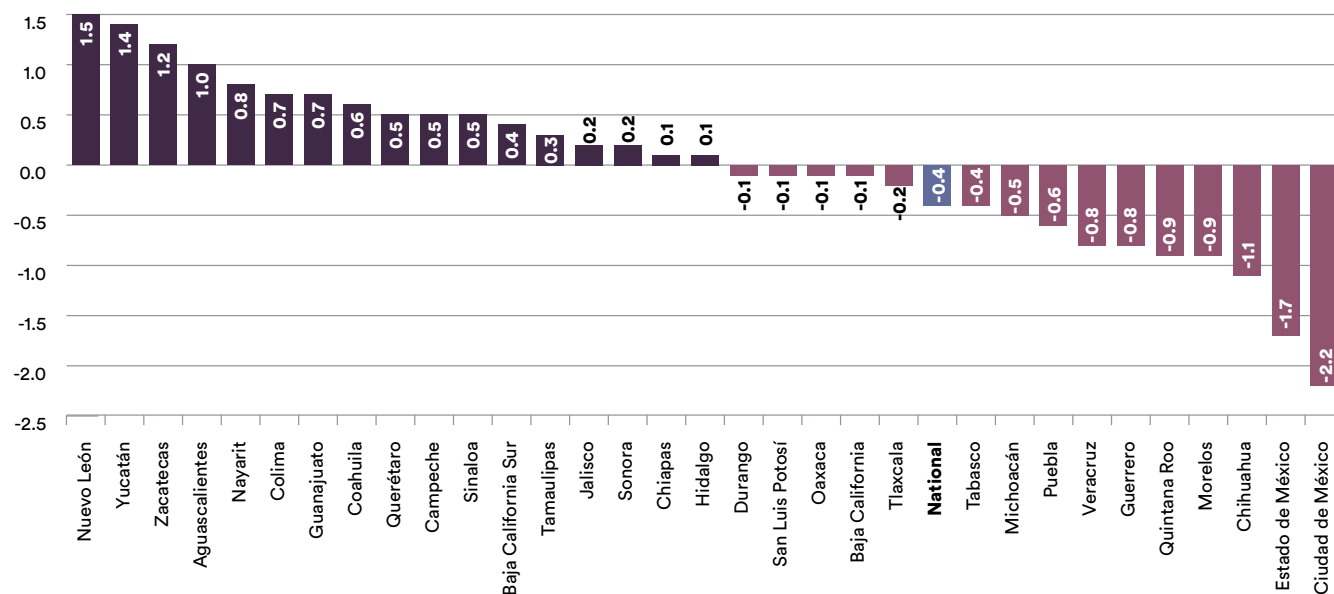
Measuring citizen trust and its evolution should serve to convince State institutions of the need to construct conditions and processes conceived to increment confidence, not only through communication strategies –generally unidirectional– but also with mechanisms that effectively promote acts of listening, understanding, acknowledgment, dialogue, and construction, with the accompanying agendas and demands that emerge from society. **This is a bidirectional relation in which**

**trust is intrinsically related to the legitimacy of institutions, such that it nourishes society’s willingness to respect and accept the decisions and resolutions of those institutions.**

Determining the level of trust that the citizenry has in its criminal justice system (CJS) requires knowing the appreciation it holds for specific authorities, including state and ministerial police forces, prosecutors, and judges and magistrate. Hence, from the outset of the *Hallazgos* series we constructed an index based on the premise that levels of trust can change over time and show distinct degrees in different states of the Republic as a function of citizens’ evaluations of their authorities.

**Over a 10-year span of measurements, we have seen that citizen trust in the institutions of justice has decreased steadily.** In fact, we calculate an annual deterioration of around -0.5 and -0.4 points in the national average. However, as Graph 1 shows, this deterioration is detectable in almost half the states of the country, but the other half registered slight improvements. The cases of Nuevo León (+1.5), Yucatán (+1.4), and Zacatecas (+1.2) stand out in this regard. In the opposite direction, the highest levels of deterioration of citizen trust occurred in Mexico City (-2.2), the Estado de México (-1.7), and Chihuahua (-1.1).

**Graph 1. Annual variation in trust in the authorities, 2012-2021**



Source: ENVIPE 2022, INEGI.

**Note:** This index was calculated by integrating the results of the specific estimators calculated –with a 95% Confidence Interval (CI)– for these institutions based on data from the ENVIPE of the INEGI for each year. Net trust is the result of the difference between the sum of the variables “much trust” plus “some trust” minus “little trust” plus “no trust” (since this is an ordinal categorical variable). Once these residuals –which can have positive or negative values– were obtained, they were standardized by state and public institutions using the Z scoring method. We then proceeded to obtain the standard deviations for each year.



When citizen trust is analyzed by the institutions of the justice sector –police, prosecutors, judges and magistrates, the National Guard, and the army, among others– one also observes a sustained, downwards tendency. While nationally all institutions registered decreases in the trust they inspire, the personnel of Prosecutors’ offices (-0.7) and judges and magistrates (-0.5) showed the most serious declines. At the level of the states, Mexico City had the greatest deterioration in the trust of the population toward Prosecutors (-3.3) and judges and magistrates (-3.0), while in Chihuahua the greatest decline in trust affected the army (-3.95) and National Guard (-3.1). In contrast, the largest increases in citizen trust by institutions were documented in Coahuila, Nuevo León, and Zacatecas.

### Perceptions of corruption in the institution of justice

Just as trust towards the institutions of justice plays a key role in people’s willingness to approach them and report criminal acts, perceptions of corruption are another determining variable in the legitimacy of those institutions.

Corruption –defined as the existence of acts, processes, or persons that are open to accepting benefits in exchange for privileged, more agile, or differential treatment– entails for all other people unequal and unjust access to a public good or service, and opens the possibility that their rights may be left unprotected or be violated by the authorities.

**Table 1. Trust by type of authority**

Index of trust in the authorities of the criminal justice system by state, 2021								
State	Army	Federal Attorney General	National Guard	Judges and magistrates	Navy	Prosecutors’ offices	State police	Investigative police
Aguascalientes	0.30	0.2	-0.5	0.1	0.0	0.4	1.0	0.7
Baja California	-0.67	-0.9	-1.1	-0.6	-1.7	0.3	-1.6	-0.4
Baja California Sur	0.48	0.8	0.3	1.2	0.5	0.7	0.5	-0.1
Campeche	0.83	0.6	1.2	0.7	0.6	0.7	1.0	1.0
Chiapas	0.50	0.2	1.0	-0.1	0.3	0.2	1.3	0.6
Chihuahua	-3.95	-1.0	-3.1	-0.2	-2.4	0.4	-1.5	-0.8
Ciudad de México	-1.20	-1.5	-1.5	-3.0	-0.3	-3.3	-2.0	-2.7
Coahuila	0.92	0.7	0.7	1.4	0.9	0.6	0.1	0.1
Colima	-0.05	0.0	-0.2	0.1	0.0	0.4	0.7	-0.1
Durango	-0.27	-1.3	0.4	-0.1	0.0	-0.2	-0.4	-0.6
Estado de México	-0.22	-1.7	0.0	-1.3	-0.2	-2.4	-1.8	-1.7
Guanajuato	-0.87	0.0	-1.7	0.0	-1.4	0.4	0.3	0.6
Guerrero	-0.15	0.8	0.3	0.0	0.6	-0.4	-0.2	-1.5
Hidalgo	0.86	1.6	0.8	0.7	0.9	0.4	0.4	0.4
Jalisco	-0.22	-0.5	-0.2	-0.7	0.5	-0.1	0.2	0.2
Michoacán	-0.09	-1.2	-0.7	-0.4	-0.2	-0.6	-1.0	-0.9
Morelos	0.06	-0.1	0.4	-1.1	1.1	-0.6	-0.9	-1.1
Nayarit	0.74	-0.6	0.6	0.7	0.5	-0.3	0.4	0.5
Nuevo León	1.12	0.8	0.6	1.1	1.0	0.9	0.9	1.2
Oaxaca	0.74	0.6	1.2	0.0	1.1	0.5	1.2	0.3
Puebla	0.22	1.0	0.6	-0.3	0.6	0.0	0.7	0.8
Querétaro	-0.46	0.2	-1.0	-1.7	-0.4	0.1	0.6	0.7
Quintana Roo	-0.69	-2.2	-0.7	-0.9	-1.6	-1.1	-1.5	-1.5
San Luis Potosí	0.63	-1.1	0.1	0.3	0.8	-1.2	-0.7	-1.0
Sinaloa	-0.56	1.2	0.6	1.5	-0.7	1.4	0.8	1.1
Sonora	-1.41	-0.1	-1.4	0.5	-1.7	0.0	0.1	0.9
Tabasco	1.20	0.4	1.3	0.3	0.9	-0.2	0.1	0.1
Tamaulipas	0.36	2.0	0.5	1.3	0.4	1.2	-0.5	0.4
Tlaxcala	0.52	0.4	0.8	-1.3	0.4	-0.5	0.3	0.6
Veracruz	-0.56	-0.6	-0.7	-0.3	-2.0	-0.4	-0.8	-0.6
Yucatán	0.83	0.9	0.9	0.8	1.0	1.4	2.1	1.8
Zacatecas	1.04	0.6	0.4	1.2	0.5	1.2	0.3	1.1
National	-0.18	-0.4	-0.2	-0.5	-0.2	-0.7	-0.4	-0.3

Source: ENVIPE 2022, INEGI.

Note: This index was calculated by integrating the results of the specific estimators calculated –with a of 95% Confidence Interval (CI)– for these institutions based on data from the ENVIPE of the INEGI for each year. Net trust is the result of the difference between the sum of the variables “much trust” plus “some trust” minus “little trust” plus “no trust” (since this is an ordinal categorical variable). Once these residuals –which can have positive or negative values– were obtained, they were standardized by state and public institutions using the Z scoring method. We then proceeded to obtain the standard deviations for each year.



While corruption is an important problem in every sector of public life and all institutions, it has particularly important dimensions in criminal justice, for it threatens not only the right to effective government that exercises public resources in a rational way, but also the consolidation of the rule of law and the sustainability of public finances. Its effects are tremendously sensitive because, in addition to the foregoing, they have been verified in rights of access to justice, in repairing the damage that victims suffer, and in the adequate defense of accused persons. We can never forget that **criminal justice is one of the domains that has the greatest direct importance in people's lives.**

Corruption, moreover, affects not only the people involved in criminal processes but also negatively impacts society as a whole, since citizens lose trust in the authorities, are unsure if their processes will reach adequate conclusions, and avoid approaching the institutions of criminal justice to report criminal acts. In addition, the just demand for services is weakened and, above all, citizens increasingly distance themselves from the very State institutions that exist to serve them. This gap further deteriorates the legitimacy and credibility of the authorities. This is extremely serious because the criminal system performs an extremely valuable function in every society as the principal mechanism of conflict resolution.

When a criminal process is systematically corrupted (that is, where the custom of bribery is taken for granted by all parties), not only is access to justice denied, but the cost of a service that the State is obliged to provide

without cost increases, and a fundamental support of public life is undermined, together with the legitimacy of the government.

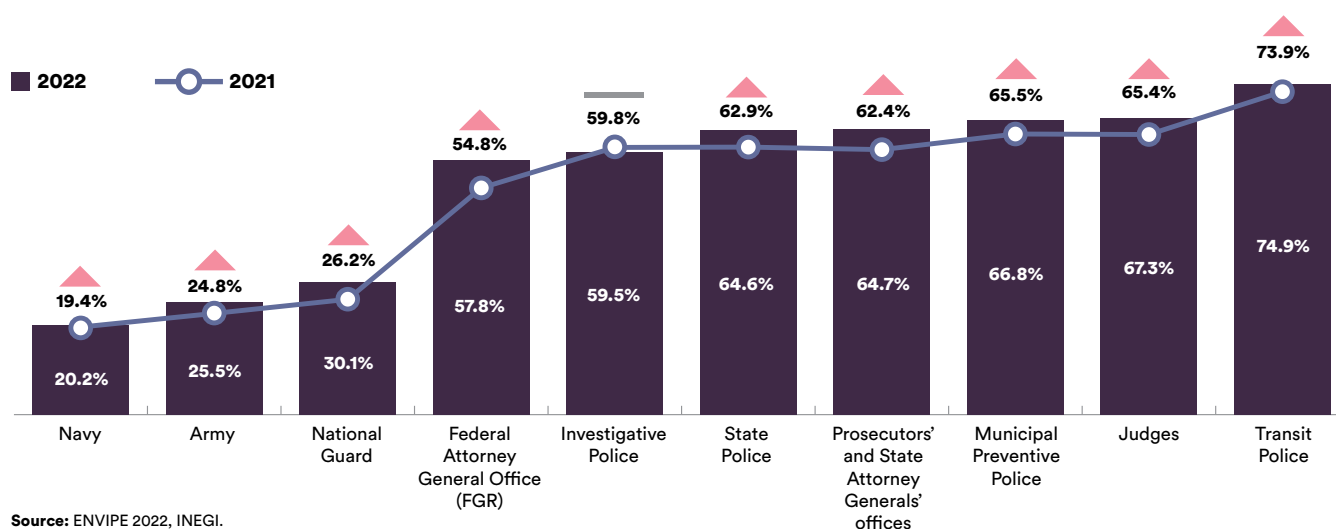
As Graph 2 shows, perceptions of corruption in the institutions of criminal justice has maintained a downwards trend. From 2020 to 2021, the index of perceptions of corruption increased for almost every institution in the system, with judges and magistrates (67.3%), the preventive municipal (66.8%) and state police (64.6%), and federal and state prosecutors (64.7%) had higher percentages of perceptions of corruption among citizens.

### Non-reporting of crimes

The criminal justice system is responsible for hearing and resolving the crimes that are brought before it, whether as complaints or as the beginning of a dispute caused by some kind of alleged criminal activity. Whatever the case, for victims the mechanism through which they report crimes to the authorities is the point of entry to the system. For this reason, measuring this element is one way to begin to evaluate access to justice.

The performance and intervention of the personnel of Prosecutors' office and the investigative police depend, in most cases, on this 'stimulus to citizens'. If this mechanism confronts limitations, it will either be saturated by demands or become linked to a type of attention that revictimizes those who approach it, with the result that victims will often be denied justice.

**Graph 2. Level of perception of corruption by type of authority**



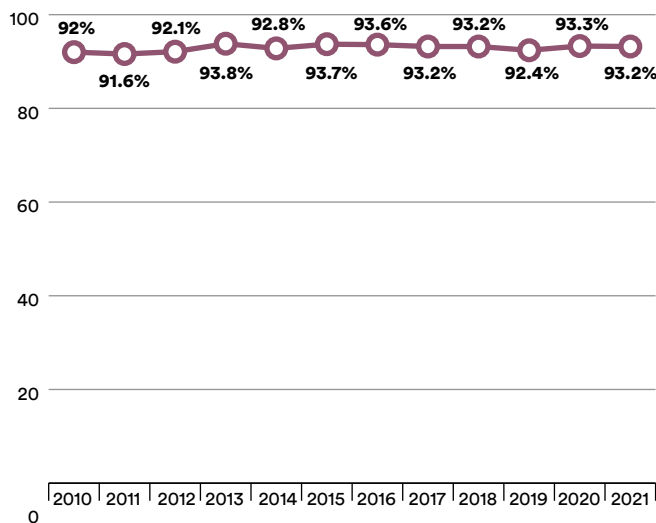
Source: ENVIPE 2022, INEGI.

In Mexico, records of citizens' complaints tend to direct our attention toward the incidence of criminal activity; however, to obtain a more precise approximation of the level of trust and approaches by citizens, we chose to focus on the percentage of the unreported crimes, understood as all those crimes that are never brought to the attention of the authorities, plus those complaints that, for various reasons, do not translate into the opening of investigations or cases attended by Attorney Generals' offices. Therefore, an increase in the percentages of citizens' complaints would imply a gradual decrease in unreported crimes.

Unfortunately, **in Mexico the dark figure –the percentage of unreported crimes– has not fallen by even one point in the last decade**, a clear indication of low citizen trust accompanied by low expectations regarding results.

In the section on social causes we will analyze this phenomenon in detail, but for the moment suffice to say that the main reasons why people are disinclined to report crimes is attributable to the authorities, and include long, tedious processes, inadequate treatment of victims (including, on occasion, revictimization), and low expectations of obtaining a satisfactory resolution or benefit after approaching the authorities.

### Graph 3. Evolution of the unreported crimes



Source: Elaborated by the authors based on data from the ENVIPE 2022, INEGI.

In this regard, though several states have undertaken efforts to facilitate the process of registering complaints through virtual means and/or more expeditious mechanisms, it is clear that the vast majority of

Prosecutors' offices have not adopted models of attention that (i) prioritize crime reports, and (ii) have the capacity to adapt processes to their needs and expectations. **Models of attention to victims of crime, moreover, must foster their participation in all stages of the process, through accessible mechanisms or electronic means that allow them to follow their cases, reduce the costs of, and obstacles to, entering the service, and permit their active, decisive participation.**

But this requires, as well, other preconditions, such as compiling one sole file that documents the entire criminal process, an interoperable system that allows contact with inputs from all the institutions involved, and a management model that ensures certainty in the attention and channeling that each case should receive.

## Effectiveness

### Effective resolution and clarification of acts

#### General impunity in criminal justice

Throughout the *Hallazgos* series we have striven to elaborate and strengthen an index that shows the level of effective response that the institutions of justice give to the cases they hear. Here, we refer to measuring *direct impunity*; that is, impunity that results in a **lack of attention, investigation, and/or resolution of cases that were heard by an authority**, whether because no agreement on restitution or anticipated outcome was reached, or because no sentence was handed down.

Impunity will always exist in societies, its existence is unavoidable, considering the level of conflictedness that occurs and the limited resources available to deal with it. But we must also recognize that criminal justice is not designed to respond to each and every social dispute that arises. In our view, however, it is essential to reflect deeply on the crimes that the authorities should investigate and prosecute, on the phenomena that call for privileged attention for victims and/or the society, and those where it is vital to develop criminal intelligence in order to prevent or contain them.

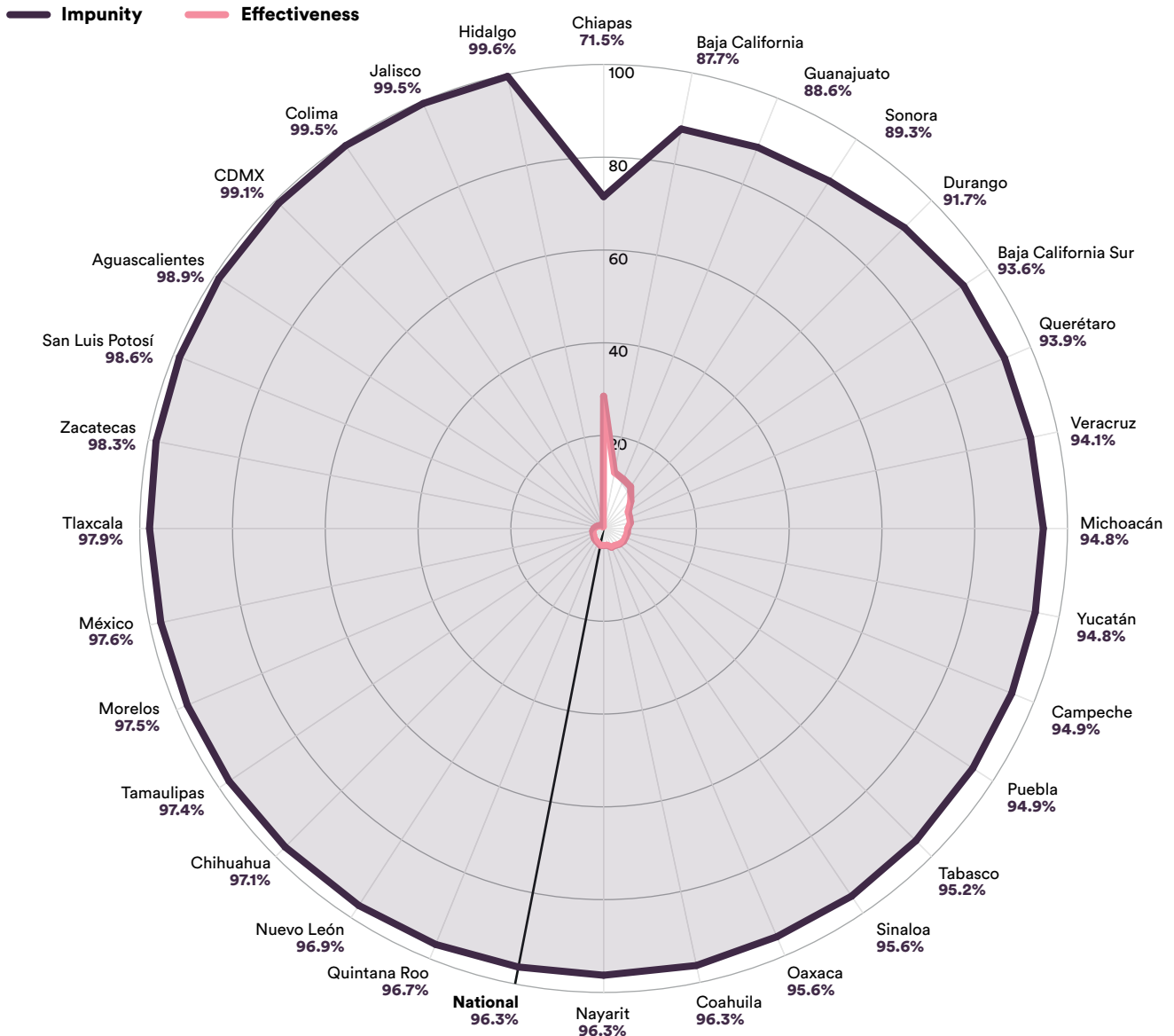
And although, we repeat, justice will always face restrictions and cannot be the solution for certain types of conflicts that may well be resolvable by means distinct from criminal measures, the cases that enter this domain must be subjected to rigorous analyses in terms of their impacts and implications to ensure that



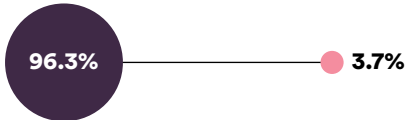
the institutions of justice use their resources efficiently and prioritize cases that may involve affectations of important juridical values, violations of victims' rights, social impact, and the level and/or type of violence, among other key elements.

Examining the degree of impunity in the criminal justice system (CJS) provides an indicator of institutional effectiveness or incapacity to confront criminal conflict and give conclusive responses to phenomena that impact society and favor conditions of adherence to

### Graph 4. Index of general impunity



**National mean**



**Source:** Elaborated by the authors based on data from the *Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal* (MES), SEGOB, and the *Censos de Procuración e Impartición de Justicia Estatales*, INEGI, 2022.  
**Note:** We were unable to make these calculations for the state of Guerrero because the information was of poor quality and doubts arose as to its reliability.  
 \* In November 2023, the Index of Impunity by State for 2022 for Chiapas, Guanajuato, and Michoacán was updated.

Para conocer la memoria de cálculo del Índice de Impunidad 2022 para cada uno de los estados, escanea este código.



law. In addition, studying impunity can shed light on the sociopolitical use of the criminal system when analyzed at the level of crime or criminal activity, by revealing the sensitivity and response offered or, perhaps, the indifference and lack of attention that it generates.

To begin this discussion we believe it is necessary to posit two premises:

1. *Justice cannot be understood as being equivalent to punishment.*

We have sought to overcome this punitive perspective and open the way to one where **justice is understood on the basis of truth and the reparation of damage**. Therefore, as a function of each type of criminal conflict, our Index of General Impunity foresees diverse possible resolutions. This perspective on justice is clearly distinct from other visions which consider that handing down sentences is the only form of justice.

2. *Prosecutors' offices must establish differentiated strategies and responses to the conflicts they hear.*

The nature of the accusatory criminal justice system envisions the possibility of finding forms of attention and resolution that accord with the type of case; thus privileging a *restorative focus that does not weaken the system*, but frees up resources that can be used to investigate and litigate other kinds of cases —those of greatest impact and importance.

The Index of Impunity for 2022, the last year for which data are available, shows an increase compared to the previous year. The national mean was 96.3%, higher than the figure for 2021 of 91.8%, a difference of 4.5 percentage points. According to this index, 28 states had levels above 90% that clearly reflect the enormity of this challenge. The states with the lowest levels of impunity (or highest levels of effectiveness) were Chiapas at 71.5%, Baja California at 87.7%, and Guanajuato at 88.6%, while those with the highest levels (or lowest levels of effectiveness) were Hidalgo (99.6%), Jalisco (99.5%), Colima (99.5%), and Mexico City (99.1%).

The index of General Impunity also allowed us to observe variations over time in the states.

This panorama allowed us to identify, on the one hand, the states that are experiencing greater congestion

## Graph 5. Comparison of the Index of Impunity, by state and year

State	2021	2022	Difference
Aguascalientes	97.1%	98.9%	1.8%
Baja California	79.2%	87.7%	8.5%
Baja California Sur	97.1%	93.6%	-3.5%
Campeche	94.8%	94.9%	0.1%
Chiapas	79.5%	71.5%	-8.0%
Chihuahua	96.9%	97.1%	0.1%
Ciudad de México	98.4%	99.1%	0.6%
Coahuila	88.7%	96.3%	7.6%
Colima	94.4%	99.5%	5.1%
Durango	91.5%	91.7%	0.2%
Guanajuato	80.3%	88.6%	8.3%
Hidalgo	92.6%	99.6%	7.1%
Jalisco	95.4%	99.5%	4.1%
México	90.5%	97.6%	7.0%
Michoacán	80.3%	94.8%	14.5%
Morelos	94.1%	97.5%	3.3%
<b>National</b>	<b>91.8%</b>	<b>96.3%</b>	<b>4.5%</b>
Nayarit	93.4%	96.3%	2.9%
Nuevo León	93.7%	96.9%	3.2%
Oaxaca	90.8%	95.6%	4.8%
Puebla	90.1%	94.9%	4.9%
Querétaro	87.2%	93.9%	6.7%
Quintana Roo	94.2%	96.7%	2.4%
San Luis Potosí	98.0%	98.6%	0.6%
Sinaloa	87.3%	95.6%	8.3%
Sonora	83.5%	89.3%	5.8%
Tabasco	93.0%	95.2%	2.2%
Tamaulipas	93.4%	97.4%	4.0%
Tlaxcala	91.2%	97.9%	6.7%
Veracruz	91.0%	94.1%	3.0%
Yucatán	69.5%	94.8%	25.3%
Zacatecas	89.8%	98.3%	8.5%

Source: Elaborated by the authors with information from the *Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal* (MES), SEGOB, and information requests.

\* In November 2023, the Index of Impunity by state for 2022 for Chiapas, Guanajuato, and Michoacán was updated.

in their operations, and, on the other, those that are employing the diverse outcomes available to offer effective responses in the cases they hear. Our aim here is to estimate the capacity of the system to respond to the cases it hears, but achieving this requires a much more disaggregated, qualitative analysis that may make it possible to elucidate whether the responses given to cases are adequate or not, whether the mechanisms that the system provides are being utilized correctly, and whether tools of prioritization are being applied.



**Table 2. Forms of conclusion envisioned in the NCPP, by type of crime**

	Alternative solutions		Forms of anticipated termination	Forms of termination of investigations			
	Restitution agreement (art 186 NCPP)	Conditional suspension (191 NCPP)	Plea bargaining (201 NCPP)	Abstention from investigating (253 NCPP)	Temporary archived (254 NCPP)	Dismissal of case (255 y 327 NCPP)	Exercise of prosecutorial discretion (256 NCPP)
Intentional homicide	X Not applicable as it is an intentional crime, as established in the NCPP (art. 187)	X Not applicable as established in the NCPP (art 192)	✓ Applies in all crimes as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation); can be questioned if the Prosecutor did not conduct a quality investigation	X Not applicable because the sentence is deprivation of freedom with a maximum duration greater than 5 years (256 NCPP)
Femicide	X Not applicable	X Not applicable due to the sentence (art 192 NCPP)	✓ Applies in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation) can be questioned if the Prosecutor did not conduct a quality investigation	X Not applicable because the sentence is deprivation of freedom with a maximum duration greater than 5 years (256 NCPP)
Kidnapping	X Not applicable because the case is pursued <i>ex officio</i> (art. 187 NCPP, art. 3 LGPSS); only proceeds in intentional crimes	X Not applicable due to the sentence (art 192 NCPP)	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation) can be questioned if the Prosecutor did not conduct a quality investigation	X Not applicable because the sentence is deprivation of freedom with a maximum duration greater than 5 years (256 NCPP)
Extortion	X Pursued <i>ex officio</i> so restitution agreements are not applicable	✓ Applicable as long as the victim does not oppose (art 192 NCPP), as the arithmetical mean of the sentence is 5 years (maximum)	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation) can be questioned if the Prosecutor did not conduct a quality investigation	X Not applicable because the sentence is deprivation of freedom with a maximum duration greater than 5 years (256 NCPP)
Simple theft	✓ Applicable because this is a non-violent crime against property (art. 187 NCPP)	✓ When the value of the stolen goods does not exceed 100 times the minimum wage: prison for up to 2 years (370 CPF) - if the arithmetical mean does not exceed 5 years, conditional suspension applies (art 192 NCPP), siempre que no se oponga la víctima	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	The less serious nature of the crime, workload, and prioritization of cases must be pondered	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation) can be questioned if the Prosecutor did not conduct a quality investigation	✓ Applicable when the value of the stolen goods does not exceed 100 times the minimum wage: prison for up to 2 years (256 NCPP)



	Alternative solutions		Forms of anticipated termination	Forms of termination of investigations			
	Restitution agreement (art 186 NCPP)	Conditional suspension (191 NCPP)	Plea bargaining (201 NCPP)	Abstention from investigating (253 NCPP)	Temporary archived (254 NCPP)	Dismissal of case (255 y 327 NCPP)	Exercise of prosecutorial discretion (256 NCPP)
		<p>✓ When the value exceeds 100 times the minimum wage, but not 500 times: prison for 2-4 years (370 CPF) –if the arithmetical mean does not exceed 5 years, conditional suspension applies (art 192 NCPP); as long as the victim does not oppose</p> <p>✗ When the value exceeds 500 times the minimum wage, prison for 4-10 years (370 CPF) – if the arithmetical mean exceeds 5 years, conditional suspension does not apply (art 192 NCPP)</p>					<p>✓ Applicable when the value exceeds 100, but not 500, times the minimum wage: prison for 2-4 years (256 NCPP)</p>
Rape	✗ Not applicable, as established in the NCPP (art. 187)	✗ Not applicable due to the sentence (art 192 NCPP)	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation); can be questioned if the Prosecutor did not conduct a quality investigation	✗ Not applicable because the sentence is prison with a maximum duration greater than 5 years (256 NCPP)
Domestic violence	✗ Not applicable, as established in the NCPP (art. 187)	✓ Conditional suspension applies (arithmetical mean of the sentence does not reach 5 years)	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation); can be questioned if the Prosecutor did not conduct a quality investigation	✓ Applicable because the sentence does not exceed 5 years (256 NCPP)
Forced disappearance	✗ Restitution agreement not applicable because the case proceeds <i>ex officio</i> (art. 187 NCPP, 13 LGDFDP)	✗ Not applicable due to the sentence (art 192 NCPP)	✓ Applicable in all crimes, as long as the requirements established in article 201 NCPP are met	Allowed by law, but the decision must be justified and motivated, and there must be correspondence with reality (the conditions established by law are, in effect, actualized)	Allowed by law, but can be questioned if the file responds to inactivity by the Prosecutor and/or police	Dismissal due to actualization of the cause in fraction V (art. 327) (lack of elements to base an accusation); can be questioned if the Prosecutor did not conduct a quality investigation	✗ Not applicable because the sentence is prison with a maximum duration greater than 5 years (256 NCPP)

Source: Elaborated by the authors with information from the *Fiscalías Generales de Justicia* and the *Tribunales Superiores de Justicia* through information requests.



## Index of impunity by state for specific crimes, 2022

To avoid offering simplistic and/or general solutions, or only *ad hoc* reflections on the criminal behaviors that the justice system confronts, while also considering its capacity to respond, it is essential to have measurements of impunity by type of crime or phenomenon.

We have maintained this conviction (and intention) since we began to measure impunity, but the quality of disaggregated data by type of crime did not allow us to construct calculations on that scale.<sup>8</sup> This is because each type of crime analyzed presents particularities in the possible, effective forms of conclusion, from an optic of the accusatory criminal system and with

the comprehension of a justice that avoids punitive reductionisms.

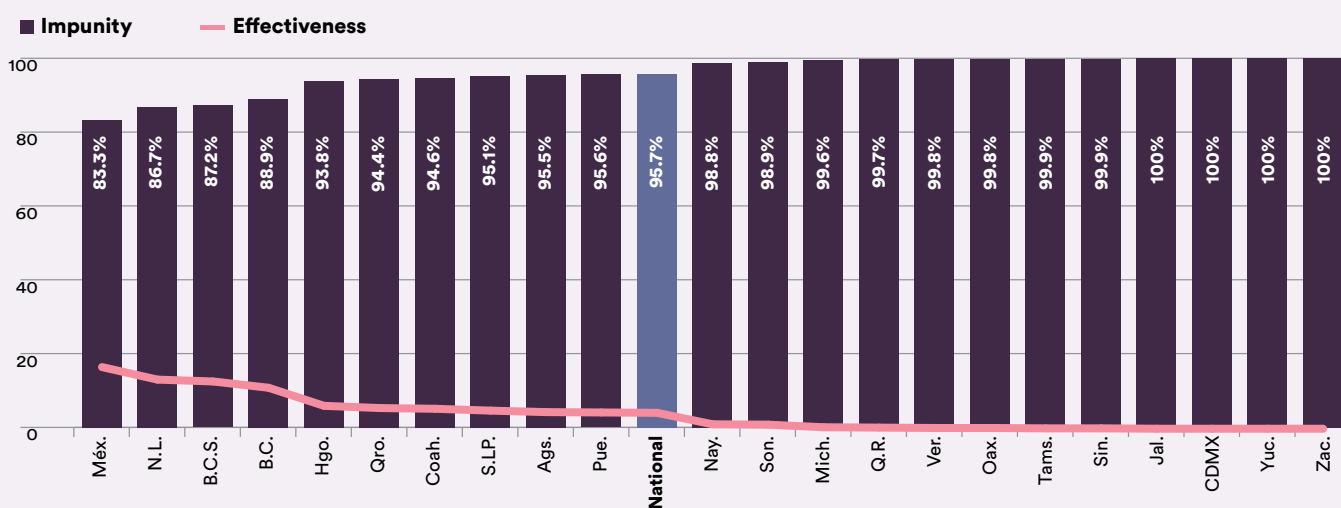
In the end, this analysis will allow us to identify practices that are decongesting the system, or those that may be perverting the use of justice. Specifically, this exercise seeks to frame the tendencies and policies –explicit or implicit– in both the prosecutorial and judicial sectors that are applied to the distinct phenomena, and to orient the discussion around their pertinence and, indeed, their legitimacy.

To facilitate understanding of these measurements, we present Table 2, which establishes the planned and applicable outcomes for each type of crime analyzed, according to the National Code of Criminal Procedures (NCPD).

## Index of impunity for intentional homicide, 2022

**The national average of impunity for intentional homicide in 2022 was 95.7%.** The states with the lowest impunity for this crime were the Estado de México (83.3%), Nuevo León (86.7%), Baja California Sur (87.2%), and Baja California (88.9%), while those with the highest averages were Jalisco, Ciudad de México, Yucatán, and Zacatecas, all with averages of 100%. It is important to note that the states with lower indices achieved this result by channeling cases through summary proceedings that concluded with sentencing.

Graph 6

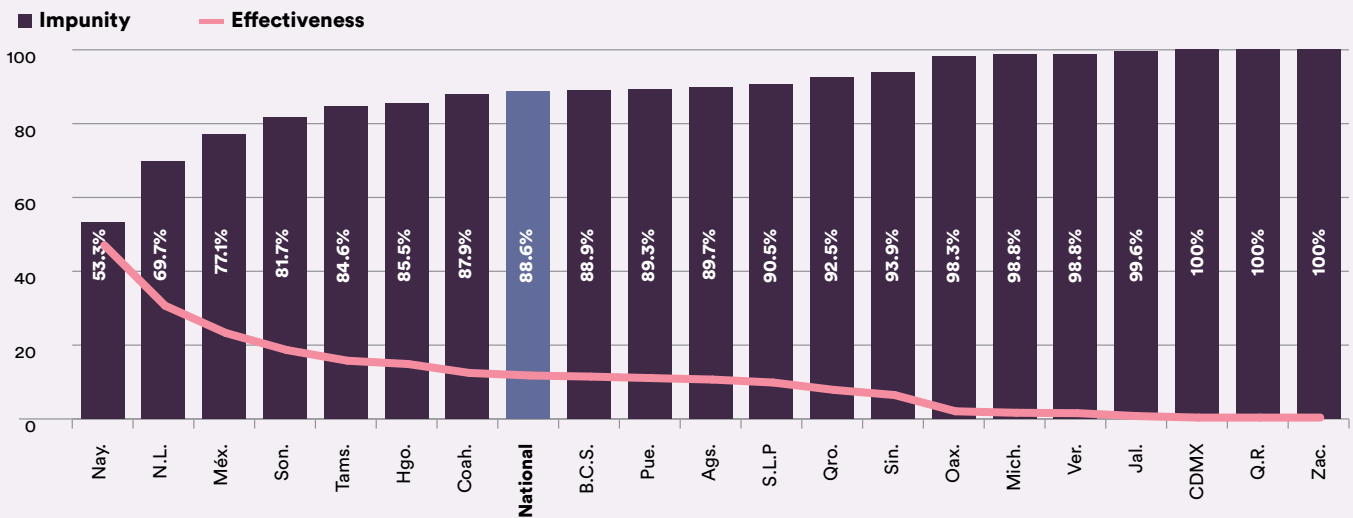


<sup>8</sup> The information gathered from Attorney Generals' offices and courts is associated with investigative files and criminal causes differentiated by type of crime, so it is possible to determine the universe of open cases for the year evaluated and the proportion of cases with an effective resolution. Some states do not provide the information with this level of disaggregation, but others do. This way of registering the information allows an analysis of the traceability of cases and an understanding with respect to the total of cases that exist in the institutions.

## Index of impunity for femicide, 2022

The national average of impunity for femicide in 2022 was 88.6%. The states with the lowest impunity were Nayarit (53.3%), Nuevo León (69.7%), Estado de México (77.1), and Sonora (81.7%), while those with the highest averages were Mexico City, Quintana Roo, and Zacatecas, all at 100%. It is important to note that the states with lower indices achieved this result by channeling cases through oral trials or summary proceedings that resulted in convictions and, in some cases, through conditional suspension of process and prosecutorial discretion.

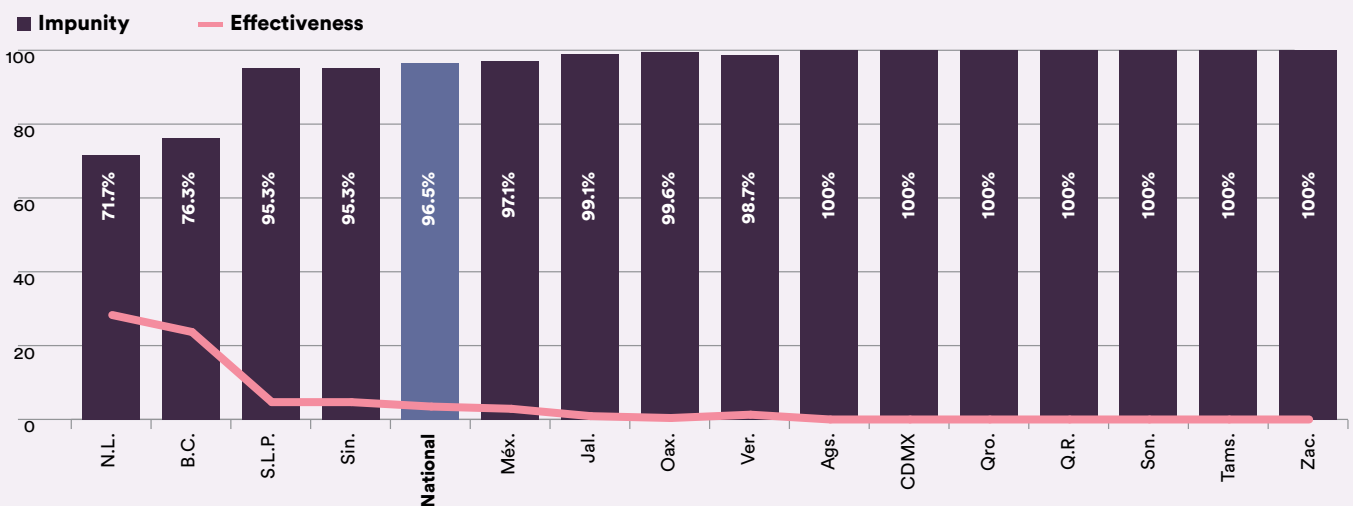
### Graph 7



## Index of impunity for forced disappearance, 2022

The national average of impunity for forced disappearances in 2022 was 96.5%. The states with the lowest levels were Nuevo León (71.7%) and Baja California (76.3%).

### Graph 8

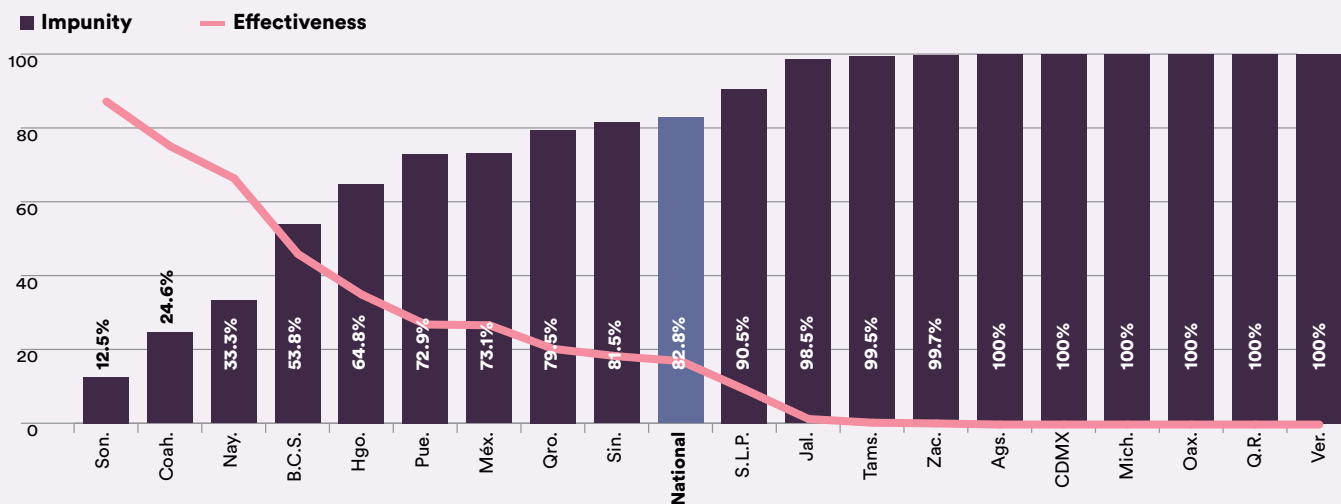




## Index of impunity for kidnapping, 2022

The national average of impunity for kidnapping in 2022 was 82.8%. The states with the lowest impunity were Sonora (12.5%), Coahuila (24.6%), Nayarit (33.3%), and Baja California Sur (53.8%), while those with the highest averages were Mexico City, Michoacán, Oaxaca, Quintana Roo, and Veracruz, all at 100%. The states with the lowest indices achieved these levels by channeling cases through oral trials or summary proceedings that resulted in convictions.

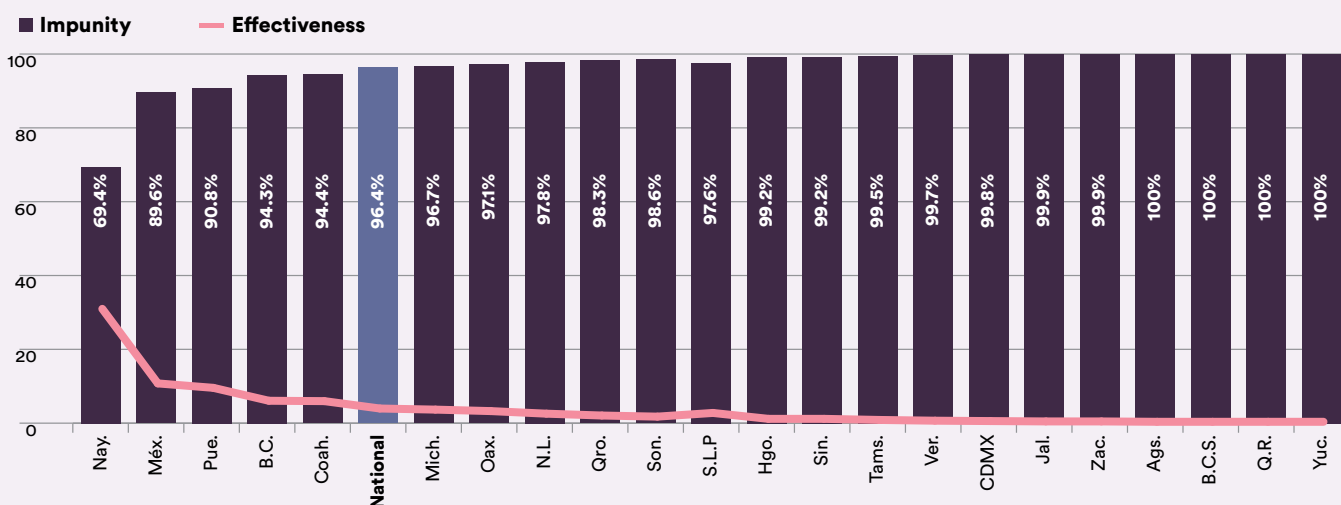
### Graph 9



## Index of impunity for extortion, 2022

The national average of impunity for extortion in 2022 was 96.4%. With the exception of Nayarit (69.4%) and Estado de México (89.6%), all states presented levels of impunity above 90%, with four reaching 100%: Aguascalientes, Baja California Sur, Quintana Roo, and Yucatán.

### Graph 10

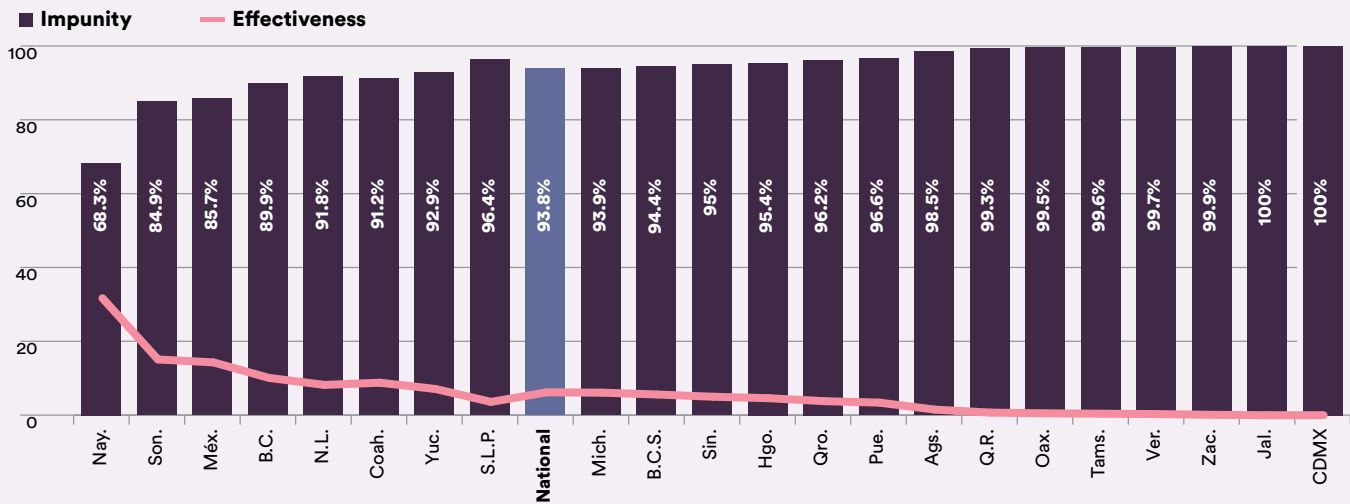




## Index of impunity for rape, 2022

The national average of impunity for rape in 2022 was 93.8%. The states with the lowest impunity were Nayarit (68.3%), Sonora (84.9%), Estado de México (85.7%), and Baja California (89.9%). Those with the highest averages were Jalisco and Mexico City, at 100%. These cases were resolved mainly through oral trials or summary proceedings, though some were settled by conditional suspension of process.

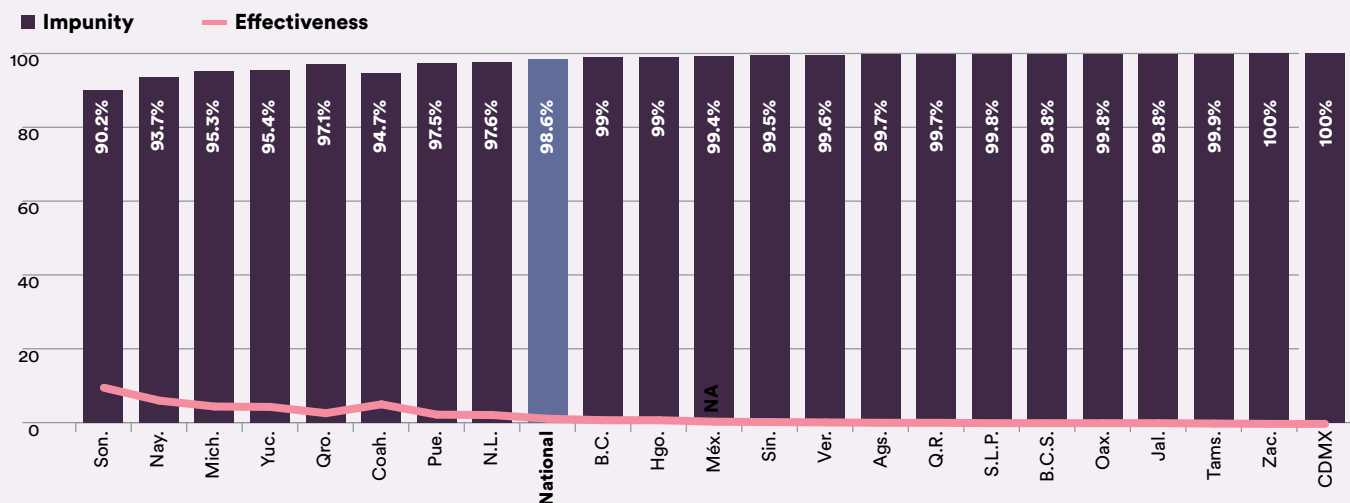
### Graph 11



## Index of impunity for domestic violence, 2022

The national average of impunity for domestic violence was 98.6%. Virtually all states were above 90%, with Zacatecas and Mexico City recording 100%. The few cases that were resolved were channeled through summary proceedings that resulted in convictions or conditional suspension of process.

### Graph 12

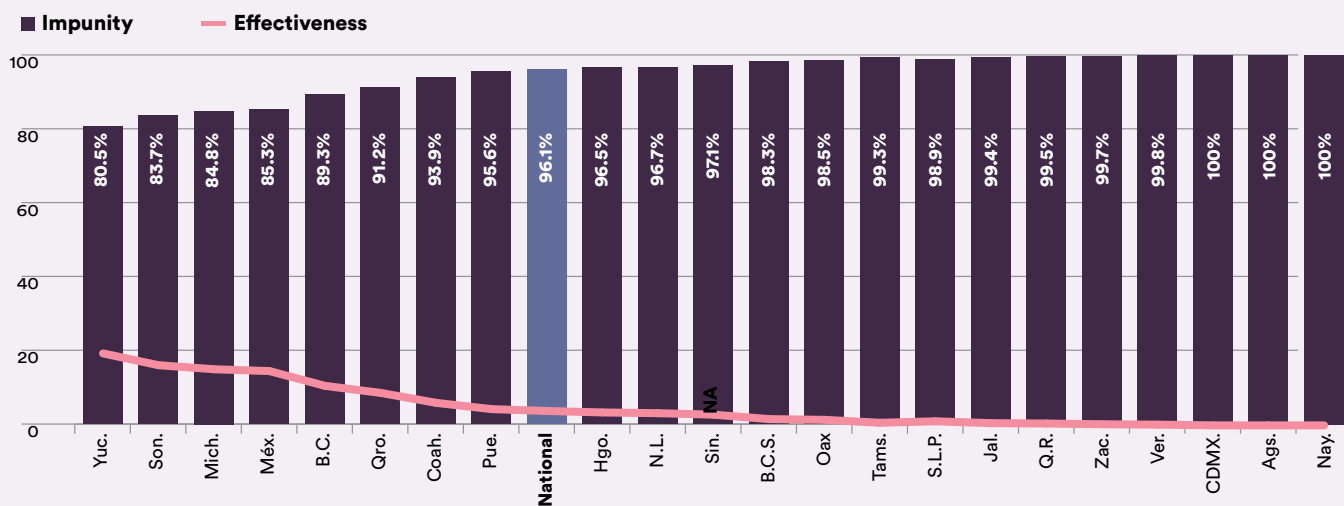




## Index of impunity for sexual abuse, 2022

The national average of impunity for sexual abuse was **96.1%**. The states with the lowest impunity were Yucatán (80.5%), Sonora (83.7%), Michoacán (84.8%), and Estado de México (85.3%), while Mexico City, Aguascalientes, and Nayarit recorded 100%. Note that the states with lower impunity achieved those levels by channeling cases through summary proceedings that resulted in convictions.

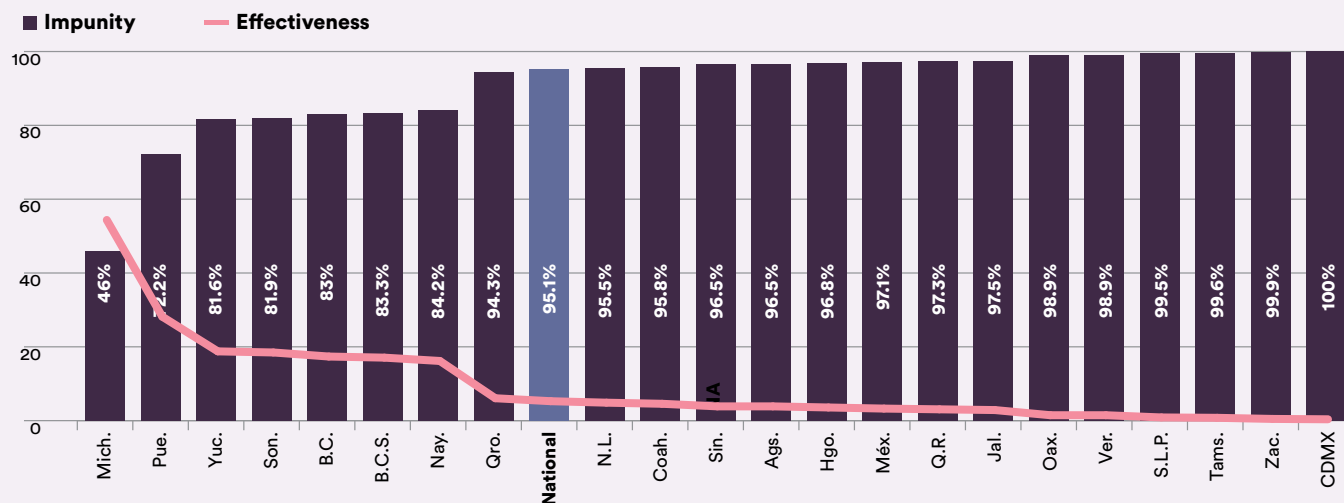
### Graph 13



## Index of impunity for dispossession, 2022

The national average of impunity for cases of dispossession was **95.1%**. The states with the lowest impunity in this rubric were Michoacán (46%) and Puebla (72.2%). In contrast, Mexico City recorded 100%, followed closely by Zacatecas (99.9%), Tamaulipas (99.6%), and San Luis Potosí (99.5%).

### Graph 14

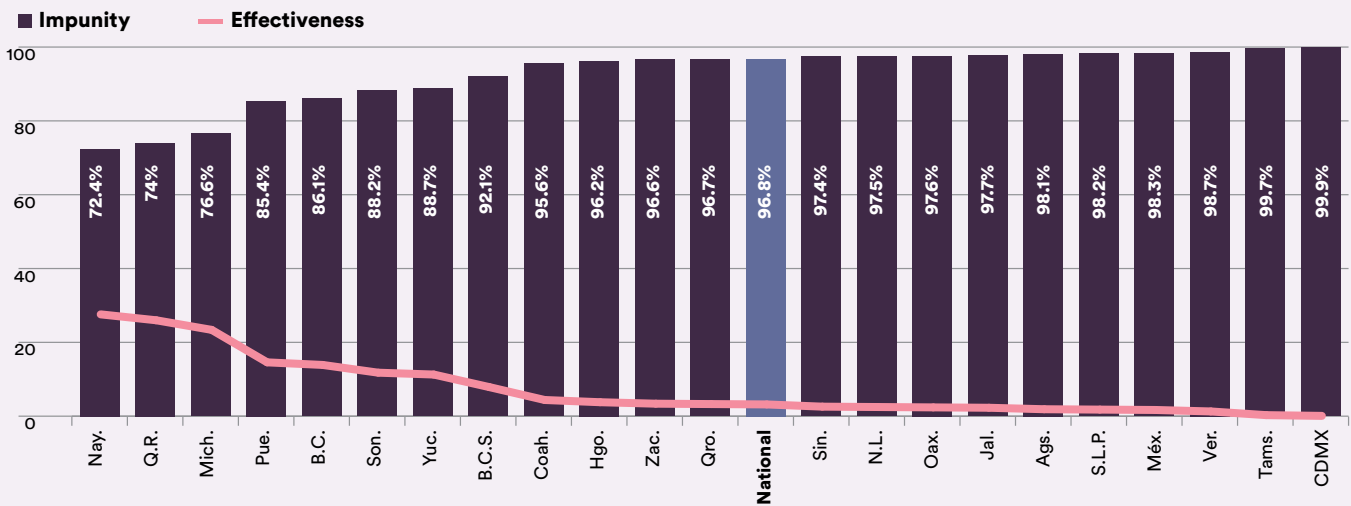




## Index of impunity for fraud, 2022

The national average of impunity for cases of fraud was 96.8%. The states with the lowest impunity for this crime were Nayarit (72.4%), Quintana Roo (74%), and Michoacán (76.6%), while those with the highest indices of unresolved cases were Mexico City (99.9%), Tamaulipas (99.7%), and Veracruz (98.7%).

### Graph 15



## Index of impunity for simple theft, 2022

The national average of impunity for simple theft was 95.9%. The state with the lowest level of impunity was Michoacán (60.6%), while Tamaulipas reached 100%, and Jalisco and Mexico City registered 99.9%. As theft is classified as a low impact crime (as defined in later sections), it is to be expected that institutions would not undertake intensive investigations or would for alternative resolutions. Thus, the main outcomes found for this crime were prosecutorial discretion, followed by conditional suspension of process and summary proceedings.

### Graph 16





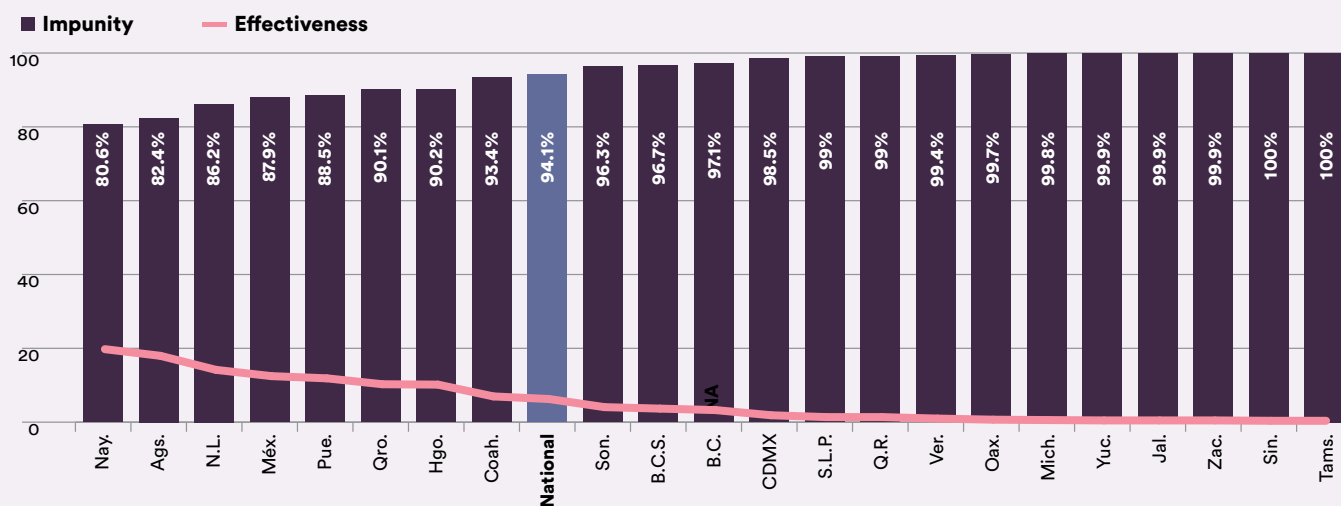
## Index of impunity for drug-dealing, 2022

The national average of impunity for drug-dealing in 2022 was 94.1%. The states with lower impunity for this crime were Nayarit (80.6%), Aguascalientes (82.4%), and Nuevo León (86.2%); those with higher indices were Sinaloa and Tamaulipas, which reached 100%, followed by Yucatán, Jalisco, and Zacatecas, at 99.9%.

Note that the states with lower impunity achieved those levels by channeling cases through summary proceedings that resulted in convictions, and concluding them with conditional suspension of process or prosecutorial discretion.

With respect to this crime, it is necessary to emphasize the punitive focus observed in handling, since we refer here only to cases of drug-dealing in the modality of possession, not cases of drug-trafficking that involve supplying substances to other. **Even though this crime involved only possession, the main form of resolution was conviction through plea bargaining, without sufficiently prioritizing prosecutorial discretion or other outcomes. We would emphasize that in these cases it is necessary to foment a focus based on rehabilitation and public health.**

### Graph 17



### Final judgements

The Inter-American System of Human Rights establishes the right to effective judicial protection, which demands providing ideal, efficient judicial mechanisms to protect these rights, both individual and collective. However, these mechanisms often fail to function adequately, perhaps because of the limited capacity of some groups or collectivities of victims affected by violations to take action, due to bureaucratic delays in judicial proceedings, or because acceding to these resources can be expensive in monetary terms or investments in time.<sup>9</sup>

Likewise, it has been established that during processes all individuals have the right to the minimum guarantee that they can appeal judgments before a higher judge or court.

*158. The Court considers that the right to appeal a judgment is a primordial guarantee that must be respected in the framework of due legal process, to allow an adverse sentence to be reviewed by a different judge or court of higher organic hierarchy. The right to interpose a resource against the judgment must be*

<sup>9</sup> Comisión Interamericana de Derechos Humanos, see: <https://www.cidh.oas.org/countryrep/accesodesc07sp/accesodesci-ii.sp.htm>

*guaranteed before the sentence acquires the status of a judged case. The aim is to protect the right of the defense, granted during the process, to interpose a resource to prevent a decision from becoming a final judgement when it was adopted with flaws and contains errors that cause undue harm to a person's interests (...)*<sup>10</sup>

In light of the foregoing, it seems essential to determine how these resources are exercised in Mexico, and their degree of effectiveness. In this vein, we were able to verify that **27.2% of the sentences handed down at first hearings were appealed**. This reveals a high level of impugnments regarding the decisions taken by jurisdictional organs. We further observed that some states stand out for their high levels of appeals of sentences dictated at first hearings: Oaxaca (90.3%), Baja California Sur (81.2%), and Tamaulipas (59.5%).

Moreover, we identified that of the appeals admitted, 27.8% were modified and 14.3% revoked by the organ of the second hearing. This leads to the inference that **a flaw, element, or consideration was identified in almost one-third of all sentences, indicating that they were not adequately analyzed by the court of the first hearing**. In these cases, there was certainty regarding the guarantee of effective judicial protection through the resource of appeal.

Furthermore, upon analyzing these figures by type of crime, we learned that there are specific criminal acts in which a high percentage of the sentences dictated are modified or revoked. These include, among others, sexual abuse, abortion, discharging a firearm, and fraudulent administration. This leads us to assume that the resource of appeal represents a stronger guarantee of the judicial protection of our rights. Given that this resource significantly broadens access to justice, it is necessary to focus our lens on the barriers that impede its introduction, and the costs it entails for the parties, in order to ensure that they can exercise it free of any kind of discrimination or condition. Likewise, we must analyze the causes of both the appeal and the modification or revocation of sentences, as this could indicate the need to repeat the procedure or examine such topics as aligning criteria and/or arbitrary decisions by sentencing institutions.

### Attention to victims. Orientation and restitution

The legal advice given through the State Executive Commissions for Attention to Victims (*Comisiones*

**Table 3. Percentage of sentences appealed, state jurisdiction, 2022**

State	Total sentences	Total appeals	Percentage
<b>National</b>	<b>11,567</b>	<b>3,150</b>	<b>27.2%</b>
Baja California	594	227	38.2%
Baja California Sur	48	39	81.2%
Chiapas	657	107	16.3%
Chihuahua	585	233	39.8%
Nayarit	137	41	29.9%
Nuevo León	5,814	1,799	30.9%
Oaxaca	103	93	90.3%
Sonora	2,811	180	6.4%
Tabasco	349	152	43.5%
Tamaulipas	469	279	59.5%

Source: Elaborated by the authors based on solicitudes of access to information.

**Table 4. Type of resolution of the appeals interposed, 2022**

State	Confirmed	Modified	Revoked	In process	Not specified	Total sentences appealed
<b>National</b>	<b>42.8</b>	<b>27.8</b>	<b>14.3</b>	<b>2.8</b>	<b>12.3</b>	<b>3,700</b>
Baja California	35.2	9.3	25.1	0	30.4	227
BC Sur	67.6	8.1	18.9	0	5.4	37
Chiapas	33.2	22.6	30.7	5	8.5	199
Chihuahua	8.2	47	26.1	9	9.7	134
Hidalgo	0	61	10.2	0	28.8	205
Nayarit	2.5	5	15	0	77.5	40
Nuevo León	60.2	32.7	4	0	3.1	1,216
Oaxaca	4.7	17.4	44.2	25.6	8.1	86
Puebla	0	15	2.5	0	82.5	40
Querétaro	2.9	62.9	25.7	8.6	0	35
San Luis Potosí	0	27.5	40.6	0	31.9	69
Sinaloa	47.7	4.6	2.3	0	45.5	88
Sonora	1.2	54.5	10.8	31.1	2.4	167
Tabasco	5	49.7	45.4	0	0	141
Tamaulipas	48.3	15.5	8.5	1.1	26.6	271
Zacatecas	64.8	13.8	14.9	0	6.4	745

Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

<sup>10</sup> On this topic, the Inter-American Court clearly stipulates the content of the right to appeal a sentence, as we shall see in the following quotation from the case Herrera Ulloa vs. Costa Rica.



**Table 5. Form of concluding the appeals interposed, by type of crime, 2022**

Crime	Confirmed	Modified	Revoked	In process	Not specified	Absolute number	Percentage
Abortion	0.0%	0.0%	100.0%	0.0%	0.0%	1	0.0%
Abuse of authority	52.4%	9.5%	38.1%	0.0%	0.0%	21	0.6%
Abuse of trust	48.0%	20.0%	12.0%	4.0%	16.0%	25	0.7%
Abuse by retention	66.7%	0.0%	0.0%	0.0%	33.3%	3	0.1%
Sexual abuse	48.2%	16.4%	15.4%	0.9%	19.1%	110	3.0%
Abuse by dishonesty	0.0%	100.0%	0.0%	0.0%	0.0%	2	0.0%
Sexual harassment	34.6%	57.7%	0.0%	3.8%	3.8%	26	0.7%
Fraudulent administration	0.0%	0.0%	100.0%	0.0%	0.0%	2	0.0%
Housebreaking	37.5%	37.5%	12.5%	0.0%	12.5%	8	0.2%
Threats	60.6%	18.2%	6.1%	0.0%	15.2%	33	0.9%
Assault	0.0%	68.4%	7.0%	0.0%	24.6%	57	1.5%
Criminal association	85.7%	0.0%	0.0%	14.3%	0.0%	7	0.2%
Dangerous attacks	75.0%	0.0%	25.0%	0.0%	0.0%	4	0.1%
Indecent attacks	49.2%	47.8%	1.5%	0.0%	1.5%	67	1.8%
Blackmail	47.4%	36.8%	0.0%	0.0%	15.8%	19	0.5%
Bribery	20.0%	0.0%	0.0%	0.0%	80.0%	5	0.1%
Property damage	47.5%	35.0%	5.0%	0.0%	12.5%	40	1.1%
Crimes against the environment	14.3%	0.0%	85.7%	0.0%	0.0%	7	0.2%
Crimes against work and social prevision	0.0%	0.0%	100.0%	0.0%	0.0%	1	0.0%
Forced disappearance	0.0%	0.0%	0.0%	0.0%	100.0%	2	0.0%
Disobedience and resistance by private parties	0.0%	100.0%	0.0%	0.0%	0.0%	2	0.0%
Discharging firearms	25.0%	0.0%	25.0%	0.0%	50.0%	8	0.2%
Child rape	50.0%	50.0%	0.0%	0.0%	0.0%	2	0.0%
Escaped fugitives	100.0%	0.0%	0.0%	0.0%	0.0%	1	0.0%
Extortion	28.0%	16.0%	36.0%	0.0%	20.0%	25	0.7%
Femicide	49.3%	29.6%	7.8%	2.8%	10.6%	142	3.8%
Fraud	51.4%	13.1%	22.4%	0.0%	13.1%	107	2.9%
Intentional homicide	46.0%	37.8%	5.4%	0.0%	10.8%	37	1.0%
Non-intentional homicide	52.5%	38.6%	1.9%	0.0%	7.0%	158	4.3%
Injuries	100.0%	0.0%	0.0%	0.0%	0.0%	1	0.0%
Lesions	58.1%	21.5%	12.4%	1.1%	7.0%	186	5.0%
Drug-dealing	57.3%	29.8%	5.6%	1.6%	5.6%	124	3.4%
Patricide	50.0%	0.0%	0.0%	0.0%	50.0%	2	0.0%
Embezzlement	54.5%	27.3%	18.2%	0.0%	0.0%	11	0.3%
Pederasty	20.5%	37.2%	37.2%	2.6%	2.6%	78	2.1%
Pornography	100.0%	0.0%	0.0%	0.0%	0.0%	2	0.0%
Illegal deprivation of freedom	43.8%	25.0%	6.2%	12.5%	12.5%	16	0.4%
Theft	44.8%	32.4%	11.8%	2.7%	8.4%	442	11.9%
Kidnapping	49.6%	17.3%	15.4%	2.2%	15.4%	272	7.3%
Human trafficking	42.1%	5.3%	31.6%	0.0%	21.1%	19	0.5%
Rape	41.3%	25.3%	14.0%	4.9%	14.5%	470	12.7%
Domestic violence	43.2%	28.6%	14.6%	3.6%	9.9%	192	5.2%
Not specified	35.0%	28.0%	18.0%	4.0%	15.1%	963	26.0%

Source: Elaborated by the authors based on solicitudes of access to information.

*Ejecutivas Estatales de Atención a Víctimas*, CEEAV, hereinafter, Victims' Commissions) is essential for guaranteeing victims' constitutional rights from the beginning of the investigation, not only in oral trials, but also in some other forms of terminating investigations, like temporary files, where users may require juridical orientation to present their unconformity with a

prosecutor's decision, or to understand the benefits of alternative means of conflict resolution (AMCR, *Medidas Alternativas de Resolución de Conflictos*); that is, other options for resolving cases that could permit greater agility in repairing damage or reduce the time needed to reach solutions through the conditional suspension of process or summary proceedings.



In 2022, each victims adviser of the CEEAV at the national level attended an average of 303 cases (47 more than in 2021) and represented an estimated 230 victims in some criminal process (73 more than in 2021). These figures confirm an upwards tendency in both the number of victims attended and those represented, identified since 2019. However, since the number of juridical advisers did not keep pace with the incidence of criminality or the demand for their services in any given state, their workloads varied widely from one state to another.

This relation places the need to analyze the design of the regulation in the center of the discussion, including the mechanisms and guaranteeing institutions, like Victims' Commissions. A greater prevalence of criminality is to be expected at the national level; that is, a higher number of victims and greater demand for this service, a situation that, in light of the current institutional framework, would further compromise the safeguarding of victims' rights.

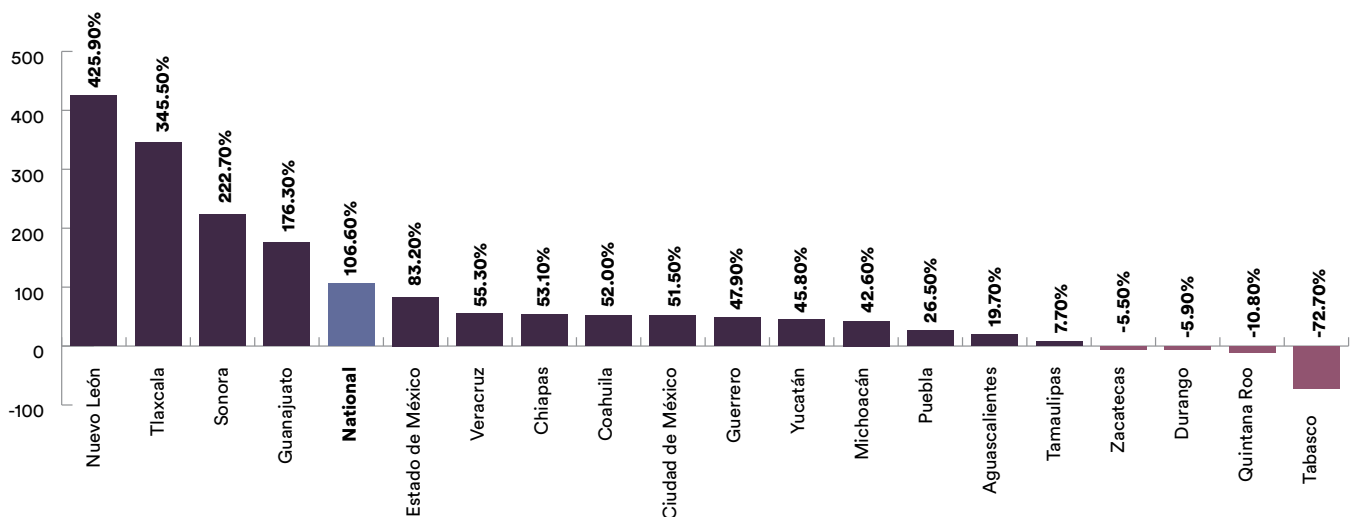
In diverse cases, this has also entailed postponements of hearings and even the imposition of sanctions against Victims' Commissions, since the low availability of juridical advisers means that they cannot attend all the hearings to which they are called, design and execute adequate litigation strategies that are congruent with victims' needs, or give priority to some integral way of repairing the damage suffered.

**Table 6. Substantive personnel of Victims' Commissions (CEEAV) and their workload**

State	Victims advisors	Cases attended	Cases attended per victims advisor	Victims represented	Victims represented per victims advisor
<b>National</b>	<b>690</b>	<b>212,250</b>	<b>303</b>	<b>156,590</b>	<b>230</b>
Aguascalientes	30	1,090	36	690	23
Baja California Sur	10	7,559	756	3,025	303
Campeche	11	9,358	851	12,399	1,127
Ciudad de México	24	3,314	138	4,524	189
Coahuila	16	1,648	103	974	61
Colima	17	ND	ND	8,424	496
Durango	18	11,235	624	511	28
Estado de México	169	34,166	202	34,166	202
Guanajuato	19	11,372	599	5,563	293
Guerrero	27	9,228	342	7,652	283
Jalisco	4	1,945	486	1,929	482
Michoacán	64	14,503	227	27,592	431
Nuevo León	45	74,997	1,667	12,758	284
Oaxaca	4	15	4	NA	NA
Puebla	20	2,784	139	3,397	170
Querétaro	25	ND	ND	6,823	273
Quintana Roo	47	4,215	90	4,380	93
San Luis Potosí	27	7,467	277	7,467	277
Tabasco	2	3	2	17	9
Tlaxcala	14	1,733	124	6,109	436
Veracruz	57	10,590	186	6,767	119
Yucatán	17	3,119	183	1,423	84
Zacatecas	23	1,909	83	1,102	48

Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

**Graph 18. Percentage variation of persons attended by the CEEAV**



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.



**Table 7. Victims of human rights violations represented by the CEEAV, 2022**

State	Victims of human rights violations represented	Victims of human rights violations represented per victims advisor
<b>National</b>	<b>4,642</b>	<b>7</b>
Aguascalientes	121	4.0
Baja California Sur	0	-
Campeche	37	3
Ciudad de México	171	7
Coahuila	3	0.2
Colima	4	0.2
Durango	12	0.7
Estado de México	0	-
Guanajuato	5	0.3
Guerrero	2,395	89
Jalisco	93	23
Michoacán	291	5
Nuevo León	4	0.1
Puebla	0	-
Querétaro	0	-
Quintana Roo	21	0.4
San Luis Potosí	0	-
Tabasco	1	0.5
Tlaxcala	0	-
Veracruz	1,290	23
Yucatán	0	-
Zacatecas	194	8

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

Added to this, only a few Victims' Commissions have sought differentiated ways to attend to the victims that seek attention or advice and/or request reparation of damages, nor does one observe reasonable efforts to provide timely and adequate attention that considers the conditions and characteristics of individuals, violation of their rights, and/or the risks they may confront in cases of repeated or potential behaviors. This constitutes an enormous obstacle to protecting their rights, guaranteeing adequate attention, and developing criminal and litigation processes characterized by sufficient attention and due diligence.

In addition to the limited installed capacity and absence of *ad hoc* management models, another factor to consider is the paucity of victims advisers in all these Commissions. The figure of victim counseling persists in Prosecutors' and Attorney Generals' offices, though this is undesirable from the point of view of the quality of justice, since the majority of these operators align themselves with the criteria and strategies of their institutions and, as a result, fail to an active, independent representation in

criminal processes, or to establish the necessary balance of forces between victim and accused.

In another aspect, **of all the** victims represented by Commissions in 2022, only 14.1% reached the stage of repairing damages. In this regard, the cases of Durango, Guanajuato, Querétaro, Sonora, and Yucatán stand out, as states where efforts have been made to repair the harm suffered by the totality of victims.

### Effective defense. Access and final resolution

Before 2008, the justice system incorporated a series of guarantees to protect accused persons, but that framework turned out to be insufficient to prevent the operating institutions from systematically violating their rights after detention, through the ensuing stages, and up to sentencing. **It was not that the legal framework**

**Table 8. Victims represented by the CEEAV that solicited and received reparation of damages, 2022**

State	Number of victims represented by the CEEAV that solicited reparation of damages	Number of victims represented by the CEEAV that received reparation of damages	Percentage
<b>National</b>	<b>39,420</b>	<b>5,546</b>	<b>14.1</b>
Aguascalientes	0	0	-
Baja California Sur	0	0	-
Campeche	217	150	69.1
CDMX	1,155	816	70.6
Chiapas	0	0	-
Coahuila	818	590	72.1
Colima	5	1	20.0
Durango	511	511	100.0
Edo. México	2,407	662	27.5
Guanajuato	1	1	100.0
Guerrero	0	0	-
Michoacán	2,8216	414	1.5
Nuevo León	808	255	31.6
Puebla	251	223	88.8
Querétaro	838	838	100.0
Quintana Roo	0	0	-
Sinaloa	2	0	0.0
Sonora	3	3	100.0
Tabasco	0	0	-
Tamaulipas	N/A	N/A	-
Tlaxcala	1,995	124	6.2
Veracruz	1,077	611	56.7
Yucatán	14	14	100.0
Zacatecas	1,102	333	30.2

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.



**failed to consider their rights but, rather, a lack of mechanisms in place to enforce them and ensure they would be respected.**

Torture, isolation, and abusive treatment were recurrent practices utilized as “mechanisms for obtaining information” due to the poor capacities of institutions to conduct professional and scientific criminal investigations. But this meant that there was no certainty regarding the accused person’s responsibility for the crime allegedly committed. In that setting, the reform of the C JS heightened and expanded the spectrum of the rights of accused persons and sought to counteract the adverse effects and results that the traditional system had practiced and normalized for decades.<sup>11</sup>

**Table 9. Percentage of persons accused in penal causes processed in 2022 that had access to a public defender**

State	Persons accused in penal causes processed, 2022	Persons represented by public defenders, 2022	Percentage
<b>National</b>	<b>196,833</b>	<b>77,141</b>	<b>14.1</b>
Baja California	33,564	10,020	29.9%
Campeche	ND	703	-
Coahuila	17,984	11,936	66.4%
Colima	1,192	686	57.6%
Chiapas	1,826	2,357	NA
Chihuahua	ND	4,475	-
Ciudad de México	30,295	3,901	12.9%
Guanajuato	17,952	15,138	84.3%
Guerrero	211	3,278	NA
Hidalgo	10,150	3,612	35.6%
Jalisco	13,650	174	1.3%
Morelos	ND	1,997	-
Puebla	17,906	ND	-
Querétaro	6,224	2,973	47.8%
Quintana Roo	1,582	4,478	NA
San Luis Potosí	2,995	4,596	NA
Sinaloa	10,169	2,181	21.4%
Sonora	19,642	12,170	62.0%
Tabasco	1,986	4,300	NA
Tamaulipas	3,445	181	5.3%
Veracruz	4,364	3,471	79.5%
Yucatán	2,468	1,416	57.4%
Zacatecas	7,828	2,107	26.9%

**Source:** Elaborated by the authors based on solicitudes of access to information | @mexevalua.

The Inter-American Court of Human Rights has established that it does not suffice to ensure that accused persons have legal representation for their defense, but that it is also necessary to guarantee the effective exercise of their right to counsel by providing the time, information, orientation, and means required to prepare their legal defense and thus **guarantee a formal, material defense.**

In this regard, in 2022 four out of every 10 people processed were assigned a public defender, though states like Jalisco, Tamaulipas, and Mexico City had much lower percentages. This circumstance calls for a profound analysis of institutional capacities, the internal handling of cases and, above all, the mechanisms established to guarantee the integral right of accused persons to an adequate defense.

**Table 10. Substantive personnel of Public Defenders’ Offices and their workload, 2022**

State	Defenders and public defenders	Persons represented by Public Defenders’ office	Persons represented by a public defender	Persons attended by the Public Defenders’ office	Persons attended by a public defender
<b>National</b>	<b>2,002</b>	<b>72,256</b>	<b>36</b>	<b>314,734</b>	<b>157</b>
Baja California	137	6,921	51	9,036	66
Campeche	68	470	7	30,269	445
Chiapas	22	1,241	56	3,022	137
Chihuahua	146	2,296	16	56,975	390
Ciudad de México	405	3,627	9	3,767	9
Coahuila	52	9,888	190	9,628	185
Colima	18	481	27	628	35
Guanajuato	185	10,002	54	24,181	131
Guerrero	39	2,148	55	6,382	164
Hidalgo	109	3,612	33	3,612	33
Jalisco	65	131	2	158	2
Morelos	54	1,626	30	3,119	58
Querétaro	46	2,239	49	3,002	65
Quintana Roo	59	2,818	48	85,996	1,458
San Luis Potosí	103	3,743	36	13,825	134
Sinaloa	67	1,231	18	15,671	234
Sonora	53	12,170	230	37,228	702
Tabasco	55	2,041	37	41	1
Tamaulipas	88	200	2	383	4
Veracruz	46	2,245	49	5,572	121
Yucatán	134	1,019	8	1,471	11
Zacatecas	51	2,107	41	768	15

**Source:** Elaborated by the authors based on solicitudes of access to information | @mexevalua.

<sup>11</sup> *México Evalúa*, “Derechos de los usuarios del sistema de justicia criminal, 2018”. Available at: <https://www.mexicoevalua.org/wp-content/uploads/2018/10/derechos-usuarios-sj.pdf>



**Table 11. Type of precautionary measure imposed on accused persons with a public defender**

State	Precautionary measure in freedom	Pretrial detention	
		Pretrial detention Justified	Pretrial detention Ex officio
<b>National</b>	<b>53.1%</b>	<b>16.8%</b>	<b>30.1%</b>
Baja California	43.1%	32.7%	24.2%
Campeche	43.7%	11.1%	45.2%
Coahuila	68.2%	11.7%	20.2%
Colima	32.1%	39.9%	28.0%
Ciudad de México	88.3%	11.4%	0.3%
Guanajuato	37.3%	12.5%	50.2%
Guerrero	36.2%	29.8%	34.0%
Hidalgo	97.0%	0.6%	2.4%
Jalisco	47.6%	0.0%	52.4%
Morelos	67.4%	11.2%	21.4%
Querétaro	35.0%	26.1%	38.9%
Quintana Roo	37.4%	27.6%	35.0%
San Luis Potosí	74.9%	2.0%	23.1%
Sinaloa	13.0%	43.5%	43.5%
Tamaulipas	31.3%	11.1%	57.6%
Veracruz	33.6%	17.8%	48.7%
Yucatán	26.1%	35.6%	38.4%

**Table 12. Proportion of persons with a public defender bound over to the court**

State	Percentage of persons bound over to the court with a public defender	Percentage of persons not bound over to the court with a public defender
<b>National</b>	<b>72.2%</b>	<b>27.8%</b>
Baja California	78.7%	21.3%
Campeche	88.1%	11.9%
Chiapas	73.2%	26.8%
Chihuahua	76.3%	23.7%
Ciudad de México	71.8%	28.2%
Coahuila	84.1%	15.9%
Colima	71.9%	28.1%
Guerrero	82.4%	17.6%
Hidalgo	100.0%	0.0%
Jalisco	62.6%	37.4%
Morelos	70.0%	30.0%
Querétaro	50.4%	49.6%
Quintana Roo	94.1%	5.9%
San Luis Potosí	90.8%	9.2%
Sinaloa	88.7%	11.3%
Sonora	98.7%	1.3%
Tabasco	73.1%	26.9%
Tamaulipas	45.5%	54.5%
Veracruz	82.2%	17.8%
Yucatán	51.2%	48.8%

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

**Table 13. Form of resolving penal causes involving accused persons with a public defender**

State	Restitution agreement	Conditional suspension of proceedings	Conviction in plea bargaining	Conviction in oral trial	Acquittal in oral trial
<b>National</b>	<b>14.6%</b>	<b>46.0%</b>	<b>32.6%</b>	<b>4.9%</b>	<b>1.9%</b>
Baja California	17.7%	54.8%	25.0%	2.1%	0.3%
Campeche	13.2%	22.7%	61.4%	1.4%	1.4%
Chiapas	2.1%	10.7%	50.1%	25.1%	11.9%
Chihuahua	11.8%	71.5%	12.5%	2.7%	1.4%
Ciudad de México	46.5%	91.0%	42.2%	1.6%	0.3%
Coahuila	16.8%	64.1%	17.6%	1.2%	0.3%
Colima	12.7%	47.3%	28.6%	7.9%	3.5%
Guanajuato	3.8%	14.0%	74.5%	5.6%	2.1%
Guerrero	28.6%	32.1%	25.5%	10.0%	3.8%
Hidalgo	30.0%	48.5%	11.6%	7.9%	2.0%
Jalisco	0.0%	48.9%	25.5%	19.1%	6.4%
Morelos	11.0%	34.2%	28.7%	20.5%	5.6%
Querétaro	10.5%	19.1%	41.2%	21.4%	7.8%
Quintana Roo	38.0%	34.5%	25.9%	1.2%	0.4%
San Luis Potosí	12.3%	57.8%	24.0%	4.3%	1.6%
Sinaloa	9.6%	64.3%	12.7%	12.0%	1.3%
Sonora	11.4%	48.8%	36.9%	2.4%	0.5%
Tabasco	25.4%	37.4%	19.1%	8.0%	10.2%
Tamaulipas	16.2%	32.4%	26.5%	14.7%	10.3%
Veracruz	18.4%	36.6%	14.1%	22.3%	8.5%
Yucatán	25.5%	43.6%	24.6%	5.2%	1.1%

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

While each case requires an *ad hoc* defense strategy, there are, without doubt, indicators that allow us to undertake an assessment of the performance of public defenders. These include the debate around the most suitable precautionary measure to be imposed and the form of resolving cases that were attended by the personnel of a Public Defender's office.

In these cases, as occurs with the Victims Commissions, there is an urgent need to probe and analyze their installed capacity, budgetary resources, and the professionalization of personnel, since the staffs of Public Defender's offices can play a decisive role in protecting and guaranteeing the rights of both victims and defendants.

## Follow-up

### The processual channel

**Of the 2.3 million complaints and accusations that Prosecutors' offices received in 2022, 87.9% led to the opening of an investigative file, a rate four points lower than in 2021.** It is understandable that the workload of those institutions demands that they maximize what are, so often, scarce resources. For this reason, investigations are not ordered in all cases. However, it is important to recall that, according to the aforementioned ENVIPE, the CJS hears barely 10.9% of the crimes reported by the population as a whole. Thus, designing models of attention that facilitate preliminary decisions and prioritize users' needs will help foment a system that responds with transparency and immediacy and, presumably, will enhance people's trust in its functioning and efficacy.

Upon taking these conditions into account, and adding the increase in the indices of criminality, one would expect that the authorities would ponder the need to reorganize and strengthen their areas of operation, which suffer the greatest impact in terms of workload. Cases like those of Chiapas (24.5%), Tlaxcala (15.9%), Nuevo León (30.8%), Sonora (53.3%), and Coahuila (56.7%) drew our attention for presenting the lowest levels of investigative files opened, a situation that can constitute a risk for the traceability of cases and institutional responses.

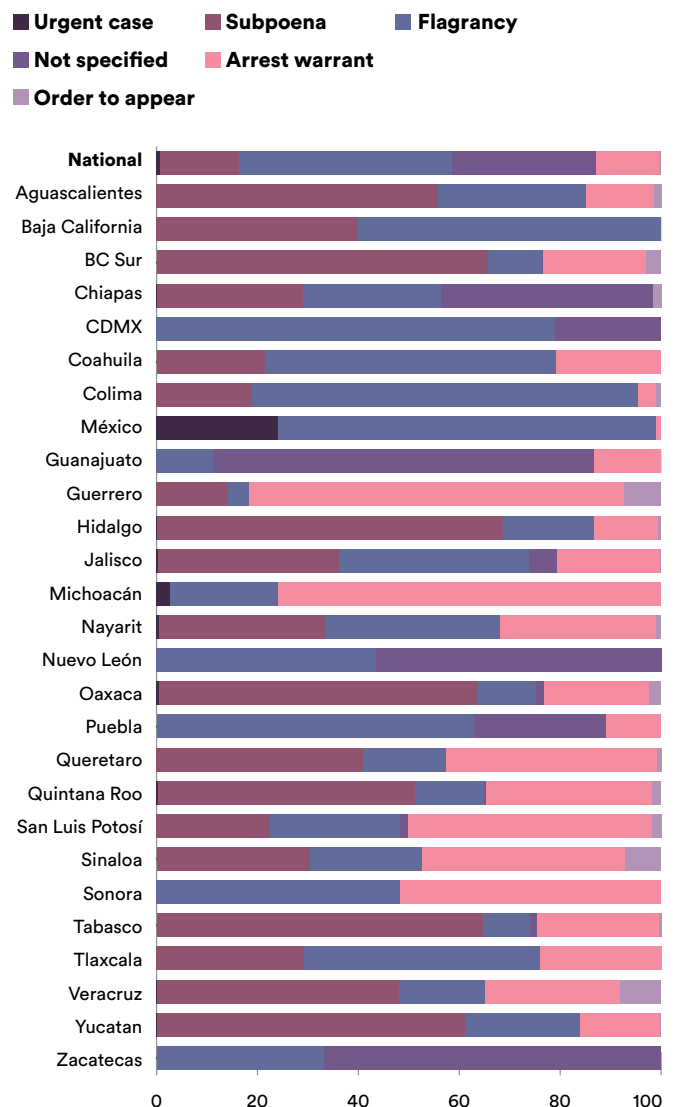
Of those files, 86.8% were opened without a detainee, so in only 13.2% was a suspect being held. Although the cases that involve the detention of a person constituted a clear minority, at least 37% of the cases judicialized by Prosecutors pertained to *in flagrancia* crime. At the close of that year, 52.3% of cases continued in process of investigation, while in the remaining 43% Prosecutors issued the following decisions: temporarily filing of the case (57.9%), no criminal action taken (22.4%), incompetence (10.3%), prosecutorial discretion (4.0%), and abstaining from investigating (3.0%).

It is alarming that the proportion of cases that were temporarily archived increased by eight points compared to 2021, while only 6.9% were channeled to the area of Prosecutors' offices that specialized in alternative mechanisms of conflict resolution (MASC), a reduction of 1.2 points from the previous year. Among the forms of early determination utilized by agents of Prosecutors' offices, we must consider cases that go unattended because they are not of their competence,

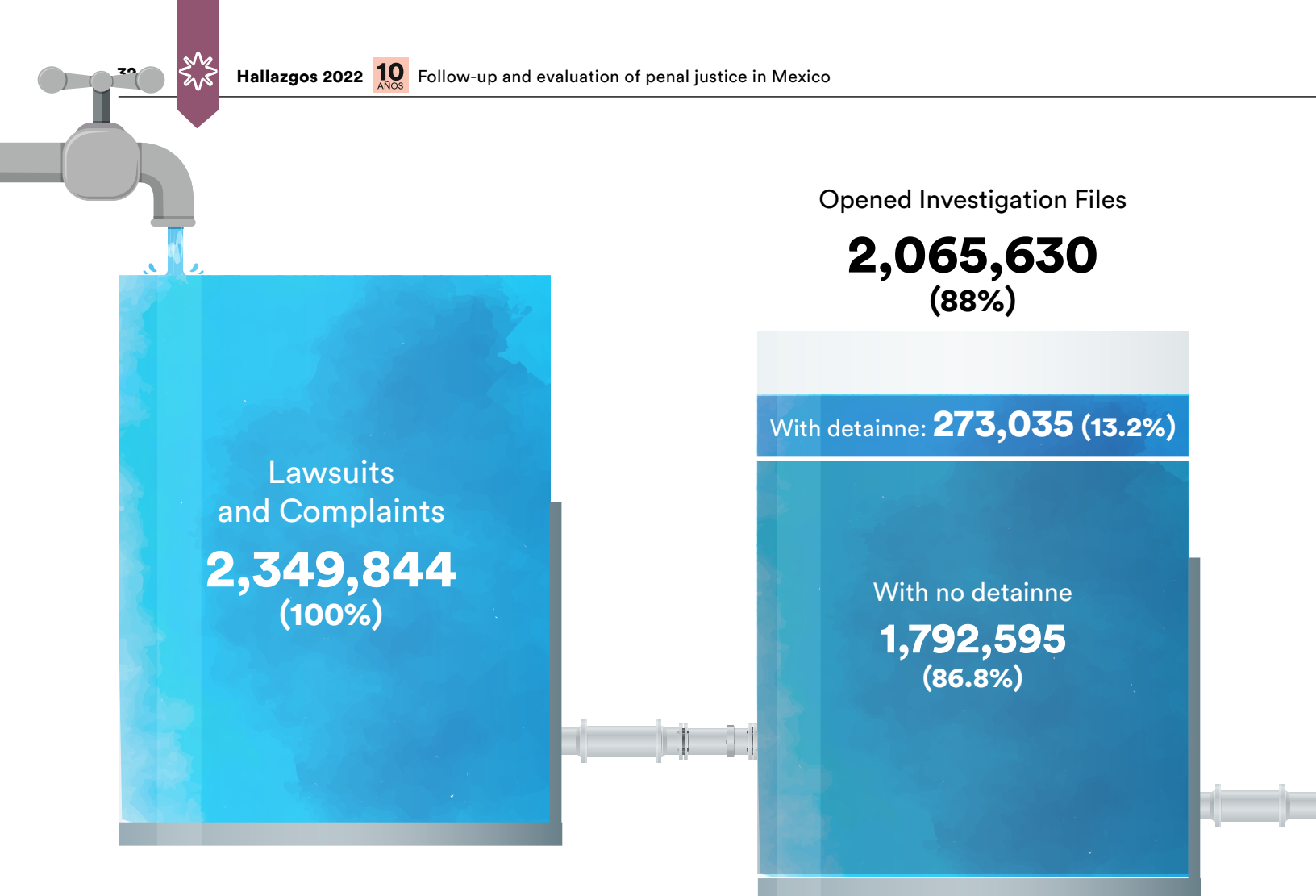
or are incorporated into other investigations. However, **the largest proportion of cases is concentrated in two categories: temporary archived (57.9%), and no criminal action taken (22.4%), determinations that demand a specific, detailed analysis so they do not become established as channels of direct impunity from the initial stages of the process.**

## Graph 19. Forms of binding cases over to the court, state jurisdiction.

Percentage data of penal causes processed by state courts, 2022



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.



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

In 2022, Prosecutors' offices judicialized a total of 96,579 cases; that is, 4.3% of the total. We determined that 64.9% of those cases were concluded by means of conditional suspension of process. Of the total, 81.5% were resolved by plea bargaining, 37.9% in oral trials, and 3.9% through restitution agreements. The rest remain in process.

### Routes to process

As we have just seen, and as was apparent in 2021, **the form of conduction to process that occurred in the greatest proportion of criminal causes was flagrancy**, as it was present in 42.3% of cases, followed by subpoenas (15.5%) and arrest warrants (12.5%), while case urgency and orders to appear each represented less than 1% of cases.

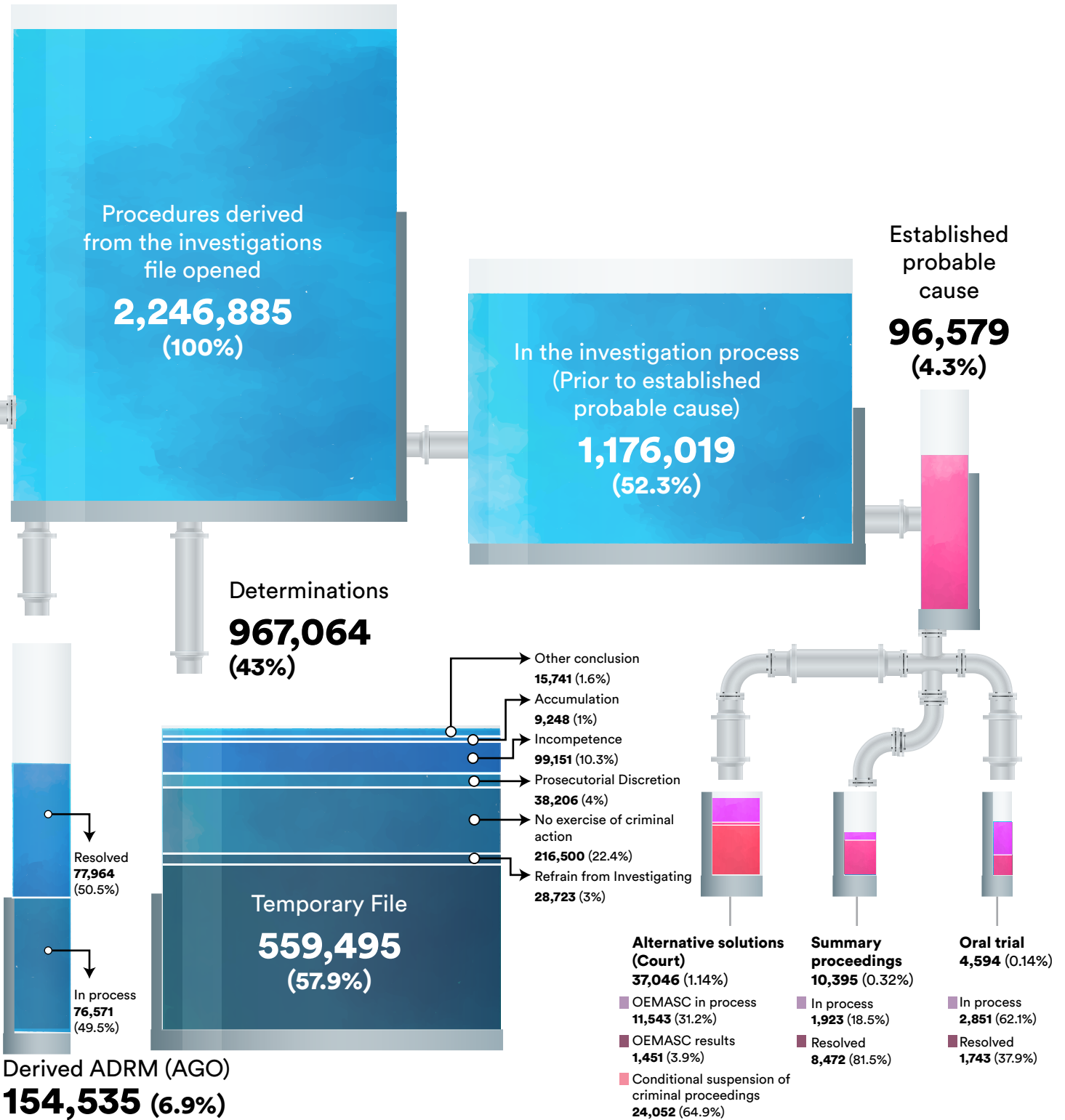
It is important to keep in mind that commencing an investigation with a detainee requires that the ministerial authorities take decisions efficiently because, on the

one hand, they have only 48 hours to decide if the person is to be released and whether the investigation will continue (including recalling the detainee at a later date), and, on the other, if sufficient information is gathered in this time to satisfy the conditions stipulated for presenting the investigation to the judicial authorities and requesting that the detainee be processed. These figures tell us that the majority of the cases that are taken before the judicial authorities are those in which the Prosecutor's office is holding individuals who were caught *in flagrancia*.

At the federal level in 2022, arrest warrants were issued in half of all criminal causes (50.8%), compared to the figure of just 34.4% in 2021. In federal courts, flagrancy appeared in 29.8% of cases, a difference of 45.7% with respect to 2021 (75.5%). Orders to appear and subpoenas were issued in 7.1% and 2.7% of cases, respectively. In states like Yucatán, Puebla, and Aguascalientes, at least seven of every 10 criminal causes began with a detainee caught *in flagrancia*.



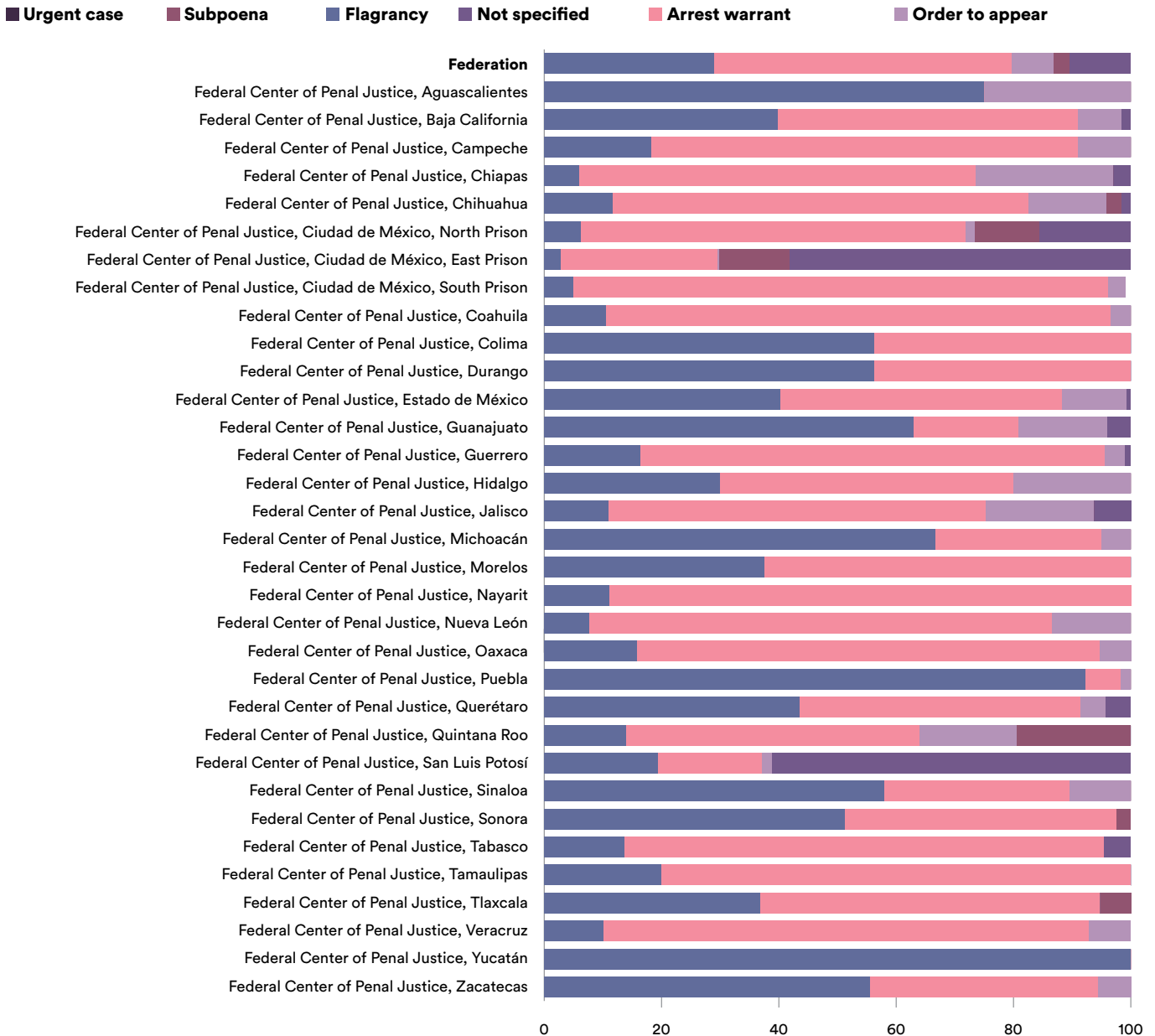
# Criminal Procedure Pipeline 2022





## Graph 20. Forms of conduction to process, federal jurisdiction.

Percentage data of criminal causes processed by federal centers of penal justice, 2022



Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

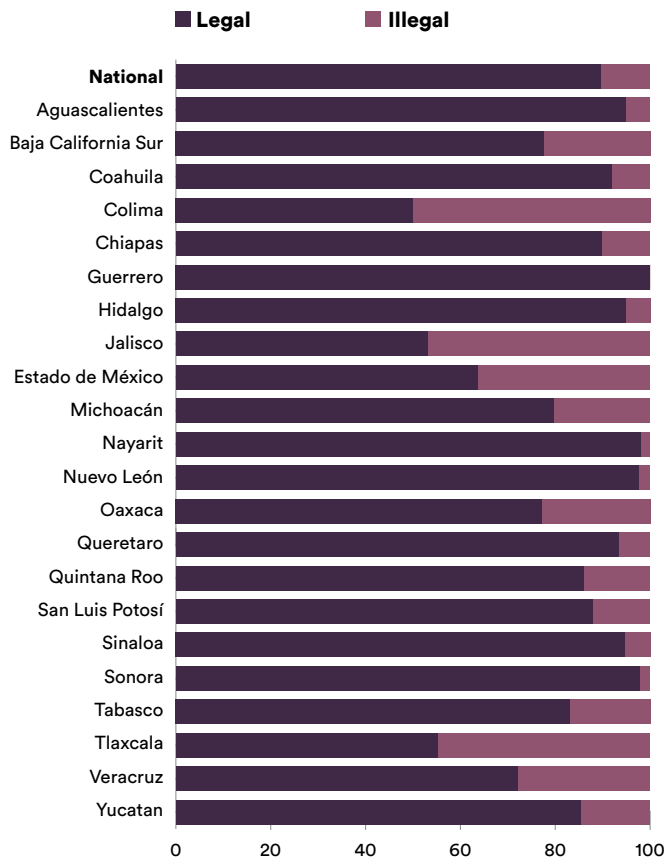
### Legality of detentions

For 2022, 89.5% of all *in flagrancia* detentions were deemed legal by the supervising judges at the state level, an improvement of almost five percentage points

from the previous year. The states with the highest areas of opportunity were Colima, Jalisco, and Tlaxcala, where almost one of every two detentions was classified as illegal, followed by the Estado de México, where four out of 10 detentions were determined to have been illegal.

## Graph 21. Type of determination of the judicial control of the legality of detentions *in flagranti* or urgent cases, state jurisdiction.

Percentage data of criminal causes involving detention *in flagranti* or urgent cases, 2022



Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

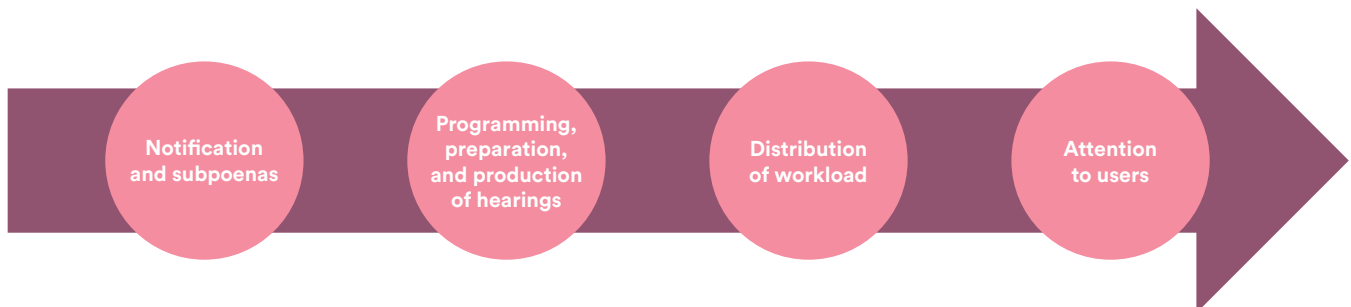
This indicator is even more discouraging at the federal level, as only 82.3% of arrests were determined to be legal after judicial control, a decrease of eight percentage points from 2021. The federal centers of criminal justice with the most deficient results were Tabasco (40%), Nuevo León (50%), and Tlaxcala (57.1%).

### Postponements of hearings

**With the transformation of the CJS and the challenge of materializing the oral modality, the pillar for handling cases became hearings.** To ensure that hearings proceed optimally, judicial management must ensure due planning, programming, development, and evaluation, while also striving to increase the productivity and quality of processes. This requires a flexible management system that is adjusted to, and adequate for, the needs of every state but, at the same time, sufficiently solid to establish general guidelines that must be followed nationwide. One essential element for accomplishing this involves the inter-operativity and interconnection of information systems, measures that can ensure effective communications with other institutions and ease the administrative workload of judges.

The operation of the accusatory criminal system requires that all Judicial Powers have a much more complex articulation of activities and means, so it is necessary to increase their actions in planning, organizing, and evaluating results. Regarding the organization and management of these powers, four critical processes that put the effective operation of the system at risk have been identified. Among their main effects, we observe delays in holding hearings and high indices of postponements.

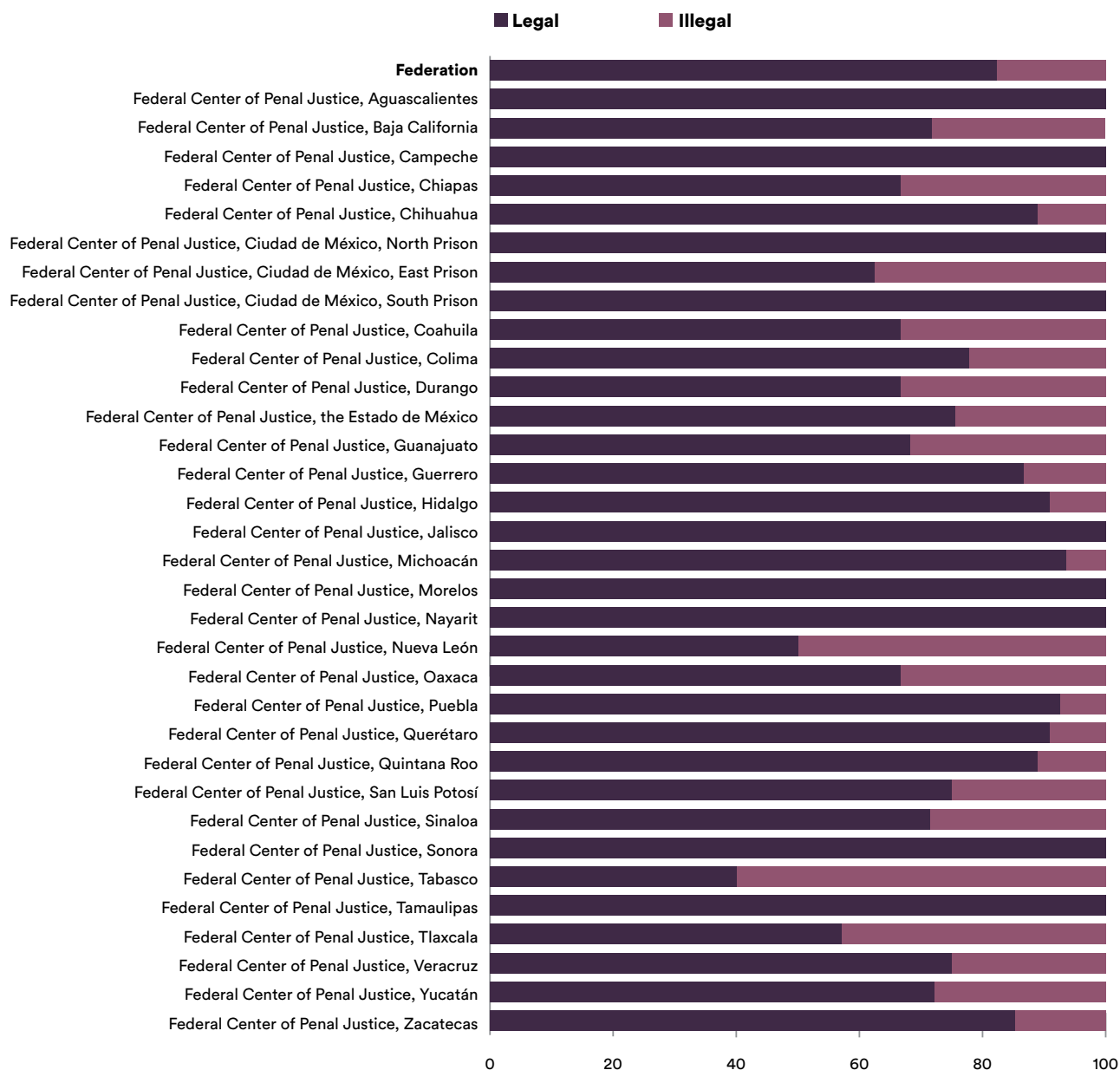
In light of this, it is necessary not only to assess the infrastructure available and determine if there is sufficient personnel, but also to consider the demand for services that must be attended. Observations after the period of the COVID-19 pandemic revealed a considerable increase (88%) in the number of hearings programmed from 2020 to 2022, as Table 14 shows.





## Graph 22. Type of determination of the judicial control of the legality of detentions *in flagranti* or urgent cases, federal jurisdiction.

Percentage data of penal causes involving detention *in flagranti* or urgent cases, 2022



Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

As mentioned above, postponements of hearings have diverse causes, from problems in notifying the parties, insufficient availability of hearing rooms, the failure of operators to attend, and difficulties associated with the administration and programming of courts, among

others. Whatever the precise causes that explain the levels of postponements in each state may be, **what is certain is that postponing or reprogramming hearings severely impacts the duration of criminal processes and access to prompt justice.** Worse yet,

**Table 14. Total hearings programmed, state jurisdiction, by year**

State	2020	2021	2022
<b>National</b>	<b>375,400</b>	<b>550,571</b>	<b>705,368</b>
Aguascalientes	6,208	10,425	12,254
Baja California	19,355	30,876	45,861
Baja California Sur	4,911	5,825	7,499
Campeche	3,312	3,349	3,953
Chiapas	5,173	6,744	9,041
Ciudad de México	81,330	111,841	120,656
Coahuila	43,662	70,334	86,136
Colima	1,031	1,461	1,464
Guanajuato	46,126	58,196	64,354
Guerrero	2,878	9,782	6,832
Jalisco	5,329	8,716	9,961
Estado de México	95,952	144,278	157,987
Michoacán	1,641	3,596	4,544
Hidalgo	ND	ND	14,920
Nayarit	3,630	5,333	8,005
Nuevo León	ND	ND	57,232
Oaxaca	3,655	7,812	11,142
Querétaro	7,375	8,067	8,945
San Luis Potosí	5,198	8,748	9,216
Sinaloa	11,929	16,011	17,944
Sonora	10,632	16,026	20,420
Tlaxcala	2,384	3,731	4,037
Yucatán	2,588	2,162	3,237
Zacatecas	11,101	17,258	19,728

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.

in cases where the integrity or security of victims or witnesses is potentially at risk, reprogramming hearings can expose them to greater threats to their safety.

Given this, analyzing the causes of postponements and preventing delays in hearings must take priority, not only for judicial administration, but also in relation to the planning of all operating institutions, for achieving this will require the efforts, commitment, and, above all, coordination of all. While observations at the national level suggest a gradual increase in the levels of postponements of hearings, the cases of Aguascalientes, Colima, Guerrero, and Tlaxcala stand out for exhibiting especially high proportions of reprogrammed hearings. In contrast, Nayarit, Querétaro, Sonora, Sinaloa, and Baja California demonstrated greater control in managing this rubric. These findings lead us to suggest that the duration of criminal processes in those states may be associated with the times established by Prosecutors' offices or the legal strategies adopted by victims or defendants.

**Graph 23. Percentage of postponed hearings, state jurisdiction, by year**

0 to 19.9    20 to 39.9    40 to 59.9    60 and over

State	2020	2021	2022
<b>National</b>	<b>18.44</b>	<b>22.84</b>	<b>22.89</b>
Aguascalientes	57.26	62.35	61.37
Baja California	20.2	9.28	9.62
Baja California Sur	20.08	18.63	18.08
Campeche	39.55	38.25	35.49
Chiapas	34.22	28.94	28.22
Coahuila	20.71	29.6	29.26
Colima	70.13	69.95	56.63
Guanajuato	12.08	19.35	21.19
Guerrero	43.78	63.67	53.63
Hidalgo			48.12
Nayarit	0.06	0.17	0.31
Oaxaca	28.26	38.06	34.82
Querétaro	2.07	1.56	1.32
San Luis Potosí	58.37	45.91	41.16
Sinaloa	6.04	9.05	9.01
Sonora	13.23	6.58	4.13
Tlaxcala	13.67	37.55	55.19
Yucatán	16.96	18.78	30.65

Source: Elaborated by the authors with data obtained through the solicitudes of public information | @mexevalua.

**Table 15. Annual variation in the rate of postponed hearings**

State	2021	2022
<b>National</b>	<b>23.9%</b>	<b>0.2%</b>
Aguascalientes	8.9%	-1.6%
Baja California	-54.1%	3.7%
Baja California Sur	-7.2%	-2.9%
Campeche	-3.3%	-7.2%
Chiapas	-15.4%	-2.5%
Coahuila	42.9%	-1.1%
Colima	-0.2%	-19.1%
Guanajuato	60.1%	9.5%
Guerrero	45.4%	-15.8%
Nayarit	206.3%	85.1%
Oaxaca	34.7%	-8.5%
Querétaro	-24.7%	-15.5%
San Luis Potosí	-21.3%	-10.3%
Sinaloa	49.9%	-0.4%
Sonora	-50.3%	-37.2%
Tlaxcala	174.6%	47.0%
Yucatán	10.7%	63.2%

Source: Elaborated by the authors based on solicitudes of access to information | @mexevalua.



## CHAPTER 3

# Selected topics

## Effective response

In 2017, we introduced into *Hallazgos'* methodology the concept of 'effective response' to analyze the degree to which the criminal conflicts that occur in Mexico reach satisfactory conclusions. To incorporate this concept we set out from the four assumptions elucidated in the following paragraphs.

First: **the entry of cases into the criminal system can generate (or not) a series of reactions in the participating institutions.** Upon receiving a complaint or notice of the possible commission of a crime, the authorities involved –police and/or a Prosecutor, among others– initiate actions to perform their duty in accordance with the norms of criminal process. This, in turn, triggers the participation of other authorities –forensic services, facilitators of alternative mechanisms of conflict resolution, supervising judges, first hearing judges, etc.– so that cases are conducted through the processual channel described in the previous chapter.

Second: the reactions generated by the entry of cases into the criminal system may have the effect that they end with positive or negative outcomes. For *México Evalúa*, **positive outcomes correspond to** scenarios in which the

conflicts that enter the system are resolved in accordance with the effective application of the norms of criminal process; that is, when a sentence is dictated (whether through summary<sup>12</sup> or ordinary proceedings), when a restitution agreement is reached to repair damages, or when the offended party pardons the accused.

In general, positive outcomes mean that the conflict was handled adequately and opportunely through actions taken by the authorities to attain concrete objectives, such as determining the truth of the events that occurred, imposing a sanction proportional to the punishable act, facilitating spaces for dialogue among the parties, or defining restitution agreements. In contrast, negative outcomes correspond to scenarios in which the criminal conflicts that enter the system are not resolved. This category includes incomplete investigations due to a supposed absence of evidence, abstentions from investigating, dismissals of criminal causes, and prescriptions of crimes that are already being processed.

In general, **negative outcomes imply passivity on the part of authorities in relation to the conflicts they hear, with the result that cases go unattended.** This means that despite their obligation to perform certain actions, the authorities of the system remain

12. In conceptual terms, we consider a sentence issued after a plea bargaining of an effective response under ideal conditions of system functioning. However, it is important to analyze in greater depth and detail the conditions in which an agreement is reached when cases are heard in plea bargaining, and what this means in terms of the existence (or not) of an effective response on the part of the system. See: Verónica Hinestroza, Luis Tapia, and Volga de Pina (2022), *Condena sin Juicio: procedimiento abreviado e impactos de género en el sistema criminal federal mexicano*, Fair Trials & DragonLab, Available at: <https://www.fairtrials.org/app/uploads/2022/12/Condena-sin-juicio-ANNEX.pdf>

inactive. As a result, the truth of the events never comes to light, the person responsible is not punished, and no restitution agreement is reached. It is important to note, however, that inactivity by the authorities does not necessarily mean that conflicts go unresolved, for extra-judicial mechanisms<sup>13</sup> may operate, such that cases are resolved, but not through the formal channels stipulated in criminal legislation.

Third: within the universe of possible outcomes, some may be more desirable than others, depending on the characteristics of each case. For this reason, *México Evalúa* maintains that **the concept of effective response is linked to the idea that the system should be capable of adapting, within the legally established parameters, to provide certain outcomes according to certain criteria**. This could mean, for example, that the most complex and severe cases must be investigated and prosecuted to their ultimate consequences; that is, trying the alleged guilty party in conformity with the rules of due process. For less complex cases and those of lower social impact, alternative mechanisms of conflict resolution or other outcomes established in criminal legislation should have priority.

These three assumptions give rise to a fourth, for in reality we must recognize that **Mexico's CJS simply does not have the capacity to react in the same way to all the presumed criminal acts brought before it year after year**, especially given the increasing index of criminality and severe human rights violations that have characterized the country for the past two decades. For example, Prosecutors' offices cannot investigate and take to trial all the cases that enter the system, nor would it necessarily be desirable for it to do so.

We must keep in mind that the Political Constitution of the United States of Mexico, and the National Code of Criminal Procedures (NCC P, art. 212), oblige Prosecutors' offices to initiate an investigation file in all criminal acts that come to their attention. Thus, Mexican legislation leaves them no margin to exercise discretion with respect to opening investigations (though the NCC P does establish different forms of termination once a file is opened, including abstaining from investigating).<sup>14</sup> Hence, once a Prosecutor's office is made aware of a possible criminal act it must begin an investigation. In practice, as we saw in the section on the processual

channel (p. XX), in Mexico investigative files are opened on over 90% of occasions upon the presentation of a complaint or accusation.

Now, assuming that the system lacks the capacity to react in the same way to all the conflicts it hears **means that the institutions that make up the criminal system must be able to take decisions that allow them to respond efficiently**. In other words, they should be able to implement work models and manage their workloads in such a way that they can organize cases in accordance with certain criteria. For this reason, *México Evalúa* has long insisted on the importance of the concept of *prioritization* when it comes to defining policies of criminal prosecution, arguing that **the cases which harm society most severely must proceed through processual channels –despite the high costs in time and resources– to prevent, above all, impunity, while simultaneously ensuring access to justice**. In contrast, cases of less social impact should transit through channels that lead to prompt solutions with lower investments in resources.

### What is the situation of criminal justice in Mexico with respect to the effective response?

As we reviewed in the previous chapter, the statistics gathered allowed us to affirm that an investigative file is opened for almost every complaint or accusation presented. In 2022, the percentage was 87.9; that is, almost nine out of every 10 complaints received. The authorities, however, are in general very inefficient in their investigation and prosecution of cases. Although the flow of cases that enter the system –those heard by an authority– is enormous, the diameter of the channel for cases that are bound over to the court, or routed to AMCR, is minuscule.

**Of the procedures derived from the opening of investigative files, approximately half remain open or under investigation in any given year.** The other half end through one of the forms established in the NCC P –abstaining from investigating, temporary archived, no exercise of criminal action, application of prosecutorial discretion– or a declaration of incompetence. A small percentage of files accumulate. This tendency was maintained, overall, in 2022, as can be seen in the processual channel, and in comparison to earlier *Hallazgos* reports.

<sup>13</sup> Online seminar: "¿Qué hacer ante la impunidad y la corrupción?", Centro Universitario Tlatelolco (8 June 2023), participation by José R. Cossio (approx. minute 33:00), Available at <https://www.youtube.com/watch?v=8xgqpPDnmBw>

<sup>14</sup> We do not ignore the fact that in practice Prosecutors' offices exercise a certain degree of discretionality.



Of the procedures derived from the 2,065,000 investigative files opened in 2022, 52.3% remained open, while 43% were terminated by Prosecutors' offices through one of the figures established in the CNC P; that is, temporary archived, abstention from investigating, no exercise of criminal action, or application of prosecutorial discretion aplicación, among others. Only 4.3% (96,579 cases) advanced to the stage of being bound over to the court. In effect, only a trickle of cases advance; a fact that exposes our institutions entrusted with investigating and prosecuting crimes.

This inevitably leads us to stress the problem of impunity. For every year since 2017, *Hallazgos* has documented that impunity in Mexico reaches average levels above 90%, and this figure has not decreased significantly. In other words, **the institutions of the PJS resolve only 10 out of every 100 crimes that are committed**. In the previous chapter we presented more ample data for 2022, but it is worth repeating, and strongly emphasizing, at this point that the effective response in Mexico is minimal; criminal justice occurs only by exception.

**Table 16. Cases derived and resolved by areas specialized in AMCR through restitution agreements, 2022**

State	Attorney General offices					Attorney General offices	
	Investigative files opened and in process, 2022	Investigations channeled to the OEMASC, 2022		Restitution agreements celebrated, 2022		Penal causes resolved through restitution agreements, 2022	
		Absolute number	Proportion with respect to total IF (investigative files)	Absolute number	Proportion with respect to the total number of cases channeled	Absolute number	Proportion with respect to the total number of causes
<b>National</b>	<b>3,651,907</b>	<b>227,457</b>	<b>6.20%</b>	<b>123,410</b>	<b>54.2</b>	<b>7,060</b>	<b>3.40%</b>
Aguascalientes	88,156	6,084	6.90%	1,823	30.00%	130	5.30%
Baja California	117,134	10,502	9.00%	3,495	33.30%	723	3.40%
Baja California Sur	18,368	5,605	30.50%	5,112	91.20%	193	11.40%
Chiapas	44,167	2,484	5.60%	1,014	40.80%	7	1.30%
Ciudad de México	226,068	6,665	2.90%	1,156	17.30%	367	1.70%
Coahuila	249,347	8,374	3.40%	3,807	45.50%	754	10.00%
Colima	31,610	ND	ND	1,305	ND	53	4.90%
Durango	24,246	5,679	23.40%	2,123	37.40%	144	12.10%
Estado de México	361,610	3,418	0.90%	3,157	92.40%	234	5.00%
Guanajuato	136,392	38,025	27.90%	17,755	46.70%	733	2.60%
Guerrero	136,392	2,581	1.90%	1,598	61.90%	6	2.80%
Hidalgo	130,206	6,630	5.10%	3,484	52.50%	254	2.60%
Jalisco	318,603	21,920	6.90%	8,114	37.00%	556	5.40%
Michoacán	94,609	14,706	15.50%	6,405	43.60%	487	34.30%
Nayarit	12,591	457	3.60%	376	82.30%	219	3.80%
Nuevo León	418,777	26,263	6.30%	9,606	36.60%	166	0.40%
Oaxaca	157,502	4,337	2.80%	2,717	62.60%	50	4.40%
Puebla	99,714	6,229	6.20%	4,683	75.20%	381	4.20%
Querétaro	66,795	14,018	21.00%	9,114	65.00%	134	2.70%
Quintana Roo	123,755	5,022	4.10%	2,729	54.30%	59	5.50%
San Luis Potosí	369,470	7,527	2.00%	2,154	28.60%	67	2.70%
Sinaloa	91,213	5,463	6.00%	3,546	64.90%	152	2.80%
Sonora	63,494	9,115	14.40%	5,253	57.60%	662	6.50%
Tabasco	40,772	ND	ND	6,415	ND	78	4.80%
Tamaulipas	66,683	8,767	13.10%	2,616	29.80%	170	4.90%
Tlaxcala	18,414	ND	ND	240	ND	1	0.60%
Veracruz	112,778	ND	ND	8,548	ND	117	5.60%
Yucatán	4,209	3,038	72.20%	2,589	85.20%	119	6.00%
Zacatecas	28,832	4,548	15.80%	2,476	54.40%	44	1.50%

Source: Elaborated by the authors based on solicitudes of access to information and data from the *Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal*, SEGOB, <https://month.segob.gob.mx/>.

### What does the universe of cases that transit through processual channels tell us about the effective response?

In earlier editions of *Hallazgos* we demonstrated that alternative mechanisms of conflict resolution are still, in general, underutilized. According to data from Prosecutors' offices, **of all the investigative files under process at the beginning of the year plus those that were opened in 2022, only 5.8% were channeled to the specialized areas of the AMCR at prosecutors offices.** Considering the type of crime, it is estimated that 35% of the complaints and accusations that Prosecutors receive are susceptible to being handled through an AMCR.<sup>15</sup> Clearly, the underutilization of these mechanisms at the state level is considerable. On the positive side, as Table 16 shows, nine states channeled over 10% of cases in this way, with Yucatán, Baja California Sur, Guanajuato, Durango, Querétaro, and Zacatecas leading the way. At judicial offices, meanwhile, the states of Michoacán and Durango resolved more criminal causes through restitution agreements.

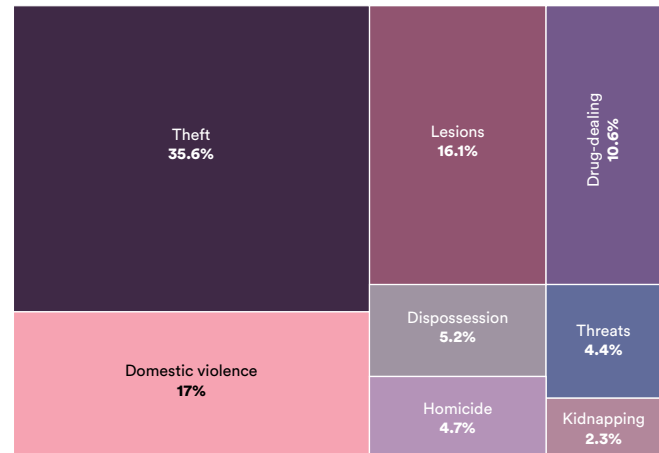
A formal study would be required to explore the causes that explain the differences among states regarding the use of AMCR in the 15 years since the reform of the new CJS. We can, however, posit the hypothesis that in the states where these mechanisms are less utilized, the operators of the system make little effort to disseminate their scope and benefits, so citizens in general have little knowledge of them. This may well be one reflection of the preponderance of a punitive vision of justice in our society, among other causes.

Our analysis of the effective response further determined that **the cases that reach the courts are not necessarily those of greatest complexity and social impact.** The cases heard in common jurisdictions represent only 4.3% of all files, with the main crimes prosecuted being theft, domestic violence, drug-dealing, and lesions, in that order. At the federal level, the cases that are judicialized (14.8%) correspond primarily to the crimes of bearing restricted firearms (36.9%), drug-dealing, drug trafficking (27.9%), and possession of restricted ammunition (14.9%), in that order.

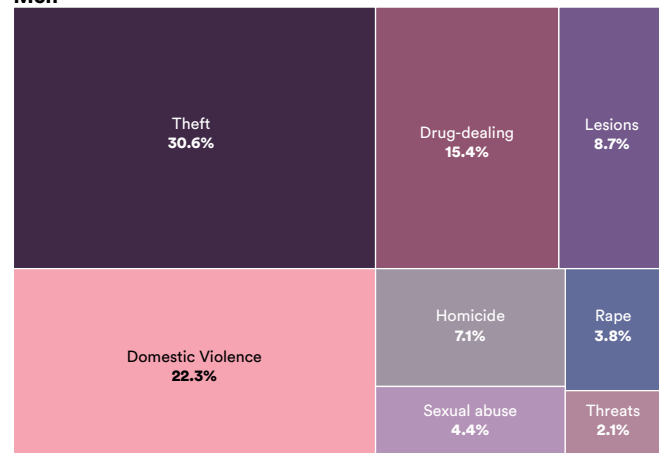
These data reveal much about where the procuration of justice, at both the state and federal levels, concentrates its energies (and capacities). In the states, criminal prosecution of cases of domestic violence may require an in-depth analysis due to the complexity of this

### Graph 24. Type of crimes for which adults were bound over to court by State Courts of Justice

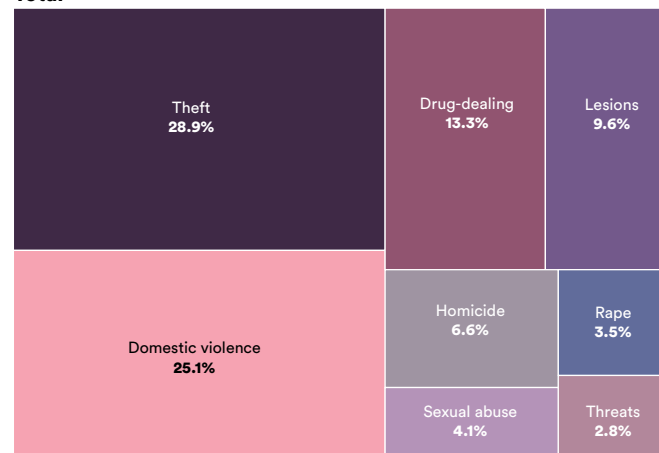
#### Women



#### Men



#### Total



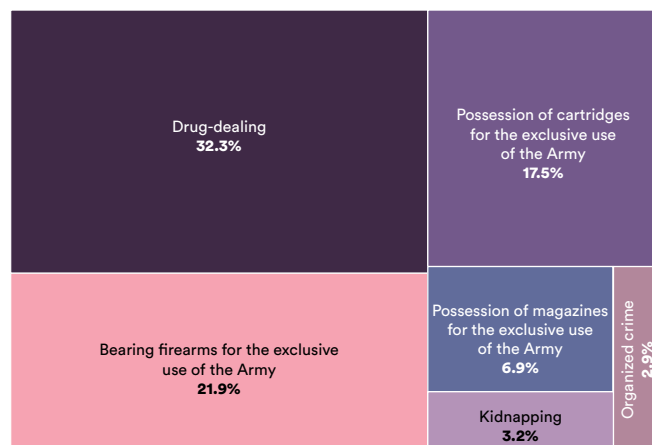
Source: Elaborated by the authors based on data obtained through solicitudes de access | @mexevalua.

<sup>15</sup> Zepeda Leucona, Guillermo. (2023), "Mediación criminal, descongestión y reconstrucción del tejido social". Estudios Jaliscienses, p. 27.

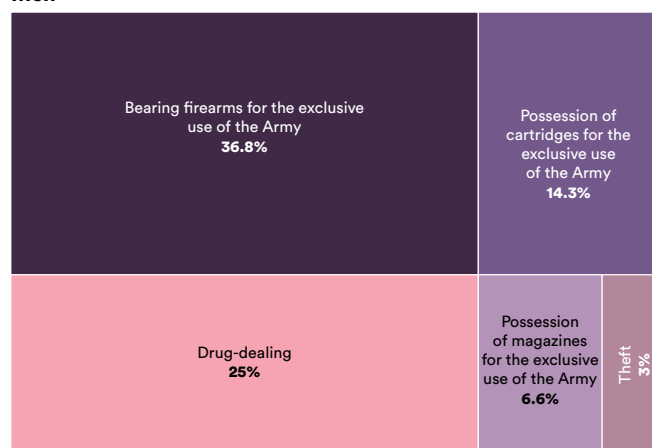


## Graph 25. Types of crimes for which accused adults were bound over to court, by Federal Center of Penal Justice

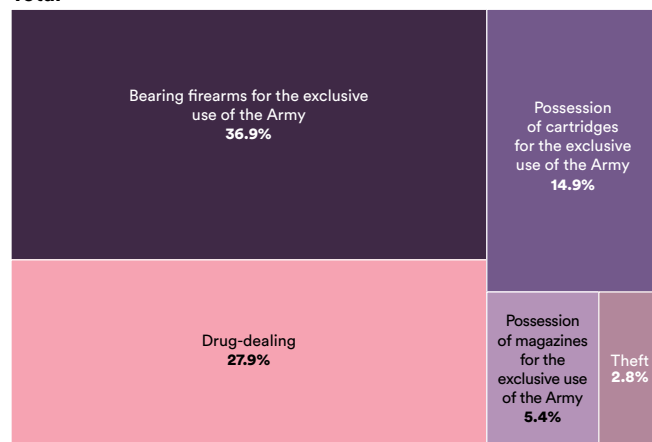
### Women



### Men



### Total



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

problem, especially in a context of widespread gender violence like the one Mexico is experiencing today. With this caveat, we observed that **the cases most often brought to the courts –those that require greater investments of institutional resources– are theft, domestic violence, and drug-dealing.**

In relation to the crime of theft it is important to remember that under certain circumstances –for example, the use, or not, of violence, the value of the stolen goods, etc.– cases may be resolved through restitution agreements, the conditional suspension of process, or the application of prosecutorial discretion, among other options. Overall, almost one of every three persons bound over to the courts in the common jurisdiction was accused of the crime of theft, even though other possible outcomes existed in processual terms. Without doubt, a qualitative study of this percentage would help determine exactly what is happening.

Important questions also emerged regarding policies on crime, prioritization of cases, and the efficient use of resources, particularly in the case of the criminal prosecution of drug-dealing. It is well known that the criminalization of certain behaviors under this umbrella –such as simple drug possession –has often been questioned.<sup>16</sup> But an additional layer of questions must be added, motivated by the fact that a significant proportion of the cases that are bound over to the court (with everything this entails in terms of criminal policy and outlays of resources) correspond to the crime of drug-dealing, although it is clear that criminal behaviors that disturb society much more dramatically maintain impunity index of 100%, or close to this figure.<sup>17</sup> Graph 10, for example, shows that the crime of homicide has a lower percentage, while femicide does not even appear, despite the fact that in our view they should register higher percentages that would reflect the role of the prioritization of crimes in the strategies of criminal persecution.

Regarding the cases that reach trial at the federal level, we observed relatively important investments of resources in prosecuting criminal behaviors strongly associated with arrests *in flagrante*, including drug-dealing, bearing restricted firearms, and possessing restricted magazines and cartridges. In much smaller proportions we found property crimes, illicit possession of hydrocarbons and other petroleum products, kidnapping, and organized crime. **It would be desirable to include**

<sup>16</sup> Elementa DDHH (2022), *Prisión x Posesión: el papel del delito de posesión simple en la guerra contra las drogas en México*. México Unido contra la Delincuencia (2022), *El delito de posesión simple en México: castigando sin proteger*.

<sup>17</sup> Op. cit.

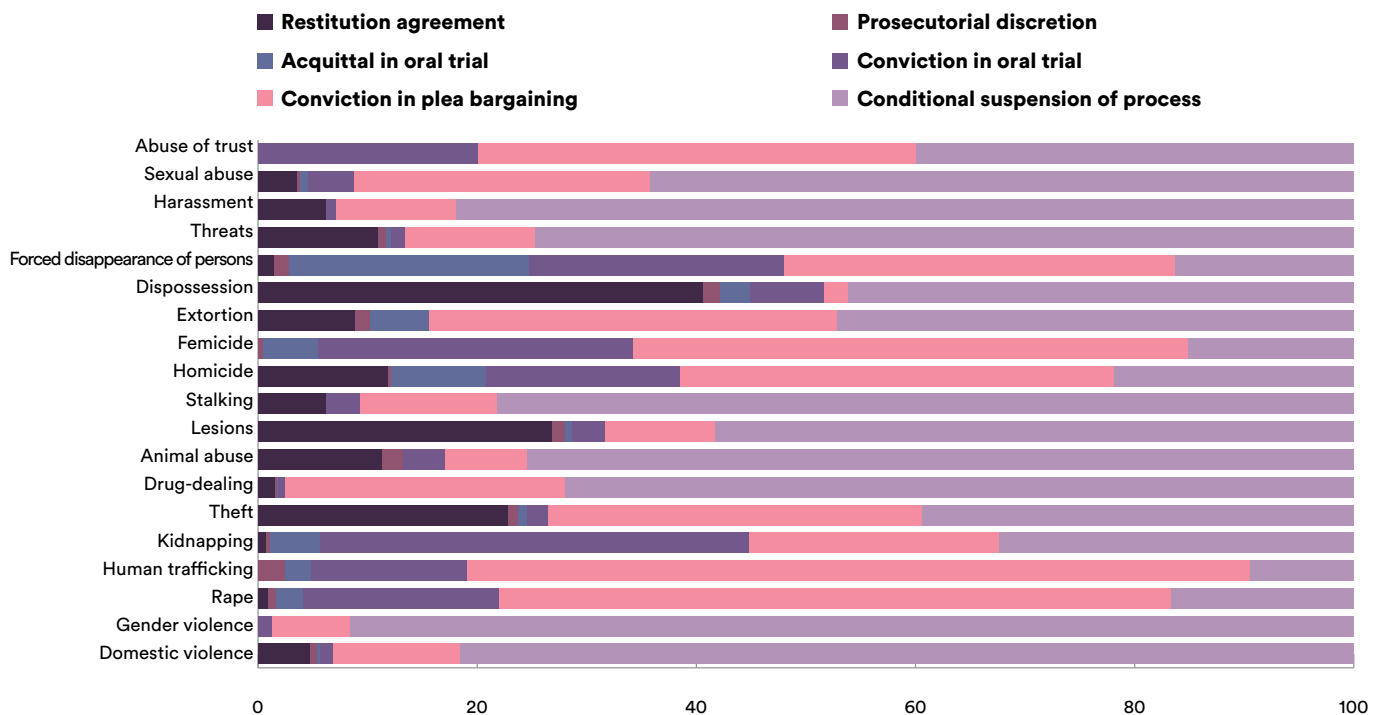
**in this universe of crimes, forced disappearances, intentional homicide, femicide, torture, and others that so severely wound our society.**

As we outlined in previous sections, the cases resolved at trial or through summary proceedings or alternative mechanisms represent only minuscule percentages. In addition, when we examine this universe a pattern comes to light: a higher percentage of cases are resolved by alternative mechanisms and summary proceedings than in trials. It is interesting to reiterate, after reviewing the previous edition of *Hallazgos*, that **from 2021 to 2022 the number of cases resolved through alternative mechanisms decreased, while the use of summary proceedings increased.**

Graphs 25 and 26 present some of the crimes where criminal processes were terminated by type of procedure or form of conclusion, in both state and federal jurisdictions. They show the percentage of criminal causes that were resolved through restitution agreements, conditional suspension of process, oral trials, and summary proceedings, as well as the type of sentence handed down; that is, conviction or acquittal. This leads to at least four key observations:

1. Most crimes of a sexual nature, and those associated with gender, concluded with the **conditional suspension of process**. Clearly, the use of this option is recurrent in the common jurisdiction for the crimes of domestic and gender violence, harassment, stalking, sexual abuse, lesions, abuse of animals, threats, and drug-dealing; while at the federal level, it is used in cases of abuse of authority, property damage, bribery, and kidnapping . Usually, the second-most common form of conclusion observed for these types of crimes is summary proceedings.
2. **Oral trials are held more frequently in crimes classified as being of high impact**, including organized crime, kidnapping, forced disappearance, homicide, femicide, torture, and human trafficking.
3. For certain crimes, **the percentage of acquittals in oral trials is relatively high and similar to that of convictions handed down at the end of a trial**. Note, for example, the cases of forced disappearances in the common jurisdiction and of rape at the federal level, where the number of acquittals exceeded that of convictions. Likewise,

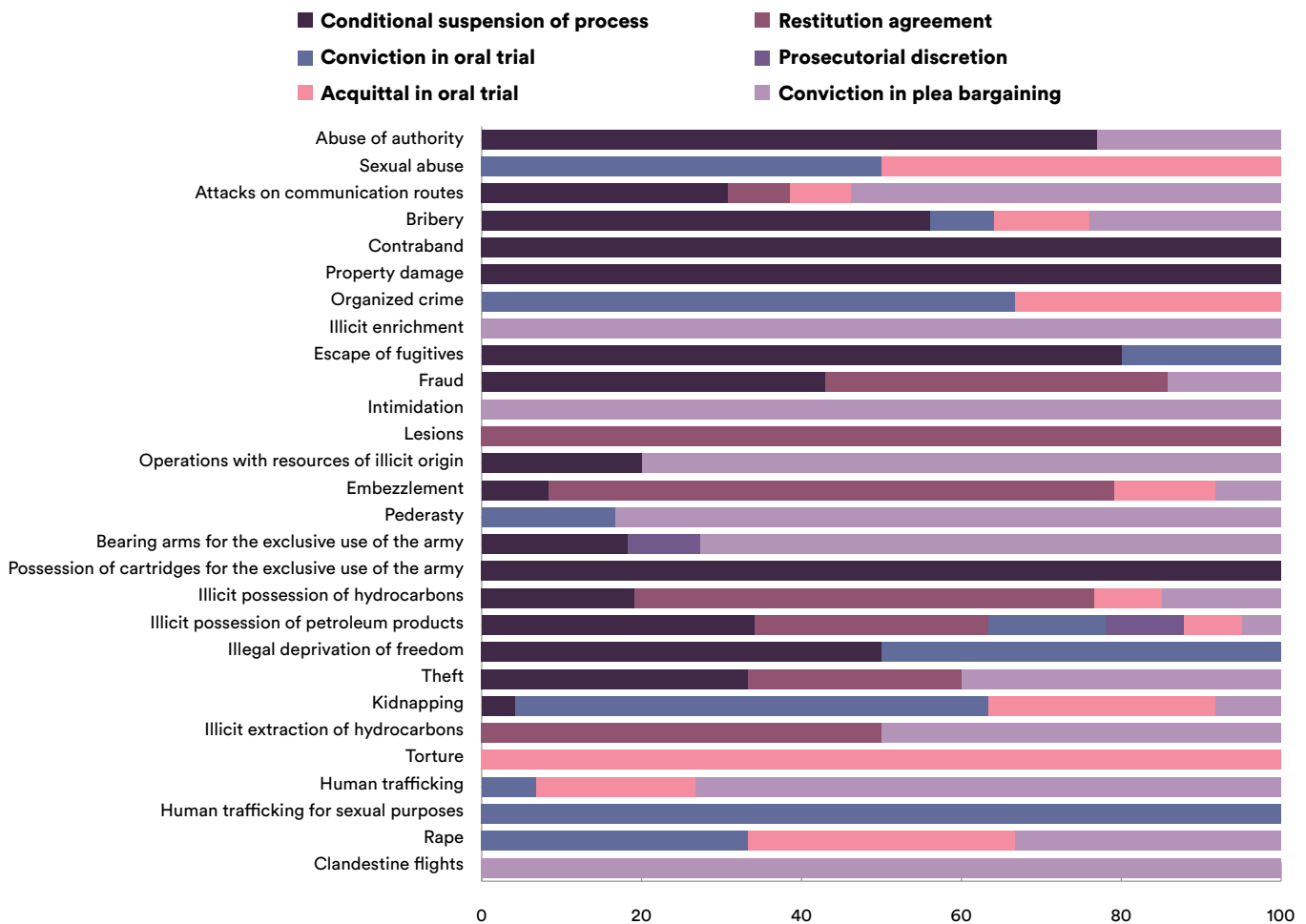
## Graph 26. Crimes by type of conclusion, state jurisdiction



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.



## Graph 27. Crimes by type of conclusion, federal jurisdiction



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

abuse of authority, organized crime, homicide, kidnapping, and abuse all have considerable percentages of acquittals. This behavior may reflect flaws in criminal investigations, such as when Prosecutors present cases with weak evidentiary support (or simply arrest the wrong person), or commit processual errors of such magnitude that they impact the possibility of convincing the judge of a defendant's criminal responsibility.

- Overall, there was a **preponderance of plea bargaining over trials in our analysis of the mechanism through which sentences are handed down**. For some crimes, like threats, illicit enrichment, intentional homicide, stalking, harassment, and gender violence, all convictions

were obtained through summary proceedings.<sup>18</sup> We must keep in mind that this legal figure assumes –according to article 201 of the NCC P– that the accused person admits her/his responsibility and “agrees to be sentenced based on the means of conviction that the Prosecutor’s office expounds when formulating the accusation”. This condition results in reduced sentences. Although summary proceedings can be a very useful instrument for concluding certain cases (and its impact on the indices of effective response), we observed with concern the risk that coercion could oblige accused persons to accept a summary proceeding with everything this implies; namely, the continuous inhibition of the generation and strengthening of the capacities of criminal investigation of Prosecutors’ offices.

<sup>18</sup> Other studies have drawn attention to this issue; see Verónica Hinestroza, Luis Tapia, and Volga de Pina (2022), *Condena sin Juicio: procedimiento abreviado e impactos de género en el sistema criminal federal mexicano*, Fair Trials & DragonLab. Available at: <https://www.fairtrials.org/app/uploads/2022/12/Condena-sin-juicio-ANNEX.pdf>

## Processes in freedom

The logic of imposing a precautionary measure must center on respecting the personal freedom of accused persons during their criminal process. This means that pretrial detention, as an exceptional measure, must only be imposed when other precautionary measures in freedom prove to be insufficient for: 1. ensuring that the accused person attends the process; 2. guaranteeing the protection of victims/witnesses; and/or 3. guaranteeing the adequate development of the investigation.<sup>19</sup> However, article 19 of the Constitution breaks this logic by including a catalog of crimes for which pretrial detention can be imposed automatically when requested by a Prosecutor. As we analyzed in the previous edition of *Hallazgos*, this catalog was broadened most recently in April 2019, through a constitutional reform that came into effect in February 2021.

In this section, we present data on the use of precautionary measures in freedom in 2022, in contrast to the use of pretrial detention, whether *ex officio* or justified. In the same vein, we review the use of risk evaluations elaborated by the Units of Supervision of Precautionary Measures and Conditional Suspension of Process (*Unidades de Supervisión de Medidas Cautelares y Suspensión Condicional del Proceso*, UMECAS). Finally, we outline the form of concluding criminal processes as a function of the type of precautionary measure imposed.

### Precautionary measures in freedom

Before imposing a precautionary measure, the supervising judge takes into account the petitions, arguments, and evidence that the prosecution and defense present in order to determine the ideal option. But for this to happen, it is necessary that a specialized area provide both parties with a risk evaluation<sup>20</sup> that establishes the need to impose a precautionary measure as a function of the processual risk that the accused person may represent for the victim or witness(es), and thus ensure the success of the investigation and/or the presence of the accused during the process.

In addition to evaluating processual risk, these specialized areas (UMECAS) supervise the precautionary measure during periods of freedom and the conditions that derive from a conditional suspension of process. Based on data obtained from the UMECAS, it is shocking to find that risk evaluations were elaborated for only 39.6% of all accused

persons. This means that the vast majority of decisions on imposing precautionary measures have taken place without this specialized analysis. Aguascalientes, Querétaro, Baja California, and Sinaloa stand out here because their UMECAS reported the lowest number of evaluations in proportion to the total number of accused persons. Clearly, the participation of UMECAS in these cases was severely limited.

**Table 17. Percentage of accused persons for whom a risk evaluation was elaborated in 2022, state jurisdiction**

State	Accused persons	Risk evaluations elaborated	Percentage of accused persons with a risk evaluation
Aguascalientes	4,438	48	1.1%
Baja California	33,564	1,048	3.1%
Baja California Sur	2,046	1,137	55.6%
Campeche	2,126	1,137	53.5%
Colima	1,192	3,566	N/D
Chiapas	1,826	405	22.2%
Chihuahua*	-	3,013	-
Coahuila	17,984	5,050	28.1%
Durango**	-	2,347	-
Guerrero	730	714	97.8%
Hidalgo	10,150	1,475	14.5%
Jalisco	13,650	12,313	90.2%
Michoacán	4,723	4,117	87.2%
Morelos	1,496	885	59.2%
Nayarit	10,492	2,143	20.4%
Nuevo León	54,436	16,631	30.6%
Oaxaca	1,569	4,013	N/D
Puebla	17,906	6,770	37.8%
Querétaro	6,224	186	3.0%
Quintana Roo	1,582	2,390	N/D
San Luis Potosí	2,995	1,444	48.2%
Sinaloa	10,169	659	6.5%
Sonora	19,642	7,231	36.8%
Tabasco	1,986	2,521	N/D
Tlaxcala	262	1,254	N/D
Veracruz	4,364	2,875	65.9%
Yucatán	2,468	3,924	N/D
Zacatecas	7,828	1,453	18.6%

\* The quality of the information provided did not allow us to identify the number of accused persons in 2022. We report information on penal causes based on the quality of the information provided.

\*\* Did not report information.

N/D The percentage of accused persons with risk evaluations exceeded the value of 100.  
Source: Elaborated by the authors based on solicitudes of access to information.

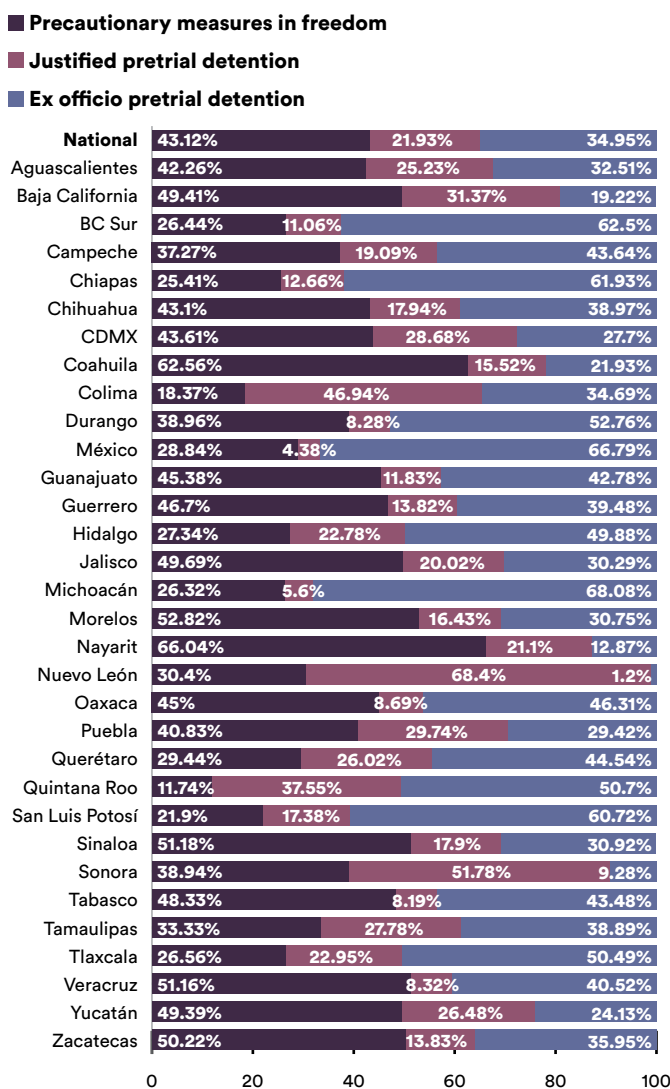
<sup>19</sup> Articles 19 and 167, *Código Nacional de Procedimientos Criminales*.

<sup>20</sup> Article 164, *Código Nacional de Procedimientos Criminales*.



It is noteworthy, as well, that the number of risk evaluations reported by the UMECAS in six states for 2022 was much higher than the total number of accused persons that appear in the reports issued by the state Judicial Branch. This may be attributable to areas of opportunity in the registering and processing of the number of accused persons who were involved in a criminal cause, but could also be associated with the systematic occurrence of hearings to review precautionary measures.

## Graph 28. Types of precautionary measures imposed on adults bound over to the court, state level



Source: Elaborated by the authors with data from: *Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal*, SEGOB <https://month.segob.gob.mx/> | @mexevalua.

In general, what these data reveal is **the lack of relevant, verified information on the type of risks that an accused person represents at the moment of the initial hearing**. This leaves the judge to rule blindly in a high percentage of cases, and puts at risk due observance of the criterion of minimum intervention of precautionary measures stipulated by law. In the absence of information on the concrete risk that may make such measures necessary, precautionary measures could be imposed with deficient motivation and without causal reasoning between the risk to be prevented and the ideal, proportional measure that could attend to it.

At the national level, some precautionary measures were imposed on accused persons in 43.1% of cases, a decrease of only half a percentage point from 2021. Pretrial detention was dictated in the other 56.9%: *ex officio* in 35.0% and justified in 21.9% justified. Thus, *ex officio* pretrial detention (OPD) was imposed at a higher rate than in 2021 (31.8%), while the justified modality fell by two points, after representing 23.7% of cases in 2021. **The use of precautionary measures decreased slightly, as did the cases of justified pretrial detention, but the use of OPD increased.** This leads us to believe that normalizing the elaboration of risk evaluations (a responsibility of the UMECAS) could increase the proportion of cases in which precautionary measures are imposed.

Although the use of these measures has been modest (only four of every 10 people processed), the supervisory work performed by the UMECAS with respect to accused persons in freedom has shown positive results despite the scarce resources with which they operate. **At the national level, virtually all accused persons in freedom concluded their processes satisfactorily**, since in 2022 only 0.5% of the criminal causes in which they were involved were suspended due to the escape of the accused person.

Regarding the federal jurisdiction, precautionary measures were also imposed in a minority of cases: 44.6%. This rate showed a slight increase of five points with respect to 2021 (39.2%). The remaining 55.4% involved pretrial detention: 55.1% in the *ex officio* modality, but only 0.2% for the justified type. **Here, the virtually null use of justified pretrial detention stands out.**

As occurs in the states, the vast majority of accused persons at the federal level who went through their process in freedom concluded their cases satisfactorily; that is, without escaping.

**Table 18. Forms of resolving criminal causes involving accused persons under precautionary measures in freedom, state jurisdiction**

State	Restitution agreement	Conditional suspension of proceedings	Prosecutorial discretion	Sentence in oral trial	Sentence in plea bargaining	Sentence, type of process not identified	Extraction from justice
<b>National</b>	<b>6.60%</b>	<b>70.60%</b>	<b>0.0%</b>	<b>1.70%</b>	<b>15.0%</b>	<b>5.70%</b>	<b>0.50%</b>
Aguascalientes	8.7%	53.7%	0.0%	0.6%	37.1%	0.0%	0.0%
Baja California	16.4%	35.8%	0.0%	1.7%	46.2%	0.0%	0.0%
Baja California Sur	31.3%	55.2%	0.0%	1.5%	11.2%	0.0%	0.8%
Chiapas	5.4%	28.6%	0.0%	30.4%	35.7%	0.0%	0.0%
Coahuila	5.4%	88.0%	0.0%	0.6%	6.0%	0.0%	0.0%
Colima	27.3%	54.6%	0.0%	10.9%	7.3%	0.0%	0.0%
Estado de México	14.0%	37.8%	0.0%	0.0%	0.0%	48.3%	0.0%
Guanajuato	15.5%	57.4%	0.1%	1.5%	22.0%	0.0%	3.5%
Guerrero	17.9%	39.3%	0.0%	0.0%	0.0%	42.9%	0.0%
Hidalgo	17.8%	46.4%	0.0%	25.7%	10.1%	0.0%	0.0%
Jalisco	14.9%	79.4%	0.6%	0.6%	2.3%	0.0%	2.3%
Nayarit	11.6%	64.7%	0.0%	1.7%	22.1%	0.0%	0.0%
Nuevo León	0.0%	77.4%	0.1%	13.1%	9.3%	0.0%	0.2%
Oaxaca	12.0%	52.0%	0.0%	4.0%	8.0%	0.0%	24.0%
Puebla	8.5%	87.6%	0.0%	1.2%	2.7%	0.0%	0.0%
Queretaro	13.1%	65.4%	0.9%	14.5%	5.6%	0.0%	0.5%
Quintana Roo	11.8%	76.5%	0.0%	0.0%	11.8%	0.0%	0.0%
San Luis Potosí	10.9%	71.8%	0.0%	0.9%	10.0%	1.8%	4.6%
Sinaloa	8.7%	75.4%	0.0%	3.9%	12.0%	0.0%	0.0%
Sonora	2.0%	76.4%	0.0%	0.7%	20.9%	0.0%	0.0%
Tabasco	3.9%	71.0%	0.0%	5.2%	16.8%	2.6%	0.7%
Tamaulipas	25.3%	49.4%	0.0%	0.0%	25.3%	0.0%	0.0%
Veracruz	19.05%	68.25%	0.0%	1.59%	11.1%	0.00%	0.00%
Yucatan	9.52%	81.23%	0.0%	5.74%	2.5%	0.00%	0.98%

Source: Elaborated by the authors based on solicitudes of access to information.

### Pretrial detention

Data show that **in 2022 pretrial detention was imposed on almost six of every 10 persons processed in the states, while the figure at the federal level was one of every two.** In the latter, this measure was imposed *ex officio* in virtually all cases. In the common jurisdiction, the use of OPD increased by three points while the justified modality decreased by two. The low number of processual risk evaluations carried out by the UMECAS raises the question of the extent to which justified pretrial detention is imposed based on verified processual risks or, perhaps, is dictated indiscriminately.

As Graph 30 shows, in 53.3% of the cases in which pretrial detention was imposed at the national level, it was applied *ex officio*, while the justified modality was

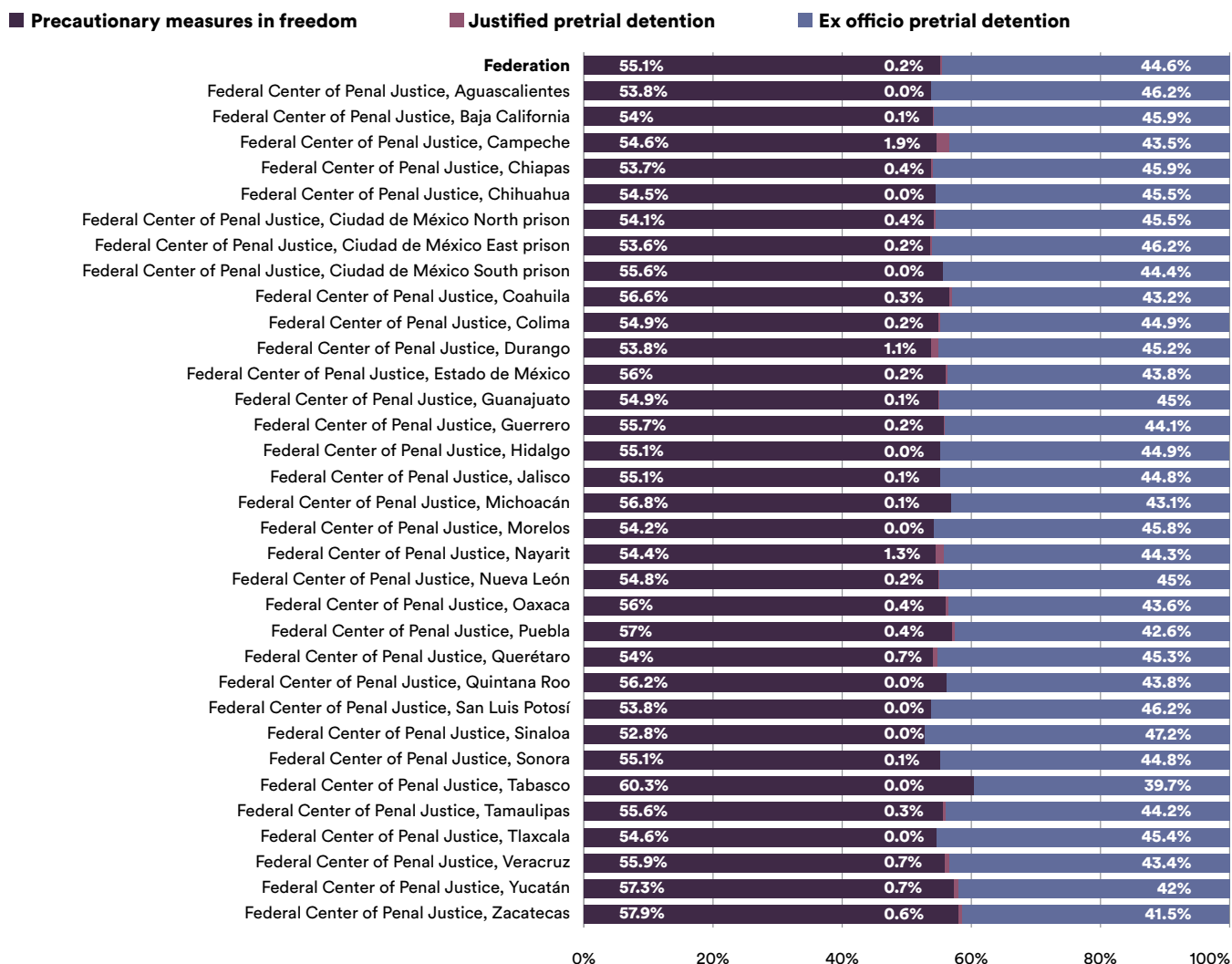
used in only 46.7%. This distribution is similar to that of previous years in which OPD was used more frequently than the justified form.

As we suggested earlier, the use of *ex officio* pretrial detention occurs in almost all cases in the federal jurisdiction. The Federal Centers of Criminal Justice (*Centros Federales de Justicia Criminal*) in Campeche and Tabasco were the only ones where the use of justified pretrial detention surpassed 5%. This finding is strongly associated with the types of crimes that are judicialized most often by Attorney Generals' offices; namely, drug trafficking and bearing restricted firearms.

It is pertinent to underscore that toward the close of 2022, the Supreme Court of Justice of the Nation (SCJN) began to discuss the constitutionality of *ex officio* pretrial detention and its compatibility with the right to



## Graph 29. Types of precautionary measures imposed on adults bound over to the courts by supervising judges, federal jurisdiction



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

the presumption of innocence and personal freedom.<sup>21</sup> At that time, however, it was not possible to achieve the majority of votes required to establish a precedent based on the principle *pro persona*, which would have left Article 19 of the Constitution without effect. Later, the Mexican State was sanctioned twice by the Inter-American Court of Human Rights (hereinafter, the Inter-American Court), in the cases of *Tzompaxtle Tecpile et al.*<sup>22</sup> (sentence dictated 7 November 2022) and *García Rodríguez et al.*<sup>23</sup> (sentence dictated 25 January 2023).

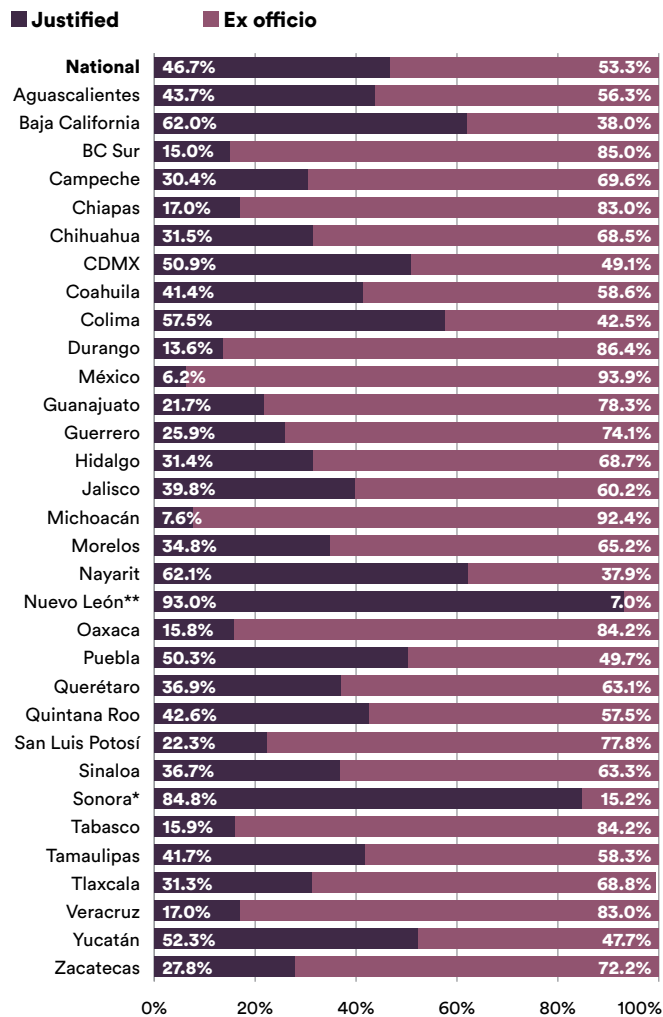
In both cases, the Interamerican Court ruled that Mexico was internationally responsible for violating the American Convention on Human Rights (ACHR), due to its use of house arrest and *ex officio* pretrial detention, actions that are deemed to be incompatible with the ACHR, and that violate the right to personal freedom and the presumption of innocence. With respect to *ex officio* pretrial detention, the Court found that this action (which remains in the current constitutional and legal framework) pursues an illegitimate objective since

<sup>21</sup> See the Sesión Pública Ordinaria del Pleno de la Suprema Corte de Justicia de la Nación, held Thursday 24 November 2022, on the action of unconstitutionality 130/2019 and its accumulation 136/2019.

<sup>22</sup> Corte IDH. Caso Tzompaxtle Tecpile y otros vs. México. Excepción Preliminar, Fondo, Reparaciones y Costas. Sentence 7 November 2022. Serie C No. 470.

<sup>23</sup> Corte IDH. Caso Tzompaxtle Tecpile y otros vs. México. Excepción Preliminar, Fondo, Reparaciones y Costas. Sentence 7 November 2022. Serie C No. 470.

### Graph 30. Type of pretrial detention imposed by supervising judges, state jurisdiction



\*In the case of Sonora, we considered ex officio pretrial detention in the cases where the justified form was not specified.

\*\*In the case of Nueva León, note that the behavior of the data provided for 2022 does not correspond to that of the previous year, which reported 30.7% for the use of ex officio pretrial detention.

Source: Elaborated by the authors based on solicitudes of information.

it (i) includes no analysis of the need for caution in the case; (ii) does not admit a comparative evaluation of other, less harmful, measures; (iii) is stipulated for crimes of “a certain seriousness” with no analysis of cases; and (iv) does not allow judicial control of its imposition.<sup>24</sup>

The Court thus ordered the Mexican State to adjust its juridical order regarding *ex officio* pretrial detention to make it compatible with the ACHR.<sup>25</sup> It further reminded Mexican authorities at all levels that they are obligated by law to exercise conventional control to ensure that *ex officio* pretrial detention does not contravene the rights of accused persons as they are established in the ACHR, under the principle *pro persona*.<sup>26</sup>

The repercussions of these damning judgments began to become visible, slowly, in jurisdictional actions, though resistances were also identified. This was the case of the contradiction of criteria 40/2023 that was resolved in July 2023 by the Regional Plenary Session on Criminal Matters of the Central-North Region (*Pleno Regional en Materia Criminal de la Región Centro-Norte*), which emerged due to a contradiction of criteria between two collegiate circuit courts in that region regarding OPD. The Plenary Session resolved that the criteria which were to prevail were those that granted the provisional suspension of OPD imposed on an accused person in a trial of indirect amparo, so the supervising judge could revoke that measure and reopen the debate on precautionary measures in order to impose a distinct measure, leaving the OPD without effect in obedience of the Court’s sentences.<sup>27</sup> The contradiction of criteria 40/2023 led to the establishment of jurisprudence that is now binding on all jurisdictional authorities in the Center-North region,<sup>28</sup> which spans 19 states of the Republic.<sup>29</sup>

Additional jurisprudence could emerge in the future through such contradictions, when tension arises between the criteria that judges of amparo apply when

<sup>24</sup> Corte IDH. Caso García Rodríguez y otro vs. México, paragraph 296, and Corte IDH. Caso Tzompaxtle Tecpile y otros vs. México, paragraphs 164, 165, 213.

<sup>25</sup> Corte IDH. Caso García Rodríguez y otro vs. México, paragraph 301.

<sup>26</sup> Corte IDH. Caso García Rodríguez y otro vs. México, paragraph 303; Caso Tzompaxtle Tecpile y otros vs. México. paragraph 219.

<sup>27</sup> Consejo de la Judicatura Federal. Nota informativa DGCSV/NI: 09/2023. “When in an amparo trial a claim is made for *ex officio* pretrial detention, the provisional suspension shall be granted with restitutive effects in anticipated tutela”. 14 July 2023. <https://www.cjf.gob.mx/documentos/notasInformativas/docsNotasInformativas/2023/notaInformativa9.pdf>

<sup>28</sup> General Agreement 67/2022 of the Plenary Session of the Council of the Federal Judiciary that regulates the competence, integration, organization, and functioning of the Regional Plenaries, establishes in Articles 6 and 7 that the territory of the Republic is divided into two regions: Center-North and Center-South, and that the first encompasses the First (administrative and criminal matters), Second, Fourth, Fifth, Eighth, Ninth, Twelfth, Fifteenth, Sixteenth, Seventeenth, Nineteenth, Twenty-second, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-eighth, and Thirtieth.

<sup>29</sup> The circuits that correspond to the Center-North Region include the Ciudad de México, Estado de México, Nuevo León, Sonora, Coahuila, San Luis Potosí, Sinaloa, Baja California, Guanajuato, Chihuahua, Tamaulipas, Querétaro, Zacatecas, Nayarit, Durango, Baja California Sur, Tlaxcala and Aguascalientes.



## Graph 31. Type of pretrial detention imposed by supervising judges, federal jurisdiction

■ Justified

■ Ex officio



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

substantiating trials of amparo in which the imposition of OPD has been challenged. At the same time, the fact that accused persons continue to turn to the mechanism of amparo to combat OPD indicates that supervising judges insist on applying this action despite the fact that it violates human rights, thus ignoring the Court's recent sentences and the mandate of Article 1 of the Constitution.

### *Resolution of criminal causes involving pretrial detention*

At the national level, **the majority of criminal processes in which an accused person is subjected to pretrial detention, whether ex officio or justified, concluded through conditional suspension of process**, since 40.4% (vs. 19.8% in 2021) of the cases processed under justified pretrial detention ended

**Table 19. Forms of resolving penal causes involving accused persons under pretrial detention**

State	Ex officio pretrial detention						Justified pretrial detention					
	Restitution agreement	Conditional suspension of proceedings	Prosecutorial discretion	Sentence in oral trial	Sentence in plea bargaining	Sentenced, but proceedings not identified	Restitution agreement	Conditional suspension of proceedings	Prosecutorial discretion	Sentence in oral trial	Sentence in plea bargaining	Sentenced, but proceedings not identified
<b>National</b>	<b>3.4%</b>	<b>40.4%</b>	<b>0.0%</b>	<b>11.7%</b>	<b>26.0%</b>	<b>18.5%</b>	<b>7.5%</b>	<b>44.6%</b>	<b>0.2%</b>	<b>11.0%</b>	<b>29.3%</b>	<b>7.5%</b>
Aguascalientes	5.9%	50.9%	0.0%	0.5%	42.8%	0.0%	10.0%	57.2%	0.0%	2.9%	29.9%	0.0%
Baja California	10.6%	14.8%	0.0%	2.1%	72.6%	0.0%	0.5%	1.3%	0.0%	16.0%	82.2%	0.0%
Baja California Sur	20.0%	12.0%	0.0%	12.0%	56.0%	0.0%	22.8%	36.6%	0.4%	8.3%	30.4%	1.6%
Chiapas	1.1%	20.2%	0.0%	21.3%	57.5%	0.0%	1.3%	13.0%	0.0%	29.2%	50.1%	6.4%
Coahuila	8.9%	47.2%	0.0%	0.7%	43.2%	0.0%	9.2%	78.5%	0.0%	1.5%	10.8%	0.0%
Colima	23.0%	51.4%	0.0%	6.8%	18.9%	0.0%	13.5%	26.9%	0.0%	42.3%	17.3%	0.0%
Estado de México	3.8%	4.9%	0.0%	0.0%	0.0%	91.3%	0.1%	10.5%	0.0%	0.0%	0.0%	89.3%
Guanajuato	5.4%	41.5%	0.0%	11.6%	41.5%	0.0%	7.4%	21.7%	0.0%	13.0%	57.9%	0.0%
Guerrero	40.0%	20.0%	0.0%	0.0%	0.0%	40.0%	0.0%	66.7%	0.0%	0.0%	0.0%	33.3%
Hidalgo	14.3%	18.4%	0.0%	32.7%	34.7%	0.0%	17.2%	35.8%	0.0%	28.3%	18.8%	0.0%
Jalisco	27.0%	55.5%	0.0%	0.0%	16.6%	1.0%	17.8%	61.0%	3.6%	2.2%	14.4%	1.0%
Nayarit	2.9%	21.2%	0.0%	2.4%	73.6%	0.0%	3.5%	37.5%	0.0%	1.0%	58.0%	0.0%
Nuevo León	0.0%	66.9%	0.1%	21.8%	11.2%	0.0%	0.0%	9.6%	0.2%	86.2%	4.0%	0.0%
Oaxaca	9.4%	53.1%	0.0%	6.3%	31.3%	0.0%	23.5%	57.4%	0.6%	5.5%	12.6%	0.6%
Puebla	8.6%	78.6%	0.0%	2.3%	10.5%	0.0%	3.9%	50.9%	0.0%	31.8%	13.4%	0.0%
Queretaro	10.3%	33.9%	0.0%	1.3%	54.6%	0.0%	4.2%	64.1%	0.5%	9.4%	21.7%	0.3%
Quintana Roo	8.7%	82.6%	0.0%	0.0%	8.7%	0.0%	51.2%	37.0%	0.0%	1.6%	10.2%	0.0%
San Luis Potosí	11.5%	71.8%	0.0%	3.9%	12.8%	0.0%	5.9%	56.0%	0.8%	12.2%	20.7%	4.4%
Sinaloa	6.3%	45.6%	0.0%	2.1%	46.0%	0.0%	2.7%	6.0%	0.0%	16.4%	74.8%	0.0%
Sonora	5.0%	6.0%	0.0%	5.3%	83.7%	0.0%	12.8%	0.3%	0.0%	21.7%	65.2%	0.1%
Tabasco	13.2%	34.2%	0.0%	10.5%	39.5%	2.6%	8.8%	39.5%	0.0%	23.7%	21.6%	6.5%
Tamaulipas	20.0%	54.3%	0.0%	0.0%	25.7%	0.0%	19.1%	45.6%	0.0%	0.0%	35.3%	0.0%
Tlaxcala	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	2.1%	95.7%	0.0%	2.1%	0.0%	0.0%
Veracruz	0.0%	28.6%	0.0%	57.1%	7.1%	7.1%	34.9%	50.0%	0.9%	6.1%	6.1%	2.1%
Yucatan	3.5%	83.6%	0.0%	2.8%	10.1%	0.0%	3.2%	67.9%	0.0%	14.3%	14.6%	0.0%

Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

with this anticipated outcome, while in cases of OPD the percentage was 44.6% (vs. 30.9% in 2021). These proportions beg the question if we are once again confronting the indiscriminate use of pretrial detention, as a way to punish accused persons before the fact due to an alleged risk, only to allow them to go free later after fulfilling certain conditions.<sup>30</sup> As we pointed out in *Hallazgos 2021*,<sup>31</sup> this circumstance seems contradictory and implausible since, on the one hand, an exceptional precautionary measure is imposed because no other measure was deemed adequate due to the processual risks involved while, on the other, conditional suspension of process was granted.

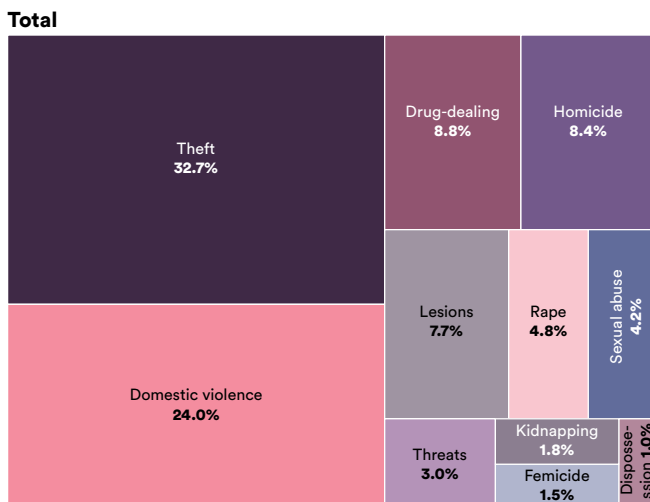
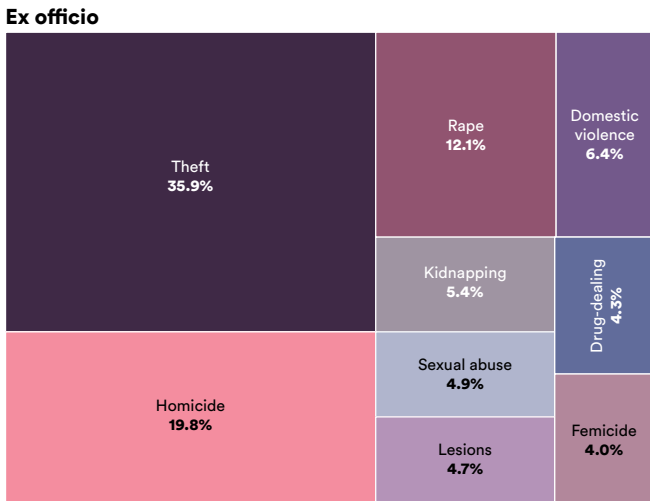
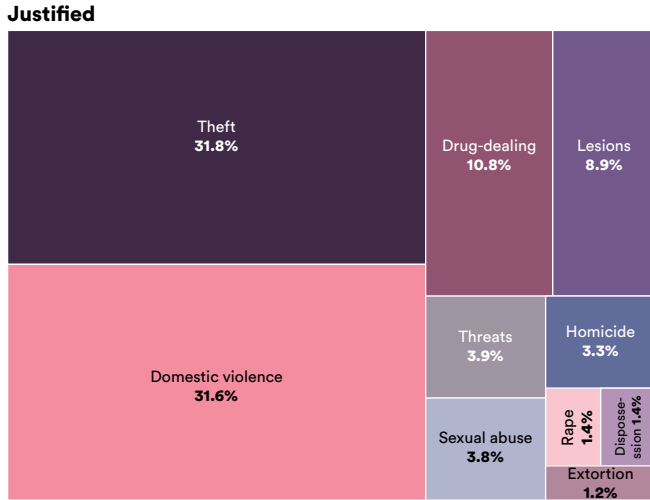
**The second most frequent conclusion emerged through summary procedure**, where accused persons admit their criminal responsibility for the crime of which they are accused, renounce their right to trial, receiving in exchange a reduced sentence. For cases processed under justified pretrial detention, this covered 26.0% (vs. 63.1% in 2021), while the proportion of cases handled under OPD reached 29.3% (vs. 54.8% in 2021). Here, it is pertinent to consider the incentives that accused persons under pretrial detention face when evaluating whether or not to accept the Prosecutor's offer of a plea bargaining instead of opting for the alternative of an oral trial in which a defense lawyer can present evidence and refute the prosecution's accusation.

<sup>30</sup> This alternative outcome proceeds as long as the arithmetical mean of the prison sentence for the crime does not exceed five years, and the conditions imposed on the accused person are fulfilled within a period of six months to three years.

<sup>31</sup> P. 129, available at: <https://www.mexicoevalua.org/hallazgos-2021-evaluacion-del-sistema-de-justicia-criminal-en-mexico/>

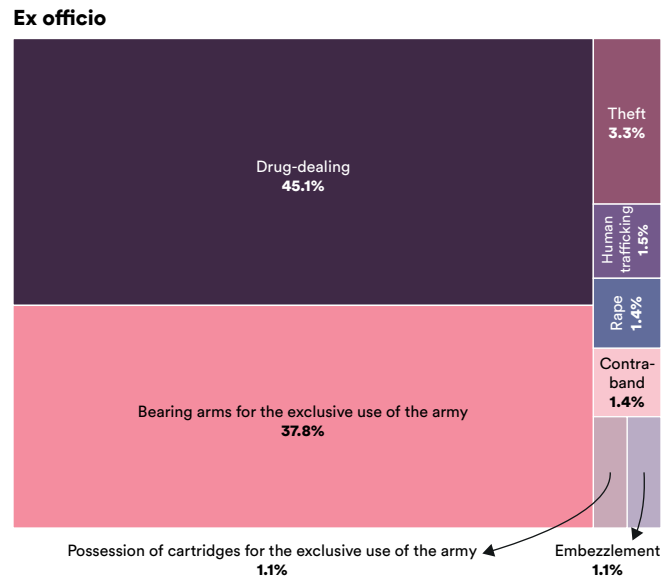
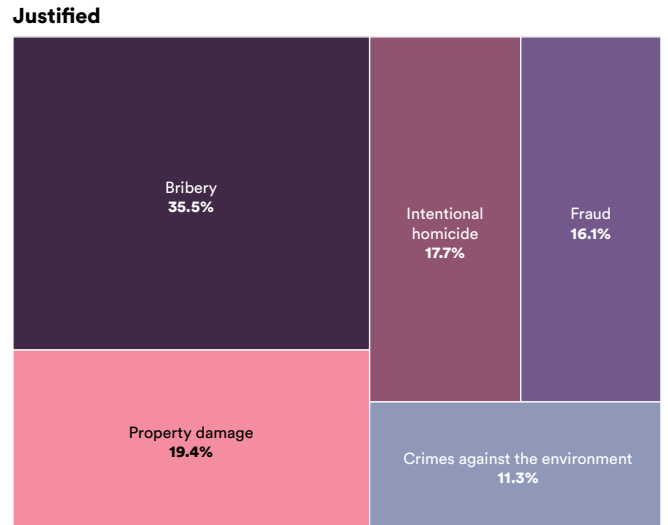


**Graph 32. Types of crimes for which *ex officio* and justified pretrial detention were imposed, state jurisdiction**



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

**Graph 33. Types of crimes for which *ex officio* and justified pretrial detention were imposed, federal jurisdiction**



Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.

Oral trials occupy third place, as 11.0% of cases of OPD were resolved by this means, with justified pretrial detention having a similar percentage at 11.7% (in 2021 this outcome accounted for less than 10% of cases), followed by restitution agreements. Last place was held by prosecutorial discretion during the judicial process.

To conclude, we present data on the types of crimes for which pretrial detention, *ex officio* and justified, was imposed in the state and federal jurisdictions.

In the former, the crime for which justified pretrial detention was most often imposed was theft, at 31.8%, followed by domestic violence (31.6%), and drug-dealing (10.8%). In the case of OPD, this measure was imposed most often for the crime of theft, at 35.9%, especially when aggravated by the use of violence (weapons or explosives). Homicide was in second place at 19.8%, followed by rape (12.1%).

As we have described, almost all criminal causes at the federal level involved pretrial detention, imposed in the *ex officio* modality. The crime for which OPD was imposed regularly was drug-dealing (almost one of every two cases,

45.1%), followed by bearing restricted firearms (37.8%). These figures showed a behavior similar to that of 2021.

### Duration of criminal processes

The right to effective judicial protection, stipulated in Article 17 of the Constitution and Articles 8.1 and 25.1 of the American Convention on Human Rights, establishes the right to an effective resource before a competent, impartial court that is obligated to issue its resolutions in a prompt, totally impartial manner, *within a reasonable time*. For criminal matters, this norm establishes a period of four months for crimes with a maximum sentence not greater than two years of prison, and one year for cases where punishment is longer, except those where the defense requires more time.<sup>32</sup>

**Graph 34. Mean duration of penal processes concluded through sentencing in oral trials**



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

<sup>32</sup> Article 20, section B, fraction VII of the *Constitución Política de los Estados Unidos Mexicanos*, and article 113, fraction X of the *Código Nacional de Procedimientos Criminales*.



Internationally, the jurisprudence of the Inter-American Court of Human Rights opted to establish a more open parameter to determine reasonable periods, one that considers the following aspects: 1. the complexity of the matter; 2. the processual activity of the interested party; 3. the behavior of the judicial authorities; and 4. the affectation generated in the juridical situation of the person involved in the process.<sup>33</sup> Returning to Mexico's juridical system, it was only possible to identify one isolated thesis<sup>34</sup> generated by our federal courts on the reasonableness of the period for issuing judgments in criminal matters. That thesis takes into account the same factors as those signaled by the Court, but stipulates that failure to comply with the deadline of one year for dictating judgments does not automatically annul the actions. Rather, it holds that the reasons for the delay must be verified (for example, if it was due to the defense's strategy or some other delay not attributable to the court that tried the case). The thesis further sustains that in cases of unjustified delays, the public servants involved can only be denounced in accordance with their administrative responsibility.

In this section we present data on the mean duration of criminal processes by type or form of outcome. It is important to note that these calculations consider only the data from 21 states,<sup>35</sup> as we were unable to gather information from the others on the beginning and ending of criminal causes.

### Sentences in oral trials

The termination of criminal causes through oral trials was, by far, the least common means of closing cases at the national level. As mentioned above, in 2022 only 4.7% of all criminal causes were processed or resolved through oral trials.

**Nationally, the criminal processes closed through oral trials in 2022 lasted approximately 484 days for men, and 504 in the case of women,** clearly a duration some four months greater than the maximum period of one year stipulated for issuing judgments. Mean duration for women was greater by 20 days compared to processes involving men. The states with the lowest durations were Veracruz, Aguascalientes, and Oaxaca, while Jalisco, Puebla, Baja California Sur, and

Coahuila had the longest durations, even greater than the times calculated for 2021 of 358 and 369 days for men and women, respectively. This may be attributable, in part, to suspensions of hearings due to the sanitary contingency brought on by the COVID-19 pandemic, which had a greater impact on those processes that, naturally, take more time (oral trials) and affected more severely the courts that delayed habilitating means for holding virtual hearings. In addition, in practice trial courts opted to hold the hearings of oral trials in person to respect the principle of immediacy, although this generated considerable delays in judicial agendas.

### Summary proceedings

As we have seen, the conclusion of criminal causes by means of summary proceedings represented 10.8% of all causes in 2022. The mean duration of these causes at the national level was 218 days: 191 for men and 232 for women (41 more). These data also reflect an increase from 2021, when the respective figures were 154 and 137 days. Clearly, opting for summary proceedings significantly reduced times (by around nine months) compared to oral trials. However, states like Puebla, San Luis Potosí, and Baja California Sur presented comparatively high times that even exceeded the mean duration of criminal processes that ended through oral trials.

### Conditional suspension of process

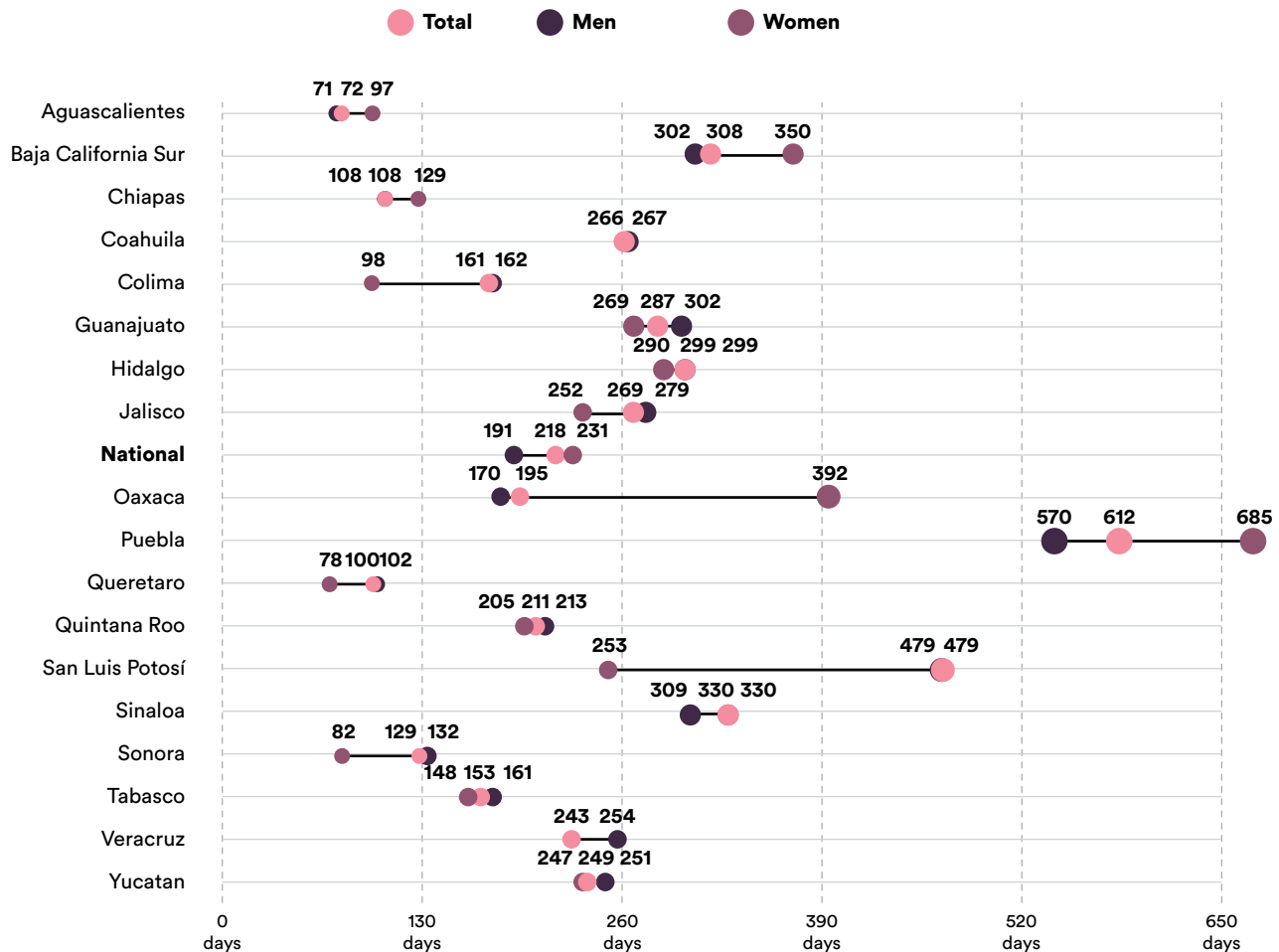
This alternative for processing cases represented 24.6% of all resolutions of criminal causes in 2022, more than double the number resolved through plea bargaining. Although in this format, criminal action is not extinguished until the accused person has completed the plan for restitution of damages and all other conditions imposed, for the effects of this indicator we included conditional suspension as a form of concluding cases. **The mean duration of the cases resolved under this legal figure was 227 days,** only nine more than in the case of plea bargaining and within the period established in the Constitution. This is important because the conditional suspension of process represents the form of conclusion most often utilized. Moreover, the mean duration of these cases decreased by almost two months for women. The most efficient states in exercising and approving this option were Michoacán, Tlaxcala, and Chiapas.

<sup>33</sup> Inter-American Court of Human Rights. Jurisprudence. Furlan y Familiares contra Argentina; Suárez Rosero contra Ecuador; consulted at: <https://www.corteidh.or.cr/sitios/tess/tr172.htm>

<sup>34</sup> JUICIO ORAL EN EL SISTEMA Criminal ACUSATORIO. EL HECHO DE QUE TENGA UNA DURACIÓN MAYOR A UN AÑO NO CONLLEVA, EN AUTOMÁTICO, LA NULIDAD DE LAS ACTUACIONES POR VIOLACIÓN AL DERECHO A SER JUZGADO EN LOS TÉRMINOS Y PLAZOS LEGALES. Thesis: II.3o.P.30 P (11a.). *Gaceta del Semanario Judicial de la Federación*, Libro 21, January 2023, Tomo VI, p. 6598 <https://sjf2.scjn.gob.mx/detalle/tesis/2025717>

<sup>35</sup> Aguascalientes, Baja California Sur, Coahuila, Hidalgo, Estado de México, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sonora, and Tlaxcala

## Graph 35. Mean duration of penal processes concluded through plea bargaining



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

### Restitution agreements

Together with oral trials, restitution agreements at the courts were among the less utilized forms of concluding cases. These agreements are reached through alternative mechanisms of conflict resolution. In 2022, they represented only 1.5% of the criminal causes that were concluded. As in the case of conditional suspension of process, criminal action is not extinguished until the accused person has fulfilled all the terms of the agreement. However, for the effects of this indicator, we took the date when the supervising judge approved the agreement as the conclusion of the case.

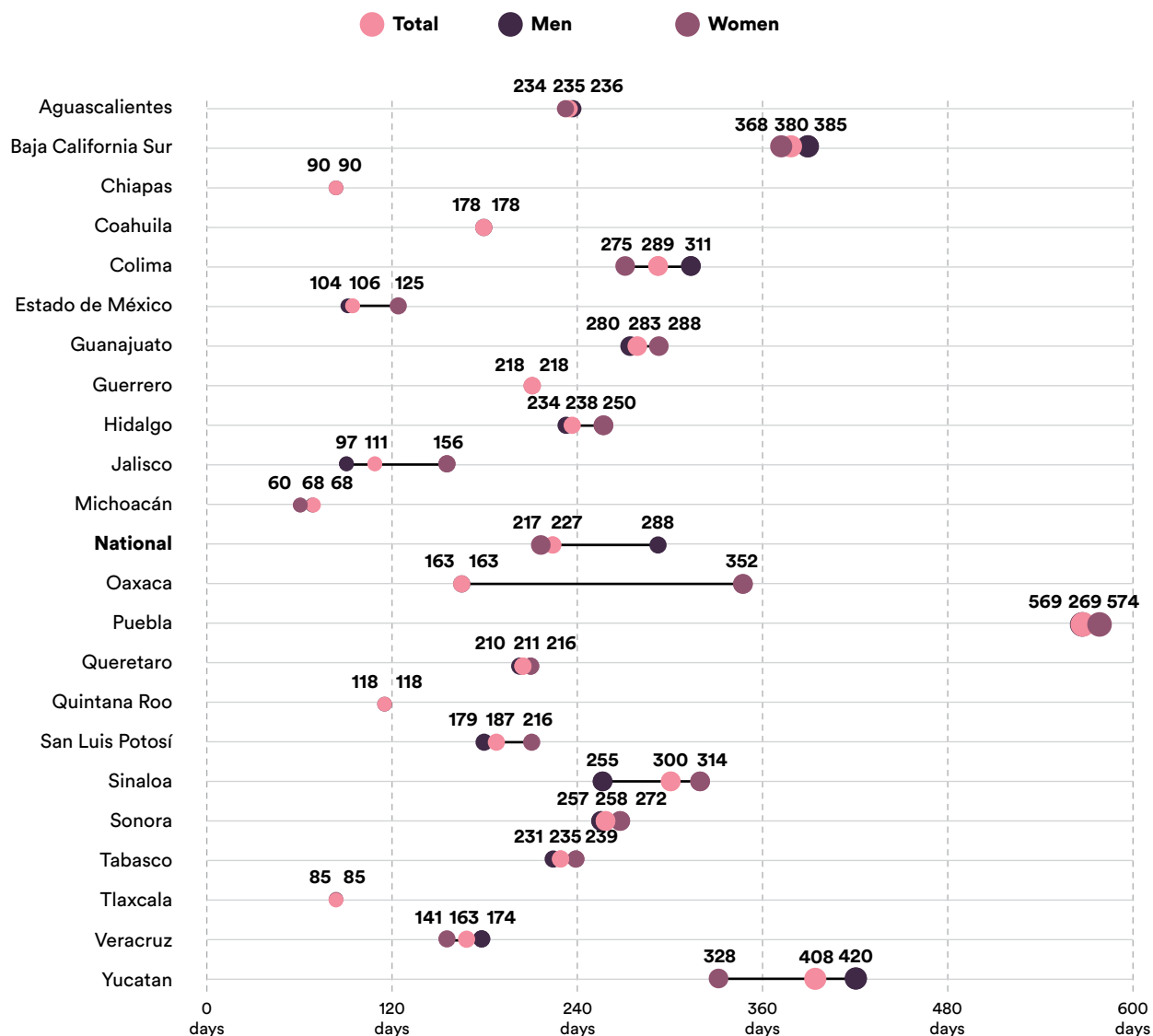
The mean duration of the criminal processes that were closed through restitution agreements was **168 days for men and 154 days for women**; thus, it was the form of conclusion that achieved the quickest judicial process.

### Mean duration of pretrial detention

In *Hallazgos 2021* we presented, for the first time, measurements of the mean duration of criminal processes, considering all accused persons under pretrial detention. The data gathered for 2022 point in the same direction; that is, **the ex officio modality corresponds to the criminal processes with the**



### Graph 36. Mean duration of penal processes concluded through conditional suspension of process



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

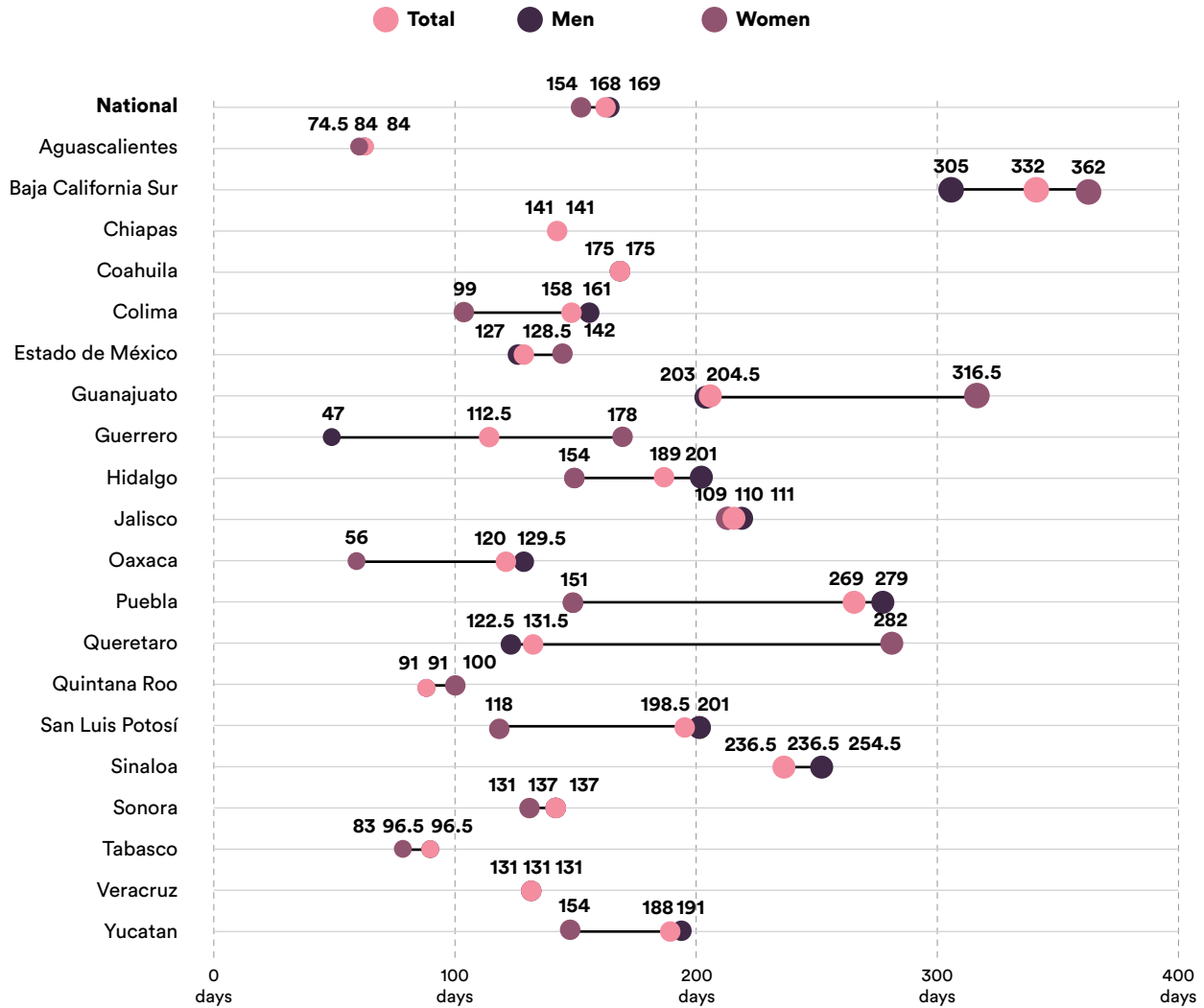
**greatest duration.** On a positive note, in general, these processes concluded within the period stipulated in the Constitution for the duration of pretrial detention –730 days– and within the Constitutional period for sentencing (365 days).

As we analyzed in the section, *Processes in freedom*, pretrial detention is a precautionary measure that should be applied exceptionally; that is, only in cases where other measures of freedom are not deemed ideal for neutralizing the processual risks that would exist if

the accused persons were freed during their criminal process. It is concerning, however, that this measure is usually imposed without a risk evaluation by the UMECAS (in the justified modality) or automatically (in *ex officio* cases), in violation of the right to personal freedom and the presumption of innocence. This impedes generating a robust debate, based on reliable information, on the ideal precautionary measure to be imposed in each case. At the national level, 56.9% of the processes of accused persons were conducted under the precautionary measure of pretrial detention > 35.0% *ex officio*, and 21.9% justified.

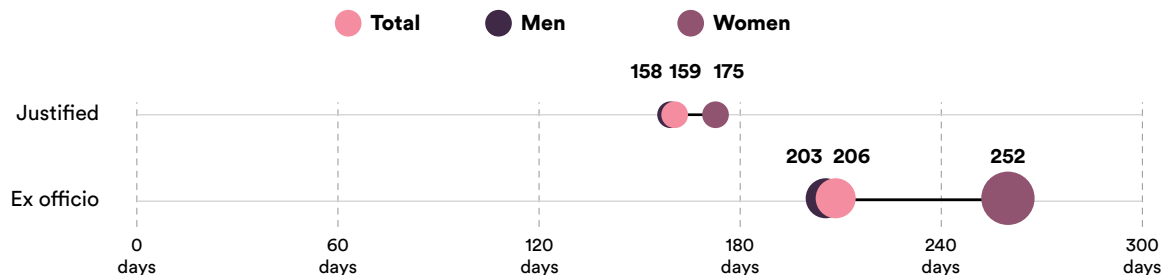


**Graph 37. Mean duration of penal processes concluded through restitution agreements**



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

**Graph 38. Mean duration of penal processes with accused persons under pretrial detention, regardless of the form of concluding the penal process**



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.



The effect of OPD on the time required to substantiate a criminal process is clear. The mean duration of the process was 303 days for men under *ex officio* pretrial detention, but only 158 days under the justified modality. This gap intensified considerably for women, as their criminal processes lasted 252 days under OPD and 175 under justified pretrial detention, a difference of over two months. This seems to suggest that **the PJS is more permissive in terms of time in processes where the permanence of the accused person is guaranteed by reclusion than in those where this does not occur, and that this measure affects women more severely.**

Added to this, in *Hallazgos 2021* we were able to identify that 3,511 people remained under pretrial detention for over 730 days, the vast majority under the *ex officio* modality (71.6%). In May 2022, the First Chamber of the Supreme Court issued a binding precedent which stipulated that there is no legal restriction against the OPD being reviewed in a period of two years after its application, and that in this review the supervising judge shall determine whether to suspend or extend it, considering: 1. the complexity of the case; 2. the processual activity of the accused person; and 3. the conduct of the authorities.<sup>36</sup> Added to this, collegiate courts of distinct circuits have recently emitted isolated precedents which argue that after two years of pretrial detention, the judge who hears the criminal cause should officially review the imposition of that measure.<sup>37</sup>

For 2022, we identified 1,059 persons who had been held under pretrial detention for over two years, a figure considerably lower than in 2021. The vast majority were held under the *ex officio* modality (78.4%). To the degree that the aforementioned judicial criteria were incorporated into the actuation of the supervising judges, this decrease should continue, even more so considering the recent convictions against Mexico issued by the Inter-American Court of Human Rights analyzed in the section *Processes in freedom*. The states with more persons in these circumstances were Puebla, San Luis Potosí, and Hidalgo.

Furthermore, the most recent edition of the INEGI's National Census of the Federal and State Penitentiary

**Table 20. Number of persons under pretrial detention (*ex officio* or justified) with over 730 days deprived of their freedom**

State	Men			Women		
	Justified	Ex officio	Total	Justified	Ex officio	Total
<b>National</b>	<b>780</b>	<b>210</b>	<b>990</b>	<b>50</b>	<b>19</b>	<b>69</b>
Baja California Sur	7	0	7	1	0	1
Chiapas	4	2	6	0	0	0
Coahuila	29	4	33	0	0	0
Hidalgo	66	47	113	4	4	8
Jalisco	14	8	22	2	2	4
Oaxaca	1	0	1	0	0	0
Puebla	388	114	502	32	11	43
Querétaro	4	0	4	0	0	0
Quintana Roo	29	7	36	1	0	1
San Luis Potosí	230	12	242	9	0	9
Veracruz	1	0	1	0	0	0
Yucatán	7	16	23	1	2	3

Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

System (*Censo Nacional del Sistema Penitenciario Federal y Estatal*)<sup>38</sup> revealed that a significant proportion of the population deprived of freedom has waited 24 months or more to be sentenced, as 26.7% of women and 29% of men have remained in state and federal penitentiaries for 24 months or more under pretrial detention.

### Mean duration by crime

The data we presented in *Hallazgos 2021* showed that the crimes that could be considered complex or of high impact –like murder, extortion, and kidnapping– regularly entail longer processes, while more common crimes like property damage, injuries, drug-dealing, theft, and domestic violence tend to be closed within 200 days. This finding may be related largely to the fact that the natural resolution of high impact crimes occurs through oral trials because they are not susceptible to any form of

<sup>36</sup> PRISIÓN PREVENTIVA OFICIOSA. PROCEDE REVISAR SU DURACIÓN EN EL PLAZO DE DOS AÑOS, A QUE SE REFIERE EL ARTÍCULO 20, APARTADO B, FRACCIÓN IX, CONSTITUCIONAL Y, EN SU CASO, DETERMINAR SI CESA O SE PROLONGA SU APLICACIÓN. Thesis: 1a./J. 32/2022 (11a.). *Gaceta del Semanario Judicial de la Federación*, Libro 13, May 2022, Tomo III, p. 2839, <https://sjf2.scjn.gob.mx/detalle/tesis/2024608>

<sup>37</sup> PRISIÓN PREVENTIVA. CUANDO EXCEDE EL PLAZO CONSTITUCIONAL DE DOS AÑOS, LA JUSTIFICACIÓN DE SU PROLONGACIÓN DEBE REVISARSE OFICIOSAMENTE POR EL JUEZ DE LA CAUSA, AUN CUANDO SE TRATE DEL SISTEMA Criminal MIXTO, PARA CUYA TRAMITACIÓN DEBE APLICARSE EL CÓDIGO NACIONAL DE PROCEDIMIENTOS CriminalES. Thesis: 1.4o.P.7 P (11a.). *Gaceta del Semanario Judicial de la Federación*. Libro 19, November 2022, Tomo IV, p. 3749, <https://sjf2.scjn.gob.mx/detalle/tesis/2025434> y PRISIÓN PREVENTIVA. SU REVISIÓN ES DE OFICIO A LOS DOS AÑOS DE SU IMPOSICIÓN, EN TÉRMINOS DEL ARTÍCULO 20, APARTADO B, FRACCIÓN IX, DE LA CONSTITUCIÓN GENERAL. Thesis: XVIII.3o.P.A.1 P (11a.). *Semanario Judicial de la Federación*, <https://sjf2.scjn.gob.mx/detalle/tesis/2026858>

<sup>38</sup> *Censo Nacional del Sistema Penitenciario Federal y Estatales 2023*, INEGI; available at [https://www.inegi.org.mx/contenidos/programas/cnsipee/2023/doc/cnsipee\\_2023\\_resultados.pdf](https://www.inegi.org.mx/contenidos/programas/cnsipee/2023/doc/cnsipee_2023_resultados.pdf)

anticipated or alternative outcome. As a consequence, the institutions of administration and pro curation of justice invest more time and resources in the initial stage for crimes of common delinquency, while high impact crimes demand greater, more prolonged efforts that extend into the intermediate stages and oral trials.

This logic demonstrated a year ago is consistent with the mean duration we measured for 2022. Thus, the average duration for the crime of drug-dealing was 182 days, while the criminal process for theft required 166. One point that stands out here is that the duration for some crimes increased in cases involving women, a phenomenon possibly related to the difficulties they confront in acceding to anticipated or alternative outcomes (due, for example, to asymmetries of information due to gender, a precarious defense, scarce resources to pay or guarantee the reparation of damage, (in)capacity to be subjected to conditions of freedom...). In contrast, criminal processes for homicide took 288 days to be substantiated, while the periods for kidnapping and rape were 317 and 217 days, respectively.

## Protection of rights

The protection of the rights of accused persons and victims was a latent thematic axis in the previous editions of *Hallazgos*, but now, in the context of the tenth

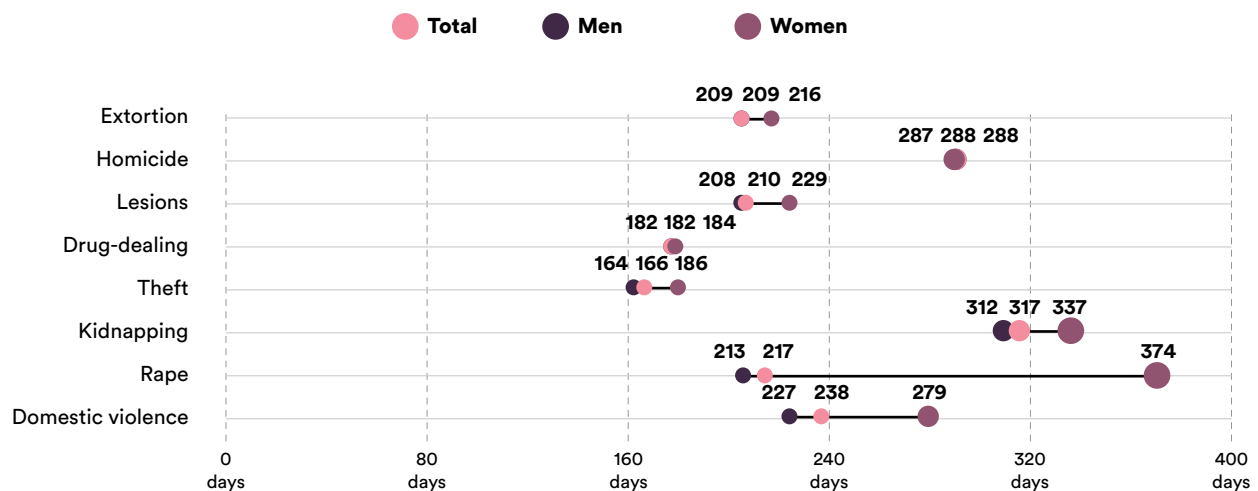
anniversary of the series, we examine it explicitly as a goal of criminal justice, not just one of its processual requirements.

We know that criminal justice has transcendental consequences for the lives of those who, justly or unjustly, have been accused of a crime, and for those who have suffered, directly or indirectly, the effects of delinquent acts. It is for this reason that national and international law include safeguards for both parties.

The International Covenant on Civil and Political Rights, the American Convention on Human Rights, and both Declarations of Human Rights (Universal and American) recognize certain rights of accused persons, while Articles 1 and 20 of Mexico's Political Constitution contain a specific catalog of the rights of people in that condition. In addition, these and other treatises and constitutional dispositions recognize specific rights of those who have been victims of crime or suffered violations of their rights, including those that occurred in the context of a criminal act.<sup>39</sup>

From an optic of public policy, contemplating the protection of rights as one of the goals of the system itself (and not just of the criminal investigation and prosecution of alleged crimes) permits at least two things: first, **it focuses institutional efforts on people, and, second, as a function of this, it reorganizes**

**Graph 39. Mean duration of criminal processes concluded, by crimes, regardless of the form of resolution**



Source: Elaborated by the authors based on data obtained through solicitudes of access to information | @mexevalua.

<sup>39</sup> For example, the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power", adopted in 1985, recognizes specific rights for those victims. The "International Convention for the Protection of All Persons from Forced Disappearances" recognized that victims have the right to the truth concerning the circumstances of disappearances, the evolution of the case, the results of investigations, and the fate of the disappeared person (Article 24).



**Table 21. Comparison of budgets approved for Attorney Generals' offices, judicial powers, defenders' offices Victims Commissions, Pretrial Measures Units, Scientific Criminal Investigation Units, rates per 100,000 inhabitants, by state**

State	Attorney Generals' office	Judicial powers	Defenders' offices	CEAV	Scientific Criminal Investigation Unit	Scientific Criminal Investigation Units	SSP
Aguascalientes	\$321,7416.54	\$38,450,014.57	\$0,0	\$0,0	\$0,0	\$1,284,119.81	\$78,037,318.79
Baja California	\$54,369,938.69	\$33,336,384.32	\$3,018,993.49	\$409,347.41	\$534,845.36	\$3,734,100.89	\$0,0
Baja California Sur	\$3824,453.41	\$0,0	\$4,185,795.-9	\$0,0	\$94,944,895.05	\$5,184,980.31	\$22,603,307.22
Campeche	\$44,029,051.23	\$5,512,336.45	\$5,512,336.45	\$5,512,336.45	\$115,357.28	\$3,125,920.93	\$66,200,616.9
Coahuila	\$32,199,386.72	\$0,0	\$1,760,611.72	\$627,526.33	\$0,0	\$0,0	\$65,191,468.69
Colima	\$55,355,297.58	\$30,032,813.63	\$1,862,167.55	\$0,0	\$0,0	\$0,0	\$63,173,979.84
Chiapas	\$0,0	\$19,071,331.97	\$1,067,873.04	\$0,0	\$0,0	\$1,455,543.76	\$0,0
Chihuahua	\$0,0	\$79,702,664.13	\$3,481,057.06	\$0,0	\$144,149.92	\$5,478,486.87	\$0,0
Ciudad de México	\$80,117,737.47	\$0,0	\$2,781.87	\$246,236.76	\$0,0	\$1,348,140.29	\$106,035,983.5
Durango	\$30,850,294.98	\$0,0	\$1,339,367.89	\$582,343.11	\$0,0	\$0,0	\$0,0
Guanajuato	\$57,661,038.83	\$0,0	\$6,433,647.77	\$3,786,091.4	\$0,0	\$0,0	\$83,277,431.12
Guerrero	\$35,596,840.17	\$23,605,223.35	\$0,0	\$790,843.02	\$0,0	\$3,298,498.81	\$84,797,884.98
Hidalgo	\$2,173,359.73	\$20,184,838.58	\$8,786.21	\$0,0	\$119,321.93	\$0,0	\$5,555,117.38
Jalisco	\$35,367,141.22	\$0,0	\$1,890,822.76	\$573,262.51	\$59,887,533.01	\$4,599,029.41	\$59,887,533.01
México	\$25,338,220.94	\$12,883,214.06	\$19,1215.75	\$1,348,731.82	\$570,417.75	\$0,0	\$0,0
Michoacán	\$30,051,401.82	\$30,757,057.62	\$0,0	\$1,021,807.63	\$0,0	\$0,0	\$72,512,270.22
Morelos	\$0,0	\$25,224,330.99	\$1,009,935.35	\$370,474.05	\$0,0	\$0,0	\$64,905,696.85
Nayarit	\$40,839,476.09	\$41,323,973.71	\$2,734,871.62	\$831,189.87	\$0,0	\$0,0	\$64,720,431.19
Nuevo León	\$67,342,034.21	\$44,258,645.04	\$0,0	\$563,749.46	\$1,002,194.66	\$44,258,645.04	\$0,0
Oaxaca	\$19,732,802.43	\$0,0	\$1,584,135.22	\$0,0	\$3,439.35	\$22,690.19	\$5,953,979.07
Puebla	\$21,509,617.98	\$4,204,014.24	\$605,423.51	\$500,181.19	\$0,0	\$88,617.73	\$54,458,274.27
Querétaro	\$49,146,002.6	\$0,0	\$2,779,426.8	\$1,387,848.22	\$1,758,401.75	\$5,205,066.81	\$44,242,756.78
Quintana Roo	\$53,648,763.78	\$39,960,887.99	\$0,0	\$1,857,486.22	\$169,883.92	\$0,0	\$125,083,054.6
San Luis Potosí	\$43,234,489.82	\$45,496,089.86	\$5,530,696.72	\$1,469,601.35	\$26,032.00	\$2,842,355.13	\$87,624,444.61
Sinaloa	\$28,441,799.52	\$24,315,418.99	\$2,274,747.69	\$0,0	\$0,0	\$2,159,618.23	\$279,449.59
Sonora	\$58,647,585.94	\$46,374,297.96	\$1,816,732.74	\$1,244,622.27	\$2,545,178.54	\$28,974,538.61	\$81,316,489.15
Tabasco	\$27,612,517.09	\$27,971,589.46	\$2,146,095.28	\$0,0	\$0,0	\$6,512,634.01	\$104,839,908.7
Tamaulipas	\$39,969,029.41	\$25,375,348.43	\$1,163,160.12	\$0,0	\$1,946.46	\$0,0	\$30,804,003.18
Tlaxcala	\$19,498,244.33	\$27,775,068.12	\$0,0	\$335,570.88	\$0,0	\$981,914.18	\$0,0
Veracruz	\$16,279,292.95	\$4,551,521.79	\$241,414.04	\$1,100,263.03	\$0,0	\$59,799.63	\$67,310,717.51
Yucatán	\$19,958,717.84	\$7,282,445.71	\$1,353,185.36	\$925,934.1	\$789,709.41	\$3,001,863.57	\$0,0
Zacatecas	\$39,699,605.82	\$26,865,843.89	\$2,126,582.76	\$715,246.52	\$1,325,370.62	\$5,288,708.71	\$8,627,583.58
<b>National</b>	<b>\$6,911,219.17</b>	<b>\$732,937.35</b>	<b>\$62,583.07</b>	<b>\$35,218.41</b>	<b>\$304,183.57</b>	<b>\$192,509.92</b>	<b>\$1,830,169.03</b>
<b>Federation</b>	<b>\$0,0</b>	<b>\$17,803,863.76</b>	<b>\$17,003.70</b>	<b>\$744,106.75</b>	<b>\$4,866,937.15</b>	<b>\$4,042,708.35</b>	<b>\$43,924,056.73</b>

Source: Elaborated by the authors based on data obtained through a solicitude of access to information | @mexevalua.  
\*In November 2023, the data on the budgets approved for Guanajuato, Durango, and San Luis Potosí were updated.

**priorities to strengthen criminal justice from a sectoral perspective.** This vision highlights the capacity for agency of accused persons and victims as subjects –not objects– of criminal processes. In doing so it re-dimensions the importance of public defenders and Victims' Commissions, while underscoring the need to eliminate the disparities that exist between these institutions and others of the sector, such as Prosecutors' offices and Judicial Branches.

Viewing the criminal system as dedicated exclusively to investigating and prosecuting crimes, with a highly punitive vision (focused on punishment), has resulted in public defenders being perceived as accessories – not central elements – of the process, while the role of victims is considered only of secondary importance. This vision has caused, or facilitated, that the largest share of resources is channeled to Prosecutors' offices (and Judicial Branches ), leaving public defenders and



Victims' Commissions in a permanent situation of processual inequality and institutional weakness.

Second, rethinking the objectives of the system to include the protection of rights *per se* can promote greater institutional symmetry, understood as the capacity of all institutions in the sector to operate harmonically and, therefore, achieve an efficient exchange of information and a high degree of coordination. At *México Evalúa*, we have insisted on the importance of eliminating asymmetries. Specifically, we have emphasized budgetary disparity and the differential in existing operating capacities between Prosecutors, on one side, and public defenders and Victims' Commissions, on the other.

We must remember that **public defense in Mexico has a double dimension, for it is, at one and the same time, an institution and a right**. Therefore, it should operate under equal circumstances with respect to Prosecutors' offices. In addition, it should have the technical capacities and budgetary sufficiency that allow it to develop high-quality defense strategies that include their own investigations and real abilities to refute the evidence that accusers present. Victims Commissions must also be provided with sufficient technical and economic resources to provide high-quality services that can strengthen, or complement, accusations, or even expose their flaws.

Having said this, we can ask: what is the status of our CJS with respect to the protection of rights? Once again, for 2022 we confirmed the tendency that has been visible for years: 1. the protection of rights in the criminal system is extremely weak; and 2. from an optic of public policy, the system is deeply unequal and asymmetric.

In relation to the first statement, data from the most recent National Survey of the Population Deprived of Freedom (*Encuesta Nacional de Población Privada de Libertad*, 2021)<sup>40</sup> revealed the state of the protection of rights of detainees. In terms of physical integrity, **almost 46% were held in isolation or were uncommunicated, 26.5% had been threatened with death, and 21% had been pressured to accuse someone else or received threats to their family**. Regarding the exercise of rights when presented in a Prosecutor's office, 34% were never informed of the accusation against them, only 23.9% had received advice from a lawyer, and below 40% were informed of their legal rights. Although various indicators show significant changes in this regard from 2016 to 2021, **what we**

**Table 22. Personnel assigned to Attorney Generals' offices, judicial powers, defenders' offices, and Victims Commissions, by state**

State	Attorney Generals' and agents of Prosecutors' offices	Judges and magistrates in penal matters	Victims advisors of the CEAV	Public defenders	Scientific Criminal Investigation Units
<b>National</b>	<b>12,978</b>	<b>1,793</b>	<b>724</b>	<b>3,127</b>	<b>8,906</b>
Aguascalientes	153	41	30	32	84
Baja California	449	53	19	137	249
Baja California Sur	154	18	10	31	137
Campeche	64	13	11	68	50
Coahuila	383	35	16	22	166
Colima	130	12	17	146	117
Chiapas	661	21	-	405	281
Chihuahua	1,223	175	-	52	469
Ciudad de México	1,799	147	24	18	1244
Durango	115	44	18	54	155
Guanajuato	503	78	19	363	434
Guerrero	587	30	27	185	258
Hidalgo	344	47	-	39	230
Jalisco	608	320	4	109	394
México	1,026	0	169	65	661
Michoacán	586	38	64	121	368
Morelos	226	25	10	54	180
Nayarit	167	18	5	37	118
Nuevo León	165	41	45	254	482
Oaxaca	333	148	4	178	248
Puebla	539	34	20	49	305
Querétaro	181	21	25	46	114
Quintana Roo	298	17	47	59	247
San Luis Potosí	-	17	27	103	52
Sinaloa	313	22	-	67	214
Sonora	153	80	0	53	217
Tabasco	379	117	2	55	278
Tamaulipas	331	30	-	88	383
Tlaxcala	142	20	14	6	60
Veracruz	525	65	57	46	368
Yucatán	297	22	17	134	200
Zacatecas	144	44	23	51	143

**Source:** Elaborated by the authors with data from the Censo Nacional de Procuración de Justicia Estatal (2022) and solicitudes of information.

<sup>40</sup> *Encuesta Nacional de Población Privada de la Libertad* (ENPOL) 2021, INEGI, Available at [https://www.inegi.org.mx/contenidos/programas/enpol/2021/doc/enpol2021\\_presentacion\\_nacional.pdf](https://www.inegi.org.mx/contenidos/programas/enpol/2021/doc/enpol2021_presentacion_nacional.pdf)



**continue to observe is a broad gap between law and reality, and serious lags in matters of institutional policies that guarantee rights.**

Regarding the protection of victims' rights, the National Survey of Victimization and Perceptions of Public Security 2022 (*Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública 2022*) presents elements of analysis on the treatment received from

authorities and the population's trust in them. For example, the average time required to register a complaint with a state Attorney General or Prosecutor in 52.8% of the crimes reported was three hours or more. In 50.2% of the crimes reported, victims evaluated the treatment they received during the process as "poor" or "very poor". Among the population above 18 years of age that has been the victim of some crime, 49.2% considered that the authorities should provide

**Table 23. Average workloads of prosecutors' offices, victims advisors, public defenders, and judges, by state**

State	Investigative files opened by Attorney General's office or agent of the Prosecutor's office	Criminal causes per judge or magistrate in criminal matters	Cases attended by personnel of public defenders' offices	Solicitudes of Scientific Criminal Investigation, per expert	Number of persons deprived of their freedom per custodial and supervisory personnel	Number of persons deprived of their freedom per sentencing judge
<b>National</b>	<b>181.1</b>	<b>334.6</b>	<b>157.2</b>	<b>467.8</b>	<b>11</b>	<b>1,017</b>
Aguascalientes	241.9	74.9	-	663.1	8	943
Baja California	328.7	1,932.8	66.0	445.0	13	1,869
Baja California Sur	130.1	95.1	-	128.9	6	1,124
Campeche	348.9	9.8	445.1	1,029.8	10	332
Coahuila	168.5	66.3	185.2	1,576.5	24	1,427
Colima	243.2	3.9	34.9	-	5	864
Chiapas	60.2	28.4	137.4	-	6	1,209
Chihuahua	59.9	405.0	390.2	-	9	443
Ciudad de México	133.2	286.5	9.3	363.8	8	634
Durango	229.9	375.5	-	-	9	1,277
Guanajuato	271.2	40.6	130.7	-	5	753
Guerrero	44.6	23.4	163.6	216.8	8	847
Hidalgo	144.1	84.9	33.1	406.1	33	750
Jalisco	81.5	143.6	2.4	-	11	3,942
México	352.7	2,249.0	-	974.4	13	1,443
Michoacán	81.3	109.7	-	173.5	5	719
Morelos	203.3	36.0	57.8	-	7	702
Nayarit	54.8	53.5	-	-	10	177
Nuevo León	1,808.1	148.1	-	148.5	10	900
Oaxaca	151.5	43.4	-	102.9	9	416
Puebla	143.1	227.5	-	291.9	10	2,585
Querétaro	327.2	43.9	65.3	-	6	702
Quintana Roo	161.6	67.8	1,457.6	374.1	30	555
San Luis Potosí	-	23.6	134.2	693.2	5	108
Sinaloa	103.1	20.7	233.9	427.9	15	870
Sonora	377.0	86.1	702.4	1,576.9	18	2,532
Tabasco	107.6	244.5	0.7	-	6	1,128
Tamaulipas	113.7	35.8	4.4	217.2	8	873
Tlaxcala	129.7	60.6	-	1,252.4	8	758
Veracruz	187.8	55.1	121.1	-	13	775
Yucatán	14.2	20.8	11.0	840.5	7	492
Zacatecas	177.5	51.6	15.1	440.9	7	404

**Notes:**

\* The workload of agents of the Prosecutors' offices were calculated by dividing the number of files by the number of agents.

\*\* The workload of cases attended per victims advisors was calculated by dividing the number of cases attended by the number of victims advisors.

\*\*\* The workload per victims of crime represented by a victims advisor in criminal processes was calculated by dividing that number by the number of advisors.

\*\*\*\* The workload per victims of human rights violations represented by a victims advisor was calculated by dividing that number by the number of advisors.

Source: Elaborated by the authors based on information from the *Censo Nacional de Procuración de Justicia*, INEGI 2022, and solicitudes of information.

\*In November 2023, the data on workloads for Guanajuato, Guerrero, Hidalgo, Jalisco, and México were updated.



services of juridical orientation, 41.7% believed they should receive information on victims' rights, and 28.5% stated that they should receive psychological attention.

These data are complemented by the information that *México Evalúa* gathered for *Hallazgos*. With respect to the institutional capacities of the C JS for protecting rights, we emphasize three indicators: *budgetary assignment*, *personnel assigned*, and *workload*. Two elements of analysis stand out in this regard. First, as Table 8 shows, **the largest proportion of the budget assigned to the criminal justice sector is channeled to Prosecutors' offices and Judicial Powers**, leaving public defenders' offices and Victims' Commissions at a clear budgetary disadvantage.

The second element, displayed in Table 22, is that Prosecutors' offices have a much higher number of attorneys or agents than the operators of justice in other organs that play fundamental roles in judicial processes. Clearly, the difference with respect to Victims' Commissions is drastic, considering that the majority of investigative files that are opened assume the existence of at least one victim. This, in turn, is reflected in the distribution of workloads. While it is important to point out that all operators of justice face problems of saturation, in some states this is more accentuated than in others, as shown in Table 23.

## Criminal execution and reinsertion

### Criminal execution

We have stressed from the outset how the construction and implementation of Mexico's criminal execution system have gone through diverse constitutional reforms. In June 2008, as part of the reform that introduced the accusatory criminal process, Article 18 of the Constitution established the need to organize the penitentiary system "on the basis of work, 'occupational' training, education, health, and sports (...) to achieve the reinsertion of persons deprived of their freedom into society and procure that they do not commit [more crimes]..." In June 2011, an addendum stated that the penitentiary system should be based, as well, on "respect for human rights". Finally, in 2015, the Federal Congress was granted the faculty to issue general legislation on matters related to the execution of sentences. This brought us to June 2016 and the publication of the National Law of Criminal Execution, whose fundamental objective was to implement an integral system of social reinsertion. The transitory regimen of that law stipulated that penitentiary authorities had four years –to June 2020–

**Table 24. Capacity of penitentiaries under state administration, by useful bed**

State	No. of centers	Spaces	Absolute over-crowding	Relative over-crowding	Population
Aguascalientes	3	1,808	289	15.98%	2,097
Baja California	5	16,065	-2,857	-17.78%	13,208
Baja California Sur	4	1,616	-350	-21.66%	1,266
Campeche	2	1,782	-709	-39.79%	1,073
Coahuila	15	4,610	448	9.72%	5,058
Colima	9	7,386	1,455	19.70%	8,841
Chiapas	13	27,718	-2,273	-8.20%	25,445
Chihuahua	6	2,940	1,364	46.39%	4,304
Ciudad de México	4	3,573	-2,297	-64.29%	1,276
Durango	3	2,295	1,580	68.85%	3,875
Guanajuato	23	14,327	20,230	141.20%	34,557
Guerrero	11	6,043	1,085	17.95%	7,128
Hidalgo	12	3,827	198	5.17%	4,025
Jalisco	12	3,478	1,307	37.58%	4,785
Estado de México	12	13,570	-43	-0.32%	13,527
Michoacán	11	7,948	-1,506	-18.95%	6,442
Morelos	5	2,047	1,766	86.27%	3,813
Nayarit	3	1,173	1,149	97.95%	2,322
Nuevo León	4	8,721	1,000	11.47%	9,721
Oaxaca	9	4,072	-247	-6.07%	3,825
Puebla	22	6,367	2,176	34.18%	8,543
Querétaro	4	3,463	-457	-13.20%	3,006
Quintana Roo	4	2,695	1,006	37.33%	3,701
San Luis Potosí	6	3,474	-928	-26.71%	2,546
Sinaloa	4	6,732	-2,609	-38.76%	4,123
Sonora	13	7,988	2,379	29.78%	10,367
Tabasco	8	3,146	1,426	45.33%	4,572
Tamaulipas	7	6,847	-2,803	-40.94%	4,044
Tlaxcala	2	1,060	-110	-10.38%	950
Veracruz	17	6,946	286	4.12%	7,232
Yucatán	4	3,019	-1,489	-49.32%	1,530
Zacatecas	13	2,415	-63	-2.61%	2,352

**Source:** Elaborated by the authors based on information from the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional* and solicitudes of information.

to train, equip, and adapt their centers and organizational structure. The information available, however, shows that the challenges involved in guaranteeing the human rights of people deprived of their freedom (PDF) and their successful social reinsertion persist.

### Penitentiaries: capacity and conditions

#### Capacity

The ongoing reduction in the number of penitentiaries, both state and federal, did not cease in the year analyzed. At the end of 2022, Mexico had 270 state penitentiaries, three fewer than in 2021, and 14 federal centers, one less

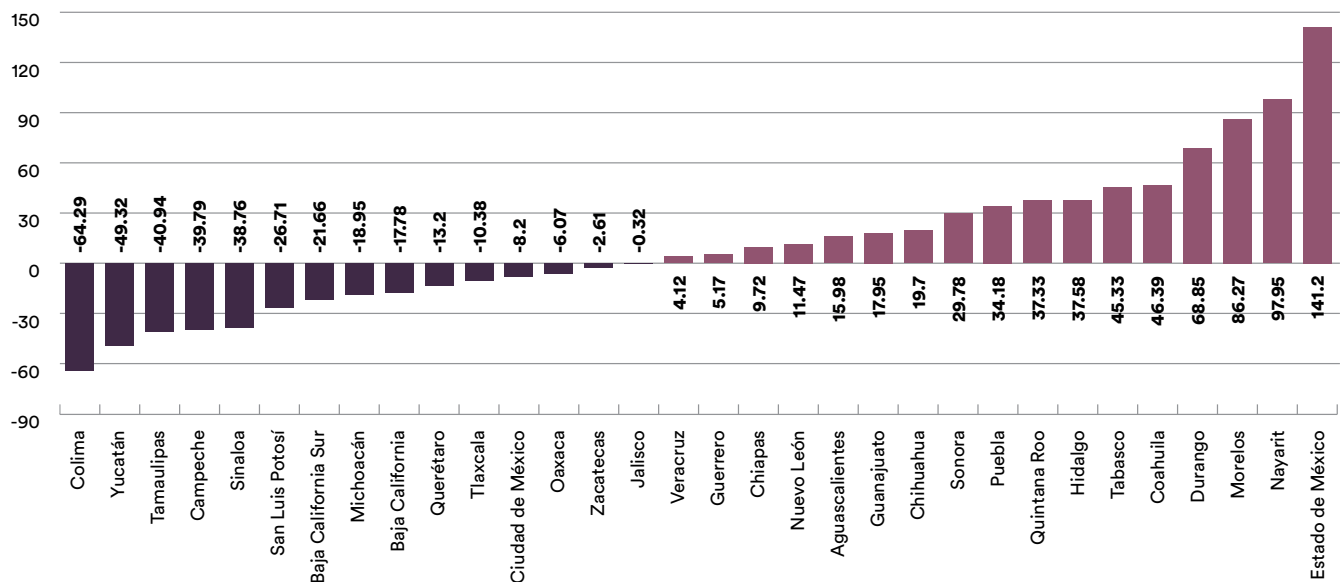


than in 2021, for a total of 284. Regarding their capacity, we detected problems of overcrowding only in state centers (CERESOS). Considering the number of useful beds at each CERESO and the population of PDF at each one, 17 states had overcrowding that definitively impacted the quality of life of internees. The Estado de México was, once again, the state with the most serious problems of overcrowding, followed by Nayarit, Durango, and Morelos, the same states that have occupied these positions in recent years. In contrast, Colima, Yucatán, and Tamaulipas had the largest numbers of unoccupied beds.

In the following section we describe that 40.4% of the population of CERESOS (federal and state) are held under the precautionary measure of pretrial detention. Thus, in light of the proportion of PDF held under *ex officio* pretrial detention discussed in the previous section (*Processes in freedom*), correcting the indiscriminate use of this instrument and eliminating its *ex officio* modality are definitive actions that would relieve the pressure inside these centers.

None of the federal penitentiaries (CEFESOS) presented overcrowding, confirming a result observed

## Graph 40. Overcrowding in state penitentiaries



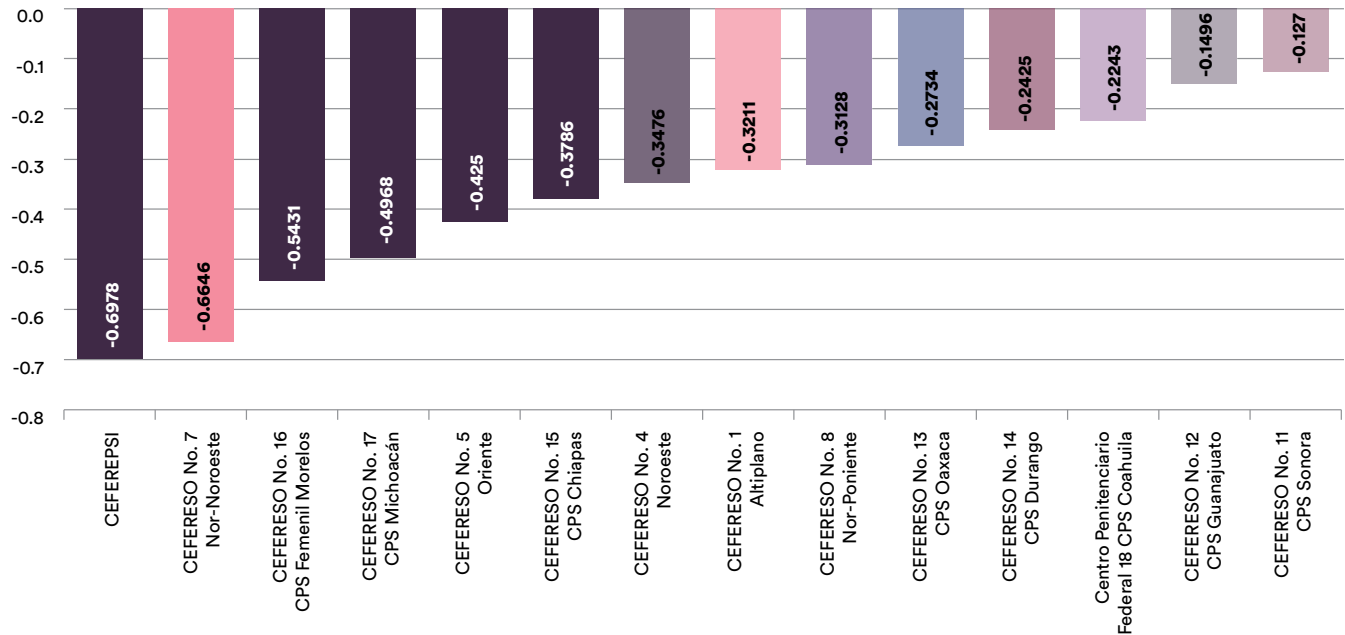
Source: Elaborated by the authors based on data obtained through the SSPC | @mexevalua.

## Table 25. Capacity of federal penitentiaries, by useful bed

Penitentiary	Spaces (capacity)	Population	Absolute overcrowding	Relative overcrowding
CEFESOS No. 1 Altiplano	844	573	-271	-32.11%
CEFESOS No. 4 Noroeste	2,670	1,742	-928	-34.76%
CEFESOS No. 5 Oriente	3,078	1,770	-1,308	-42.50%
CEFESOS No. 7 Nor-Noroeste	480	161	-319	-66.46%
CEFESOS No. 8 Nor-Poniente	812	558	-254	-31.28%
CEFESOS No. 11 CPS Sonora	2,520	2,200	-320	-12.70%
CEFESOS No. 12 CPS Guanajuato	2,520	2,143	-377	-14.96%
CEFESOS No. 13 CPS Oaxaca	2,520	1,831	-689	-27.34%
CEFESOS No. 14 CPS Durango	2,520	1,909	-611	-24.25%
CEFESOS No. 15 CPS Chiapas	2,520	1,566	-954	-37.86%
CEFESOS No. 16 CPS Femenil Morelos	2,528	1,155	-1,373	-54.31%
CEFESOS No. 17 CPS Michoacán	2,520	1,268	-1,252	-49.68%
Centro Penitenciario Federal 18 CPS Coahuila	2,528	1,961	-567	-22.43%
CEFEREPSI	460	139	-321	-69.78%

Source: Elaborated by the authors based on information from the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional* with data to the close of 2022.

Graph 41. Overcrowding in federal penitentiaries



Source: Elaborated by the authors based on data obtained through the SSPC | @mexevalua.

in previous years. The CEFERESOS with the lowest proportion of unoccupied beds were numbers 11, 12, and 18 in Sonora, Guanajuato, and Coahuila, respectively.

### Conditions in the penitentiaries

In this section we turn, once more, to the results of the National Diagnosis of Penitentiary Supervision (*Diagnóstico Nacional de Supervisión Penitenciaria*) elaborated annually by the National Human Rights Commission (NHRC)<sup>41</sup> with the objective of evaluating the conditions of the penitentiary system at the state and federal levels based on five key rubrics:

1. **Aspects that guarantee the integrity of persons deprived of their freedom:** attention and distribution of PDF, overcrowding, prevention of, and attention to, human rights violations, and supervision of the functioning of centers by their directors.
2. **Aspects that guarantee a decent conditions of imprisonment:** alimentation, material and hygienic conditions of the kitchen and/or eating areas, infirmary, installations for communications with the outside, workshops and/or recreational areas for, and the existence and capacity of, installations necessary for the good functioning of centers.

3. **Conditions of governability:** PDF with functions of authority (self-government/co-government), illicit activities, charges (extortion and/or bribes), capacitation of penitentiary personnel, normativity (regulations, manuals, guidelines, applicable dispositions and their diffusion and actualization) and procedures for imposing disciplinary sanctions.
4. **Social reinsertion of PDF:** recreational, work, and training activities, classification of the PDF, integration of technical-juridical files, integration and functioning of technical committees, organization of, and records on, the fulfillment of activities plans, separation of PDF in process from those sentenced, and links of the PDF to society.
5. **Groups of PDF with specific needs:** attention to women and/or minors who live with PDF, and attention to persons living with HIV/AIDS.

The diagnosis at the state level found important reversals in Aguascalientes, Colima, Chiapas, Oaxaca, Tamaulipas, and Zacatecas. Querétaro was the only state that achieved a satisfactory score, while Baja California, Michoacán, Quintana Roo, and Yucatán showed the most significant advances. The problems listed below were the ones detected as having the greatest frequency:

<sup>41</sup> Comisión Nacional de Derechos Humanos, Diagnóstico Nacional de Supervisión Penitenciaria 2022. [https://www.cndh.org.mx/sites/default/files/documentos/2023-06/DNSP\\_2022.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2023-06/DNSP_2022.pdf)



- Inadequate classification of the PDF (90.1% of centers evaluated) and deficient separation of persons in process and those sentenced (86.2%).
- Deficient material and hygienic conditions in the installations (87.2%).
- Insufficiency of security and custodial personnel (81.3%).
- Insufficiency of channels for registering complaints regarding human rights violations (80.0%).
- Insufficiency of programs designed to prevent addictions and support voluntary disintoxication (72.3%).
- Insufficiency or inexistence of recreational activities (60.4%), health services (58.7%) and work and training programs (54.5%).

**Table 26. Scores assigned to state penitentiaries on the National Diagnosis of Penitentiary Supervision (*Diagnóstico Nacional de Supervisión Penitenciaria*)**

■ 8.0 to 10   ■ 6.0 to 7.9   ■ 0 to 5.9

State	Score 2021	Score 2022
Aguascalientes	6.6	5.4
Baja California	5.9	6.9
Baja California Sur	6.9	6.9
Campeche	5.9	6.2
Coahuila	6.5	6.9
Colima	6.9	5.5
Chiapas	6	5.6
Chihuahua	7.8	7.1
Ciudad de México	7.3	6.9
Durango	6	7.1
Guanajuato	6.8	6.9
Guerrero	5.1	4.9
Hidalgo	4.5	4.6
Jalisco	7	6.4
Estado de México	6.4	6.7
Michoacán	6.1	6.6
Morelos	7	7.1
Nayarit	5.2	5.9
Nuevo León	6.6	6.9
Oaxaca	5.7	5.4
Puebla	5.2	5
Querétaro	7.7	8.2
Quintana Roo	6	7.2
San Luis Potosí	6.7	6.1
Sinaloa	5.5	6.2
Sonora	5.5	5.9
Tabasco	4.2	5.3
Tamaulipas	5.7	4.3
Tlaxcala	7.6	7.2
Veracruz	6.4	6.3
Yucatán	6.9	7.6
Zacatecas	5.1	4.7

Sources: Elaborated by the authors based on information from the *Diagnóstico Nacional de Supervisión Penitenciaria 2022*, Comisión Nacional de los Derechos Humanos.

In addition, in 18% of the penitentiaries evaluated the PDF performed activities that corresponded to the authorities; that is, actions of self-government or co-government.

In contrast, the federal CEFERESOS once again had better evaluations than the state centers, as only three scored below seven points. At this level, seven CEFERESOS regressed in their scores with respect to the previous year, while the other six showed improvement. The centers with the highest evaluations were the ones in Sinaloa, Nayarit, and Morelos, all with over eight points. Coahuila, Chiapas, and Durango had the lowest evaluations. The areas of opportunity with greatest incidence at the federal level were:.

**Table 27. Scores assigned to federal penitentiaries on the National Diagnosis of Penitentiary Supervision**

■ 8.0 to 10   ■ 6.0 to 7.9   ■ 0 to 5.9

Federal penitentiaries	Score 2021	Score 2022
Cefereso No. 1 Estado de México	7.2	7.4
Cefereso No. 4 Nayarit	8	8.1
Cefereso No. 5 Veracruz	7.9	7.5
Cefereso No. 7 Durango	6.8	7.6
Cefereso No. 8 Sinaloa	8.1	8.1
Cefereso No. 11, CPS Sonora	6.7	7.4
Cefereso No. 12, CPS Guanajuato	8.1	7.9
Cefereso No. 13, CPS Oaxaca	7.5	7.6
Cefereso No. 14, CPS Durango	7.3	6.9
Cefereso No.15, CPS Chiapas	7.6	6.8
Cefereso No. 16, CPS Femenil Morelos	8.5	7.1
Cefereso No. 17, CPS Michoacán	7.7	7.1
Cefereso No. 18, CPS Coahuila	7.2	6.9
Ceferepsi, Morelos	7.6	8.1

Source: Elaborated by the authors based on information from the *Diagnóstico Nacional de Supervisión Penitenciaria 2022*, Comisión Nacional de los Derechos Humanos.

- Insufficiency or inexistence of work and capacitation activities (85.7%)
- Insufficiency of channels for registering complaints regarding human rights violations (78.6%).
- Insufficiency of the security and custodial personnel (71.4%).
- Insufficiency of programs designed to prevent addictions and support voluntary disintoxication (71.4%).

### Penitentiary population: juridical status

In this section we discuss the juridical status of the PDF held in penitentiaries at the federal and state levels, including the type of jurisdiction under which they are

**Table 28. Population in state penitentiaries classified by type of jurisdiction, legal situation, and sex, to December 2022**

State	State jurisdiction							Federal jurisdiction						
	Total	Men			Women			Total	Men			Women		
		Population	Processed	Sentenced	Population	Processed	Sentenced		Population	Processed	Sentenced	Population	Processed	Sentenced
Aguascalientes	1,886	1,772	37.1%	62.9%	114	42.1%	57.9%	211	190	47.9%	52.1%	21	47.6%	52.4%
Baja California	11,212	10,685	45.3%	54.7%	527	56.2%	43.8%	1,996	1,832	59.7%	40.3%	164	54.9%	45.1%
Baja California Sur	1,124	1,095	42.01%	58.0%	29	58.6%	41.4%	142	130	31.5%	68.5%	12	83.3%	16.7%
Campeche	997	969	24.1%	75.9%	28	39.3%	60.7%	76	70	51.4%	48.6%	6	66.7%	33.3%
Chiapas	4,835	4,611	53.6%	46.4%	224	71.4%	28.6%	223	200	32.0%	68.0%	23	26.1%	73.9%
Chihuahua	7,979	7,668	36.4%	63.6%	311	45.0%	55.0%	862	716	36.7%	63.3%	146	45.2%	54.8%
Ciudad de México	22,806	21,523	26.6%	73.4%	1,283	39.0%	61.0%	2,639	2,466	17.6%	82.4%	173	37.6%	62.4%
Coahuila	4,280	4,051	52.8%	47.2%	229	54.1%	45.9%	24	21	33.3%	66.7%	3	0.0%	100.0%
Colima	864	833	35.7%	64.3%	31	41.9%	58.1%	412	382	49.5%	50.5%	30	63.3%	36.7%
Durango	3,830	3,582	37.1%	62.9%	248	46.8%	53.2%	45	44	13.6%	86.4%	1	0.0%	100.0%
Estado de México	33,199	31,188	30.9%	69.1%	2,011	36.8%	63.2%	1,358	1,208	60.6%	39.4%	150	66.0%	34.0%
Guanajuato	6,779	6,492	34.9%	65.1%	287	48.1%	51.9%	349	293	47.1%	52.9%	56	76.8%	23.2%
Guerrero	3,386	3,214	39.7%	60.3%	172	54.7%	45.3%	639	619	19.7%	80.3%	20	45.0%	55.0%
Hidalgo	4,497	4,187	33.1%	66.9%	310	37.1%	62.9%	288	269	34.9%	65.1%	19	42.1%	57.9%
Jalisco	11,825	11,269	59.8%	40.2%	556	67.3%	32.7%	1,702	1,627	59.7%	40.3%	75	77.3%	22.7%
Michoacán	5,036	4,761	48.0%	52.0%	275	66.2%	33.8%	1,406	1,336	59.4%	40.6%	70	80.0%	20.0%
Morelos	3,509	3,295	32.6%	67.4%	214	31.3%	68.7%	304	295	42.0%	58.0%	9	77.8%	22.2%
Nayarit	2,296	2,182	43.5%	56.5%	114	45.6%	54.4%	26	23	8.7%	91.3%	3	66.7%	33.3%
Nuevo León	8,995	8,554	38.7%	61.3%	441	50.8%	49.2%	726	684	41.8%	58.2%	42	61.9%	38.1%
Oaxaca	3,741	3,611	53.1%	46.9%	130	73.8%	26.2%	84	51	33.3%	66.7%	33	72.7%	27.3%
Puebla	7,755	7,170	57.9%	42.1%	585	67.7%	32.3%	788	738	49.9%	50.1%	50	48.0%	52.0%
Querétaro	2,807	2,635	29.3%	70.7%	172	35.5%	64.5%	199	192	10.9%	89.1%	7	42.9%	57.1%
Quintana Roo	3,327	3,166	64.0%	36.0%	161	77.6%	22.4%	374	345	41.2%	58.8%	29	65.5%	34.5%
San Luis Potosí	2,366	2,251	61.9%	38.1%	115	76.5%	23.5%	180	170	17.1%	82.9%	10	10.0%	90.0%
Sinaloa	3,480	3,377	32.7%	67.3%	103	38.8%	61.2%	643	609	36.6%	63.4%	34	41.2%	58.8%
Sonora	10,129	9,645	31.0%	69.0%	484	34.3%	65.7%	238	138	18.8%	81.2%	100	38.0%	62.0%
Tabasco	4,511	4,316	33.2%	66.8%	195	56.4%	43.6%	61	57	36.8%	63.2%	4	100.0%	0.0%
Tamaulipas	3,492	3,290	30.1%	69.9%	202	44.6%	55.4%	552	528	27.3%	72.7%	24	58.3%	41.7%
Tlaxcala	758	687	75.3%	24.7%	71	81.7%	18.3%	192	186	53.2%	46.8%	6	66.7%	33.3%
Veracruz	6,977	6,540	60.8%	39.2%	437	70.9%	29.1%	255	227	49.3%	50.7%	28	50.0%	50.0%
Yucatán	1,476	1,428	28.50%	71.5%	48	45.8%	54.2%	54	51	45.1%	54.9%	3	0.0%	100.0%
Zacatecas	1,617	1,463	33.8%	66.2%	154	45.5%	54.5%	735	691	23.3%	76.7%	44	20.5%	79.5%
<b>Total</b>	<b>191,771</b>	<b>181,510</b>	<b>39.7%</b>	<b>60.3%</b>	<b>10,261</b>	<b>49.2%</b>	<b>50.8%</b>	<b>17,783</b>	<b>16,388</b>	<b>41.9%</b>	<b>58.1%</b>	<b>1,395</b>	<b>53.5%</b>	<b>46.5%</b>

Source: Elaborated by the authors based on information from the Cuaderno Mensual de Información Estadística Penitenciaria Nacional.



held (state or federal) and whether they are under pretrial detention while their process moves forward, have been sentenced, are being, or were, tried by federal or state judges, and, finally, their gender.

As Table 15 shows, **the number of people held in state penitentiaries was 191,771. Of these, the vast majority –181,510– are being, or were, judged in the common jurisdiction, while only 17,783 corresponded to federal jurisdiction.** One finding that stands out in the common jurisdiction is that the majority of men –six of every 10– have been convicted, while four of every 10, are still under process.

This proportion is very similar to our observations for the previous year. This occurred, as well, in the case of women, as 49.2% were still waiting for their cases to be resolved. Hence, **one of every two women were deprived of their freedom although no verdict had been issued against them**, just as we saw at the close of 2021.

Regarding this situation in federal centers, we found that of the 18,837 PDF only 6.1% were women (1,155). In the common jurisdiction, eight of every 10 men had been sentenced, with only 20.5% of cases still under process. **The situation in the federal jurisdiction was worse,**

**Table 29. Population in federal penitentiaries classified by type of jurisdiction, legal situation, and sex, to December 2022**

State	State jurisdiction							Federal jurisdiction						
	Total	Men			Women			Total	Men			Women		
		Population	Processed	Sentenced	Population	Processed	Sentenced		Population	Processed	Sentenced	Population	Processed	Sentenced
Cefereso No. 1 Estado de México	65	65	38.5%	61.5%	0	-	-	508	508	70.5%	68.7%	0	-	-
Cefereso No. 4 Nayarit	1,001	1,001	25.7%	74.3%	0	-	-	741	741	44.0%	56.0%	0	-	-
Cefereso No. 5 Veracruz	850	850	20.9%	79.1%	0	-	-	920	920	35.1%	64.9%	0	-	-
Cefereso No. 7 Durango	35	35	25.7%	74.3%	0	-	-	126	126	8.7%	91.3%	0	-	-
Cefereso No. 8 Sinaloa	133	133	9.8%	90.2%	0	-	-	425	425	6.6%	93.4%	0	-	-
Cefereso No. 11 CPS Sonora	241	241	22.0%	78.0%	0	-	-	1,959	1,959	43.8%	29.5%	0	-	-
Cefereso No. 12 CPS Guanajuato	495	495	21.4%	78.6%	0	-	-	1,648	1,648	55.9%	56.2%	0	-	-
Cefereso No. 13 CPS Oaxaca	918	918	24.3%	75.7%	0	-	-	913	913	57.0%	44.1%	0	-	-
Cefereso No. 14 CPS Durango	685	685	22.6%	77.4%	0	-	-	1,224	1,224	60.9%	43.0%	0	-	-
Cefereso No.15 CPS Chiapas	970	970	17.8%	82.2%	0	-	-	596	596	47.1%	39.1%	0	-	-
Cefereso No. 16 CPS Femenil Morelos	532	-	-	-	532	18.98%	81.02%	623	0	-	-	623	65.7%	34.3%
Cefereso No. 17 CPS Michoacán	514	514	11.9%	88.1%	0	-	-	754	754	31.6%	68.4%	0	-	-
Cefereso No. 18 CPS Coahuila	727	727	14.7%	85.3%	0	-	-	1,234	1,234	48.8%	51.2%	0	-	-
Ceferepsi, Morelos	72	72	19.4%	80.6%	0	-	-	67	67	31.3%	76.7%	0	-	-
<b>Total</b>	<b>7,166</b>	<b>6,634</b>	<b>20.5%</b>	<b>79.5%</b>	<b>532</b>	<b>19.0%</b>	<b>81.0%</b>	<b>11,671</b>	<b>11,048</b>	<b>47.10%</b>	<b>52.90%</b>	<b>623</b>	<b>65.7%</b>	<b>34.3%</b>

Source: Elaborated by the authors based on information from the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional*.

**Table 30. Legal situation of the population in federal and state penitentiaries, state jurisdiction, to December 2022**

State	Total	Men					Women				
		Population	Processed	%	Sentenced	%	Population	Processed	%	Sentenced	%
Ceresos	191,771	181,510	72,039	39.7%	109,471	60.3%	10,261	5,044	49.2%	5,217	50.8%
Ceferesos	7,238	6,706	1,374	20.5%	5,332	79.5%	532	101	19.0%	431	81.0%
<b>Total</b>	<b>199,009</b>	<b>188,216</b>	<b>73,413</b>	<b>39.0%</b>	<b>114,803</b>	<b>61.0%</b>	<b>10,793</b>	<b>5,145</b>	<b>47.7%</b>	<b>5,648</b>	<b>52.3%</b>

Source: Elaborated by the authors based on information from the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional*.

**Table 31. Legal situation of the population in federal and state penitentiaries, federal jurisdiction, to December 2022**

State	Total	Men					Women				
		Population	Processed	%	Sentenced	%	Population	Processed	%	Sentenced	%
Ceresos	17,783	16,388	6,873	41.9%	9,515	58.1%	1,395	746	53.5%	649	46.5%
Ceferesos	11,738	11,115	5,235	47.1%	5,880	52.9%	623	409	65.7%	214	34.3%
<b>Total</b>	<b>29,521</b>	<b>27,503</b>	<b>12,108</b>	<b>43.0%</b>	<b>15,395</b>	<b>57.0%</b>	<b>2,018</b>	<b>1,155</b>	<b>55.3%</b>	<b>863</b>	<b>44.7%</b>

Source: Elaborated by the authors based on information from the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional*.

as only 52.9% of men had been sentenced, so one of every two were still under process. With respect to women, at the state level only 19% were still under process. At the federal level, as occurred with men, there was a considerable, and worrisome, increase in the proportion of women held under pretrial detention, as 65.7% were found to still be awaiting a verdict.

At the close of 2022, the total number of PDF in the common jurisdiction was 199,009 in federal and state penitentiaries. Of this total, 94.6% were men, and only 5.4% were women. Regarding their juridical status, six of every 10 men had been convicted, while 39% continued in process under the precautionary measure of pretrial detention. The figures for women show a more intense use of pretrial detention, as almost one of every two was deprived of freedom under this legal figure, and only 52.3% had been sentenced.

A similar panorama can be appreciated for the federal jurisdiction, where the population was 29,521, the vast majority of (93.1%) of them men. In this jurisdiction, pretrial detention was also imposed less frequently on

men. In their case, 57% had been sentenced, while the figure for women was just 44.7%. This means that over half of the women deprived of their freedom under federal jurisdiction had not been sentenced.

Considering both jurisdictions, the total PDF population at the close of 2022 was 228,530 people, 215,719 of them men, 12,811 women. In the former case, 39.6% were held under pretrial detention, and 60.4% had been convicted. Among the women, 49.2% were being held under pretrial detention and only 50.8% had been sentenced. Considering both sexes, 40.2% of the PDF were held in penitentiaries even though they had not been convicted of any crime.

### Penitentiary personnel

Penitentiary authorities are in charge of safeguarding the lives, order, and security of the PDF, visitors, and personnel assigned to these prisons, observing at all times the human rights of all. For these attributions to be performed adequately it is essential that a balance exists between the number of security and custodial



personnel and the PDF they supervise and whose physical integrity they safeguard. We now discuss, precisely, the relation between the prison population in federal and state centers and the custodial personnel available in those centers, in each state.

**For the federal penitentiaries, once again in 2022 we were unable to verify the custodial and/or security personnel present at the close of the**

**Table 32. Number of persons deprived of their freedom per custodian in each state, state penitentiaries, to December 2022**

State	Persons deprived of their freedom in CERESOS	Custodians per state in CERESOS	Number of persons deprived of their freedom per custodian
Aguascalientes	2,097	268	8
Baja California	13,208	1,045	13
Baja California Sur	1,266	229	6
Campeche	1,073	112	10
Chiapas	5,058	799	6
Chihuahua	8,841	1,006	9
Ciudad de México	25,445	3,142	8
Coahuila	4,304	177	24
Colima	1,276	250	5
Durango	3,875	413	9
Estado de México	34,557	2,762	13
Guanajuato	7,128	1,470	5
Guerrero	4,025	498	8
Hidalgo	4,785	144	33
Jalisco	13,527	1,227	11
Michoacán	6,442	1,314	5
Morelos	3,813	517	7
Nayarit	2,322	232	10
Nuevo León	9,721	976	10
Oaxaca	3,825	429	9
Puebla	8,543	833	10
Querétaro	3,006	471	6
Quintana Roo	3,701	122	30
San Luis Potosí	2,546	472	5
Sinaloa	4,123	281	15
Sonora	10,367	582	18
Tabasco	4,572	749	6
Tamaulipas	4,044	491	8
Tlaxcala	950	120	8
Veracruz	7,232	543	13
Yucatán	1,530	216	7
Zacatecas	2,352	351	7
<b>National</b>	<b>209,554</b>	<b>22,097</b>	<b>11</b>

**Source:** Elaborated by the authors based on the *Censo Nacional de Sistema Penitenciario Federal y Estatales 2023*, INEGI, and solicitudes of information.

**year.** The response to our solicitude of access to public information to the Organ for Prevention and Social Readaptation (*Órgano de Prevención y Readaptación Social*) of the Department of Security and Citizen Protection (DSCP) (*Secretaría de Seguridad y Protección Ciudadana*, SSPC) stated that this information is classified as 'reserved' because it "compromises public security". Similarly, in the most recent INEGI censuses of penitentiaries this information appears as "not publishable as it is reserved".

Of the state penitentiaries, only those in Hidalgo classified the information on custodial and/or security personnel as 'reserved' for 2022, so for that case we worked with the data from the previous year. Thus, at the close of 2022, those CERESOS had a total of 209,554 PDF, an increase of just 1.6%, and **a total of 22,097 custodians, a slight increase of 2.6%**. Based on these data, **at the national level there was, on average, 11 PDF per custodian.** However, three states –Coahuila, Hidalgo, Quintana Roo– exceeded the recommendation of the NHRC for the maximum number of PDF per custodian of 20. In a more positive vein, Aguascalientes, Puebla, Sonora, and Tamaulipas had the most significant increases in custodial and security personnel compared to the previous year.

## Sentence enforcement judges

Sentence enforcement judges are specialized judicial authorities, in both the federal and common jurisdictions, whose roles include guaranteeing the rights of the PDF, ensuring that convictions are executed, and resolving incidents brought to their attention regarding payment of the reparation of damage, among other attributions. To attend to matters of federal jurisdiction, each CEFERESO must have at least one judge specialized in criminal execution. For 2022, the Council of the Federal Judicature (*Consejo de la Judicatura Federal*) reported the existence of 41 federal centers, equivalent to approximately 720 PDF per sentence enforcement judge, considering the PDF under federal jurisdiction in state and federal centers (29,521 people). In the common jurisdiction, in contrast, the proportion of PDF per sentence enforcement judge was, on average, greater than at the federal level, as the following table shows.

On average, at the national level there was one sentence enforcement judge for every 1,017 PDF, a rather considerable universe. The figures for each state continued to show marked disparities. The states with the highest number of PDF per sentence enforcement judges were Jalisco (3,942), Puebla (2,585), Sonora



**Table 33. Number of persons deprived of their freedom in CERESOS, state jurisdiction, per sentencing judge in each state**

State	Persons deprived of their freedom, state jurisdiction	Judges specialized in penal execution	Persons deprived of their freedom per sentencing judge
Aguascalientes	1,886	2	943
Baja California	11,212	6	1,869
Baja California Sur	1,124	1	1,124
Campeche	997	3	332
Chiapas	4,835	4	1,209
Chihuahua	7,979	18	443
Ciudad de Mexico	22,806	36	634
Coahuila	4,280	3	1,427
Colima	864	1	864
Durango	3,830	3	1,277
Estado de México	33,199	23	1,443
Guanajuato	6,779	9	753
Guerrero	3,386	4	847
Hidalgo	4,497	6	750
Jalisco	11,825	3	3,942
Michoacán	5,036	7	719
Morelos	3,509	5	702
Nayarit	2,296	13	177
Nuevo León	8,995	10	900
Oaxaca	3,741	9	416
Puebla	7,755	3	2,585
Querétaro	2,807	4	702
Quintana Roo	3,327	6	555
San Luis Potosí	2,366	22	108
Sinaloa	3,480	4	870
Sonora	10,129	4	2,532
Tabasco	4,511	4	1,128
Tamaulipas	3,492	4	873
Tlaxcala	758	1	758
Veracruz	6,977	9	775
Yucatán	1,476	3	492
Zacatecas	1,617	4	404
<b>National</b>	<b>191,771</b>	<b>234</b>	<b>1,017</b>

Source: Elaborated by the authors based on the information of the *Cuaderno Mensual de Información Estadística Penitenciaria Nacional* and solicitudes of access to information.

(2,585), Baja California (1,869), and the Estado de México (1,443). The states with the lowest indices in this regard were San Luis Potosí (108), Nayarit (177), Campeche (332), and Zacatecas (404). Note, however, that San Luis Potosí is a special case because the Judicial Power there reported that its 22 sentence enforcement judges

also act as supervising or trial judges, a circumstance *not* shared by the other states.

Although there is no standard in law or in agreements emitted by the distinct Judicial Powers at the state level regarding the number of sentence enforcement judges required as a function of the number of PDF, an increase in this personnel in the common jurisdiction is incipient. Most states either reduced or maintained the number of these specialized judges with respect to the previous year. The largest relative increases in the number of judges occurred in Mexico City (12.5%), Nuevo León (25%), Estado de México (35.3%), and Morelos (66.7%). As these data show, the increase in this specialized jurisdictional position has been disparate among the states, even though all were granted the same period to implement the 2008 constitutional reform and, later, the National Law of Criminal Execution (NLPE).

### Post-criminal services

Post-criminal services include the support that authorities provide to facilitate the social reinsertion of people released from penitentiaries, ensure they can have dignified lives, and prevent recidivism. The objective of these services is to create spaces for orientation and personal development related to work, culture, education, society, and training. The provision of these services is regulated by only one article of the NLPE (no. 207), which obliges the co-responsible authorities,<sup>42</sup> in coordination with the unit in charge of post-criminal services of the penitentiary authority, to establish centers of attention and networks of post-criminal support.

Likewise, the NLPE binds the co-responsible and penitentiary authorities, through interdepartmental commissions, to organize, design, and implement programs for reinsertion services inside the penitentiaries, complemented by post-criminal services at the federal level and state levels.<sup>43</sup> These commissions must be headed by Secretarías de Gobierno. However, as has been documented, in general these commissions rarely hold regular sessions (at least once a year), and lack specific budgetary allotments to carry out their attributions.<sup>44</sup> Records at the close of 2022 show that 30 states had installed an interdepartmental commission; the exceptions were Quintana Roo and Tamaulipas.

<sup>42</sup> The co-responsible authorities are, in terms of Article three, fraction II, of the LNEP, the Departments of State, Social Development, Economy, Public Education, Health, Labor and Social Prevision, and Culture, and the National Commission of Physical Culture and Sports, National System for the Integral Development of the Family, and Executive Secretariat of the National System for the Integral Protection of Girls, Boys, and Adolescents, and their equivalents in the states.

<sup>43</sup> Article 7, *Ley Nacional de Ejecución Criminal*.

<sup>44</sup> CEA Justicia Social. *La reinserción social comunitaria en México: diagnóstico, recomendaciones y rutas de acción, 2021*, p. 11.



Table 34. Status of post penal services

State	Has an area/organism specialized in post penal services	Has some follow-up program for the persons freed and released	Accords with the public sector to provide post penal services	Accords with the private sector to provide post penal services
<b>Federation</b>	<b>Comision Intersecretarial for the Reinserción Social and Servicios Post Penal and the Dirección General of Reinserción Social</b>	<b>No</b>	<b>No</b>	<b>No</b>
Aguascalientes	Comision Intersecretarial de Ejecución Penal del Estado de Aguascalientes, Dirección General de Reinserción Social	Yes	No response	No response
Baja California	Comision Estatal del Sistema Penitenciario de Baja California, Departamento de Servicios Postpenales	Yes	Yes	Yes
Baja California Sur	Comision Intersecretarial de Ejecución Penal del Estado de Baja California Sur	No response	No response	No response
Campeche	Comision Intersecretarial de Autoridades Corresponsables para la aplicación de la Ley Nacional de Ejecución Penal	No	No	No
Chiapas	Comision Intersecretarial del Sistema Penitenciario y Servicios Postpenales en el Estado de Chiapas, Coordinación Postpenal	Yes	Yes	No
Chihuahua	Comision Intersecretarial de Reinserción y Servicios Pos-Penales del Estado of Chihuahua	Yes	No response	No response
Ciudad de México	Comision Intersecretarial de Reinserción Social de los Centros Penitenciarios y de Servicios Postpenales de la Ciudad of México, Instituto de Reinserción Social	No response	No response	No response
Coahuila	No	No	No	No
Colima	Comision Intersecretarial para la Reinserción Social y Servicios Post-Penales en el Estado de Colima, Dirección General del Sistema Estatal Penitenciario	No	No	Yes
Durango	Comision Intersecretarial del Sistema Penitenciario y Direccion General de Ejecución de Penas, Medidas de Seguridad, Supervisión of Medidas Cautelares y de la Suspensión Condicional del Proceso	No	No	No
Estado de México	Comision Intersecretarial de Ejecución Penal del Estado de México	Yes	Yes	No
Guanajuato	Comision Intersecretarial de Reinserción Social de Ejecución de Penas, Unidad de Servicios Postpenales	Yes	Yes	Yes
Guerrero	Comision Intersecretarial del Sistema Penitenciario del Estado de Guerrero	No	Yes	No
Hidalgo	Comision Intersecretarial de Reinserción Social del Estado de Hidalgo	Yes	No response	No response
Jalisco	Comision Intersecretarial del Sistema Penitenciario, Secretaría de Seguridad Pública	Yes	No response	No response
Michoacán	Comision Intersecretarial Consultiva del Sistema Penitenciario del Estado de Michoacán de Ocampo, Jefatura de Servicios Postpenales y de Ejecución de Sanciones Alternas	Yes	No	No
Morelos	Comision Interinstitucional de Autoridades Corresponsables para el Cumplimiento de la Ley Nacional de Ejecución Penal en el Estado de Morelos, Dirección General de Reinserción Social	No response	No response	No response
Nayarit	Comision Intersecretarial de Reinserción Social, Unidad de Servicios Postpenales	Yes	Yes	No
Nuevo León	Comision Intersecretarial de los Sistemas Penitenciarios, Justicia Penal para Adolescentes	Yes	No response	No response
Oaxaca	Comision Intersecretarial de Ejecución Penal del Estado de Oaxaca, Patronato de Ayuda para la Reinserción Social (Órgano Administrativo Desconcentrado)	Yes	No	No
Puebla	Comision Intersecretarial de Reinserción Social del Estado de Puebla	Yes	No	No
Querétaro	Comision Estatal del Sistema Penitenciario de Querétaro (Dirección de Reinserción Social)	Yes	Yes	Yes
Quintana Roo	No	No	No	No

Table 34. Status of post penal services (cont'd)

State	Has an area/organism specialized in post penal services	Has some follow-up program for the persons freed and released	Accords with the public sector to provide post penal services	Accords with the private sector to provide post penal services
San Luis Potosí	Unidad Jurídico Laboral de la Dirección General de Prevención Y Reinserción Social	Yes	Yes	No
Sinaloa	Comisión Intersecretarial para el cumplimiento y aplicación de la Ley Nacional de Ejecución Penal, Dirección de Prevención y Reinserción Social	No	Yes	No
Sonora	Comisión Intersecretarial para la Reinserción Social y Servicios Postpenales del Estado de Sonora	No	No	No
Tabasco	Comisión Intersecretarial para la Reinserción Social y Servicios Postpenales del Estado de Tabasco, Dirección General del Sistema Penitenciario State (Unidad de Servicios Post Penales)	Yes	No	No
Tamaulipas	No response	No response	No response	No response
Tlaxcala	Comisión Intersecretarial del Sistema Penitenciario del Estado de Tlaxcala	Yes	No response	No response
Veracruz	Comisión Intersecretarial del Sistema Penitenciario en Veracruz, Instituto de Reinserción Social	Yes	Yes	Yes
Yucatán	Comisión Intersecretarial para la Reinserción Social del Estado de Yucatán, Dirección de Servicios Post Penales	Yes	No response	No response
Zacatecas	Comisión Intersecretarial de Reinserción Social	No	Yes	No

Source: Elaborated by the authors based on solicitudes of access to information.

Most of these interdepartmental commissions were installed around 2017, though there are some exceptions, like Chiapas, which issued an agreement to create the state commission on February 9, 2022. In states like the Mexico City, Estado de México, Guanajuato, Michoacán, and Tlaxcala, six years have transpired since the establishment of their commissions (2017), but this time has not translated into a greater availability of information on their activities, performance, or the results of their sessions in the past year. This means that **the passing of time has not fostered the consolidation of these commissions; in fact, it seems that changes in government have had a negative impact on their continuity.** For example, the Interdepartmental Commission for Social Reinsertion of the Penitentiary Centers and Post-criminal Services of Mexico City was created in May 2017, but after a change of government it ceased to hold sessions. Now renamed the Institute of Social Reinsertion, it is responsible for performing follow-up on interinstitutional collaboration. Meanwhile, 17 states indicated that their post-criminal services are provided by the penitentiary authority, typically through their Offices or Departments of Social Prevention and Reinsertion.

Thus, **although virtually all states have installed interdepartmental commissions, at the close of 2022 only 19 had a plan or program for providing post-criminal services for the persons released from, and living outside, their penitentiaries.** Furthermore, among these states, the types of plans or programs appear to vary markedly. Some states reported having structured plans and programs, but others indicated that they had only isolated work or support activities. Finally, we were unable to obtain information on programs or collaboration agreements for the states of Tamaulipas and Morelos because it was classified as 'reserved'.

In summary, only 11 states had celebrated some kind of collaboration agreement with other public institutions to provide post-criminal services, and only five accords of this kind were forged with the private sector, despite the fact that the NLPE obliges the authorities to reach collaboration agreements with public and private institutions to channel the people who are released from, or are living outside, penitentiaries.



## CHAPTER 4

# Structural causes of the behavior of criminal justice

## Causes of an institutional nature

To achieve our goal of analyzing the capacity of the criminal justice system, we adopted the methodology of *Systems analysis*, which entails carefully scrutinizing a system and its constituent parts; in other words, breaking that system down into individual units to dissect the various problems linked to it. This allowed us, first, to develop a clearer conceptual definition of the situations that interested us.<sup>45</sup>

In each state, the CJS is made up of six organizations that pertain to two powers, plus the federal CJS.<sup>46</sup> However, it is possible to conceive a second subdivision of the system's components, one that allows them to be

identified as *inputs*, *objectives*, and *risks*. This approach posits that the organizations that make up the system have *inputs* at their disposal that may vary in terms of quantity and quality, and can be utilized to pursue institutional *objectives* through specialized processes that we describe in the following paragraphs.<sup>47</sup> Finally, the processes that organizations conduct face certain *risks* that can become obstacles to system functioning and limitations on its scope relative to the procuration of justice.

Understanding the CJS in this way enabled us to describe how related elements are organized to accomplish concrete proposals, but without the need to elaborate a complete description of each element at every moment. Although the elements form "an interconnected

<sup>45</sup> *Encyclopedia of Operations Research and Management Science*, 3rd Edition, Springer Reference, p. 1,523.

<sup>46</sup> Police (state, municipal, or some federal forces); Attorney Generals' offices; Public Defenders' offices; Victims Commissions; Judicial Powers; System of Execution of Sanctions.

<sup>47</sup> The inputs are: sufficient, professional, capacitated personnel; infrastructure and information and communication technologies; juridical framework, and organic structure and management models.

complex of functionally related components”,<sup>48</sup> each one with inputs, processes, and outcomes (products), at the more detailed, fundamental level where *Systems analysis* operates the elements are usually treated as ‘black boxes’. This methodology makes it possible to maintain a high level of abstraction by describing what enters into, and exits from, each box, setting aside the concrete activities that occur inside each one.

An additional advantage of the approach proposed herein is that it allowed us to identify conceptual components that not only appear in each one of the six organizations, but can be analyzed in both an aggregate manner at the systemic level and in a more disaggregated, focalized fashion in the case of specific institutions of the organizations that compose the system. As the following sections show, the exposition in this chapter benefits from this flexibility.

Below, we present the more general version of the *systems analysis* of the PJS as an introduction. This integral analysis of the PJS is based on the elements that condition and habilitate the adequate operation of its components. These factors are related to five broad institutional objectives that are desirable for each institution that forms part of the C JS:

- Technical coordination
- Optimization of budgetary resources
- Integral planning
- Registering, processing, and reporting information
- Monitoring and evaluation

Achieving these objectives requires, ideally, inputs that are adequate in terms of quantity and quality, dedicated institutions, and specialized processes. The inputs that habilitate these objectives are:

- Legal framework
- Sufficient, professional, capacitated personnel
- Information and communication infrastructure and technologies
- Organic structure and management models

Before continuing, it is important to clarify that in line with the conventions of the methodology of *systems analysis* we chose the names *input*, *objective*, and *risk* as the bases of the conceptual breakdown proposed. Throughout the *Hallazgos* series –until this edition– we called the inputs *conditioners* and the institutional objectives *facilitators*, and analyzed them separately.

**Table 35. Inputs, institutions, and processes necessary to achieve institutional objectives**

Inputs	Institution	Specialized processes and products	Institutional objective
• Legal framework	interinstitutional coordination	Protocols for collaborative action	Technical coordination
• Personnel sufficient, professional and capacitated	Administration and finances	Programs to assign and distribute human, material and financial resources	Optimization of resources
• Infrastructure and information and communication technologies	Strategic planning	Strategic, operating, and budgetary plans	Integral planning
• Organic structure and management models	Information management	System for recording, classifying, and disseminating Information	Recording, processing, and reporting of information
	Follow-up and evaluation	Mechanisms for measurement, analysis, and feedback	Monitoring and evaluation

But for this report we decided to analyze them conjointly since they form part of one organizational process that, with more or less success, makes it possible to accomplish the five institutional objectives and, in the end, provide and procure a better quality of justice for the citizenry.

In what follows, we describe in detail our application of *systems analysis* to the PJS. First, we discuss the various inputs at the systemic level. When necessary, we pause the discussion to examine concrete examples of the challenges that the C JS confronts regarding the sufficiency and quality of these inputs at the level of organizations or institutions. After that, we analyze each one of the institutional objectives, before going on to present the ranking of the C JS that summarizes our measurement of the inputs and institutional objectives based on the information gathered from the six organizations of the C JS in each state through solicitudes of information. The analysis ends with an examination of the risks that the system confronts as a whole and at the organizational level.

<sup>48</sup> Churchman et al., *Introduction to Operations Research*, 1957, p. 7.



## Inputs

For our purposes, the concept of inputs encompasses the elements without which none of the institutions in the six organizations of the C JS in each state could perform their functions (see Table 22). While, without doubt, counting on the best and highest quality in each of these elements does not guarantee, in and of itself, that the institutions or system will achieve better results, the absence of any one certainly ensures the impossibility of doing so.

With respect to the *normative framework*, it is essential that this be complete, functional, and coherent with the principles of the PJS. This input places limits on the performance of the public functionaries who form part of the institutions, keeping in mind that their activities are circumscribed to what the law permits. The factor of human capital (*personnel*) is equally essential, as it is imperative to have a team of employees that is adequate in number, capacitation, abilities, and all conditions necessary for them to perform their roles efficiently.<sup>49</sup>

The third requirement is an *infrastructure* that is adequate for carrying out the labors of the institutions. This includes the necessary equipment and appropriate technological solutions in the area of information and communication technologies (ICT). Finally, the *organizational structure and management model*<sup>50</sup> must provide the conditions necessary for conducting the processes that make it possible to accomplish the institutional objectives.<sup>51</sup>

We now proceed to describe each input in detail, together with key aspects of their consequences for the six organizations that make up the CJS in each state. This discussion is complemented by illustrative examples of the scope and limits of the current configuration of inputs in the existing institutional framework.

## Legal framework

The legal framework establishes the organization, faculties, and obligations of the various actors of the C JS. It is the first condition that habilitates the existence and functioning of the system itself. For this reason, it is

fundamentally important to understand the nature and scope of the modifications it underwent in 2022. In that year, the main change that affected the C JS was the incorporation of the National Guard.

### *Normative uncertainty and an ongoing process of militarization*

The Department of Security and Citizen Protection (*Secretaría de Seguridad y Protección Ciudadana*) of the Federal Public Administration forms part of the C JS. Therefore, the various corporations of federal police assigned to it, and to other federal departments that anteceded it in its functions in previous six-year administrations, have also been integrated into the system.

Needless to say, if one of the system's institutions experiences normative uncertainty, its capacity to achieve the institutional objectives and, ultimately, its specific contribution as a gear in the machinery of the PJS, will be undermined. This is precisely what has occurred year after year in the current six-year administration, due to the federal government's zigzags regarding the assignation of the National Guard.

Reader may recall that on June 15 2021, President Andrés Manuel López Obrador announced his intention to formally assign the National Guard to the Department of National Defense (SEDENA). A year later, in an official act to celebrate the third anniversary of the National Guard, he stated that another constitutional reform was "necessary" to remove the Guard from the DSCP and transfer it to SEDENA. However, since it proved impossible to make this change through a constitutional reform, on August 9 2022, the President announced that he would issue a decree to transfer the National Guard to SEDENA. A month later, on September 9 2022, that decree was approved by the Senate, officially transferring administrative and operational control of the National Guard to SEDENA.<sup>52</sup> This meant that the Guard no longer existed as a civil organization but was incorporated into the nation's Armed Forces (one result, among others, was that formation and training would have perspectives distinct from those of a police force).

<sup>49</sup> Achieving this requires a capacitation program institutionally adjusted to the preestablished model. Capacitations must include objectives and evaluations, and be given in the framework of a certification system. Ideally, they would include Professional Career Service, as is contemplated in law, and current in practice, that is incorporated into the processes of entry, capacitation, certification, promotion, and dismissal of functionaries.

<sup>50</sup> They must have the following qualities: flexibility, adaptability to conditions, and requirements for each context. This demands a complete, compatible territorial coverage with other institutions, adequately defined job descriptions in accordance with needs, an area for the ongoing improvement of processes and services at each institution that documents and disseminates good practices and foment innovation, as well as functional mechanisms of internal control.

<sup>51</sup> In the strict sense, the organic structure and management model could be considered as more than an input, as they form part of the technology that makes it possible to combine inputs as elements of a process designed to achieve a goal. The same could be said of the normative framework. Hereinafter both will be considered elements of the inputs without delving into this distinction since, we recognize, this would not contribute to the basic topics of discussion in this chapter.

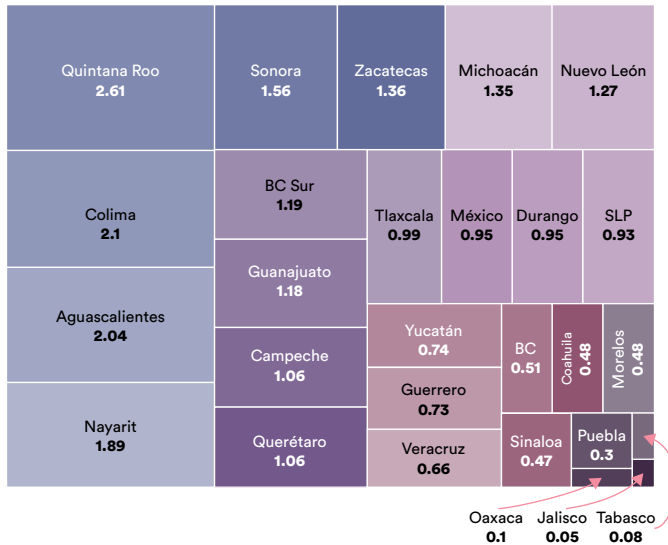
<sup>52</sup> [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5664065&fecha=09/09/2022#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5664065&fecha=09/09/2022#gsc.tab=0)

Finally, in April 2023, the Supreme Court rejected the Executive Branch decree, but one day after it issued its resolution, the President announced that in 2024 he would send a new initiative for reform to accomplish his goal. It is important to understand here that assigning the National Guard to SEDENA would allow the provisional and extraordinary involvement of the Armed

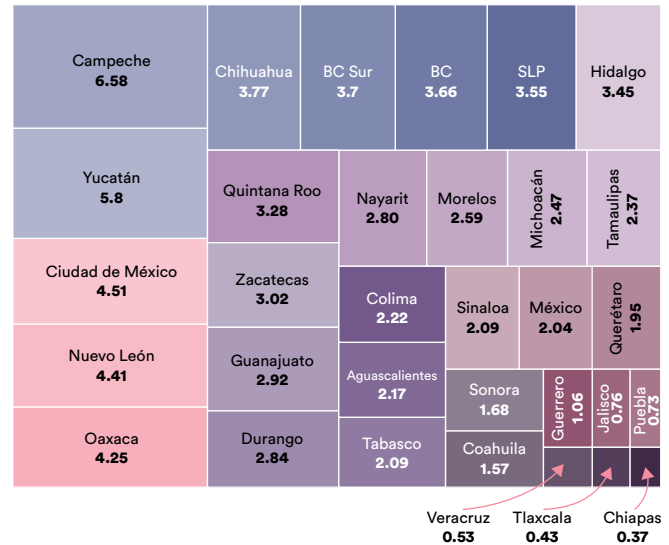
Forces in tasks of public security.<sup>53</sup> This also signaled the intention to continue weakening all policies designed to strengthen local police forces (here, we must recall that the constitutional reform stipulated that the governors of the 32 states had to present a diagnosis of, and program for, strengthening their state and municipal police corps<sup>54</sup>).

### Graph 42. Rate of personnel per 100,000 inhabitants

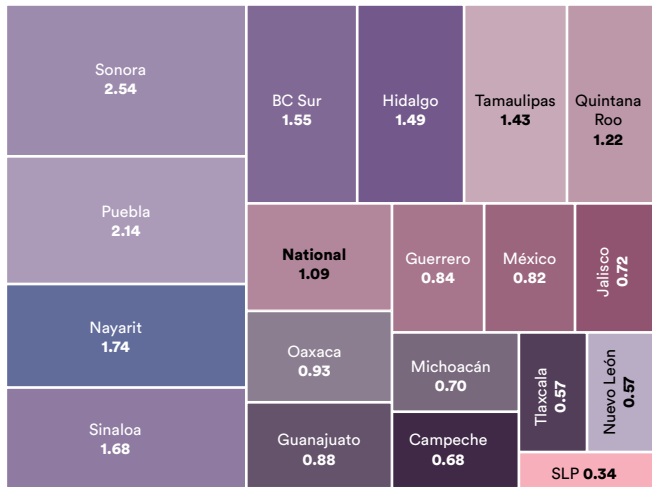
**Rate of victims advisors per 100,000 inhabitants by state**



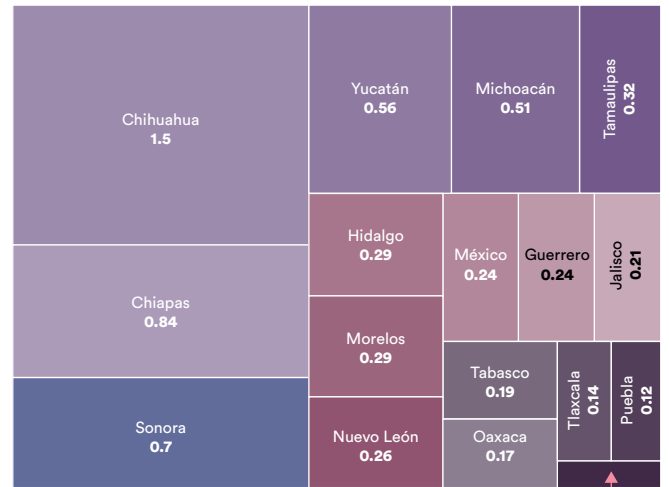
**Rate of public defenders per 100,000 inhabitants by state**



**Rate of facilitators in Attorney Generals'/Prosecutors' offices per 100,000 inhabitants by state**



**Rate of facilitators in the Judicial Power per 100,000 inhabitants by state**



\*In November 2023, the data on facilitators in Guanajuato was updated.

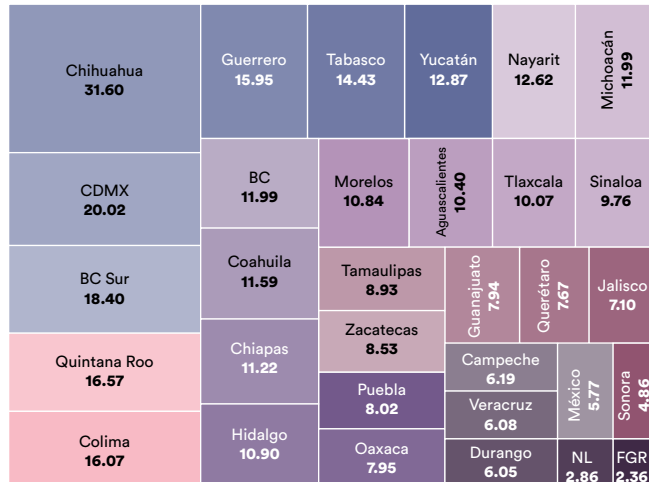
<sup>53</sup> Artículo Quinto Transitorio de la reforma constitucional en materia de Guardia Nacional, published in the *Diario Oficial de la Federación*, 26 March 2019.

<sup>54</sup> Artículo Sexto Transitorio de la reforma constitucional en materia de Guardia Nacional, published in the *Diario Oficial de la Federación*, 26 March 2019.

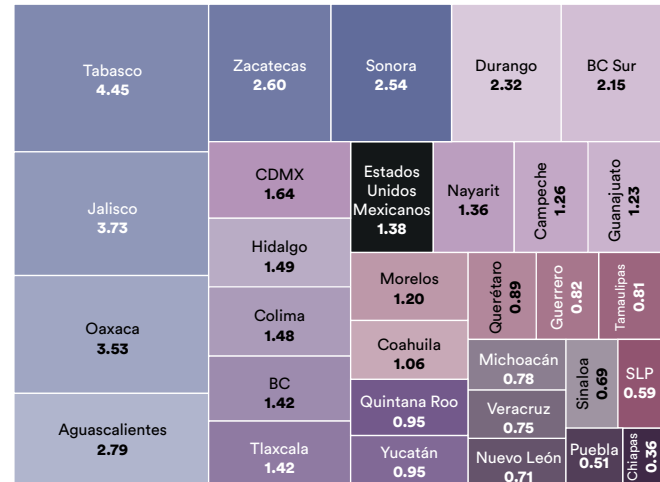


## Graph 42. Rate of personnel per 100,000 inhabitants (cont'd)

**Rate of Attorney Generals'/Prosecutors' offices per 100,000 inhabitants by state**

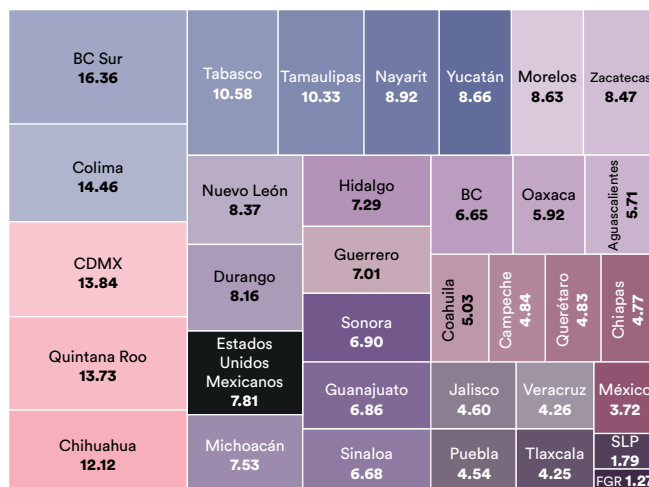


**Rate of judges per 100,000 inhabitants by state**



Source: Elaborated by the authors based on CONAPO's *Proyecciones de Población* and solicitudes of information | @mexevalua.

**Index of Science Crime Investigators per 100,000 inhabitants by state**



### Sufficient, professional, capacitated personnel

There are certain minimal conditions that the personnel of institutions must satisfy in order to achieve institutional objectives. These include the professionalization and capacitation of staff that are adequate in number.

Various domains of public administration have issued calls to professionalize public servants as a way to resolve systemic vices –for example, corruption– and

give citizens greater certainty. Despite the numerous benefits that such an enterprise would bring, Civil Service (CS) (*Servicio Profesional de Carrera*, SPC) still appears rarely in institutions and has focused on entry level staff, thus perpetuating a continual rotation of personnel.

Regarding the C JS, only 19 states indicated that they offered this service, even though article 51 of the General Law of the National Public Security System (*Ley General del Sistema Nacional de Seguridad Pública*) establishes that the institutions of the procuración de justicia are obliged to have a 'departmental career service'. As occurs in other areas of public administration, the few professional services that exist in the C JS focus on entry level personnel, not on the promotion, evaluation, and recognition of in-service public servants.<sup>55</sup>

### Sufficient personnel

The number of agents in Prosecutors' offices, experts, judges, and victim's counsellors has a significant impact on the system's capacity to attend to users and on the quality of its responses. Although there is no standard rate for the personnel required for the adequate operation of the C JS, we observed important divergences among the states in the proportion of operators. To provide a complete panorama of the situation in the country, both the censuses conducted by the INEGI and information requests proved very useful.

55 Mauricio Dussauge. "The Challenges of Implementing Merit-Based Personnel Policies in Latin America: Mexico's Civil Service Reform Experience". *Journal of Comparative Policy Analysis* 13, no. 1 (2011).

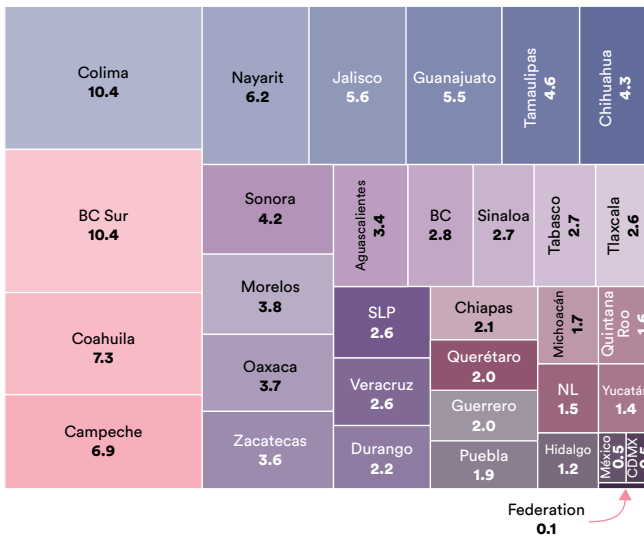
### Infrastructure and information and communications technologies

This section deals, specifically, with the territorial distribution of the institutions that make up the system, and the materials available to them to perform their functions.

We begin with the rate of Prosecutors' offices per 100,000 inhabitants as this constitutes the usual 'entrance' to the CJS. Their distribution thus indicates the degree to which justice is accessible to people. What we observed for 2022 was a rate of 2.9 offices for every 100,000 inhabitants, 3.5% more than in 2021, when the national average was 2.8. Mexico City (0.51) and Estado de México (0.46) maintained the lowest rates among the states, while Baja California Sur (10.39) and Colima (10.38), despite registering decreases, continued as the states with more offices per 100,000 inhabitants.

For this edition of *Hallazgos*, we also analyzed the infrastructure of the expert services that play a fundamental role in criminal investigations. The analyses that these services perform are limited by the technologies and installed capacity available. The number of laboratories registered was 974, 56% of them concentrated in Attorney General's offices. We observed a slight increase from 2021, when 965 laboratories were registered nationally. Records showed 1,059 examination tables in forensics laboratories, while the

### Graph 43. Rate of Prosecutors' offices per 100,000 inhabitants, by state



Source: Elaborated by the authors based on CONAPO's *Proyecciones de Población* and solicitudes of information | @mexevalua.

### Table 36. Installed capacity available in Science Crime Investigators Units, by state

State	Amphitheatres	Autopsy tables	Laboratories
Aguascalientes	1	4	6
Baja California	3	12	22
Baja California Sur	14	7	9
Campeche	5	15	8
Coahuila	5	64	14
Colima	6	11	6
Chiapas	8	18	38
Chihuahua	6	232	26
Ciudad de México	1	8	8
Durango	4	13	7
Guanajuato	6	29	28
Guerrero	0	17	15
Hidalgo	3	6	6
Jalisco	0	46	10
México	23	29	23
Michoacán	20	23	30
Morelos	6	11	28
Nayarit	3	7	8
Nuevo León	3	5	11
Oaxaca	1	5	7
Puebla	14	39	2
Querétaro	6	13	6
Quintana Roo	7	11	5
San Luis Potosí	5	11	5
Sinaloa	9	287	12
Sonora	2	11	20
Tabasco	10	33	22
Tamaulipas	3	17	10
Tlaxcala	5	12	6
Veracruz	21	48	12
Yucatán	4	7	11
Zacatecas	3	8	2
<b>EEUUMM</b>	<b>210</b>	<b>1,059</b>	<b>974</b>
<b>FGR</b>	<b>3</b>	<b>6</b>	<b>551</b>

Source: Elaborated by the authors with data from censuses of the procuration and administration of justice, 2022, INEGI.

figure for the previous year was 1,070, a reduction of 1%. The state with the greatest variation was Colima, where the number fell from 80 to just 11.

### Models of institutional management

We have mentioned the guidelines whose purpose is to help the various operators of the CJS organize their work more efficiently by implementing models that enable them to deploy their resources effectively, manage workloads, and offer responses that are adequate and differentiated.

Currently in Attorney Generals' offices there are two management models: on the one hand, the so-called *three floor* model, on the other, one called *differentiated attention to demand*. The former is utilized more often. It stipulates that each 'floor' consists of a specific operator with her/his own activities, responsibilities, and goals, but also insists that all operators must strive to collaborate with those on the other floors and the various areas of operation to obtain optimal results in their investigations.

The *differentiated attention to demand* model, in contrast, focuses on distinguishing, and attending to, the diverse needs of the people who come to Prosecutors' offices in a differentiated, personal, specialized, and immediate manner. It is based on classifying people's needs in relation to four groups of crimes or demands. This model is applied in Querétaro.

In the case of public defenders' offices and Victims Commissions, we identified management documents that formalize their operations. It was not surprising to learn that these institutions show a clear tendency toward a more reactive type of functioning with responses that center on conjunctural situations.

## Institutional objectives

Although objectives contribute to the stability and performance of all organizations individually, they are important from *Hallazgos* perspective because they allow each element of the framework to perform its role in ensuring that the system procures justice that is adequate, prompt, and expeditious.

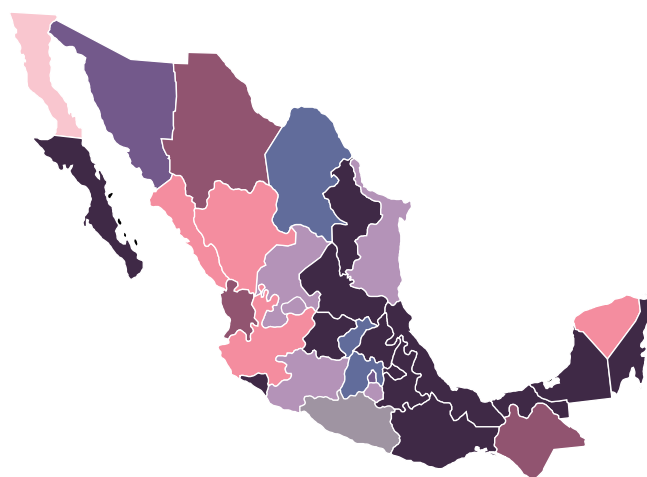
### Technical coordination

The adequate functioning of the CJS requires important efforts among its constituent institutions to accomplish shared goals and objectives. We now examine the elements that make those efforts possible.

#### *Map: The institutions of technical coordination*

In *Hallazgos 2021* we concluded that the institutions of technical coordination suffered from a lack of clarity and central focus, despite their important role in the functioning of the CJS. After reviewing the results of our request of information and other available sources, we can confirm that this conclusion is still valid. The institutions of technical coordination play an essential role in articulating efforts to achieve the consolidation and improvement of the CJS at the local level. In this sense, coordination among the states is necessary for

## Map 1. Assignment of the institutions/offices/units of articulation of criminal justice system



**Source:** Elaborated by the authors based on maps from the UASJ, data obtained through solicitations of public information and a review of the official pages of the states.

dialogue among institutions and domains of government, for establishing shared objectives and goals, and for performing follow-up on them. If the system lacks efforts to articulate and promote dialog and collaboration, the institutions will continue to be nearsighted in their diagnoses and limited in the solutions they can offer.

Despite the importance of these measures, the majority of state coordination institutions of the CJS only have faculties as spaces of communication and follow-up on agreements, but lack faculties of *coordination per se*. **Their attributions allow them to act as links among diverse institutions, but very few institutions can design, implement, and evaluate actions to foster the ordered, harmonious performance of all the institutions involved in criminal justice.**

We were unable to find evidence on websites, or through requests of information, to determine whether all 32 states had some institution for articulating criminal justice in 2022. It seems, in fact, that no institution exercised this function in Michoacán, Tamaulipas, and Zacatecas, while Guanajuato, Morelos, and Nayarit re-installed their commissions through agreements and a pact, though we infer that these juridical instruments gave them very

little institutional stability and empowerment. Moreover, for most states we were unable to find evidence of any recent work by these institutions, surely a reflection of their poor levels of accountability and transparency in relation to the wider society.

Regarding the other states, while most have coordinating institutions, this does not mean that their characteristics and scope are similar. In fact, quite the opposite is true. What we observed, as in so many other topics related to Mexican federalism, is a huge disparity among states. For example, while Baja California Sur and Querétaro have broad, specialized structures and organizations, the organization for Tabasco shows only one person, while the coordinating institutions in Colima and Tlaxcala consist of just two individuals.

### Index of the Institutions of Technical Coordination (ITCO)

To analyze whether the Institutions of Technical Coordination (ITCO) (*Instancias de Coordinación Técnica*, ITCO) have the faculties to conduct inter-

institutional coordination efficaciously, from the 2019 issue of *Hallazgos* we have constructed the ITCO index to measure the four principal axes<sup>56</sup> of technical coordination, as follows:

- *Coordination and articulation.* This axis includes horizontal coordination among the operating institutions of the CJS, and vertical articulation with the federal and municipal levels of government.
- *Planning, budget, monitoring, and evaluation for technical coordination.* This axis covers planning, budget design, follow-up and monitoring, and evaluation and diagnosis.
- *Facilitators of technical coordination.* This axis includes capacitation, infrastructure, information systems, and databases.
- *Normativity for technical coordination.* This axis considers the homologation of criteria, agreements and guidelines, and proposals for modifying the normative framework.

**Table 37. ITCO (Index of the Institutions of Technical Coordination)**

State	Axis 1: Coordination and articulation	Axis 2: Planning, budget, monitoring, and evaluation for technical coordination	Axis 3: Facilitators of technical coordination	Axis 4: Normativity of technical coordination	ITCO
<b>National</b>	<b>0.5000</b>	<b>0.3409</b>	<b>0.2273</b>	<b>0.2879</b>	<b>33.9015</b>
Querétaro	1	1	1	1	100
Coahuila	1	0.5	0.75	1	81.25
Estado de México	1	1	0.25	0.5	68.75
Baja California Sur	0.5	1	0.25	1	68.75
Colima	1	0.5	0.75	0.5	68.75
Veracruz	1	0.75	0.5	0.5	68.75
Baja California	1	0.5	0.5	0.5	62.5
Hidalgo	0.5	1	0.5	0.5	62.5
Chihuahua	1	0.75	0.5	0	56.25
Jalisco	0.5	0.5	0.25	1	56.25
Chiapas	1	0.25	0.25	0.5	50
Guanajuato	0.5	0.75	0	0.5	43.75
Nayarit	1	0.5	0.25	0	43.75
Nuevo León	0.5	0.5	0.25	0.5	43.75
Tlaxcala	0.5	0.5	0.25	0.5	43.75
Puebla	1	0	0	0.5	37.5
Yucatán	0.5	0.5	0.5	0	37.5
Sinaloa	0.5	0.25	0.5	0	31.25
Federación	0.5	0.25	0	0.5	31.25
Durango	0.5	0.25	0.25	0	25
Ciudad de México	0.5	0	0	0	12.5
Quintana Roo	0.5	0	0	0	12.5

<sup>56</sup> Each axis is measured by means of binary variables that show if the ITCO does, or does not, have the characteristic required for its correct functioning. If the ITCO has the characteristic then the value of 1 is assigned, if not, the value is 0. The score for each axis corresponds to the average score obtained for each one of the variables that integrate it.

The ITCO reproduces the model of analysis of the CJS, with the inputs and institutional objectives elucidated at the beginning of this chapter, but at a lower level of disaggregation and focused exclusively on the institutions of technical coordination. This is so because the same institutional objectives and inputs that are desirable for the PJS as a whole, and that are necessary for each organization in the system to perform its functions, are equally essential for every area inside each organization to fulfill the responsibilities entrusted to it.

For the 2022 analysis, certain changes were made to the ITCO because some state institutions of technical coordination were re-installed –Guanajuato, Morelos, Nayarit– and the normative frameworks of others were modified. Following the tendency observed in 2021, we detected an increase in the faculties for coordination, planning and budget, and facilitators.

### Continuous public planning

The Constitution and the Planning Law (*Ley de Planeación*) mandate the elaboration of development plans to coordinate the efforts of public administration in numerous areas, including criminal justice. However, the National Development Plan 2019-2024<sup>57</sup> does not specify the programs that should be elaborated in this area, nor do we find inter institutional programs of criminal justice in the states. This shows a lack of systematic, long-term planning regarding these matters.

Inter institutional programs of criminal justice are similarly scarce in the states if we are to judge by the responses to our requests of information. Moreover, State Development Planes do not always include topics related to justice, in contrast to the theme of public security, which is ever present in plans and programs.

### Optimization of resources

For the PJS to be successful it is not enough to simply increase its budget, for it is essential that the resources assigned be spent rationally. This requires operations based on results. Unfortunately, we found that the justice sector lacks a systemic vision with clear objectives and goals. As a result, the exercises in operational planning that are necessary for soliciting budgets from state congresses are disarticulated with the consequence that spending tends to be inefficient and inefficacious.

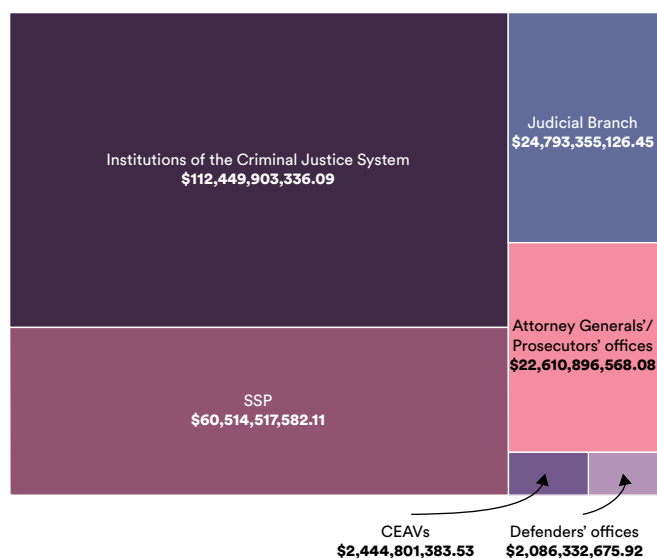
### Budget distribution

The budget assigned in 2022 shows a persistent tendency toward maintaining asymmetries in the PJS. Graph 29 summarizes how the rubric of public security captured 53% of a total budget of \$112,449,903,336.09 pesos, while Prosecutors' and Attorney Generals' offices obtained 20%, Judicial Powers 21%, and public defenders' offices and Victims' Commissions just 2% each.

Such a disparate assignment of resources tends to generate significant disequilibrium among the parties involved in judicial processes, with the result that not only the daily operations of Attorney Generals' offices, public defenders' offices, and Victims Commissions are compromised, but so is any possibility of expanding their capacity.

In previous editions of *Hallazgos* we observed that the variations in the budgets assigned to the different institutions that make up the PJS reflect a lack of a systemic vision. This tendency was corroborated once again for 2022. In summary, there is no rationality in the increases or decreases in the budgets assigned to each institution.

## Graph 44. Distribution of the total budget of the criminal justice system, national level



Source: Elaborated by the authors with data obtained from solicitudes of public information.

<sup>57</sup> Plan Nacional de Desarrollo 2019-2024. *Diario Oficial de la Federación* (DOF, 12/07/2019). [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5565599&fecha=12/07/2019#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5565599&fecha=12/07/2019#gsc.tab=0)

Table 38. Budget variation in real terms, 2021-2022h

State	Public security	Attorney Generals'/ Prosecutors' offices	Defenders' offices	CEAV	Judicial Branch
Aguascalientes	16.16%				3.52%
Baja California		-24.52%	-5.31%		7.74%
Baja California Sur	-76.39%	2.43%	0.08%		
Campeche	-1.57%	-20.40%	22.03%	5539.74%	-90.86%
Coahuila		24.96%	-2.68%	13.97%	
Colima	6.06%				5.66%
Chiapas			-8.53%		-2.50%
Chihuahua			0.91%		20.78%
Ciudad de México	-48.43%		7.9%	-51.14%	
Durango			-10.74%	-16.07%	
Guanajuato	5.78%		-7.25%	591.39%	
Guerrero	11.58%	-1.52%			173.38%
Hidalgo	-93.37%	-88.43%	-4.12%		-1.25%
Jalisco	-0.78%	3.86%	-1.14%		-99.78%
Estado de México		-27.47%	-0.11%	40.16%	-45.93%
Michoacán	-6.60%	-8.75%		107.10%	4.03%
Morelos	-15.97%		2.35%		-0.62%
Nayarit	13.94%	1.42%		31.71%	0.18%
Nuevo León		1.95%		39.66%	17.05%
Oaxaca	-82.98%	-1.59%	5.26%		
Puebla	11.80%	11.95%	245.83%	51.59%	-58.50%
Querétaro	23.98%	-7.41%	-11.50%	-16.58%	
Quintana Roo	53.81%	12.48%		9.06%	-4.84%
San Luis Potosí	-5.36%	-6.76%	-6.60%	-26.72%	-11.57%
Sinaloa	-98.68%	-16.05%	-4.80%	-100.00%	8.66%
Sonora	-0.41%	5.96%	9.03%	562.84%	9.71%
Tabasco	7.50%		-6.82%		-7.67%
Tamaulipas	-69.26%	5.48%			35.20%
Tlaxcala		0.66%		6.11%	-9.03%
Veracruz	-4.42%	-23.38%	-0.80%	-5.41%	-79.62%
Yucatán		10.94%	4.05%	9.98%	-70.08%
Zacatecas	31.41%		14.04%	-24.05%	-50.96%
<b>Federation</b>			<b>136.16%</b>	<b>-0.95%</b>	
<b>National mean</b>	<b>-65.97%</b>	<b>-56.89%</b>	<b>-44.57%</b>	<b>-41.83%</b>	<b>-79.02%</b>

Source: Elaborated by the authors based on solicitudes of information.

### Recording, processing, and reporting information

Information systems are a primordial tool for management, planning, internal control, transparency, and accountability. Thus, the characteristics of these systems can condition, facilitate, or impede the operation of the CJS because they determine its capacity to interconnect various institutions, generate statistics for analyzing the system as a whole, and reduce asymmetries in the information.

Ideally, the recording and processing of information should facilitate the tasks of the various actors of the CJS, as a reflection of coordination and harmony among

institutions. However, normally in Mexico each institution manages its own data without connecting them to those of others. This impedes decision-making and criminal investigation.

### Design of information systems for the criminal justice system

One of the principal problems in terms of developing dependable systems like the ones we have described for the institutions of criminal justice is that federal law limits the use of information systems because it assumes that the institutional usefulness of such technologies does not go beyond 'administrative support services'.<sup>58</sup> Meanwhile, the National Digital Strategy 2021-2024<sup>59</sup> presents an

<sup>58</sup> Ley Orgánica de la Administración Pública Federal, Artículo 20; available at: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LOAPF.pdf>

<sup>59</sup> "Acuerdo por el que se expide la Estrategia Digital Nacional 2021-2024". Diario Oficial de la Federación (DOF, 6/09/2021). [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5628886&fecha=06/09/2021#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5628886&fecha=06/09/2021#gsc.tab=0)



## Graph 45. Degree of sophistication of information systems



Source: Elaborated by the authors with data obtained from solicitudes of public information.

initiative that seeks to improve the use of information systems in public institutions by creating a specific unit for them. This strategy includes promoting the development of information systems based on free software, which would facilitate the creation of a statistical system for criminal justice. Unfortunately, this would require reforming federal law and creating Units of Information and Communications Technologies (UICIT) (*Unidades de Tecnologías de Información y Comunicaciones, UTIC*).

Today, the capacities of the information systems are distributed in the entire set of states, as the Graph shows.

As can be seen, only 50% of the states reported having information systems. Of these, only 34% stated that they had some type of interconnection among the institutions that make up the CJS. The same percentage reported that their information systems allow the digitization of files, while 28% affirmed that they had the capacity to record and consult interinstitutional actions. Federal authorities did not provide the information required to analyze the capacity and sophistication of its systems.

## Ranking the installed capacity of the criminal justice system

To recapitulate: for this edition we decided to analyze the CJS considering what in earlier editions we called *conditioners* and *facilitators*. Thus, in order to construct this ranking we evaluated the level of the installed capacity of the CJS for responding to demand in relation to achieving five objectives and the inputs available to the system to accomplish this, including elements of public policy, budget, personnel, infrastructure, and management models.

**Beginning with this edition of Hallazgos, our objective goes beyond measuring the consolidation of the CJS, to center the analysis on its capacity to (i) respond, and (ii) guarantee rights**, though we continue to measure the levels of development and formalization of each institutional objective. The minimum standard for this measurement was 1,200 points, the ideal score was 1,300.

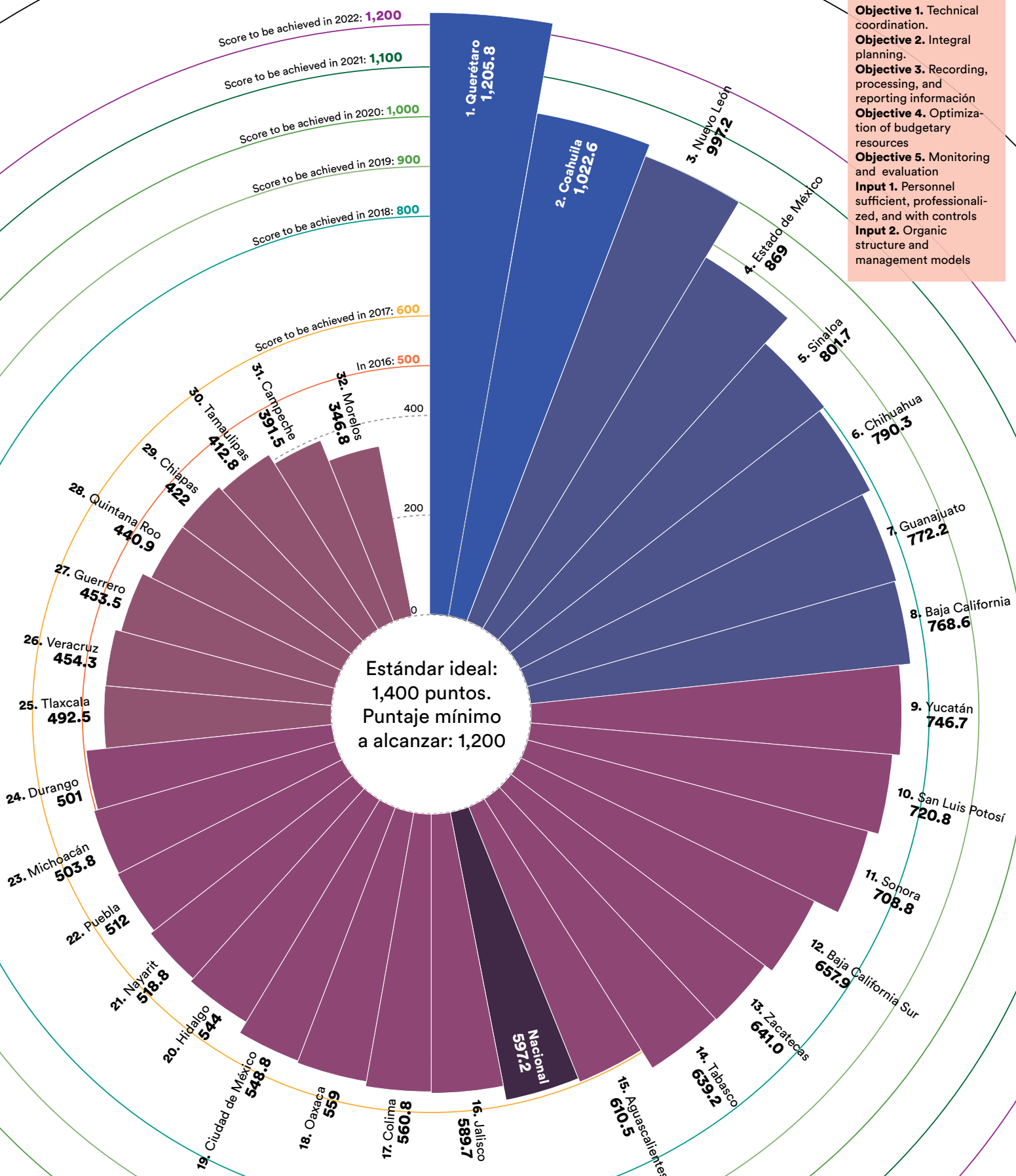
As in previous years, the state of Querétaro earned the best position. The integration of its justice system in the *Cosmos* model continues to be a referent of good practices for other states. Other efforts that stand out are those of Coahuila and Nuevo León, as those states strove to attain a systemic vision of the administration of justice. In this regard, for 2022, in addition to highlighting the sustainability and scope of the initiatives undertaken in Querétaro, it is important to recognize the notable advances in Coahuila, where the practice and definition of a shared agenda revealed significant improvements and great potential for the coming years.

Although Morelos reinstalled its institution of technical coordination in 2022, it still occupied last place in terms of achieving objectives and the quality of inputs. The difference between the scores for Querétaro and Morelos was 264%, a drastic gap that demonstrates what we stated above: **a huge disparity exists among states in their capacity to respond to the demands and principles of the CJS.**

At the federal level we observed an institution that is withdrawn, one whose work has not played a determining role in the planning and evaluation of public policies in the field of criminal justice.

Ideal standard: 1,400

# Ranking of institutional capacity, 2022



**Objective 1.** Technical coordination.  
**Objective 2.** Integral planning.  
**Objective 3.** Recording, processing, and reporting información  
**Objective 4.** Optimization of budgetary resources  
**Objective 5.** Monitoring and evaluation  
**Input 1.** Personnel sufficient, professionalized, and with controls  
**Input 2.** Organic structure and management models

The main feature that stands out in our analysis of the fulfillment of institutional objectives is the lack of technical coordination. As we have said: **the institutions of technical coordination of the CJS in the states are spaces for performing follow-up on agreements, but they lack any true faculties of coordination.** Moreover, inside every institution of the CJS there are only scarce mechanisms of coordination with other institutions or linkages with other agencies, or else the ones that do exist are insufficient to establish a true vision of public policy in this sector. The lack of information systems with the capacity to interconnect institutions is another reflection of this. In summary, today the majority of the institutions of the CJS seem to operate without any systemic logic.

## Causes of a social nature: risks for the criminal justice system

The United Nations Office for Disaster Risk Reduction defines risk as *the probability that a result generates a negative effect on people, systems, or goods.* In the context of the criminal justice system, risks are situations not directly related to the sufficiency of inputs, nor necessarily events that occur on all occasions, but incidents that hinder the functioning of the entire system when they do occur.

In this section, we identify three risks that the CJS confronts: *corruption* as a risk for the operation of the system; *reputational risk*, which concerns the negative perceptions that citizens may have of the system (perhaps because they perceive corruption or ineptitude, or simply because they believe it does not function); and the *risk of system saturation* caused by the occurrence of a large number of crimes. While these risks present permanent threats to the system, there is much that its components can do to mitigate them. We will examine this topic in the next section.

## Operational risk due to corruption in criminal processes

In recent years, one of society's principal demands has been to put an end to corruption to open the way toward a more just society. The CJS has not been oblivious to this demand. In the data of the ENVIPE 2022 we read that a high percentage of the population surveyed *perceives* the authorities of the CJS as corrupt. The INEGI defines corruption as illegal acts through which public servants abuse their functions in order to obtain a benefit for

## Figure 1. Stages of the criminal process where spaces for corruption exist



themselves or their families or friends. In this sense, the problem of corruption is that individual interests take precedence over benefits for society as a whole.

The capture for corruption and due to their intrinsic inability to produce public good, corruption becomes a public problem that must be combatted. But for the CJS the negative implications of corruption go beyond this. Potential corrupt acts constitute an operational risk for the system because their occurrence impedes the labors of several institutions: in short, corruption impedes the adequate conduction of processes and results in a waste of resources, time, and effort.

If this type of risk persists it is because corruption is an extremely difficult phenomenon to measure, given its multiple manifestations and the discretionary nature



of the actions of those who commit it. To examine this topic, we discuss key moments of criminal processes and decision-making that open windows onto corruption.

The NCPP regulates how crimes must be investigated, judged, and punished in Mexico, including acts considered corrupt when they are typified. All the people and institutions that participate in the criminal process –the offended party or victim, the accused person, the defense, prosecutors, police, and judges, and magistrates– are obligated to act honestly and avoid dilatory actions.<sup>60</sup> Judges and magistrates must ensure that processes are fair and regular; prosecutors must act in strict accordance with the juridical framework and provide factual information on events and the findings of their investigations, and must not occult any element that might favor the position of any of the parties.<sup>61</sup> Figure 1 shows the spaces where the risk of corruption is present in the criminal process.

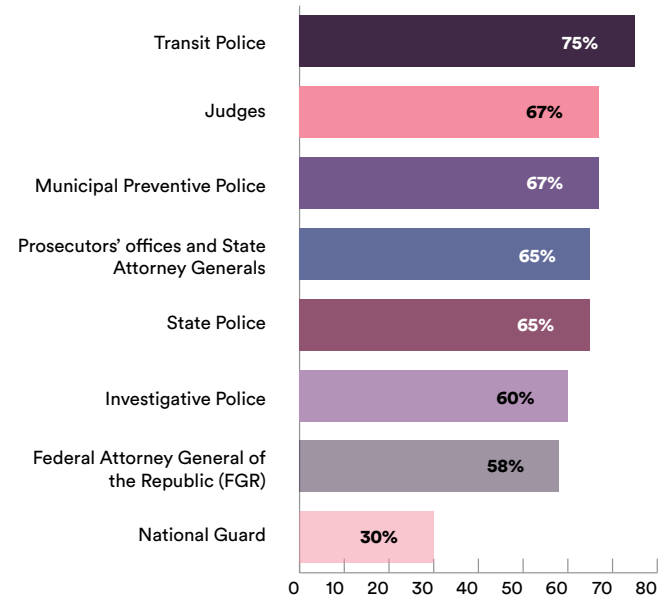
The tasks of detecting possible corrupt behaviors during criminal processes, and then actively investigating them, correspond to the areas of internal control of Attorney Generals' offices of State Judicial Power. Specifically, the areas of the administrative units entrusted with investigating and prosecuting corruption are the General Offices of Internal Affairs (*Direcciones Generales de Visitaduría*). These offices are responsible for performing inspections, elaborating technical-judicial evaluations, and monitoring and verifying that public servants act with respect for the principles of legality, impartiality, transparency, honesty, and professionalism.

Endowing these offices with the necessary and sufficient personnel and resources to perform their functions would constitute a vital step toward developing effective mechanisms of supervision and internal control that would allow Attorney Generals to detect and sanction corrupt or arbitrary acts or omissions by agents of Prosecutors' offices, the investigative police, experts, and others.

## Reputational risk of the criminal justice system

This risk consists in the losses and difficulties that a system confronts due to changes in public perceptions. In the case of the CJS, the principal causes that lie behind its reputational risk include citizens' perceptions of ineptitude and corruption in its components. The main

## Graph 46. Perception of corruption by institution



Source: Elaborated by the authors with data from the ENVIPE 2022, INEGI.

losses and difficulties that these perceptions generate are manifested in the fact that people simply do not approach the CJS, despite their need for the administration and procuration of justice. A clear reflection is visible in the measurements of the unreported crimes' that, the reader will recall, includes not only crimes that went unreported, but also those that were denounced but for which no investigative file was opened.

### In the ENVIPE 2022 we see that perceptions of corruption increased for all institutions, compared to the measurements from the previous year.

As in earlier years, the transit police was perceived as the most corrupt institution, with 75% of respondents expressing this view. The National Guard was at the other extreme, at 30%.

## Trust in institutions

The variables that affect when (or if) the CJS receives notice of criminal acts that affect the population as a whole can be numerous, including the degree of trust in the authorities and the feasibility, in people's estimation, of achieving an optimal solution through the institutions of justice.

<sup>60</sup> Article 107, *Código Nacional de Procedimientos Criminales*.

<sup>61</sup> Article 128, *Código Nacional de Procedimientos Criminales*, contains the duty of loyalty for Prosecutor's offices.

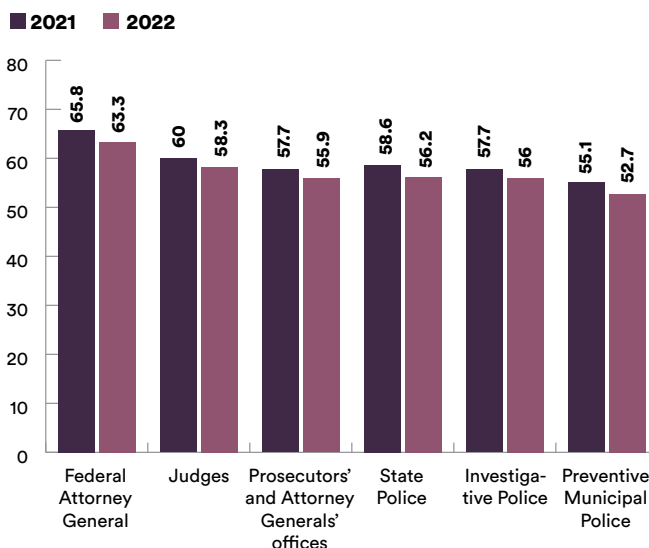


According to the latest data available from the ENVIPE 2022, trust in the institutions of the criminal justice system decreased. At the national level, trust in the Attorney General's office fell from 65.8% in 2021 to 63.3%; trust in judges from 60% to 58.3%; in state police from 58.6% to 56.2%; in the ministerial, judicial, or investigative police from 57.7% to 56%; in state Attorney Generals' offices from 57.7% to 55.9%; and, finally, in the municipal preventive police from 55.1% to 52.7%.<sup>62</sup>

**Dark figure**

The ENVIPE 2022 estimated that at the national level in 2021 only 10.1% of crimes (approximately 2.84 million criminal acts) were reported, and of those cases only 67.3% saw an investigative file opened. This figure represents 6.8% of the total number of crimes that occurred in 2021, thus indicating that unreported crimes nationally in 2021 was 93.2%.

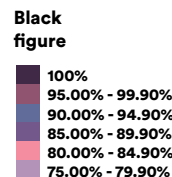
**Graph 47. Percentage of trust in institutions**



Source: Elaborated by the authors with data from the ENVIPE 2022, INEGI.

**Graph 48. Unreported crimes, national vs. state**

State	2010	2011	2012	2013	2017	2015	2016	2017	2018	2019	2020	2021
Aguascalientes	94.4%	90.5%	93.2%	91.2%	92.9%	92%	92.7%	89.4%	90%	90.8%	93.3%	89.5%
Baja California	80.9%	82.5%	84.8%	89.9%	90.3%	89.5%	92.2%	89.2%	89.5%	91.3%	89.8%	91.2%
BC Sur	76.8%	85.2%	84.5%	83.6%	88.4%	87.6%	86.8%	85.7%	87.3%	89.3%	90.9%	90.7%
Campeche	86.3%	88.2%	85.2%	92%	89.2%	90.4%	90.6%	89.6%	88.4%	91%	91.5%	90.8%
Coahuila	92.7%	90.8%	91.4%	91.5%	89.7%	91.2%	91.9%	93.2%	92.4%	92.6%	92.7%	93.2%
Colima	87.6%	87.1%	83.5%	85.7%	90.3%	89.9%	91.2%	88.3%	91.9%	84.5%	90.7%	90.4%
Chiapas	94.9%	92.3%	90.4%	91.8%	93.1%	93%	94.3%	93.8%	91.5%	90.2%	93.2%	91.5%
Chihuahua	88.1%	87.2%	85.4%	88.4%	90.6%	90.4%	92%	90.9%	91.2%	87.7%	92.8%	92.3%
CDMX	90.5%	92.7%	92%	93.3%	91.6%	94.7%	93.8%	93.4%	94%	94%	92.6%	92.2%
Durango	88.5%	88.6%	89.9%	90.6%	94%	90.1%	92.2%	90.8%	91.1%	92.9%	92.4%	92.9%
Guanajuato	94.8%	91.7%	94.3%	94.5%	93.4%	93.7%	91.7%	92.4%	94.8%	90.2%	92%	94.5%
Guerrero	96.2%	96.2%	95.5%	96.7%	95.8%	97.5%	98.3%	96.8%	98%	96.1%	97.3%	96.2%
Hidalgo	87.9%	91.3%	93.1%	93.5%	87.2%	89.7%	91.6%	89%	91.7%	90.4%	93.7%	92.3%
Jalisco	93.8%	92.2%	93.8%	93.3%	94.8%	94.2%	93.2%	92.7%	91.8%	91.2%	92.9%	93%
México	93.8%	91.8%	93.4%	96%	93.6%	95.4%	94.6%	94.8%	93.6%	92.6%	93.5%	92.8%
Michoacán	94.7%	92%	94%	94%	93.6%	92.9%	93.8%	92.7%	92.8%	95%	93.6%	94.4%
Morelos	91.2%	90.1%	93%	91.7%	92.7%	92.6%	94.2%	93.3%	93.9%	93.2%	93.4%	93%
Nayarit	91.5%	92.9%	90%	91.5%	93%	89.3%	91.7%	94.6%	91.6%	90%	94%	94%
Nuevo León	94.9%	94%	93.2%	93.3%	92.9%	92.8%	93.7%	93.9%	91.6%	92.9%	92%	94.6%
Oaxaca	95.6%	91.9%	92.3%	94.8%	93.3%	94.4%	94.6%	91.3%	95.2%	95.2%	92.1%	94.2%
Puebla	93.1%	92.3%	92.5%	94.3%	93.2%	92.3%	94.9%	93.2%	91.6%	91.3%	94.7%	93.6%
Querétaro	82.3%	89.7%	88.8%	92.3%	90.1%	90.1%	91.9%	90.5%	91.8%	89.8%	92.6%	91.8%
Quintana Roo	90.3%	90%	91.2%	89.9%	91.1%	88.5%	90.1%	91.7%	91.3%	91.1%	94.8%	91.3%
San Luis Potosí	93.4%	95%	93.1%	94.1%	96.5%	93.6%	92.9%	93.1%	94.7%	93.6%	94.5%	96.3%
Sinaloa	92.2%	91.8%	93%	92.2%	92.3%	92.3%	92.9%	93.7%	96.3%	94.5%	95.6%	96.7%
Sonora	88.2%	92%	91.6%	89%	87.9%	93%	94.2%	93%	92.9%	92.1%	94.9%	94.3%
Tabasco	93.8%	84.9%	87.8%	92.1%	90.6%	93.6%	92.2%	91.9%	93%	90.2%	93.7%	94.4%
Tamaulipas	94.1%	92.6%	92.1%	95.2%	91.9%	94.6%	95.4%	96.4%	94.1%	94%	93.9%	94.1%
Tlaxcala	90%	90.2%	90.9%	90.3%	92%	94.2%	94.4%	93.3%	94.3%	93.6%	94.3%	92.8%
Veracruz	92.8%	94.1%	91.8%	94.9%	91.6%	94.8%	92.8%	92.3%	95.6%	93.4%	93.4%	93.2%
Yucatán	88.5%	88.7%	89%	89.6%	94.6%	90.7%	91.3%	90.4%	92.5%	92.6%	94.1%	94.8%
Zacatecas	94%	91.6%	89.2%	93%	94.8%	92.2%	92.4%	94.5%	93.9%	92.7%	95%	92%
<b>National</b>	<b>92%</b>	<b>91.6%</b>	<b>92.1%</b>	<b>93.8%</b>	<b>92.8%</b>	<b>93.7%</b>	<b>93.6%</b>	<b>93.2%</b>	<b>93.2%</b>	<b>92.4%</b>	<b>93.3%</b>	<b>93.2%</b>



Source: Elaborated by the authors based on data from the ENVIPE | @mexevalua.

<sup>62</sup> The responses 'much trust' and 'some trust' were considered.

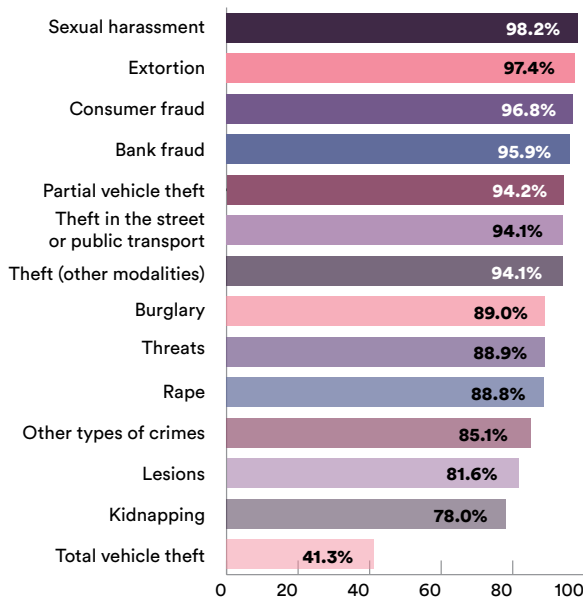
The states with the highest unreported crimes in 2021 were Sinaloa (96.7%), San Luis Potosí (96.3%), Guerrero (96.2%), Yucatán (94.8%), and Nuevo León (94.6%). Those with the lowest figures were Aguascalientes (89.5%), Colima (90.4%), Baja California Sur (90.7%), Campeche (90.8%), and Baja California (91.2%). It is important to note that 14 states had dark figures higher than the national mean (93.2%), so we can conclude that this statistic for crimes at the state level has remained consistently high and has shown relatively little variation from one state to another.

The crimes with the highest estimated unreported at the national level were sexual harassment or intimidation (98.2%), extortion (97.4%), kidnapping (96.9%), fraud (including bank and consumer types, 96.3%), partial vehicle theft (94.2%), and theft or assaults in the street or on public transportation (94.1%).

In another aspect, 68.2% of the reasons why people decided not to report a crime to a Prosecutor's office were attributable to the authorities, while 31.8% were not. Specific reasons for not reporting crimes included the opinion that doing so is 'a waste of time' (33.5%) and 'distrust of the institutions' (14.8%).

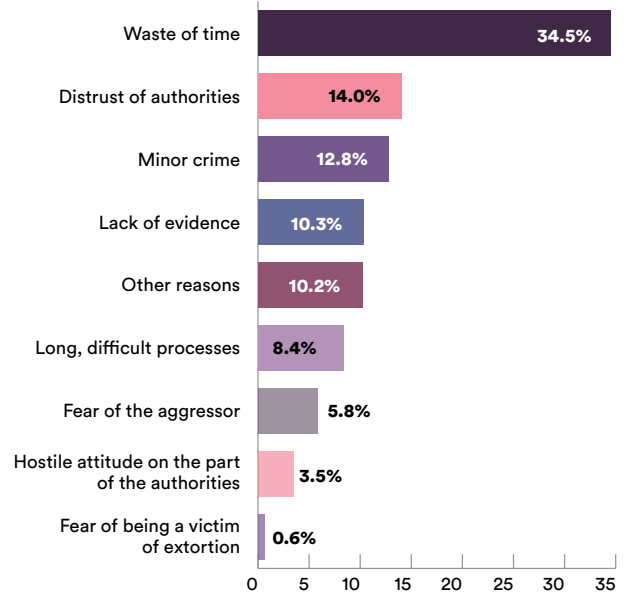
We can conclude that the level of trust that citizens have in institutions is a crucial factor for their effectiveness and good functioning. In other words, **the institutions**

### Graph 49. Unreported crimes, by type of crime



Source: Elaborated by the authors based on data from the ENVIPE 2021 | @mexevalua.

### Graph 50. Reasons why victims do not report crimes to Prosecutor's offices



Source: Elaborated by the authors based on data from the ENVIPE 2021 | @mexevalua.

**of the CJS operate more efficiently when they can count on the trust and active participation of the population they serve.** The decrease in trust (verified in the data from the ENVIPE 2022) can have significant consequences, including little willingness to report crimes and a greater propensity to resolve conflicts through means that lie outside the formal justice system.

It is essential to emphasize that **the dark figure (unreported crimes) in Mexico remains alarmingly high.** While an increase in the number of investigative files might indicate greater trust in the institutions of the system, it is crucial that such a tendency be accompanied by a reduction of the dark figure. A scenario in which this index remains unaltered while the number of investigative files increases would be highly problematic, for it would support the hypothesis that more crimes are being committed but that citizens continue to be reluctant to report them.

Diverse strategies can be pondered to mitigate the reputational risk of the CJS and foster a vision that sees it as a legitimate, effective way to resolve conflicts. Essential points would be to ensure transparency in all processes and to involve citizens as a way to ensure accountability, while simultaneously capacitating the personnel to provide optimal attention to the victims of crimes.

## Risk of saturation of the CJS due to a deficient classification of crimes

One fundamental way to distinguish types of crime is to place on one side, those criminal acts that generate greater damage to social wellbeing, and, on the other, those that in reality have little social impact. One of our areas of interest is to demonstrate that less serious crimes occur more frequently and, therefore, increase the saturation of the CJS. For this reason, we argue, they should be resolved by alternative means, as this would help 'unclog the channels' so they can attend to the crimes that cause greater damage.

The saturation of the CJS caused by the way crimes are classified constitutes another risk for the CJS because, as with the other risks described above, it causes all manner of losses of resources that could be utilized by all the components of the system to fulfill the institutional objectives discussed previously and, as a result, achieve a more adequate procuration of justice.

To begin, we must distinguish between crimes with a high degree of criminality and those that present low, or null, levels, and note that today too many resources are dedicated to crimes with lower indices of criminality because, as we have mentioned, they occur more frequently. Crimes are usually classified as 'high impact' or 'low impact', but this categorization does not allow us to distinguish degrees of 'criminality'; a topic we address in the following section. Suffice to say, for now, that a better classification would consist in prioritizing the crimes where the State has a duty to provide heightened protection while de-emphasizing those that are susceptible to being resolved by other means.

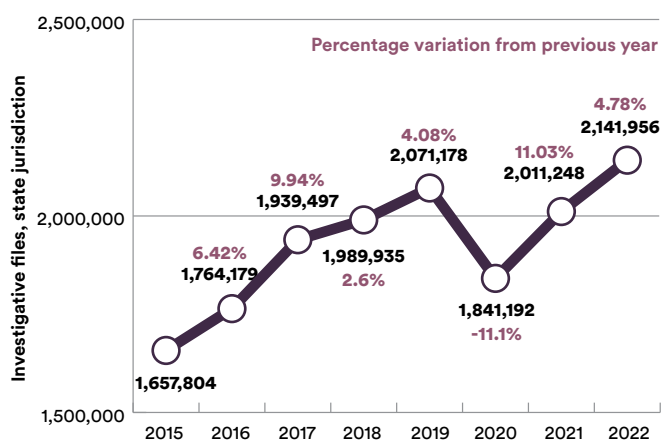
## Incidence of criminality and victimization

We do not use the definitions of *high impact* and *low impact* in our analysis because they are tied to perceptions of insecurity. What interests us, in contrast, is to distinguish between crimes of 'low criminality' and those that more seriously affect the welfare of individuals and the society as a whole ('high-criminality').

The incidence of criminality is understood as the "presumed occurrence of crimes registered in initial inquiries or investigative files, whether reported by Attorney Generals' offices in the states, in the case of crimes of common jurisdiction or, for those of federal jurisdiction, by the office of the Attorney General of the Republic (Fiscalía General de la República, FGR)".<sup>63</sup>

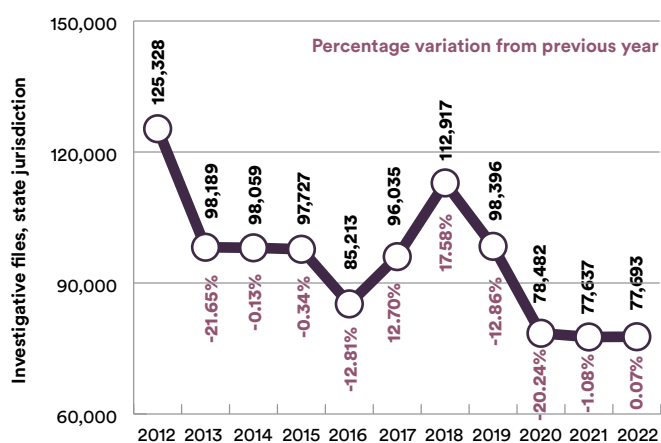
However, restricting the measurement of the incidence of criminality to initial inquiries or investigative files – that is, data provided by the Executive Secretary of the National Public Security System (*Secretario Ejecutivo del Sistema Nacional de Seguridad Pública, SESNSP*)– would provide a framework of information that is only partial, one that would tend to underestimate the frequency with which crimes really occur in the country. This is due, as we have mentioned, to the high percentage of the dark figure for reporting crimes. To better understand the

## Graph 51. Investigative files, by year



Source: Elaborated by the authors with data from the SESNSP.

## Graph 52. Investigative files, federal jurisdiction, by year



<sup>63</sup> *Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (SESNSP). "Incidencia delictiva", <https://www.gob.mx/sesnspp/acciones-y-programas/incidencia-delictiva-299891?state=published>*

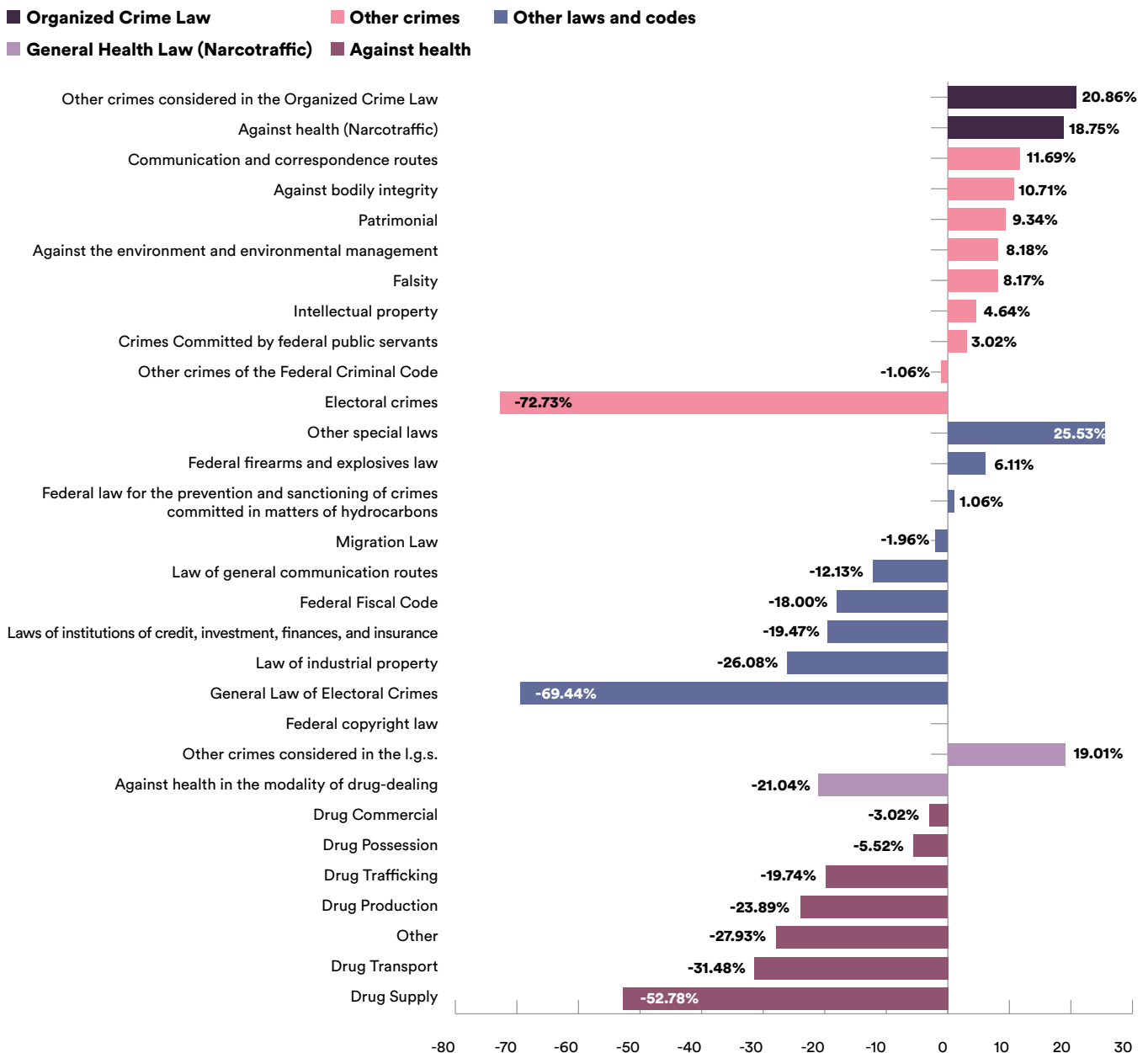


incidence of criminality and, hence, the coverage capacity that the CJS should have, it is necessary to analyze the corpus of data from the SESNSP and the information in the ENVIPE. **Only by studying both sources will we be able to understand the tendencies of different crimes.** This is what we propose to do in the following section, beginning with a review of the evolution of the number of investigative files opened by the CJS as a way to dimension the workload that the system receives in both the state and federal jurisdictions.

### Crimes of common jurisdiction

As Graph 52 shows, after 2020, when the data on the incidence of criminality in the common jurisdiction showed an annual variation of -11.1% due to the sanitary contingency caused by COVID-19, the tendency once again increased, and was maintained in 2022, with an annual variation of 4.78% with respect to the previous year. In fact, it surpassed the total number of investigative files opened in 2019. While in 2020

**Graph 53. Percentage variation by type of crime, between 2021 and 2022**



Source: Elaborated by the authors with data from the SESNSP.

an average of 5,044 crimes occurred daily for which investigative files were opened, for 2021, on average, 5,600 crimes were reported daily. In 2022, this figure increased to 5,868.

Turning to the ENVIPE 2022, we read that unreported crimes for 2021 was 93.2%, in 2020 it was 93.3%, and in 2019 it was 92.4%. Clearly, the number of investigative files opened has increased in recent years, but unreported crimes also increased. Aside from the important fact that this indicates that the current government's security strategy is not working, the persistence of this elevated unreported crimes may reflect diverse problems. We have already addressed those that concern citizen's perceptions of the CJS and the lack of trust in its institutions, but the system's possible incapacity to attend cases adequately due to saturation may also be involved.

### Crimes of federal jurisdiction

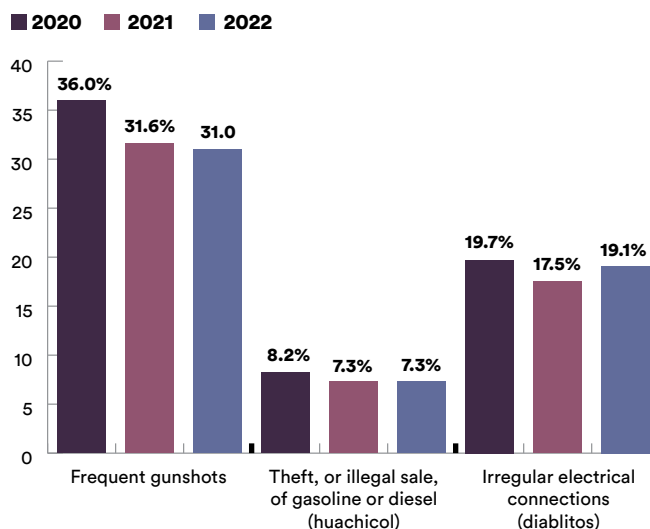
In recent years, crimes of federal jurisdiction showed repeated decreases in the number of investigative files opened by the Federal Attorney General's office. In 2022, the number of files remained practically unchanged, passing from 77,637 in 2021 to 77,693 in 2022. In 2021, the FGR opened an average of 212.7 investigative files per day. In 2022 this index increased by only one-tenth of a percentage point, to 212.8 files per day.

For 2022, we see that the concepts that generated an increase in the number of investigative files opened were organized crime (20.26%) and other crimes (7.21%), while other laws and codes (-2.44%), the General Health Law (-14.27%), and drug trafficking (-15.7%) all showed reductions in the number of investigations conducted.

The crimes that presented increases were those of organized crime, drug trafficking, those classified as "other", crimes against the federal highways and correspondence, and against bodily integrity, patrimony, the environment and environmental management, forgery, copyright infringements, and acts committed by public servants.

Although no existing survey indicates specifically the percentage of unreported crimes of federal jurisdiction, or its tendencies, the ENVIPE provides an approach to this phenomenon. If we focus on the population aged 18 years and over that had knowledge of the occurrence of criminal or antisocial attitudes around their homes, we see that the percentages for frequent gunshots, theft of petroleum products, and irregular connections to electrical lines have remained relatively stable.

## Graph 54. Population aged 18 years and over that had knowledge of the occurrence of criminal or antisocial attitudes



Source: Elaborated by the authors with data from the ENVIPE 2022, INEGI.

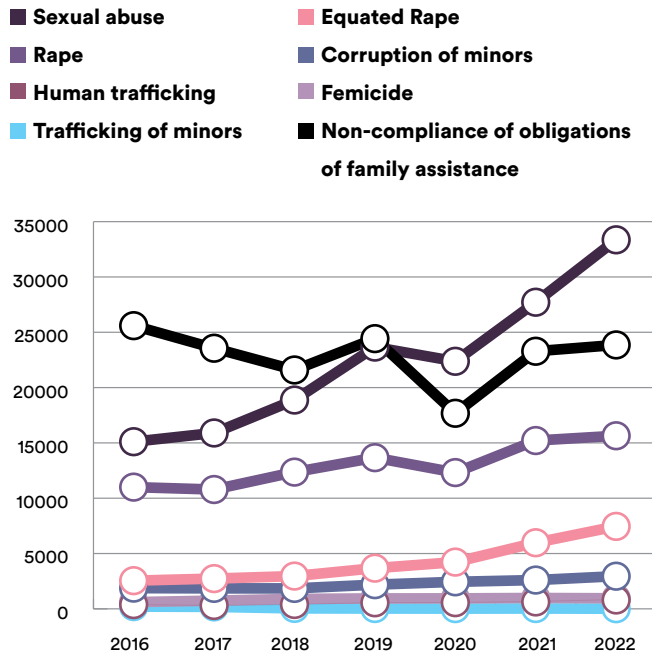
This allows us to posit the hypothesis that crimes of federal jurisdiction have not decreased but, rather, that federal authorities have shown resistance to investigating and prosecuting the crimes of its competence. This situation may have implications for the risk of saturating the PJS, and could compromise its capacity to cover demands for justice or, more generally, the performance of the entire system.

### Crimes in which the State has a duty to provide heightened protection

There is a stronger duty to investigate those cases in which victims suffer some kind of vulnerability; for example, those involving infants, women, the elderly, or migrants. In addition, there are crimes in which the State is obliged to provide heightened protection to adequately attend to the usual victims. These crimes include sexual abuse, corruption of minors, femicide, non-compliance of obligations of family assistance, trafficking of minors, human trafficking, and rape.

Of these crimes, only femicide (-2.75%) and trafficking of minors (-55.17%) decreased with respect to 2021. In contrast, human trafficking (28.32%), rape (24.73%), sexual abuse (20.35%), corruption of minors (13.41%), rape (2.84%), and non-compliance of obligations of family assistance (2.45%) all increased.

## Graph 55. Crimes in which the State has a duty to provide heightened protection. Investigative files per year



Source: Elaborated by the authors with data from the SESNSP.

While at first sight femicides seem to have decreased, a more detailed analysis of the number of women who were victims of femicide, or violent death, reveals that rates have remained relatively stable. In 2021, 3,766 women suffered violent deaths, while the figure for 2022 was 3,778. Data from the SESNSP lead us to suspect that the apparent reduction in the number of femicides is more likely a product of the classification of crimes than any other factor.

### Minor crimes

Minor crimes are defined as criminal acts that have a low, or null, degree of criminality. For this reason, some authors argue in favor of concentrating the –scarce– resources of the CJS on crimes that have higher degrees of criminality and greater impact on people's welfare, like those for which the State has the duty to provide heightened protection. They suggest that minor crimes can be resolved through alternative means instead of criminal trials to help unclog the system.

In this context, the relation between minor crimes and those that entail the obligation to provide heightened

protection becomes relevant. An analysis of the juridical values affected shows that a considerable percentage of the investigations conducted in 2021 were linked to crimes against patrimony (Graph 39), especially the various modalities of theft. This panorama should spark debate on how to prioritize resources, and whether a more efficient distribution would permit a more effective response to the crimes in which the State has the duty to provide heightened protection.

Whatever the case, the search for equilibrium among focuses on serious crimes, protecting specific vulnerabilities, and the most frequent crimes, is an ongoing challenge for the CJS, and for the design of effective public policies.

Upon analyzing the frequency of crimes by state, it is hardly surprising to learn that the most common crime in 2022, in almost all states, was theft in its various modalities (though domestic violence was first in Coahuila, Nuevo León, and Nayarit, and the category of threats was first in Yucatán). Overall, the 5 most common crimes in each state include only 11 types: abuse of trust, threats, property damage, fraud, homicide, non-compliance of obligations of family assistance, lesions, drug-dealing, other crimes of common jurisdiction, theft, and violence.

When we analyzed the percentage of variation compared to the previous year *by juridical value affected*, we found that the greatest variation was in sexual freedom and security, at 18.9%, followed by crimes against personal freedom, with a variation of 16.8%.

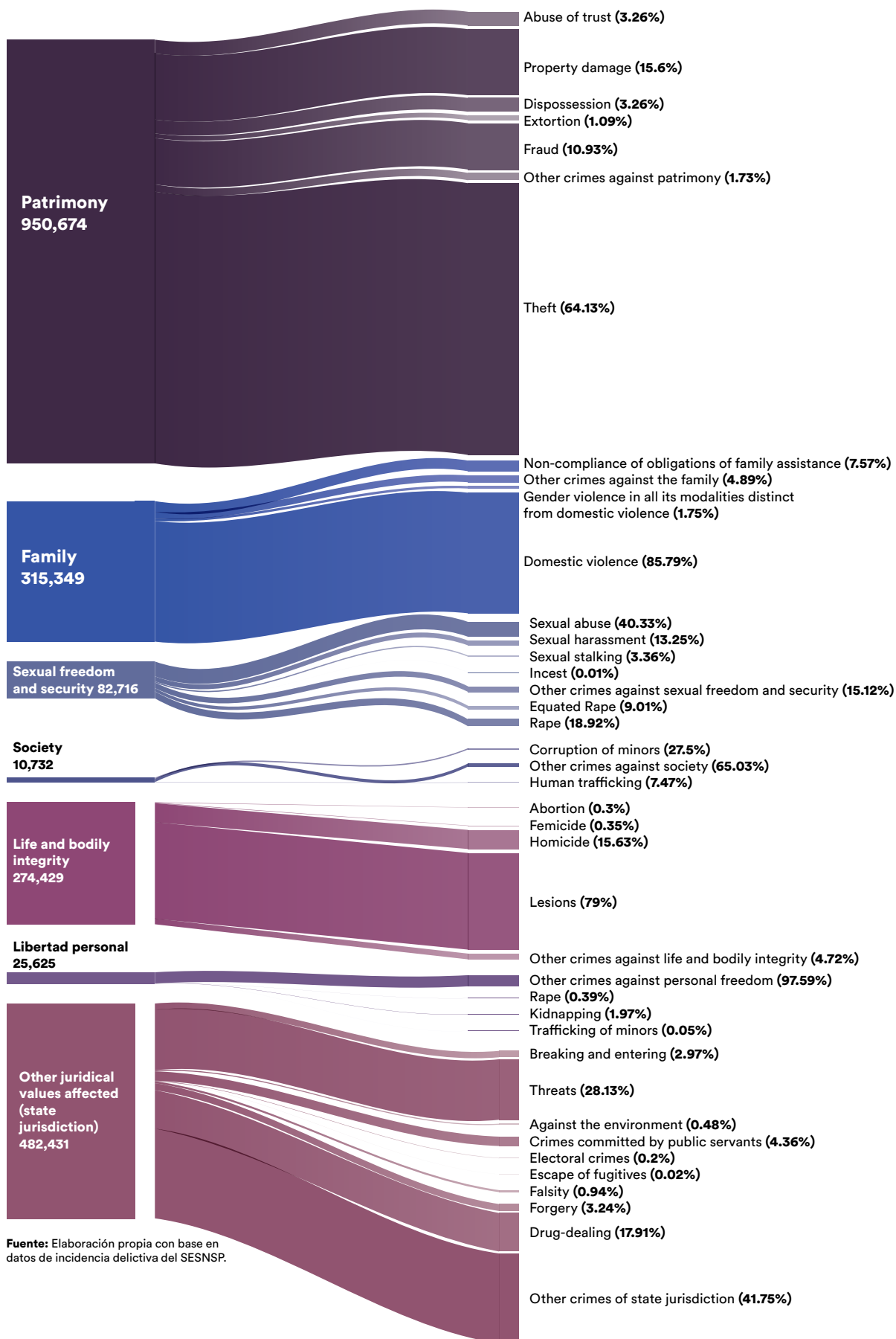
Of course, we can also review the percentage variation *of each crime*. Here, we see that all types of crime within the juridical value of sexual freedom and security increased with respect to the previous year. Sexual stalking and harassment, as well as rape, were the types that showed the largest increases. In this sense, we must also emphasize that while theft (in its various modalities) is the most common crime, its percentage variation with respect to 2021 was minimal, only 0.05%.

Finally, it is natural that the category of electoral crimes diminished by -72.4% compared to 2021, since that was a year when elections were held to renew the House of Representatives (*Cámara de Diputados*), 15 governorships, state congresses, and municipal governments (*ayuntamientos*).

Among the crimes that increased most markedly from the previous year, sexual harassment occupied first place



Graph 56. Investigations begun by type of crime and juridical value



Fuente: Elaboración propia con base en datos de incidencia delictiva del SESNSP.


**Table 39. The five most common crimes in each state**

State	Most common crime	Second-most common crime	Third-most common crime	Fourth-most common crime	Fifth-most common crime
Aguascalientes	Threats	Property damage	Fraud	Lesions	Theft
Baja California	Property damage	Drug-dealing	Other crimes of the Common jurisdiction	Theft	Domestic violence
Baja California Sur	Threats	Property damage	Lesions	Theft	Domestic violence
Campeche	Threats	Property damage	Lesions	Theft	Domestic violence
Chiapas	Threats	Lesions	Drug-dealing	Theft	Domestic violence
Chihuahua	Property damage	Fraud	Lesions	Theft	Domestic violence
Ciudad de México	Threats	Property damage	Fraud	Theft	Domestic violence
Coahuila	Threats	Property damage	Drug-dealing	Theft	Domestic violence
Colima	Threats	Property damage	Drug-dealing	Theft	Domestic violence
Durango	Property damage	Fraud	Lesions	Theft	Domestic violence
Guanajuato	Lesions	Drug-dealing	Other crimes of the state jurisdiction	Theft	Domestic violence
Guerrero	Threats	Property damage	Lesions	Theft	Domestic violence
Hidalgo	Threats	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Jalisco	Threats	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
México	Property damage	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Michoacán	Threats	Property damage	Homicide	Lesions	Theft
Morelos	Threats	Property damage	Lesions	Theft	Domestic violence
Nayarit	Non-compliance of obligations of family assistance	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Nuevo León	Threats	Property damage	Lesions	Theft	Domestic violence
Oaxaca	Threats	Property damage	Lesions	Theft	Domestic violence
Puebla	Threats	Fraud	Lesions	Theft	Domestic violence
Querétaro	Threats	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Quintana Roo	Abuse of trust	Property damage	Lesions	Theft	Domestic violence
San Luis Potosí	Property damage	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Sinaloa	Threats	Property damage	Lesions	Theft	Domestic violence
Sonora	Property damage	Lesions	Drug-dealing	Theft	Domestic violence
Tabasco	Threats	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Tamaulipas	Threats	Property damage	Lesions	Theft	Domestic violence
Tlaxcala	Homicide	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence
Veracruz	Threats	Property damage	Lesions	Theft	Domestic violence
Yucatán	Threats	Property damage	Drug-dealing	Other crimes of the state jurisdiction	Theft
Zacatecas	Property damage	Lesions	Other crimes of the state jurisdiction	Theft	Domestic violence

with a change of 55.28%. The states that registered the largest increases in this crime were Campeche (350%), Nayarit (238%), Estado de México (187%), Yucatán (114%), and Guerrero (58%).

Second place was held by sexual harassment, which increased by 33.9% nationally. The states that stood out for this type of crime were Campeche (733%), Querétaro (400%), Guerrero (172%), Durango (150%), and Baja California (132%).

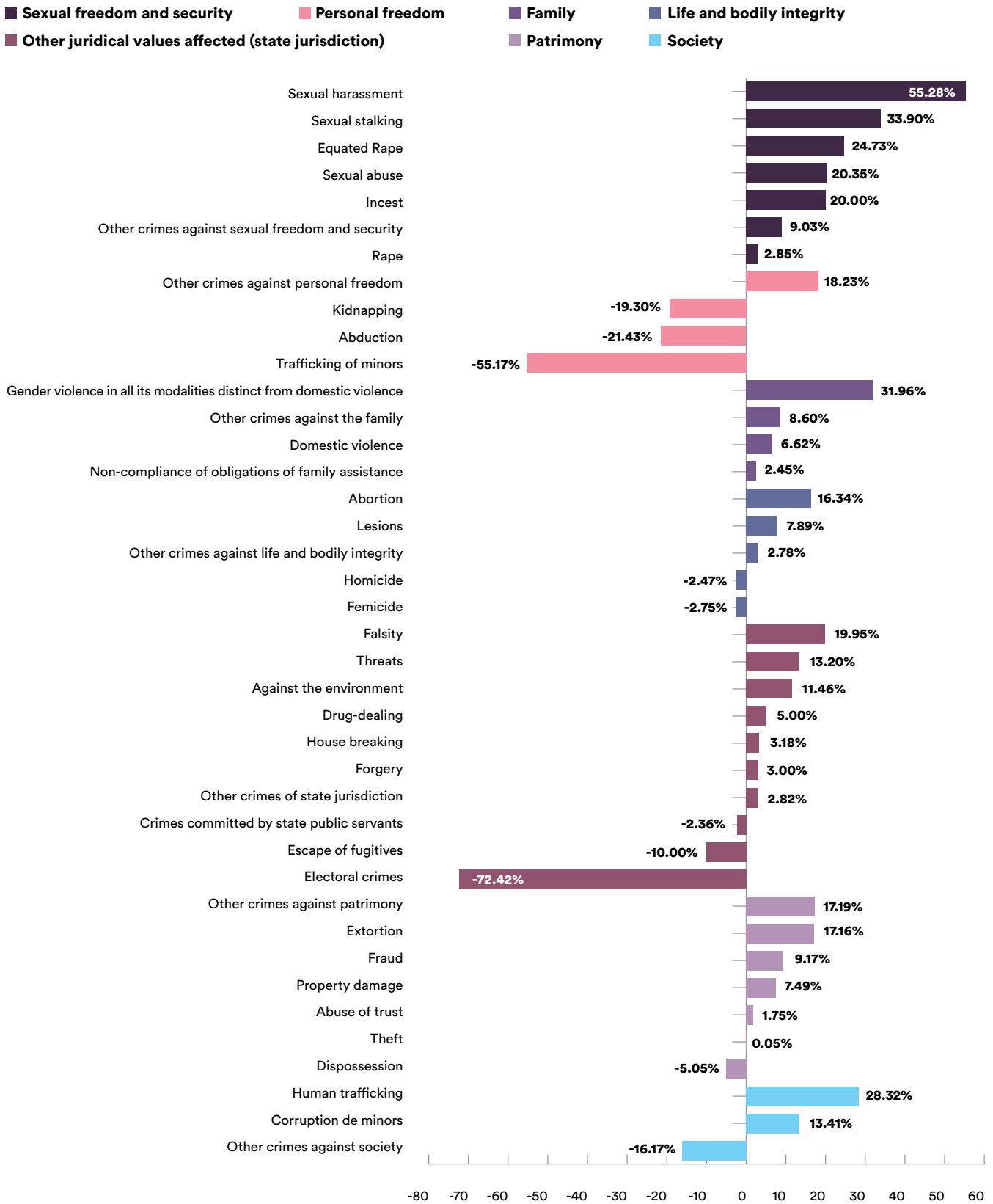
Third place was occupied by gender violence in all its modalities distinct from domestic violence,<sup>64</sup> In this case, the increase was 31.96%. The states with the largest increases were Querétaro (409%), Oaxaca (300%), Aguascalientes (225%), Chihuahua (38%), and the Estado de México (23.4%).

Human trafficking was in fourth place with an increase of 28.3%, with Guerrero (225%), Morelos (166%), Ciudad de México (128.37%), Quintana Roo (105%), Nayarit (100%), and Zacatecas (100%) appearing as the states with the largest increases.

<sup>64</sup> The SESNSP defines this type of violence as the "deliberate use of power or physical force, whether in the degree of threat or effectuated, against another person or group or community, that causes or has a great probability to cause lesions, death, psychological, harm, developmental disorders, or deprivations". It includes: deliberate use of physical force in the form of threats or effectuated, against persons or communities.



**Graph 57. Percentage variation by juridical value affected**





Fifth place belonged to rape with an increase of 24.7% at the national level. The states that recorded the largest increases were Chiapas (257%), Ciudad de México (107.9%), Tlaxcala (100%), Nayarit (57%), and Hidalgo (47.9%).

In conclusion, **the concentration of investigations in the rubric of patrimony, such as theft in its various modalities, and the percentage variation of investigations by juridical value affected, clearly evidence the complexity of decision-**

**making on how to prioritize the resources allocated to the CJS.** The percentage variation of crimes by juridical value shows that the most marked changes occurred in the areas of sexual freedom and security, and personal freedom. The increase in crimes like sexual harassment and stalking, and rape underline the need to design specific strategies to guarantee the integrity of members of vulnerable groups and, at the same time, foster the good functioning of the CJS to avoid saturation and diminished effectiveness and reputation.



## CHAPTER 5

# Recommendations

## Problematic: inexistence of a State policy of security and justice

The activities and measures designed to prevent, reduce, and/or contain criminality and violence have not been articulated from a focus on public security and justice. Institutions operate in isolation without common objectives, shared information, or budgets that optimize the assignment of resources to high priority objectives. The decision to militarize these State functions has also caused problems, such as a lack of the competencies required for operations, and given rise to policies that violate the rights and liberties of citizens. Finally, there is no real discussion of the impact of the National Guard and the participation of the Armed Forces in criminal justice and the protection of rights.

- **Recommendations:** 1. design a medium- and long-term policy that contemplates prevention and reaction through civil channels, reduces impunity, guarantees protection of rights, and promotes social reinsertion and peace building as the priority axes, applicable at all levels of the State; 2. redesign and strengthen the operations area of the Federal Executive Branch to orient, adjust, and monitor the implementation of security and justice policies, pondering **a State Department that, from the lowest level, articulates policies on justice and human rights**; and 3. achieve a design and budgetary commitment strategically oriented toward objectives, and focused on sustainability and reducing asymmetries.

## Problematic: abandonment of efforts to strengthen investigative capacities, and the absence definition of priorities and criteria of attention

In some cases, the autonomy of Attorney Generals' offices has been interpreted as a license to work in isolation and avoid coordination. However, prosecuting macro-criminality, corruption, and serious human rights violations from a focus on people, demands the opposite: greater coordination, preventing fragmentation, optimizing opportunities for collaboration and attracting cases, and closing spaces that nourish the risk of impunity. In addition, the lack of a map of the route of criminal prosecutions breeds indefiniteness in institutional responses that opens spaces of arbitrariness and reduces institutions to a condition of institutional inertia that focuses almost exclusively on flagrancy and street crime.

- **Recommendations:** 1. work to define a National Model for the Prosecution with analyses of the distribution of competencies, budget allocation, and the prioritization of specific phenomena; and 2. monitor the processes of transformation of the FGR and state Attorney Generals' offices to prevent the deterioration of internal governance and the suspension of professionalization programs, and reduce the weight that inertia brings to bear on operations.



## Problematic: lack of guarantees of independence in the operations of justice, and of competencies and capacities to operate the adversarial accusatory system

Legitimacy and trust in the institutions of justice has deteriorated, and the unreported crime remained stable % for a decade at 93. Trust in prosecutors and judges has diminished every year, while perceptions of corruption have increased. The lack of investigative capacities and professionalization programs for personnel means that litigations are heard in courts that fail to devote adequate attention to victims and accused persons, with the result that impunity is practically generalized.

- **Recommendations:** 1. incorporate Professional Career Service into the Constitution (Art. 116) and ensure that it covers the entry, capacitation, performance evaluation, and ongoing capacitation of the personnel of Attorney Generals' and public defenders' offices, Victims' Commissions, Units of Precautionary Measures, courts, and the penitentiary system; 2. establish minimum guarantees of publicity, competence, capacity, suitability, and citizen participation in the processes of designating directors in the justice sector; 3. require the publication of indicators and information that provide accounts of advances in shared objectives from the perspective of the State, and that give priority to the safeguarding of human rights; and 4. ensure that directors conduct evaluations and exercises of accountability related to performance, their prospective, and existing mechanisms of coordination.

## Problematic: significant reversals in matters of transparency and access to information

In both the national and local contexts, the paralysis that affected the National System of Transparency had a negative impact on guarantees of the right of access to information and perverted institutional incentives to ensure transparency in the handling of key information related to the performance and protection of rights within the CJS. Likewise, it is clear that the Model of Evaluation and Follow-up of the Consolidation of the Criminal Justice System (*Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Criminal*) –a responsibility of the State Department (Segob)– does not observe even the minimum parameters for validating

the quality of information, a reality that severely compromises its reliability (for example, showing the same information for a complete year [2022] in the cases of Jalisco and Hidalgo). Finally, we observed risks related to the potential loss of information in the integration of the National Censuses of Government conducted by the INEGI in relation to both public security and the procuration/administration of justice, due to repeated refusals by states to provide data.

- **Recommendations:** 1. that the organs that guarantee access to information at the national level, in conjunction with the INEGI, assume their role as guarantors and carry out the actions required to prevent and/or attend to, refusals to provide information; 2. strengthen the commitment to transparency, especially regarding information related to criminal justice and the protection of human rights, and stipulate that this information cannot be classified as 'reserved' at the highest levels of government or by individual states; and 3. adopt proactive exercises of transparency regarding key information in these matters (for example, the basic indicators cited in this edition of *Hallazgos*).

## Problematic: incapacity to provide an effective response in cases that violate the most valued juridical goods

In 2022, only 4.3% of the procedures that derived from the opening of investigative files were bound over to the courts, but they did not necessarily involve the most complex crimes or those of greatest social impact. In light of this, it is important to increase the capacities for investigation and litigation of Attorney Generals' offices and review existing criminal policies in order to establish adequate strategies for prioritizing cases, accompanied by **a reorientation of human, technical, and financial resources toward the crimes that most severely harm society**. We found that an average of only 6.9% of procedures derived from investigative files were resolved through alternative mechanisms of conflict resolution.

- **Recommendations:** 1. review in detail the cases that are resolved through alternative mechanisms in each Attorney General's office, and analyze if there are others that could be resolved through these channels among the accumulated of pending cases, or those that have been filed; 2. design and implement policies that promote the use of alternative mechanisms for cases that meet the normative requirements.



## Problematic: non-compliance in the exceptional use of prison sentences and the guarantee to pursue processes in freedom

In 2022, only four of every 10 accused persons were evaluated by a UMECA in regard to their processual risks. Less than 6% of all accused persons that pursued their criminal process under some precautionary measure in freedom were subtracted from the action of justice. However, eight of every 10 confronted their process while under pretrial detention, the majority under the *ex officio* modality.

- **Recommendations:** 1. strengthen the collaboration between Prosecutors' offices and the UMECAS to ensure that the latter have adequate conditions to opportunely evaluate the processual risks of accused persons before the initial hearing is held; 2. increase the substantive personnel of the UMECAS in accordance with the number of accused persons in each judicial district or region; 3. sensitize the directors of Attorney Generals' offices and judges and magistrates to the efficacy of precautionary measures in freedom, and to the fact that *ex officio* pretrial detention is incompatible with the right to the presumption of innocence and personal freedom.

## Problematic: delayed justice and long criminal processes that fail to respect people's rights

The mean duration of a criminal process increases considerably if the accused person is held under pretrial detention, especially the *ex officio* modality. Data from the INEGI indicate that one of every four women and three of every 10 men in pretrial detention were held under this precautionary measure for 24 months or more. Likewise, postponements of hearings and the duration of the processes exceeded constitutional limits. This matter requires urgent action.

- **Recommendations:** 1. that the Judicial Powers in both jurisdictions implement a mechanism to perform follow-up on accused persons held in pretrial detention for over 24 months, and that this lead to an official review of these cases in harmony with recent developments in jurisprudence; and 2. ensure that judicial management evaluates the control of hearings by judges and magistrates to

prevent delays or deferrals, substantially reduce the reprogramming of hearings, and foment more agile, expeditious processes.

## Problematic: weak, disparate, and asymmetric protection of rights

Data for 2022 confirm tendencies we have observed throughout the *Hallazgos* series: 1. the protection of rights in the criminal system is extremely weak; and 2. from the optic of public policy, the system is deeply disparate and asymmetric. **The data available reveal that accused persons and victims continuously suffer violations of their rights in the context of criminal processes.** Moreover, Attorney Generals' offices and other Judicial Powers have much greater installed capacities than public defenders' offices and Victims' Commissions.

- **Recommendations:** 1. that the institutions of the CJS see themselves as organs that act as guarantors of rights; and 2. that greater resources be channeled to public defenders' offices and Victims' Commissions to foment the effective protection of rights in the context of criminal processes.

## Problematic: inadequate conditions and the absence of a more human perspective on criminal performance and social reinsertion

The penitentiaries in 17 states presented some degree of overcrowding, while eight of every 10 had problems of insufficient personnel. Moreover, four of every 10 people in penitentiaries are held in pretrial detention; that is, without being convicted of a crime. This proportion has remained at the same levels in recent years, so it is necessary to discourage the use of *ex officio* pretrial detention by Attorney Generals' offices due to its repercussions; namely, prolonging criminal processes, reducing the quality of life of people deprived of their freedom, and disrespect of people's human rights. Although the National Law of Criminal Execution was implemented seven years ago, today over half of Mexico's state penitentiaries report insufficiencies in their health services and recreational and work-related activities. Added to this, the existing interdepartmental commissions for social reinsertion and post-criminal services are often paralyzed by changes of government, and so fail to hold regular sessions.



- **Recommendations:** 1. that state congresses demand that the State Department immediately install, or reactivate, these commissions, and emit a formal plan or program of post-criminal services; and 2. that the institutions in charge of criminal justice policy ensure compliance with those programs and the application of measures of anticipated freedom and/or pre-liberation benefits through a sufficient number of public defenders and sentence enforcement judges.

### **Problematic: absence of a perspective that seeks to build peace and attend the human rights emergency at the national level**

The past two decades have witnessed an increase in serious human rights violations: forced disappearances, extra-judicial executions, torture, and forced recruitment, among others. However, the State's response has been disarticulated and has failed to prioritize prevention,

attention to victims, and guarantees that such violations will not be repeated. Hence, we can predict that in the absence of a policy designed to prioritize peace-building, combat impunity, and prevent human rights violations the conditions and context will continue to deteriorate, compromising the possibility of achieving an effective rule of law based on respect for human rights.

- **Recommendations:** 1. that a policy committed to peace-building be adopted from the highest levels of government that entails strengthening civil channels of public security, pacifying zones with high levels of conflictedness, and combatting conditions of terror and insecurity; 2. that the ensemble of institutions of criminal justice, through its policies of criminal prosecution and the administration of justice, privilege and guarantee human rights, and assign the resources necessary to guarantee their protection; and 3. that all levels of government adopt a zero tolerance policy for impunity and arbitrariness when dealing with population sectors in conditions of vulnerability and/or severe violations of human rights.



## CHAPTER 6

# Conclusions

**F**or the past decade, *México Evalúa* has analyzed the performance of the institutions in charge of criminal justice in Mexico, their operating conditions, and their results. We have closely monitored the implementation and consolidation of the oral accusatory system and developed tools to evaluate the state of the criminal justice system at both the national and state levels (with instruments like the Ranking of System Consolidation and the Global Impunity Index). Thanks to the systematic application and continuous refinement of our methodology, we are now in conditions to provide a balance from the beginning of *Hallazgos* 10 years ago.

Since 2008, **Mexico's criminal justice system has confronted the enormous challenge of changing its paradigm during the transition from an inquisitorial model to an accusatory format. At the same time, it has had to deal with the consequences of failed policies in the areas of drug-trafficking and public security.** The consequences, obvious to all, have included higher incidences of criminality and serious human rights violations. The drastic increase in the number of homicides and forced disappearances, growing documentation of phenomena like clandestine burials, and multiple manifestations of gender violence are just some of the areas that evidence not only

a profound process of dehumanization and social decomposition, but also the complex relations that currently exist between the State and criminal groups.

In this context, the challenges that the institutions of the CJS have faced have been enormous. They combine structural challenges with historical ones; that is, problems that have been dragging on for decades, challenges proper to the operationalization of a new model, and others derived from the context outlined above. While there is **no doubt that today the oral accusatory system has been fully implemented, the quality of criminal justice in the country continues to be extremely poor.** Some areas have seen significant advances; for example, over the years we have observed institutional improvements in how the data related to its operations is reported and integrated, but several of the problems we identified upon launching the *Hallazgos* series persist.

This is not only an empirical appreciation, for the results of criminal justice –apparent for all to see– support this view. The results reported herein are symptomatic of obstacles and gaps that, far from being closed, continue to impede the translation of the institutional changes implemented since the 2008 reform into socially palpable, sustainable improvements year after year. It is especially important to emphasize that impunity has



not decreased significantly and that **the data available reflect, in general, the inexistence of criminal policies and strategies of criminal prosecution that have the capacity to react to the complex phenomena of criminality** and offer differentiated responses as a function of the severity of crimes.

From the first editions of *Hallazgos* we verified that the institutions involved were implementing the changes to the system at distinct rhythms and with varying quality. A decade later, this edition of the *Hallazgos* series confirms the consequences of those asymmetries. The absence of homologated processes results in dramatically distinct experiences: **a minority of states with diverse positive indicators and a majority where those indicators reveal weak performance**. Moreover, important differences are apparent in the installed capacities of the system's operating institutions in individual states.

In this sense, although the change of paradigm in criminal justice radically 'moved' the position of accused persons, defenders, victims, and services of juridical orientation, our findings with respect to the other actors of the system show that they still find themselves at a marked disadvantage. This must be repeated as often as necessary: the institutional asymmetries between, on the one hand, Attorney Generals' offices and other Judicial Powers and, on the other, public defenders' offices and Victims' Commissions, are still obvious, in terms of both the distribution of resources and the construction of capacities. **For this reason, we insist on the imperative need to rethink the criminal justice system not only as a vehicle of criminal prosecution and the imposition of sanctions, but also as a mechanism that guarantees rights**, including the right to due process and access to justice, among others.

In relation to this, although the presumption of innocence is a fundamental principle of due process and a basic element of criminal justice reform, at *México Evalúa* we continue to verify the persistence of numerous forms of resistance to implementing a focus that truly guarantees these, and other, rights. Proof of this can be seen in the reticence of certain actors to completely eliminate *ex officio* pretrial detention (that is; the persistent 'preference' to deprive people of their freedom without clearly identifying the processual risks that exist in each case), the weakness of the units that supervise the application of precautionary measures, the enormous deficit in the elaboration of risk evaluations by those units, and the underutilization of various alternative precautionary measures.

On the issue of **protecting rights**, at *México Evalúa* **we insist that this must be a guiding axis of the stage of criminal execution**. However, we have seen how the conditions of internment, the insufficiency of reinsertion programs, and the absence of mechanisms that adequately guarantee rights all reflect the total margination in which the penitentiary population invariably exists.

Another persistent problem identified during our analysis involves the autonomy of Attorney Generals' offices, their weak investigative capacities, and the resulting difficulties in ensuring that those cases which should reach the attention of the Judicial Power actually do so. A review of the *Hallazgos* series, especially the processual channel that we have published consistently, clearly elucidates the bottleneck that tends to form between the investigative stage and the stage where cases are bound over to the courts. In effect, an enormous number of complaints and accusations lead to the opening of thousands of investigative files each year, but approximately half of those inquiries are closed through legal figures like temporary filing and the no exercise of criminal action, among others, with no clarity as to whether those determinations were justified by the Prosecutor's office. Although the other half tend to remain open, only a minimal number reach the stage of being bound over to the courts.

On multiple occasions in the recent context there has been a desire to attribute full responsibility for the failure of efforts to reduce impunity and the prevalence of corruption to the Judicial Powers. But it is necessary to underscore that these powers can only act on the basis of the cases that Attorney Generals' offices manage to judicialize. **If those offices fail to fulfill their mandate, the entire system fails.**

At *México Evalúa* we also recognize that challenges exist in the interior of the Judicial Powers. One that has become particularly evident in recent times centers on their independence. Federal Judicial Power has been the target of numerous attacks by diverse political actors. At the same time, at the level of the states, there is a persistent temptation on the part of the executive branch to try to control strategic spaces inside the judicatures.

From a more operative perspective, we have observed the changes that the Judicial Powers have undergone in order to implement the reform. However, problems related to saturation, workload, and the administration of courts for the effect of organizing jurisdictional work remain. We recognize that the duration of processes has improved over time, so today we see average times



within the limits established in the Constitution. Even so, our attention was drawn to certain states where terminating processes through plea bargainings have a mean duration longer than that of cases that are heard by trial.

We must remember that a system that is incapable of responding efficaciously, that remains immobile in the face of the types of crime that most severely harm society, which reproduces punitive narratives, and that ignores the principles upon which the entire structure rests, becomes a catalyst for an invisible, remote form of criminal justice. **Thus, it is hardly surprising to learn that social distrust has remained at very high levels throughout this decade.** The unfortunate truth is that the widespread perception that “nothing happens” after one reports a crime is supported by reality. There is a clearly marked tendency in this regard. Although figures may vary slightly, the *Hallazgos* series allows us to conclude that the tone over these 10 years reveals that criminal justice is applied only exceptionally, as barely 10 of every 100 crimes are resolved. Despite our happily

reformed legal framework, this is as far as our criminal justice system goes under current operating conditions.

Enhancing the quality of criminal justice in Mexico, improving these and other indicators that we have detailed in this report and its annexes, requires an authentic renewal of the commitments formulated back in 2008. 15 years since the reform, and 10 years from the first edition of the *Hallazgos* series, it is clear that renewed efforts are required to achieve tangible, sustained improvements in the capacities of the system as a whole, with clearly defined objectives in terms of criminal policy for the next 10 to 15 years. But for this to happen, what must exist is a gathering of dispositions, not only from the institutions that, strictly speaking, form part of the criminal justice system, but also from the Executive and Legislative branches of government. And here we include, preponderantly, though not exclusively, the federal authorities. Only in this way will we be able to find ourselves, 10 years down the road, with a distinct history: one in which the desired horizon of justice is no longer so far away.

# Extended note on methodology

## Antecedents

The first edition of *Hallazgos* appeared in 2013. The goal then was to do follow-up on, and evaluate, the implementation of Mexico's –at that time– new criminal justice system. The methodology adopted employed two instruments to assess the quality of performance: 1. the International Framework for Court Excellence; and 2. the Common Assessment Framework. The categories of analysis established included **conditioners**, **facilitators**, and **results**.

In 2016, coinciding with the eight-year term stipulated for implementing the reform of the CJS, we adjusted our methodology in order to assess the system from the perspective of the consolidation of the reform. In that phase, we took into account feedback from the operators of justice and specialists in the field, as well as certain legislative changes, such as the publication of the National Code of Criminal Procedures in 2014, and institutional modifications. The editions of *Hallazgos* from 2016 to 2022 were guided by this revised focus.

## Proposal for 2023

In this year's edition, on the occasion of the tenth anniversary of the *Hallazgos* series, we once again adjusted our methodology. 15 years after the publication of the constitutional reform, it was no longer appropriate to conduct the analysis from the perspective of the consolidation of the CJS because, at least normatively speaking, the accusatory criminal system has been fully established.

The proposal for the 2023 edition consists in initiating a transition toward centering the evaluation on the

quality of criminal justice that will provide analyses of the current state of criminal justice and establish the key features of the ideal point that all parties should be striving to achieve. Our analysis thus focuses on the themes of respect for human rights and citizens' access to justice.

## Sources of information

Elaborating *Hallazgos* is a labor that takes one year. For this edition, we sent 844 solicitudes of information to the various institutions of the CJS. Their responses constitute our main source of information.

Other sources were the surveys and censuses conducted by the INEGI, such as the National Survey of Victimization and Perceptions of Public Security 2022 (*Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública 2022*), the National Census on the Procuración of State Justice 2022 (*Censo Nacional de Procuración de Justicia Estatal 2022*), and the National Census on the Administration of State Justice, 2022 (*Censo Nacional de Impartición de Justicia Estatal 2022*). In addition, we utilized data gathered to the close of December 2022 from the Executive Secretariat of the National Public Security System (*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública*) and the Monthly Logbook of Statistical Information on the National Penitentiary System (*Cuaderno Mensual de Información Estadística Penitenciaria Nacional*). Finally, we incorporated information from the Model of Evaluation and Follow-up of the Consolidation of the Criminal Justice System (*Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Criminal*, MES).

Below, we present a selection of indicators with their respective metadata.



## 1. Percentage of sentences appealed, common jurisdiction (Table 3)

**INDICATOR:** Percentage of sentences appealed in the common jurisdiction

**METHOD OF CALCULATION:**  $\left( \frac{\text{Total sentences issued}}{\text{Total resources interposed}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through solicitudes of access to information.

## 2. Percentage variation of persons attended by the CEEAV (Graph 18)

**INDICATOR:** Percentage variation of persons attended by the CEEAV

**METHOD OF CALCULATION:**  $\left( \frac{\text{Persons attended by the CEEAV in 2022} - \text{Persons attended by the CEEAV in 2021}}{\text{Persons attended by the CEEAV in 2021}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** State Executive Commission of Attention to Victims (*Comision Ejecutiva Estatal de Atención a Víctimas*) (CEEAV). Data obtained through request of access to information.

## 3. Number of victims represented by the CEEAV that received reparation of damage (Table 8)

**INDICATOR:**

Number of victims represented by the CEEAV that received reparation of damage

**METHOD OF CALCULATION:**  $\left( \frac{\text{Number of victims represented by the CEEAV that received reparation of damage}}{\text{Number of victims represented by the CEEAV that solicited reparation of damage}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** State Executive Commission of Attention to Victims (CEEAV). Data obtained through request of access to information.



## 4. Percentage of persons with a public defender bound over to the courts (Table 9)

**INDICATOR:** Percentage of persons accused in criminal causes processed in 2022 that had access to a public defender

**VARIABLE:** Persons accused in criminal causes processed in 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through solicitudes of access to information.

**VARIABLE:** Persons accused in penal causes processed in 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through solicitudes of access to information.

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Persons accused in criminal causes processed in 2022}}{\text{Persons represented by public defenders in 2022}} \right) \times 100$$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-31 December 2022

## 5. Percentage of persons with a public defender bound over to the court (Table 12)

**INDICATOR:** Percentage of persons with a public defender bound over to the court

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Total persons with a public defender bound over to the court}}{\text{Total persons with a public defender}} \right) \times 100$$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** State Institutes of Public Defenders (Instituto de la Defensoría Pública de las entidades federativas). Data obtained through request of access to information.

## 6. Forms of binding over to the court in the state and federal jurisdictions (Graphs 19, 20)

**INDICATOR:** Forms of binding over to the court, common jurisdiction

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Total forms of binding over to the court, by type}^*}{\text{Total penal causes processed by state courts}} \right) \times 100$$

\*The types of binding over to the courts are: urgent case, subpoena, flagrancy, arrest warrant, order to appear, and not specified

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.



**INDICATOR:** Forms of binding over to the court, federal jurisdiction

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Total forms of binding over to the court, by type}^*}{\text{Total penal causes processed per center of federal penal justice}} \right) \times 100$$

\*The types of binding over to the court are: urgent case, subpoena, flagrancy, arrest warrant, order to appear, and not specified

**LEVEL OF ANALYSIS:** by Center of Federal Penal Justice in each state

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Council of the Federal Judicature (Consejo de la Judicatura Federal). Data obtained through request of access to information.

## 7. Type of determination of the judicial control of the legality of detention in flagranti or urgent cases, common and federal jurisdictions (Graphs 21 and 22)

**INDICATOR:** Type of determination of the judicial control of the legality of detentions in flagranti or urgent cases, common jurisdiction

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Total of detentions determined as legal}}{\text{Total penal causes that involved detention in flagranti or urgent cases, common jurisdiction}} \right) \times 100$$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.

**INDICATOR:** Type of determination of the judicial control of the legality of the detentions in flagranti or urgent cases, federal jurisdiction

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Total detentions determined as legal}}{\text{Total penal causes that involved detention in flagranti or urgent cases, federal jurisdiction}} \right) \times 100$$

**LEVEL OF ANALYSIS:** by Center of Federal Penal Justice in each state

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Council of the Federal Judicature (Consejo de la Judicatura Federal). Data obtained through solicitudes of access to information.



## 8. Percentage of postponements of hearings (Graph 23)

**INDICATOR:** Percentage of postponements of hearings

**METHOD OF CALCULATION:**  $\left( \frac{\text{Total hearings postponed}}{\text{Total hearings programmed, common jurisdiction}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** 2020-2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.

## 9. Percentage of accused persons for whom a risk evaluation was conducted (Table 17)

**INDICATOR:** Percentage of accused persons for whom the UMECA conducted a risk evaluation

**METHOD OF CALCULATION:**  $\left( \frac{\text{Total risk evaluations elaborated by the UMECA}}{\text{Total accused persons}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** State Units of Supervision of Precautionary Measures and Conditional Suspension of Process (*Unidad Estatal de Supervisión a Medidas Cautelares y Suspensión Condicional del Proceso*, UMECA). Data obtained through request of access to information.

## 10. Type of pretrial detention imposed by supervising judges, state jurisdiction (Graph 30)

**INDICATOR:** Type of pretrial detention imposed by supervising judges, state jurisdiction

**METHOD OF CALCULATION:**  $\left( \frac{\text{Total persons on whom justified/ex officio pretrial detention was imposed}}{\text{Total persons on whom pretrial detention was imposed by a supervising judge, state jurisdiction}} \right) \times 100$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Model for the Evaluation and Follow-up of the Consolidation of the Criminal Justice System (*Modelo de Evaluación y Seguimiento de la Consolidación del Sistema de Justicia Penal*, MES).



## 11. Mean duration of penal processes that concluded with sentencing in oral trials (Graph 34)

**INDICATOR:** Mean duration in days of penal processes that concluded with sentencing in oral trials

**METHOD OF CALCULATION:** *Duration of the process<sub>j</sub> = (date of conclusion of penal causes concluded in oral trials - initial date of penal causes concluded in oral trials)*

To calculate the mean, the duration of all processes must be ordered from highest to lowest. If the total of criminal causes is odd, then:

$$\text{Mean of the process} = \text{Duration of the process}_{j}; \text{ where } j = \frac{\text{Total of penal causes} + 1}{2}$$

If the total of penal causes is even, then: take as the mean of the process the simple arithmetical average between the duration of the process at position  $j$  and the duration of the process at  $j + 1$

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** 2020-2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.

## 12. Mean duration of penal processes with accused persons under pretrial detention, regardless of the form of concluding the process (Graph 38)

**INDICATOR:** Mean duration in days of penal processes with accused persons under pretrial detention, regardless of the form of concluding the process

**METHOD OF CALCULATION:** *Duration of the process<sub>j</sub> = (date of conclusion of penal causes under pretrial detention - initial date of penal causes under pretrial detention)*

To calculate the mean, the durations of all the processes must be ordered from highest to lowest. If the total of criminal causes is odd, then:

$$\text{Mean of the process} = \text{Duration of the process}_{j}; \text{ where } j = \frac{\text{Total of penal causes} + 1}{2}$$

If the total of penal causes is even, then take as the mean of the process the simple arithmetical average between the duration of the process at position  $j$  and the duration of the process at  $j + 1$

**LEVEL OF ANALYSIS:** National

**PERIOD OF ANALYSIS:** January 1-December 31 2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.



### 13. Number of accused persons under pretrial detention (ex officio or justified) with over 730 day of deprivation of freedom (Table 20)

**INDICATOR:** Number of accused persons under pretrial detention (ex officio or justified) with over 730 days of deprivation of freedom

**METHOD OF CALCULATION:**  $S = \sum_{i=1}^n I [ (F_{conclusion,i}) - F_{initial,i} ) \geq 730 ]$

Where:

S the total sum

n the total number of cases

I the indicator function that returns 1 if the condition is true and 0 if it is false

F\_conclusion, i = the date of conclusion of the case i-ésimo

F\_initial, i = the initial date of the case i-ésimo

**LEVEL OF ANALYSIS:** State

**PERIOD OF ANALYSIS:** 2020-2022

**SOURCE:** Superior Court of Justice of the states. Data obtained through request of access to information.

### 14. Average workload of Attorney Generals' offices or agents of Prosecutors' offices, juridical advisers, public defenders, and judges and magistrates (Table 23)

**INDICATOR:** Percentage of persons accused in criminal causes processed in 2022 that had access to a public defender

**VARIABLE:** Agents and prosecutors of Prosecutors' offices

**SOURCE:** National Census of the Procuration of State Justice 2022, INEGI

**VARIABLE:** Investigative files opened

**SOURCE:** Model for the Evaluation and Follow-up of the Consolidation of the Criminal Justice System

**VARIABLE:** Persons tried in criminal matters

**SOURCE:** National Census of the Administration of State Justice 2022, INEGI

**VARIABLE:** Criminal causes processed

**SOURCE:** Superior Court of Justice of the states

**VARIABLE:** Number of victims advisers

**SOURCE:** State Commissions of Attention to Victims. Data obtained through solicitudes of request to information

**VARIABLE:** Cases attended in the CEEAV

**SOURCE:** State Executive Commissions of Attention to Victims. Data obtained through request of access to information

**VARIABLE:** Public defenders

**SOURCE:** State Institutes of Public Defenders. Data obtained through request of access to information

**VARIABLE:** Cases attended by public defenders' offices

**SOURCE:** State Institutes of Public Defenders. Data obtained through request of access to information

**VARIABLE:** Total number of Criminal Science Investigator

**SOURCE:** State Areas of Criminal Science Investigation. Data obtained through request of access to information

**VARIABLE:** Request for Criminal Science Investigators

**SOURCE:** Area of Criminal Science Investigation of the state, Data obtained through request of access to information

**METHOD OF CALCULATION:**

Files by Attorney's General office:

$$\frac{\Sigma (\text{Investigative files})}{\text{Total of attorneys}}$$

Criminal causes by person tried in criminal matters:

$$\frac{\Sigma (\text{Criminal causes})}{\text{Total persons tried in criminal matters}}$$

Cases attended by personnel of public defender's offices:

$$\frac{\Sigma (\text{Cases attended by public defenders})}{\text{Total number of public defenders}}$$

Requests for Criminal Science Investigator:

$$\frac{\Sigma (\text{Request of forensic analysis})}{\text{Total number of Criminal Science Investigator}}$$

**LEVEL OF ANALYSIS:** State**PERIOD OF ANALYSIS:** January 1-December 31 2022

## 15. Number of persons deprived of their freedom in CERESOS, state jurisdiction, by sentence enforcement judge in each state (Table 33)

**INDICATOR:** Number of persons deprived of their freedom in CERESOS, state jurisdiction, by sentence enforcement judge in each state

**VARIABLE:** Total persons deprived of their freedom, state jurisdiction

**SOURCE:** Monthly Logbook of Statistical Information on the National Penitentiary System, of the Decentralized Administrative Organ for Prevention and Readaptation Social (*Cuaderno Mensual de Información Estadística Penitenciaria Nacional del Órgano Administrativo Desconcentrado de Prevención y Readaptación Social*).

**VARIABLE:** Total judges specialized in penal execution

**SOURCE:** Superior Court of Justice of the states. Data obtained through solicitudes of access to information.

**METHOD OF CALCULATION:**

$$\left( \frac{\text{Persons deprived of their freedom, common jurisdiction, in CERESOS}}{\text{Total judges specialized in penal execution}} \right) \times 100$$

**LEVEL OF ANALYSIS:** State**PERIOD OF ANALYSIS:** to December 31 2022

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