



**WESTERN HEMISPHERE
RULE OF LAW INDEX AND ANALYSIS PROGRAM
ACCUSATORIAL TRANSITION
AND INMATE SURVEY FINDINGS:
GUATEMALA**

**FINAL REPORT
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EXECUTIVE SUMMARY

With the criminal procedure reform of 1992 (Decree 51-92), Guatemala became the first country in the region to drastically change criminal proceedings by introducing a mixed model of criminal prosecution that followed accusatorial principles, with the aim of improving access to justice, and to modernize and increase the efficiency of its criminal justice system. Through various reforms, Guatemala moved away from legal proceedings that followed an inquisitorial model of criminal prosecution (characterized by written, non-public proceedings), towards a more accusatorial or adversarial model of criminal prosecution (guided by the principles of contradiction, publicity, and orality). Although the move away from an inquisitorial system resulted in improvements to defendant's rights, the politicization of the judicial system, in recent years, has weakened the rule of law and judicial and prosecutorial independence.

With funding from the Bureau of International Narcotics and Law Enforcement Affairs (INL) of the U.S. Department of State, our team assessed the transition to the accusatorial system and the extent to which the prison system adheres to the rule of law. The findings presented reflect survey data, official statistics, and interview data. Our team traveled to Guatemala between February and April of 2022 to interview people in prison, which represents the majority of the data presented in this report. In addition, our team conducted stakeholder interviews during May of 2022 to gather the information that allowed us to contextualize the data from official statistics obtained through various transparency law requests. We traveled again in June of 2023 for a discussion of preliminary results and to incorporate feedback from stakeholders.

This is a graphical report that provides readers with a snapshot of the current state of the criminal justice system and the perceptions of individuals in prison in Guatemala. We hope the findings of this report will help stakeholders, policymakers, and donors identify the areas where the system is doing well and where it can be improved, with an emphasis on upholding the principles of an accusatorial model and improving prison conditions.

Purpose and Organization of the Report

The findings that we present in this *Accusatorial System and Inmate Survey Report* aim to provide baseline systemic knowledge on the current state of the criminal justice system in Guatemala. Thus, in this project we focused on the following objectives: (1) to explore prisoners' experience of the criminal justice system and with the rule of law, (2) to identify weaknesses and obstacles that criminal justice operators face in the implementation of accusatorial principles, and (3) to assess the overall functioning of the system through performance indicators.

This project offers two important contributions. First, we developed a new survey tool, the *Inmate Perceptions of Procedural Justice and Correctional Standards of Care Survey*, that measures both experiences with criminal proceedings and life in prison. The survey is unique as it incorporates items that aim to measure perceptions on procedural justice and compliance with rule of law within prisons. Second, following the Accusatorial System Assessment Framework, we identify areas of compliance with the accusatorial principles in the criminal justice system. It must be noted that three topics were not studied in this project: the police, the juvenile system, and victims of crime.

This report is organized as follows. In Chapter 1 we review the importance of rule of law in the region, followed by a summary of the methodological and conceptual framework in Chapter 2. In Chapter 3, we provide an assessment of the implementation of various accusatorial principles using the Accusatorial System Assessment Framework, which aims to provide baseline information for stakeholders to be able to evaluate, over time, the performance of the various institutions herein reviewed. Next, we describe the findings of our *Inmate Perceptions of Procedural Justice and Correctional Standards of Care Survey*. The results from the survey are divided into two chapters. In Chapter 4 we review the prisoners' experiences with the criminal proceedings and their perceptions on procedural justice. Then, in Chapter 5, we discuss the prisoners' experiences living in prison, and we analyze how the penitentiary system upholds Rule of Law indicators in their treatment to individuals in prison. Chapter 6 provides a brief analysis of the New Penitentiary Management Model (NMGP) and its performance relative to other Guatemalan prisons. Finally, we conclude the report with evidence-based recommendations.

Results in Brief

Since the implementation of a model of criminal prosecution that follows accusatorial principles in 1994, Guatemala fundamentally transformed the way justice is served. However, criminal justice operators face various challenges. An accusatorial model of criminal prosecution should improve efficiency, transparency, and access to justice. The rule of law as a "lived experience" should also be perceived as improving among operators as well as users (victims and defendants). In this report, we hope to shed light on how the criminal justice system in Guatemala is complying with accusatorial principles and show through prisoner survey results the overall experiences with criminal proceedings and life in prison. If the system is working as expected, our findings should reflect improvements in how operators perceive the operation of their system, as well as how defendants experience justice. Our findings show there has been some progress in some areas, but there are still many challenges that must be addressed.

Following the Accusatorial System Assessment Framework, in Chapter 3 we show the performance and capacity of the criminal justice system. We found that for the period 2011-2021, most adjudication in Guatemala happens at the pretrial stage, where the majority of cases end with dismissals. Among cases that reach trial courts, about 25% of cases end with acquittals. There are important delays in appellate courts, and when appeals are adjudicated, they are likely to be revoked. The COVID-19 pandemic slowed the overall activity in the criminal justice system, evidenced in a one-year period of fewer hearings and adjudications. We identified insufficient physical and human resources in the criminal justice system, particularly in the judiciary and the Public Defender's Office. Our study also found that the criminal justice system faces various challenges in the consolidation of five key accusatorial principles: contradiction, orality, publicity, equality, and due process. The most important challenges observed were to the principles of orality, equality, and due process. We found resistance to oral litigation which some blamed on an inquisitorial fixation on the "judicial file." There are also important challenges to the principle of equality due to a systemic failure to address the needs of vulnerable groups (in particular, the indigenous population). We also found that judges routinely allow practices that weaken the rule of law. For example, by normalizing practices that are not regulated by law (like "provisional detention"), or that go against what is prescribed in law (allowing abbreviated procedures in trial courts). Finally, in the prison system, there is overcrowding fueled by what some described as a "culture of punishment."

In Chapters 4 through 6, we include our findings from the *Inmate Perceptions of Procedural Justice and Correctional Standards of Care Survey*, which was completed by 2,590 individuals in 20 prisons in Guatemala. The Survey included 242 questions and allowed us to create two different indices. First, we created the Procedural Justice Index, which includes indicators that measure perceptions of fairness in decision-making and perceptions of fair treatment in criminal proceedings. And second, we created a Rule of Law Index, a composite measure that includes four prison indices (Performance; Capacity; Integrity, Transparency, and Accountability; and Treatment of Vulnerable Groups) based on the United Nations' Rule of Law Indicators that measure "the strengths and effectiveness of correctional institutions" (The United Nations Rule of Law Indicators, 2011, p. v).

We first describe, in Chapter 4, the experiences of defendants with criminal proceedings. Overall perceptions of procedural justice are low in Guatemala (0.32). After their arrest, defendants were more likely to be informed of their right to remain silent, than to be informed of their right to an attorney. About a third of the respondents, experienced some form of abuse (that is, denying access to food, water, or communication with relatives, asking for a bribe or threatening with false charges) or mistreatment (to be blindfolded, forcibly undressed, beaten up or to suffer an asphyxiation attempt). The top three abuses experienced by respondents were threat of false charges, the denial of communication with relatives, and denial of food. About a third of respondents were informed that they could obtain a reduced sentence for pleading guilty, and some of them felt coerced into accepting guilty. Few respondents felt that judges listened to them, explained proceedings, or created conditions for the defense to explain their case. The overall quality of defense was relatively positive (0.59), but experiences were reportedly better with private attorneys when compared to public defenders. The average amount of time between an arrest to seeing a judge for the first hearing was 5 months, and the average amount of time between arrest and conviction was 17 months. The impact of the COVID-19 pandemic was also felt among individuals in prison, who reported a decrease in the presence of family and friends in their hearings, negatively impacting the transparency and publicity of proceedings.

In Chapter 5, we report survey findings focused on the prisoners' experiences living in prison. Overall, we found that adherence to rule of law, based on all four indices, was 0.58. Ratings were highest on the Prison Staff Integrity, Transparency, and Accountability index, which includes items related to respect for prisoner's rights, absence of reported corruption, and prison staff accountability (0.74). The ratings on the other three indexes were lower. The Prison Capacity index, which assesses if the prison system has enough material and human resources and its structural condition, was rated 0.56. The Performance index score was 0.51 and includes ratings on prison safety, prisoner well-being, healthcare and rehabilitation programing. The Treatment of Vulnerable Groups index score was 0.49, the lowest score of the four indexes. This index included questions about on how the prisons handle discrimination and address the specific needs of women. The survey revealed large differences in prisoners' perceptions and experiences across the prisons. For instance, prisoners surveyed in Fraijanes I, Pavoncito Fraijanes, and Alta Seguridad Escuintla were generally more satisfied with their prison experience than those at Cobán, Santa Teresa, and Puerto Barrios. Finally, in Chapter 6, we compared responses from those living in Fraijanes I (NMGP) to a matched group of women living in other institutions. Women in NMGP were consistently more favorable when reporting their experiences and perceptions. The NMGP had significantly higher ratings on all four indices and women in NMGP were more likely to report feeling safe and feeling that their rights were protected.

Summary of Recommendations

Our report provides various recommendations based on our visits to prison sites, interviews with stakeholders, official statistical data, and the analysis of survey data. We identified the following key areas that need increased funding across institutions: increase human resources, expand infrastructure, and expand training and professional development, all in a way to support the consolidation of accusatorial principles and expand access to justice. In addition, we provide recommendations targeted by institution, particularly to improve the protection of defendants' rights and due process.

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1. INTRODUCTION: RULE OF LAW AND THE TRANSITION TO THE ACCUSATORIAL SYSTEM

In this introductory chapter, we first define the rule of law and explain the importance of the reforms towards an accusatorial model in the Latin American region, highlighting the importance of procedural justice in shaping citizens' perceptions on access to justice and their relationship to the rule of law. Next, we provide background information on the accusatorial system in Guatemala and the rights it provides to defendants. In the last section, we briefly introduce the penitentiary system.

Rule of Law and Procedural Justice in an Accusatorial Model

An efficient criminal justice system should uphold the rule of law, balance the demands between parties, and safeguard human rights. The rule of law requires equal treatment of all people before the law, which ideally translates into an experience that is free of rights-violations for victims and defendants. Thus, adherence to the rule of law should be assessed in every institution of the criminal justice system, from the police to prisons. Constitutional democracies with a strong rule of law should ensure that people cannot be imprisoned without due process, that the rights of prisoners are respected, and that correctional institutions are secure and effective in preventing recidivism.

Since the 1990s, countries across Latin America have implemented ambitious reforms to improve access to justice, and to modernize and increase the efficiency of their criminal justice systems. In 1992, Guatemala became the first civil law country in the region to introduce a criminal procedure that moved away from an inquisitorial model (characterized by written, non-public proceedings), towards an accusatorial or adversarial model of criminal prosecution (guided by the principles of contradiction, publicity, and orality).

The consolidation of the accusatorial model of criminal prosecution in Latin America should improve the efficiency and transparency of the criminal justice system, and overall perceptions of access to justice and rule of law among victims and defendants. Adversarial systems tend to increase perceptions of fairness in criminal proceedings (Thibaut & Walker, 1975; Walker, et al., 1979) and this, in turn, is associated with improved perceptions of rule of law (Baker, et al., 2014). In this report, we provide an overview of the current criminal justice system and bring to light the experiences of prisoners with the rule of law and their perceptions of procedural justice in Guatemala.

The Accusatorial Criminal System in Guatemala

After its transition to democracy, Guatemala began a comprehensive overhaul of its criminal justice system in 1992. At the time, Guatemala was operating with a criminal procedure code based on an inquisitorial model of criminal prosecution. The goal of the criminal justice reform was to improve the investigation, prosecution, and adjudication of criminal cases with a new criminal procedure code (Decree 51-92). This law introduced a mixed model that embraced an adversarial or accusatorial model of criminal prosecution based on key principles such as contradiction, immediacy, orality, publicity, and equality (see Appendix A for a Glossary of Legal Terms in English and Spanish). The accusatorial system that began operating on July 1, 1994 enhanced the rights of all parties (victim, defendant, and public prosecutor) and provided a clear

separation of roles between the prosecutor, who gathers evidence, and the judges, who adjudicate cases (Garavano, et al., 2014).

Organization of the court system in Guatemala

Supreme Court of Justice (Penal Chamber)							
Appellate Courts							
Metropolitana (9)	Central (2)	Nororiente (3)	Noroccidente (3)	Norte (2)	Suroccidente (3)	Suroriente (2)	Peten (1)
Sentencing Courts							
Metropolitana (1)	Central (0)	Nororiente (1)	Noroccidente (0)	Norte (0)	Suroccidente (1)	Suroriente (0)	Peten (0)
Oral Courts							
Metropolitana (23)	Central (7)	Nororiente (8)	Noroccidente (4)	Norte (5)	Suroccidente (15)	Suroriente (6)	Peten (2)
Pretrial and Peace Courts							
Metropolitana (55)	Central (53)	Nororiente (46)	Noroccidente (59)	Norte (31)	Suroccidente (135)	Suroriente (43)	Peten (18)

Note: The data described above were calculated based on information published by CENADOJ (2023), which reports a total of 731 courts, as of April 30, 2023. Based on this report, we filtered the courts with criminal jurisdiction, excluding youth courts.

Criminal proceedings

Since 1994, the criminal process in Guatemala has consisted of four stages: investigation, pretrial, trial, and sentencing as detailed below. The figure on the following page provides additional details including the possible resolutions of a case at each stage.

- (1) Investigation stage.** As indicated, the criminal process begins when a crime is reported or a complaint is made to the police or the Public Prosecutor's Office. During the investigation or "preparatory" stage (*etapa preparatoria*), the Public Prosecutor's Office (*Ministerio Público*), supported by the Police (*Policía Nacional Civil*), investigates the crimes. A case becomes *judicialized* once sufficient evidence has been gathered by a public prosecutor to file in a pretrial court an "imputation" (*imputación*) against a defendant, usually following an *in flagrante* arrest, or after a search or an arrest warrant.* During an imputation hearing, the defendant is notified that he is under criminal investigation and, thus, the case moves to pretrial stage.
- (2) Pretrial stage.** A pretrial judge (*juez de primera instancia*) is responsible for overseeing that the rights of the victim and the defendant are protected throughout this stage. The pretrial judge is most notably responsible for evaluating the legality of the evidence gathered. Cases can be dismissed or diverted during this "intermediate" stage. Cases that are not diverted from the court process are advanced to the trial stage.
- (3) Trial stage.** During this phase, cases are heard by a trial court (*Tribunal de Sentencia*) responsible for adjudicating the case. In general, the trial court is composed of a panel of 3 judges, and all decisions require a majority vote. Guatemala has also created specialized courts to deal with grave crimes, like femicide and violence against women (Decree 22-2008) or high-risk cases (Decree 21-2009). Since 2011, only grave crimes are sent to a panel judge for trial, and most trials take place in a "unipersonal court," or a single judge court (Decree 7-2011).
- (4) Sentencing stage.** This stage is overseen by a sentencing judge (*juez de ejecución penal*) who is responsible for protecting the rights of all individuals in prison, whether as a result of pretrial detention, provisional prison, or a criminal conviction. Sentencing judges are also charged with overseeing the punishment and rehabilitation and those who have been convicted.

* In Guatemala criminal cases can be overseen by a pretrial court (*Juzgados de Primera Instancia*), but some crimes and offenses can also be overseen by a peace court (*Juzgados de Paz*).

The criminal procedure code of Guatemala allows various alternative conflict resolution measures that include: (1) closing a case through the use of the opportunity principle (*criterio de oportunidad*), (2) dismissal of prosecution (*desestimación*), (3) adjournment in contemplation of dismissal or ACD (*suspensión del proceso sujeto a condiciones*), (4) a referral to mediation and conciliation (*mediación y conciliación*), and (5) a plea bargain agreement (*acuerdo de pena*).

Following an arrest, a pretrial judge must decide if the accused can be released to the community or to impose a preventative measure, including pretrial detention (*prisión preventiva*). Decisions regarding pretrial detention must be made within 24 hours of an arrest. Individuals who are detained for more than 24 hours without a judicial order are considered to be held in “provisional detention” (*prisión provisional*). There is no law regulating this common practice.

Any case that is not dismissed or adjudicated during the pretrial stage advances to the trial stage. At this point, the pretrial judge assigns the case to a trial court, who is responsible for protecting the rights of all parties during the trial proceedings.

Victim and defendants’ rights

The transition to an accusatorial system improved both the rights of victims and the rights of the accused in Guatemala. Victims have various rights (Decree 51-92, Art. 116-121)) including the right to be heard, the right to participate in proceedings with an attorney as private prosecutor, and the right to appeal. Guatemala created the Institute for Victims (*Instituto para la Asistencia y Atención a la Víctima del Delito*) (Decree 21-2016) in 2016. It began operations in 2020 in Guatemala City and has continued to expand its operations since then. It is the second institution of its kind in Latin America (after the creation of the Department for Victims of Crime in 1998 in Panama).

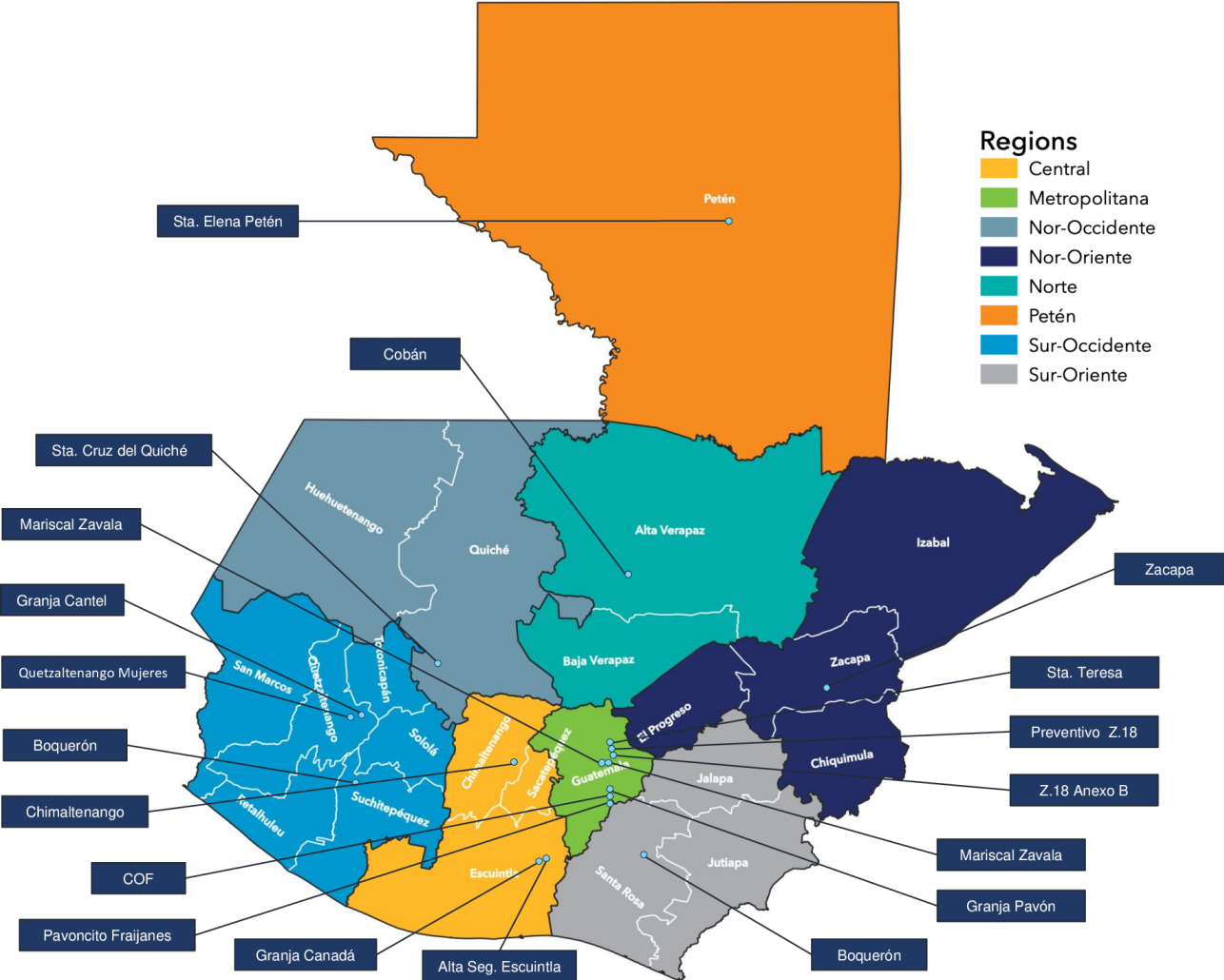
Defendants’ rights are also protected in the Guatemalan criminal procedure code (Decree 51-92, Art. 70-71). These include the right to information, the right to remain silent, and the right to effective legal representation under the law (Decree 51-92, Art. 81). The Guatemalan state has also expanded its obligations to protect the rights of defendants and individuals in prisons through the implementation of domestic monitoring mechanisms and the adoption of various international treaties and agreements. For example, the Guatemalan human rights ombudsman (*Procuraduría de Derechos Humanos*) created an office focused on individuals in prison in 1998. In 2015, the Supreme Court of Justice ratified the Brasilia Rules (2008; 2019), which reiterated the obligation on the Guatemalan state to guarantee effective access to justice for vulnerable people, including individuals in the penitentiary system (Corte Suprema de Justicia, 2015).

The Prison System

In Guatemala two distinct prison systems operate: the *Dirección General del Sistema Penitenciario* or DGSP (General Directorate of the Penitentiary System) and the relatively new *Unidad del Nuevo Modelo de Gestión Penitenciaria* or NMGP (New Model of Penitentiary Management). At the time of the survey, the NMGP managed only one of the 22 prisons throughout the country. In total, the combined average daily prisoner population was approximately 25,000 in 2021 with roughly 100 women housed in the NMGP. The prisons are located in 10 of Guatemala’s Departments and houses prisoners of all security levels. The prison system employs approximately 4,670 people and has an annual budget of more than USD\$82,000,000 (DGSP, 2023; Ministerio de Gobernación, 2021). The Penitentiary Regime Law (Decree 33-2006) governs

the county’s prison system, including detention centers. The system is overseen by the Ministry of Government and the DGSP and the NMGO are headed by directors appointed by the Ministry of Government.

Map of judicial regions and prisons



The Current Study

The current study is designed to improve our understanding of the current state of the criminal justice system in Guatemala through a “systemic” lens. Thus, in this project we focused on the following objectives: (1) to learn about the experiences of individuals in prison with the criminal justice system and with rule of law (2) to identify weaknesses and obstacles that criminal justice operators face, and (3) to assess the overall functioning of the system through performance indicators. The study has some limitations. First, given the time of the implementation of the accusatorial system in Guatemala, it was not possible to truly compare the experiences of individuals in prison with the inquisitorial and the accusatorial systems. Second, official data were not available for most of the performance indicators. Throughout, we

use public sources, when available, and/or interview data to assess the efficiency of the accusatorial system. This report was organized using the “Accusatorial System Assessment Framework,” which aims to identify how well the system protects the rule of law and upholds the principles of the accusatorial system as described in the following chapters.

2. METHODOLOGY

In this chapter, we provide a summary review of the various methodologies that we followed to support the findings included in this report. Our report draws on official statistics, qualitative interviews with stakeholders, and survey interviews with individuals living in prison.

Official Statistics

We made data requests in 2021 and 2022 to the Judiciary, the Public Prosecutor's Office, and the prison authorities for the period 2011-2021. Data was unavailable or incomplete for a number of variables that were requested. When necessary, we relied on other public sources like La Balanza from *Diálogos* and the Mirador Judicial from the *Instituto de Estudios Comparados en Ciencias Penales de Guatemala*.

Stakeholder Interviews

We conducted a total of 18 semi-structured interviews. Using a snowballing sampling technique, we recruited participants who had experience in both the inquisitorial and the adversarial systems as attorneys, public prosecutors, judges, or public defendants. Our final sample included 3 public prosecutors, 6 judges, 3 private prosecutors, 3 public defenders, and 3 NGO observers. Most interviews were in person (17) with one conducted via Zoom. In-person interviews were conducted in Guatemala City between May 2-6, 2022. Interviews were conducted in public spaces. In addition to interviews, we also met with various academics and human rights observers to gain background knowledge.

Survey Development and Design

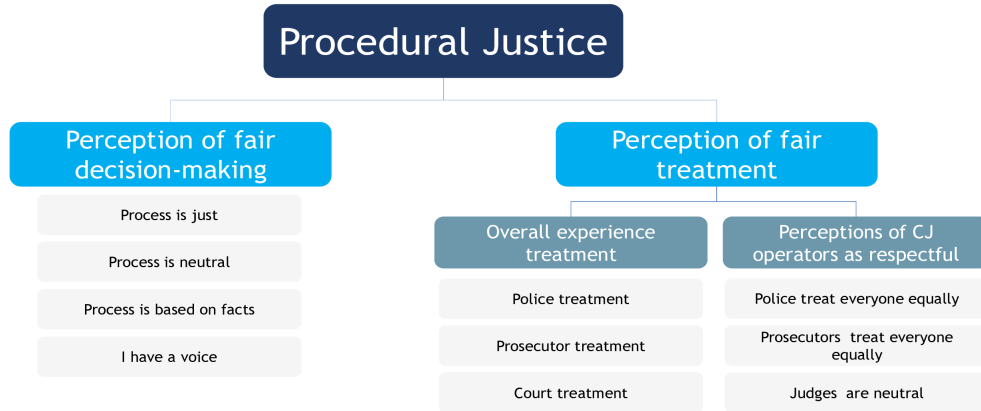
We developed a culturally congruent survey designed to capture prisoners' perceptions of procedural justice and rule of law, to gather background characteristics, and to measure perceptions of the criminal justice system, including arrest, court, and prison. The survey was based on a review of the academic literature on prison climate surveys, procedural justice measures, and rule of law indicators. We sent a draft of the survey for peer review to a panel of subject matter experts, including criminal justice operators (judges, correctional administrators), and regionally based researchers who have previously implemented prison surveys in Central America. They were asked to review item quality, relevance, phrasing, and potential biases. We pretested a second draft of the survey with a focus group consisting of seven (n = 7) formally incarcerated individuals in El Salvador. Their feedback led to the inclusion of new items, and changes in both the wording and order of some items. The final survey included 242 questions and was approved by the City University of New York's Institutional Review Board.

Procedural Justice Index

An individual's perception of proceedings as being fair can have an impact on their overall perception of rule of law and access to justice. For this reason, our survey includes indicators designed to measure perceptions on procedural justice. The Procedural Justice Index is based on perceptions of a fair decision-making process and fair treatment during the proceedings. These indicators were developed using behavioral and perceptual questions regarding their experiences with criminal proceedings from the time

of arrest. Fair decision-making is a composite measure that includes: (1) how fair or just a process is perceived to be, (2) if the decision-making is perceived as neutral and not biased, (3) if decision-making is considered to be based on facts, and (4) if an individual perceives that she/he has a voice in the process.

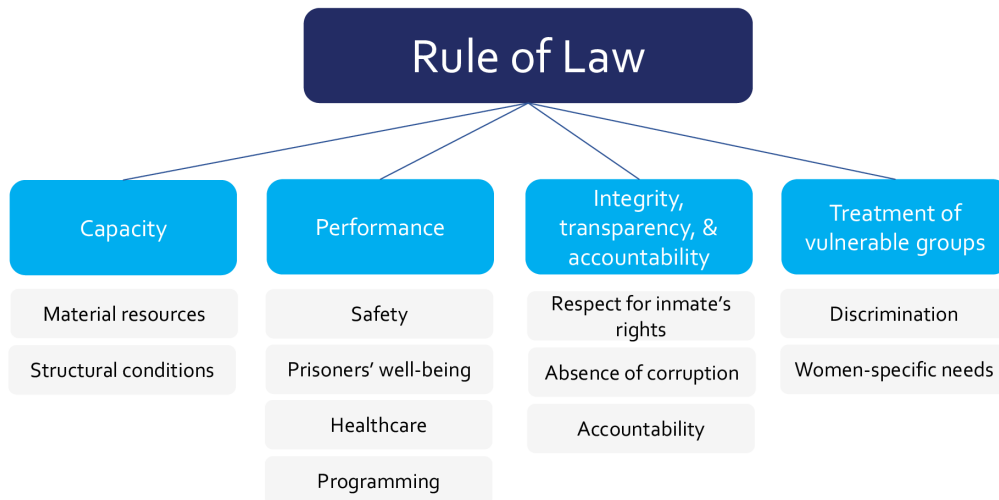
Conceptual map of Procedural Justice



Rule of Law Index

To identify and monitor Guatemala’s adherence to the principles of Rule of Law in the administration of penitentiary justice, we adopted the United Nation’s Indicators Framework (see United Nations, 2011). The indicators are designed to measure four major dimensions of rule of law: *performance; capacity; integrity, transparency, and accountability; and treatment of members of vulnerable groups*. Following the UN’s conceptual framework of Rule of Law, we generated indicators that are: (1) consistent with international standards of human rights and the treatment of prisoners, and (2) comparable with other Rule of Law Indexes. These indicators were measured through the use of behavioral and perceptual questions regarding prison conditions and experiences.

Conceptual map of Rule of Law



Data Analysis

Stakeholder interviews were coded and analyzed using NVIVO, a software package for qualitative data analysis. Survey responses were processed and analyzed using STATA version 17, a statistical software package. Univariate and bivariate analyses were used to describe and test differences in prisoners' characteristics, beliefs, and experiences in the criminal justice system. The Rule of Law and Procedural Justice Indexes are additive scales based on indicators that measure specific sub-factors, which subsequently are aggregated to measure factors. To create the indices described above, variables were normalized to a scale between 0 and 1, with values closer to 1 indicating greater adherence to the rule of law or higher perceptions of procedural justice.

Survey Implementation

Data collection

Interviews were conducted in public spaces, including prison classrooms and multi-purpose rooms. These rooms were often semi-outdoor spaces and separated from both prisoner pavilions and administrative offices. Correctional officers were assigned to oversee the data collection process at each prison and stood inside the interview room by the door or outside, but could not hear participants responses during the survey administration process. Participating prisoners had the option to give verbal responses or point to answers on the questionnaire to ensure confidentiality and safety of the participants.

Sample

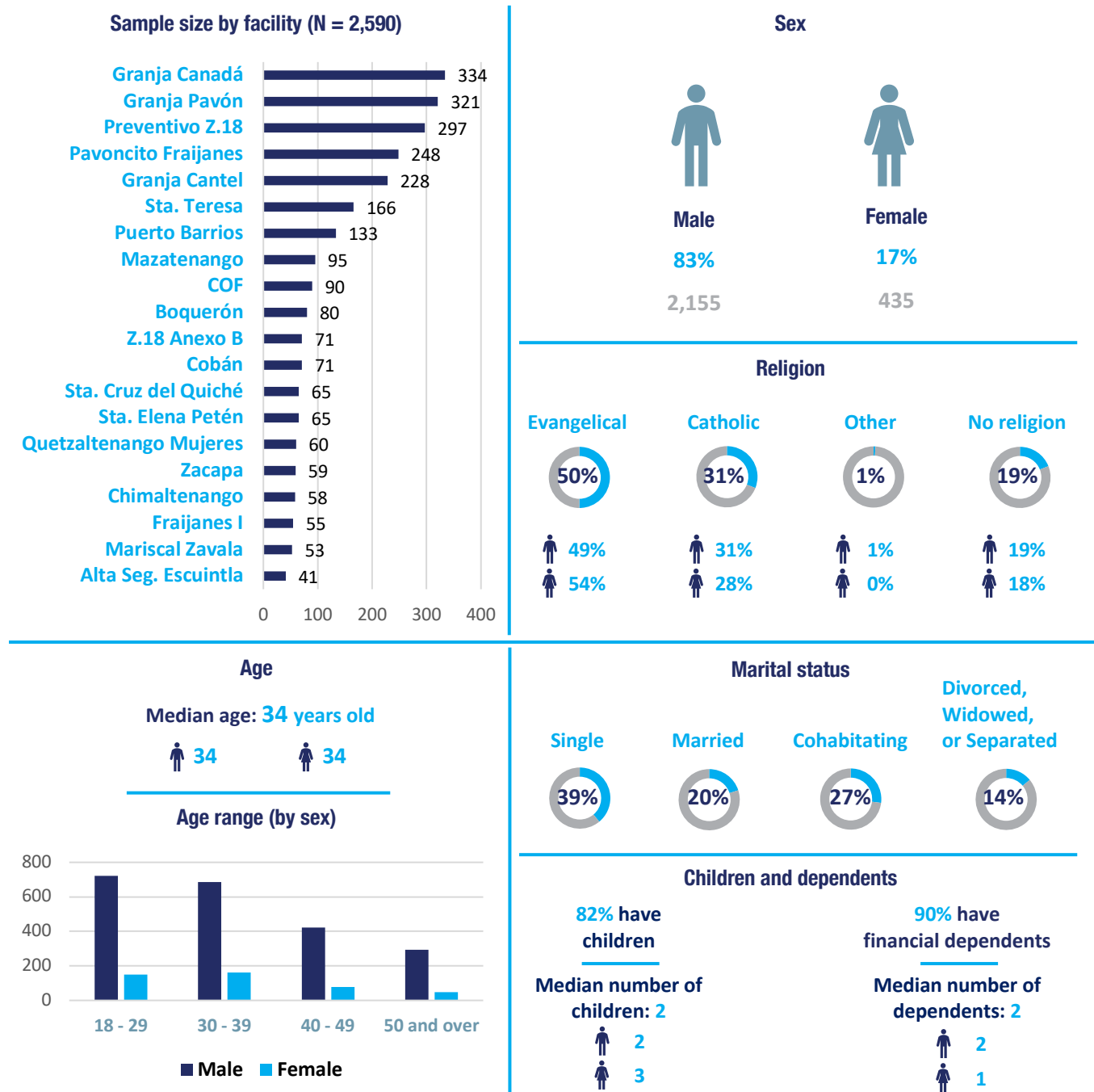
The *Dirección General del Sistema Penitenciario* (DGSP) granted the research team permission to access to prisons in 2021 (see Appendix B for the official prison names and the abbreviations used throughout the report). The research team visited prisons in advance of the data collection efforts to gain access and approval at each prison. Information about the project was provided to key correctional staff and prisoner leaders, and potential barriers or limitations to the data collection process were addressed. Prisons that chose to participate received incentives including hygiene supplies for prisoners and coffee for officers.

Interviews were conducted in February through April 2022 in 20 of the 21 facilities that were active at the time¹. Efforts were made to draw a sample that was proportionally equivalent to the national prison population (N=24,650 in 2021) based on the population count, legal status, and sex. Women were oversampled because they only account for approximately 11% of the total prison population. Convenience sampling was used throughout the prisons. In each site, correction officers would introduce the research team to the prisoner leaders, who allowed them to use a megaphone to describe the survey in various pavilions. Interested individuals would be paired with an interviewer who would ask for verbal informed consent and, if given, would complete the interview. A total of 2,637 individuals consented to participate. Of these, 47 individuals did not complete the interview with some explaining that they found the survey "too long" or "time consuming". Our final sample was 2,590 respondents. Next, we describe the characteristics of the final sample.

¹ Fraijanes II was excluded because it reopened in December 2021; we were not able to gain access in Centro de Detención Preventiva para Hombres de la zona 1, Matamoros.

Sample characteristics: Demographics

Respondents were asked several questions related to demographics and background. The typical survey respondent was male (83%), 34 years old and had left school before 9th grade (64%). A slight majority reported being married or cohabitating at the time of their arrest. Twenty-five percent of the respondents were housed in Franja Canadá (13%) and Grana Pavón (12%). With the exception of respondents from Fraijanes I, all of the respondents were living in prisons with overcrowding. Half of the respondents indicated they were Evangelical while 19% reported they did not have a religion. Over 80% of the sample had children; men had an average of two children while women had an average of three children.



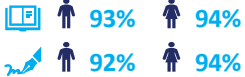
Although respondents tended to be undereducated, nearly all reported being able to read and write. In Guatemala there are 24 indigenous languages spoken. Twelve percent of the respondents reported they speak a native language, with men being significantly more likely to report this. Among them, 33% of women speak Q’eqchi’ and 26% of the men speak K’iche. Other languages included Poqomchi (6.0%), Mayas (5.4%), and Mam (4.8%) Four percent of the sample reported being foreign-born, which far exceeds the national population (less than 1%). Respondents were also asked about their employment status at the time of their arrest. Only 2% indicated they had been unemployed at the time of their arrest. The most common occupations for men were related to manual labor, working for private companies, or agricultural. Among women, the most common occupations were business owners, working for private companies or in sales.

Highest grade completed

Education level	Total	♂	♀
8 th grade or less	64%	65%	64%
Some high school	27%	27%	26%
High school diploma	2%	2%	4%
Some college	4%	3%	4%
College degree+	3%	3%	2%

Literacy

93% can read and
92% can write



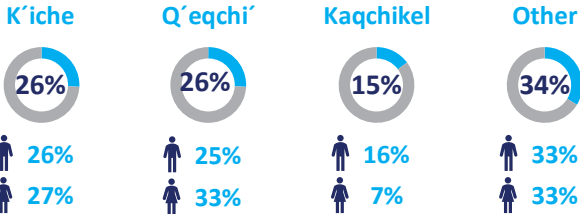
Nationality

96% Guatemalan
4% Foreign

Native Language

12% speaks

native language



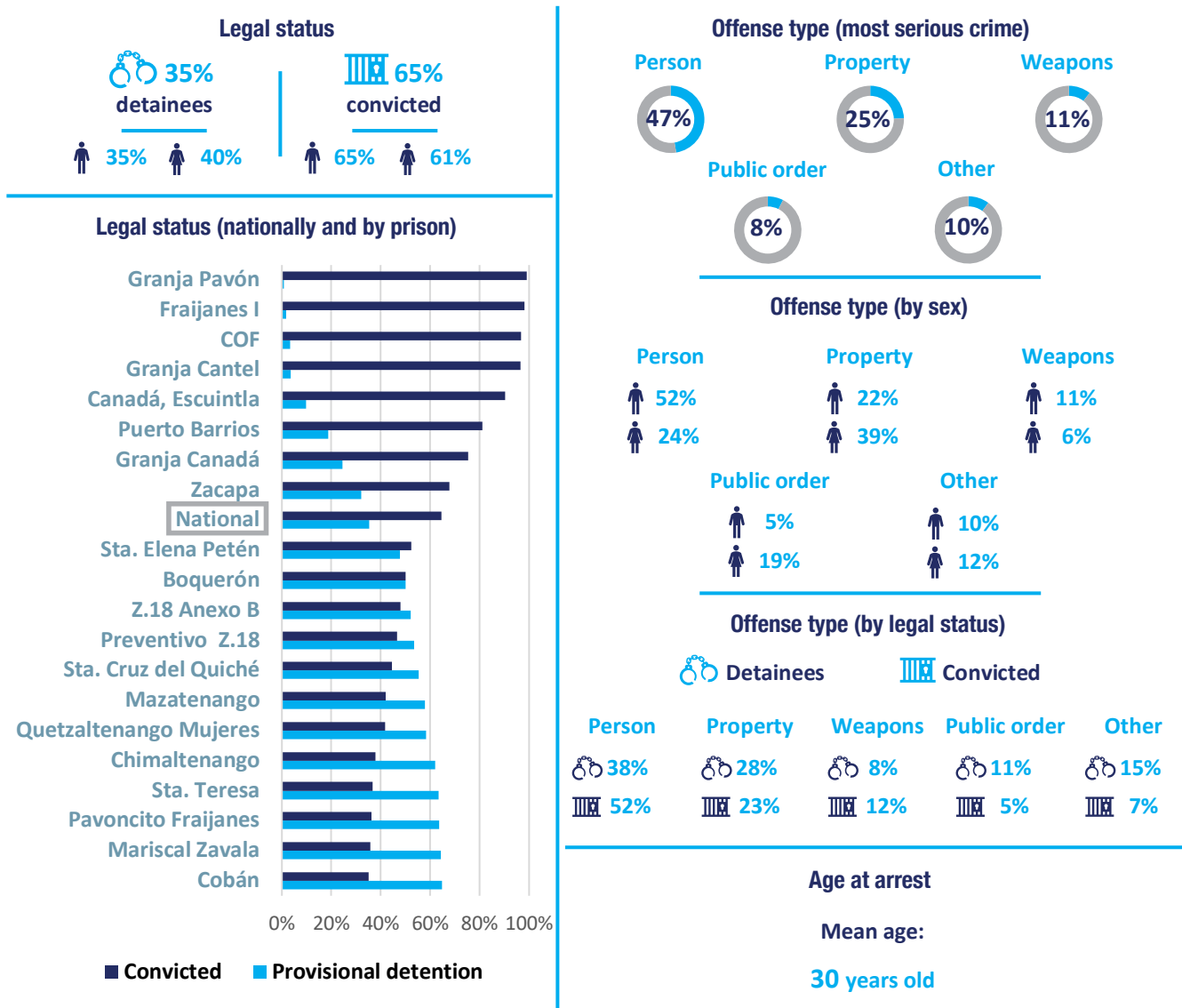
Occupation prior to incarceration, by sex^a

Occupation	Total	♂	♀
Elementary occupations	15%	16%	10%
Employee of a private company	15%	14%	19%
Skilled agricultural, forestry and fishery workers	14%	16%	2%
Craft and related trades workers	12%	14%	3%
Business owners	10%	8%	20%
Plant and machine operators and assemblers	10%	12%	1%
Service and sales workers	10%	8%	20%
Professionals	6%	5%	8%
Armed forces occupations	3%	4%	1%
Unemployed	2%	2%	5%
Other	2%	2%	3%
Retired/Housewife	2%	0%	9%
Technicians and associate professionals	0%	0%	1%

^aCategorization of occupations was partially based on the United Nations’ International Standard Classification of Occupations

Sample characteristics: Legal factors

The typical respondent had been convicted (65%) and 30 years old at the time of the arrest. Individuals held pretrial were slightly underrepresented among the respondents, with 65% of respondents serving a sentence at the time of the interview. Women in the sample were slightly more likely to be held pretrial compared to men. Among male respondents, 52% were being held on person-related charges, with 22% in prison because of property-related charges. Just over a third of female respondents were charged with property offenses (39%) and 24% were charged with person-related offenses.



As illustrated on the following page, relatively few reported any current (3%) or prior (8%) gang affiliation. All of the respondents in Canadá Escuintla identified as gang members. The sample in 9 prisons did not include any self-identified gang members. Just over half of the respondents indicated they had previously been incarcerated as an adult or juvenile. As noted, 35% of the sample was being detained prior to conviction. Just over half (56%) of the sample were in the treatment phase of the progressive system, while only 2% were in the prerelease phase. Severn percent of the sample were unaware of their current phase.

Prior incarcerations

9% detained in a juvenile detention center

47% no prior adult or juvenile incarceration

Gang membership

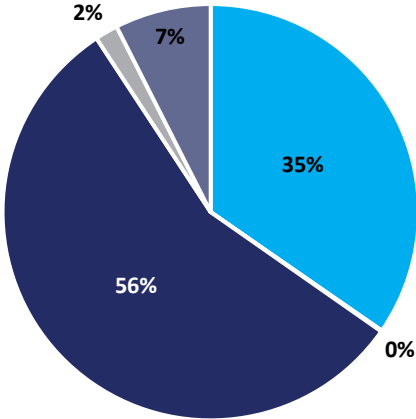
8% identified as being in a gang prior to current incarceration

3% identified as being currently in a gang

Top 5 prisons where interviewees identified as gang members

- Quetzaltenango 2%
- Sta. Cruz del Quiché 3%
- Sta. Teresa 5%
- Boquerón 26%
- Alta Seg. Escuintla 100%

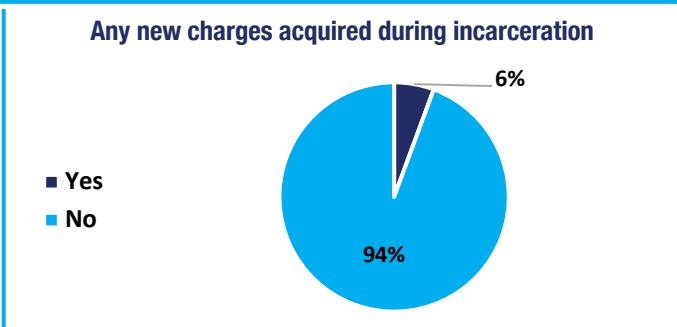
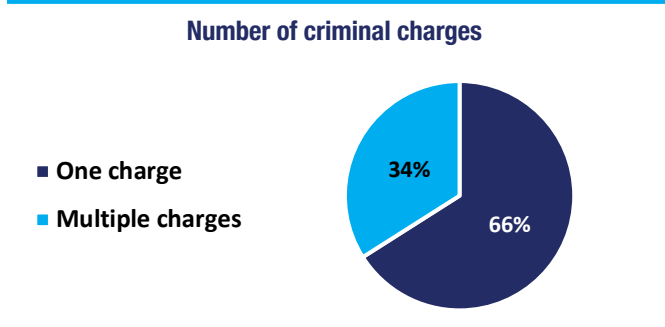
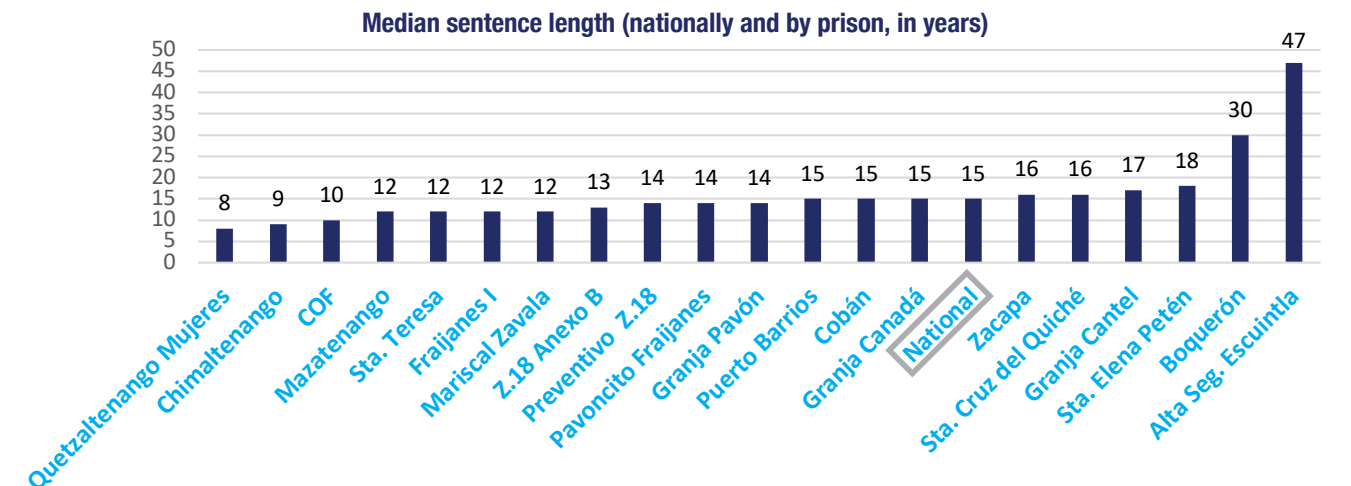
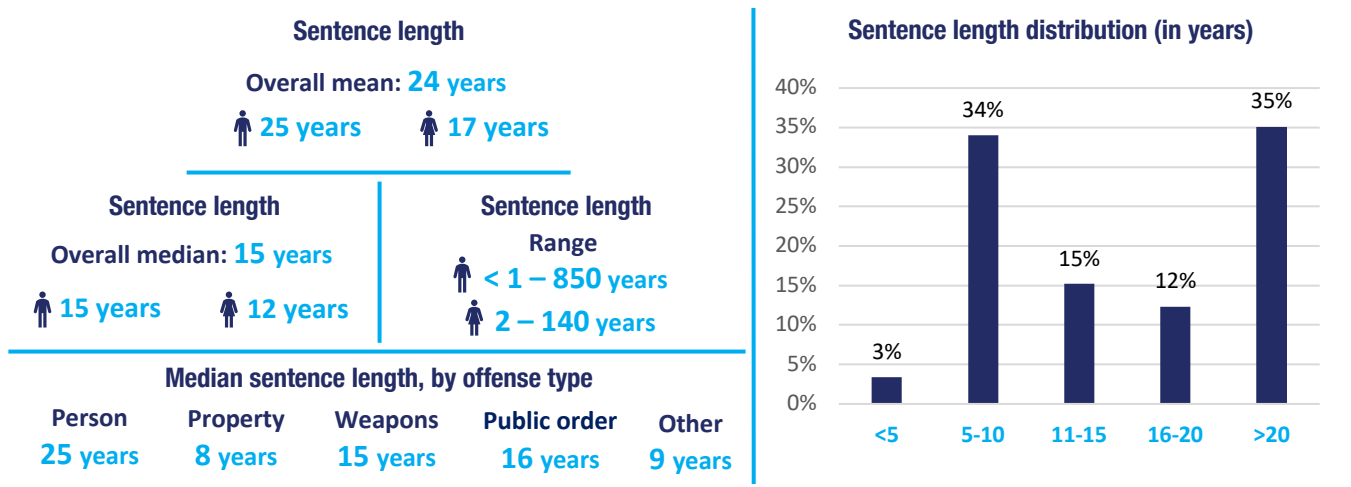
Current phase



■ Detention ■ Observation ■ Treatment ■ Pre-release ■ Does not know

Sample characteristics: Sentenced respondents

Among convicted individuals, the mean sentence length was 24 years with a range of less than one year to more than 850 years. The median sentence length was 15 years. Male respondents were serving slightly longer sentences than female respondents. Sentence length varied by offense type; those convicted of personal crimes had the longest mean sentence (28 years) followed by those convicted of sex offenses (15 years). Nearly a third of respondents reported sentences between 5 and 10 years with another third indicating they had sentences more than 20 years. Respondents from Boquerón and Alta Seg. Escuintla were serving an average of 30 years and 47 years respectively. The majority (66%) of respondents had only been convicted of one crime and 6% of respondents reported acquiring new charges while in prison.










3. THE ACCUSATORIAL CRIMINAL SYSTEM: AN ASSESSMENT

This chapter is based on the Accusatorial System Assessment Framework, which gathers data on three interrelated categories:

- **Performance.** Indicators of performance are the cases received (input) and the resolutions produced (output) by the judicial system. These indicators provide a snapshot of the type of resolutions given to criminal cases across the various stages of the criminal process.
- **Capacity.** Indicators of capacity show the human and financial resources available for institutions to perform their basic duties. These indicators are workload, budget, and personnel.
- **Consolidation of Accusatorial Principles.** The criminal justice system must operate in accordance with key accusatorial principles. These are the principles of contradiction, orality, publicity, equality among parties, and due process. With this framework, we do not aim to measure indicators of all principles established in the criminal procedure code of Guatemala (Decree 51-92, Arts. 1-23), but only focus on those that are characteristic of an adversarial or accusatorial model.

This chapter aims to provide baseline information for what could become an evaluation tool of performance comparing data over time. Findings are based on official data and data obtained from other public sources. We also complemented statistical data with interview data, to make visible the experiences of criminal justice operators in Guatemala. An important observation of the data reported in this chapter is that it covers mostly aggregated judicial outcomes, not case-based data, so we cannot make inferences on how individual criminal cases are resolved over time.

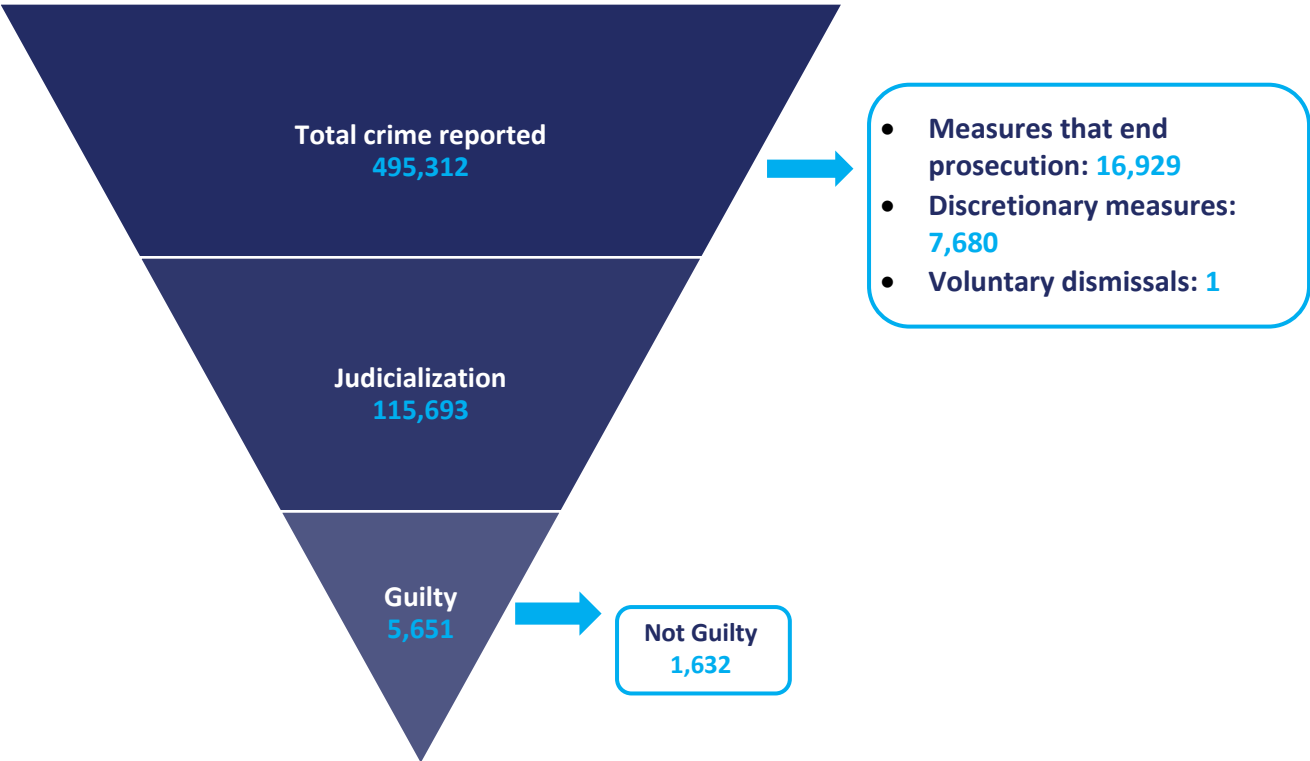
Accusatorial system assessment framework

System Indicators			
Category	Definition	Indicators	Source
Performance 	Input and output of cases across the system	Crime reported Cases judicialized Judicial resolutions	Official data Public data Interviews
Capacity 	Budget and personnel adequately support the demands on the system	Budget Personnel Workload	Public data Interviews
Consolidation of Accusatorial Principles			
Category	Definition	Indicators	Source
Contradiction 	All parties can present evidence or contradict evidence before a judge, who decides with evidence at hand	Appeals Length of hearings	Public data Interviews
Orality 	Judges decide on evidence introduced in hearings by all parties. Parties present their arguments in oral form during hearings. Use of audio/video records	Length of hearings Type of recording	Public data Interviews Survey data
Publicity 	Transparency of proceedings Open hearings	Open hearings Public attendance	Interviews Survey data
Equality 	Parties have equal protection under the law	Public Defense Victims' Defense	Interviews Survey data
Due Process 	Respect for rights Reasonable time Absence of formalisms and simplification of proceedings	Control of Violations Time between stages Cancellation of hearings Alternative measures	Public data Interviews Survey data

Performance of the Criminal Justice System

In the flow chart below, we illustrate the input of crimes and output of judicial decisions in Guatemala in the year 2021. On the input side, the chart provides information on the total number of crimes reported. A case is judicialized when a defendant is brought to a pretrial court after an arrest or when a search warrant is requested by the Public Prosecutor’s Office. As cases move through the criminal justice system, cases are resolved and are adjudicated at various stages of the criminal justice process (pretrial, trial, and sentencing stages).

Input (cases) and output (judicial decisions) of criminal cases in Guatemala for 2021



Sources: Total crime reported with data from Diálogos, 2024 and judicial decisions with data from Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

In an accusatorial system we do not expect many cases to reach a Trial Court. Instead, we expect most cases to conclude with an investigation that provides some form of conflict resolution. In the chart above we grouped together judicial decisions based on “measures that end the prosecution,” such as dismissals with or without prejudice (*sobreseimiento*), extinction of criminal liability (*extinción de la acción penal*), and the prescription of crime (*prescripción de la pena*). Adjudications that depend solely on the discretion of the Public Prosecutor’s Office, such as the use of the opportunity principle and the adjournment in contemplation of dismissal (ACD), are reported here as “discretionary measures.” Voluntary dismissals (*desistimiento*), which depend on the request of the victim are reported individually. We also report number of verdicts given by trial courts. As illustrated, most judicial decisions in 2021 involved measures that ended a prosecution, followed by discretionary measures, and verdicts by trial courts. It is noteworthy that only one voluntary dismissal was ruled in Guatemala in 2021.

Input/output by type of crime

In Guatemala, some of the top crimes reported in complaints or police reports constitute violent crimes, for example, robbery and violence against women. Threats have consistently been among the top crimes reported since 2008. The proportion of reported robbery among all crimes has decreased over time, from 12% in 2008 to 2% in 2022. In contrast, reports of violence against women have seen a drastic increase since 2008, as the proportion of complaints on this type of violence among all crimes has tripled. Finally, the percentage of complaints and reports filed that were ultimately determined not to be a crime by the Public Prosecutor's Office has also increased since 2008.

Percent distribution of top criminal complaints and reports, by type of crime, national

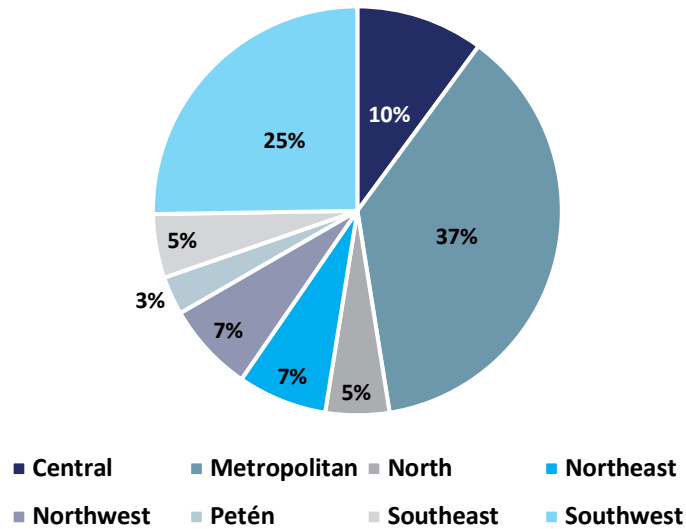
Prison	2008	2013	2018	2021	2022
Threats	17%	12%	12%	14%	12%
Robbery	12%	10%	3%	2%	2%
Larceny	6%	6%	6%	4%	4%
Not a crime	6%	12%	13%	15%	15%
Violence against women	4%	11%	10%	13%	12%
Other	55%	49%	54%	53%	54%
Total reports and complaints	352,199	507,860	512,095	495,312	301,327

Source: Diálogos, 2024.

Pretrial courts

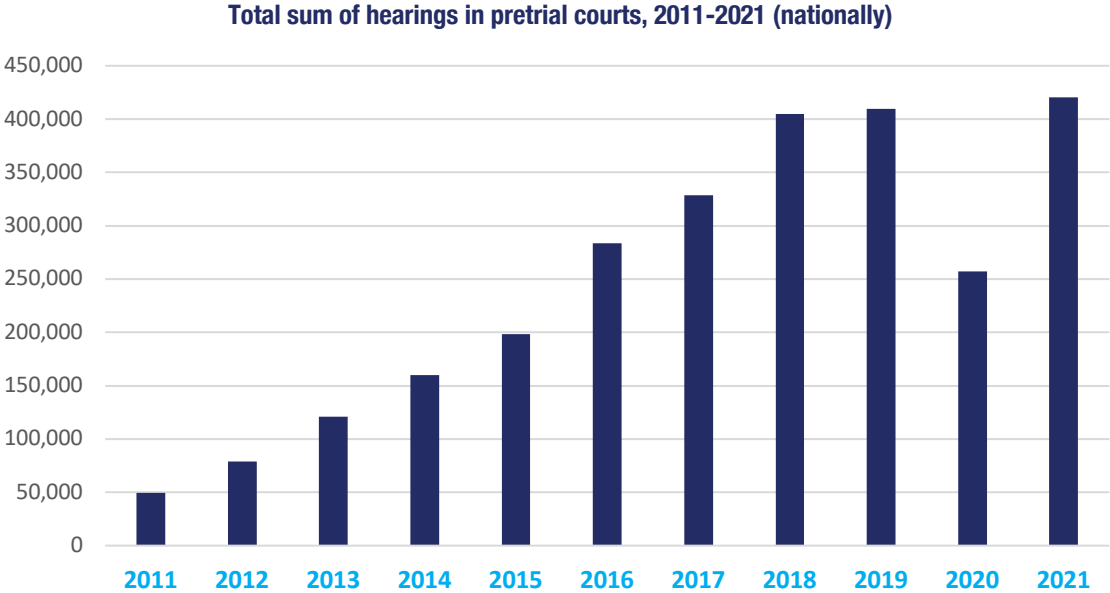
The majority of cases that are judicialized in Guatemala are in the Metropolitan region. According to judiciary data, a total of 1,034,914 cases were judicialized between 2011-2021. About 37% of all judicialized cases were concentrated in the Metropolitan region. The second busiest is the Southwest region, with 25% of all cases for the time period. The region of Petén had the smallest share of all judicialized cases, with only 3% of all cases for the same time period.

Percent distribution of cases that were admitted in pretrial courts, by region, 2011-2021



Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

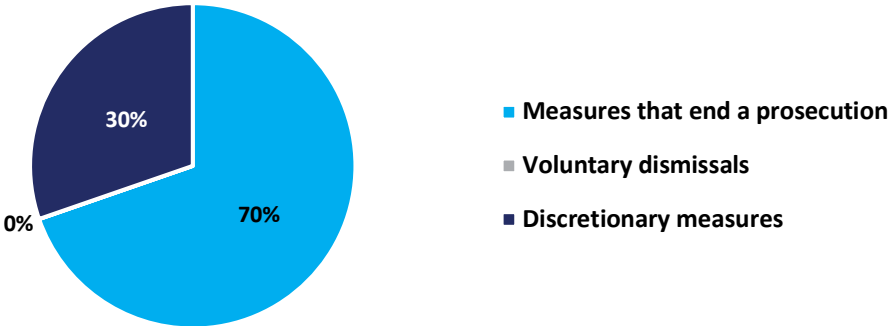
As would be expected in an accusatorial system, most hearings in Guatemala take place in pretrial courts. For the 2011-2021, the number of hearings in pretrial courts has increased over time. The one year when hearings in pretrial courts decreased was in 2020, as a result of the COVID-19 pandemic.



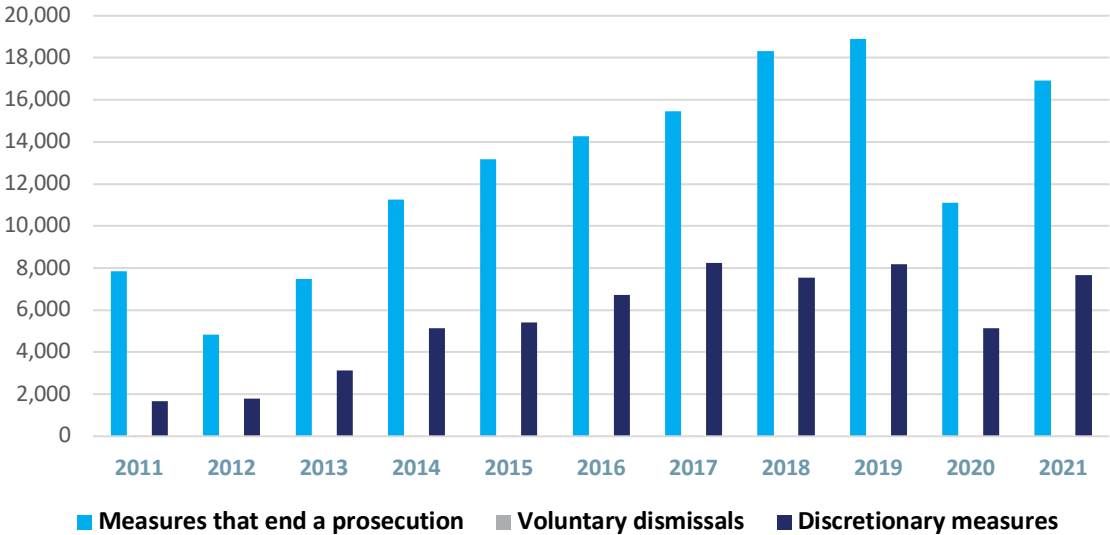
Note: Data includes hearings in *Juzgados de Paz* and *Juzgados de Primera Instancia*.
Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

Since 2011, cases that concluded in pretrial courts were terminated using various alternative measures. We have categorized these as measures that end a prosecution (which include dismissals with or without prejudice, extinction of criminal liability, and prescription of criminal action), voluntary dismissals, and discretionary measures, which are those that are requested at the discretion of the Public Prosecutor’s Office. Between 2011-2021, virtually all cases ended with measures that end a prosecution (70%) or with discretionary measures used by the prosecution (30%). In this ten-year period, only 25 cases (that is, 0.01%) ended with a voluntary dismissal.

Percent distribution of cases that ended using alternative measures in pretrial courts in Guatemala, 2011-2021 (by type of measure)



Total sum of cases that ended using alternative measures in pretrial courts in Guatemala, 2011-2021 (by type of measure)

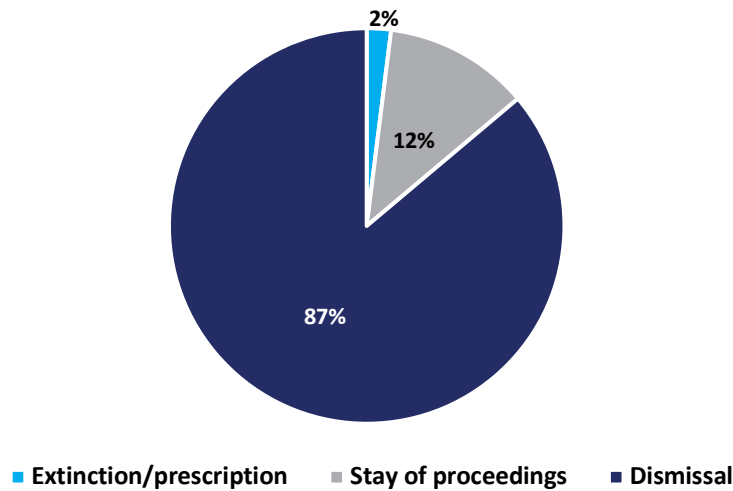


Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

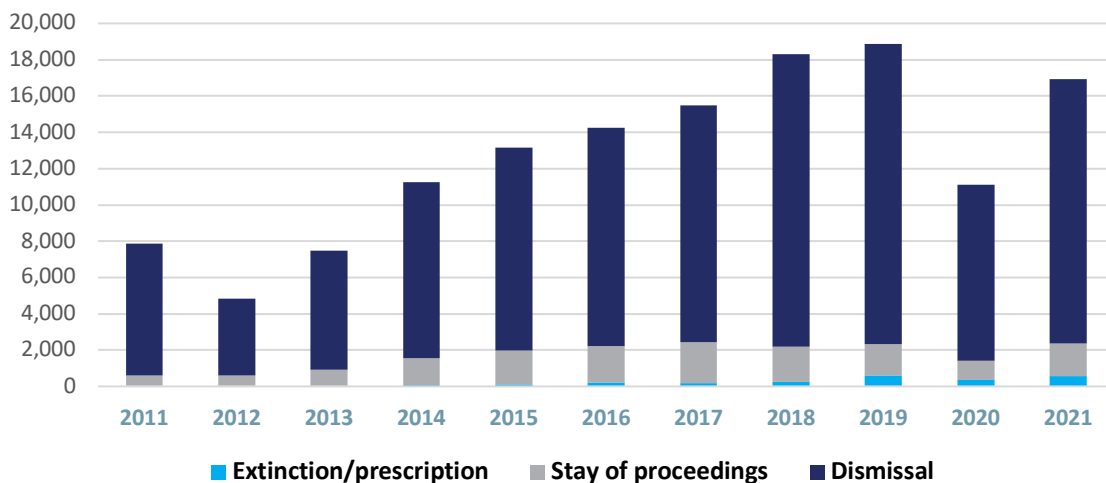
Measures that end a prosecution

As noted above, 70% of the cases that did not end with a sentence in pretrial courts were terminated through the various measures that end a prosecution. Among these cases, 87% were dismissals (with or without prejudice), 12% were stay of proceedings, and about 2% ended with a prescription of criminal action or an extinction of criminal liability. The prescription of criminal action involves the lapsing of the period during which a prosecution may be brought. The extinction of criminal liability involves the end of the penal responsibility of the defendant due to death, pardon, or serving a sentence.

Percent distribution of cases that ended using other measures that end a prosecution, 2011-2021 (nationally, by type of measure)



Total sum of cases that ended using other measures that end a prosecution, 2011-2021 (nationally, by type of measure)

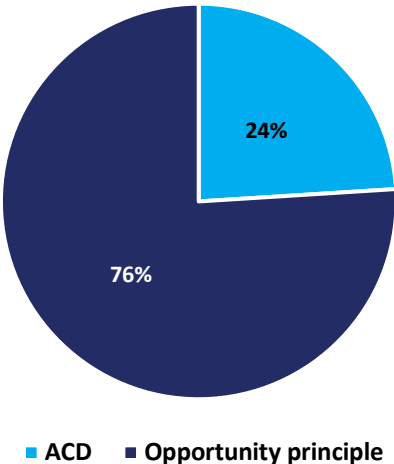


Source: Sistema de Gestión de Tribunales, Gerencia de Informática, Organismo Judicial de Guatemala, 2023.

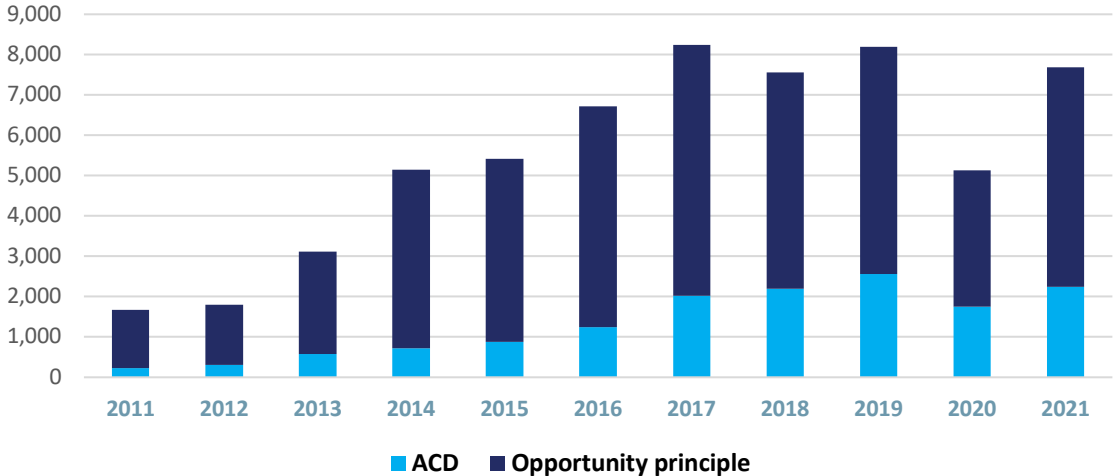
Discretionary measures

There are two measures that can put an end to a criminal proceeding that depend on the discretion of a public prosecutor. These include the opportunity principle which allows for the dismissal of minor offenses that do not compromise public safety (Decree 51-92, Art. 25) and the adjournment in contemplation of dismissal (ACD), which allows prosecutors to request a judge to pause a prosecution while imposing conditions that a defendant must comply with. As previously noted, among 30% of cases that did not end with a sentence in pretrial courts during the period 2011-2021 ended using a measure. The vast majority of these cases ended using the opportunity principle. Over time, the Public Prosecutor’s Office has increased the use of ACDs. In 2021, about a third of all discretionary measures were ACDs.

Percent distribution of cases that ended using discretionary measures in Guatemala, 2011-2021 (by type of measure)



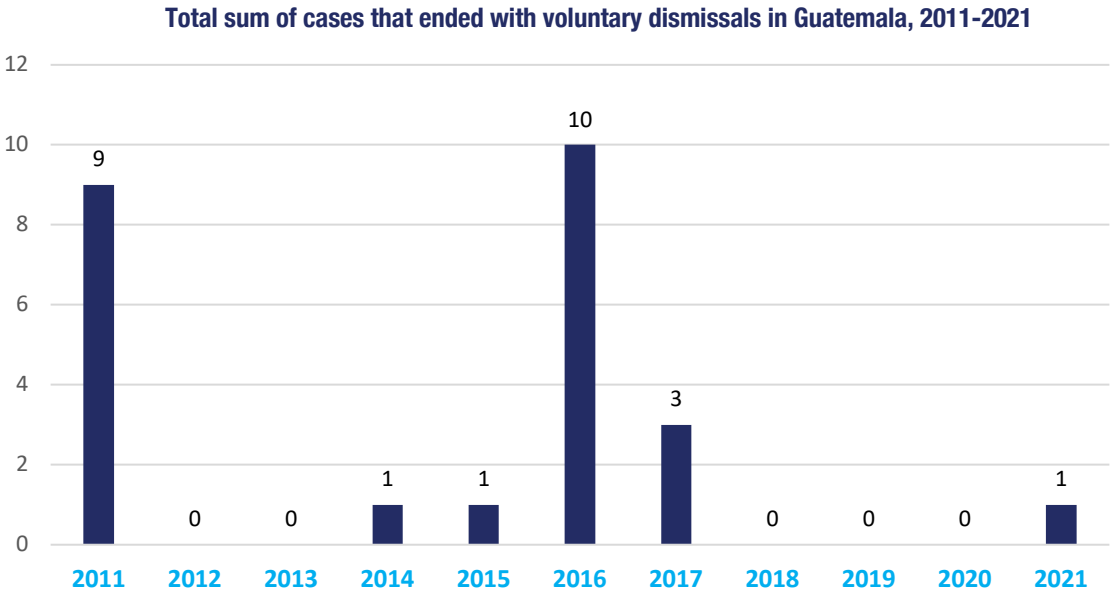
Total sum of cases that ended using discretionary measures in Guatemala, 2011-2021 (by type of measure)



Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

Voluntary dismissal

In Guatemala, voluntary dismissals (*desistimiento*) allow the victim or private prosecutor to end their participation in the prosecution of a case. In criminal cases, voluntary dismissal is highly restricted and subject to various codes (Decree 51-92, Art. 119). In private action cases (or exclusive private prosecution cases), a voluntary dismissal would technically end a case as it is the victim who leads the prosecution. In instances where the public prosecution leads the case, a voluntary dismissal would only end the participation of the private prosecutor in the proceedings. We do not have data on victim participation in criminal proceedings nor on how many prosecutions are private actions, but we know that there are very few voluntary dismissals. In the 2011-2021 period, the judiciary reported that only 25 cases ended due to a voluntary dismissal.

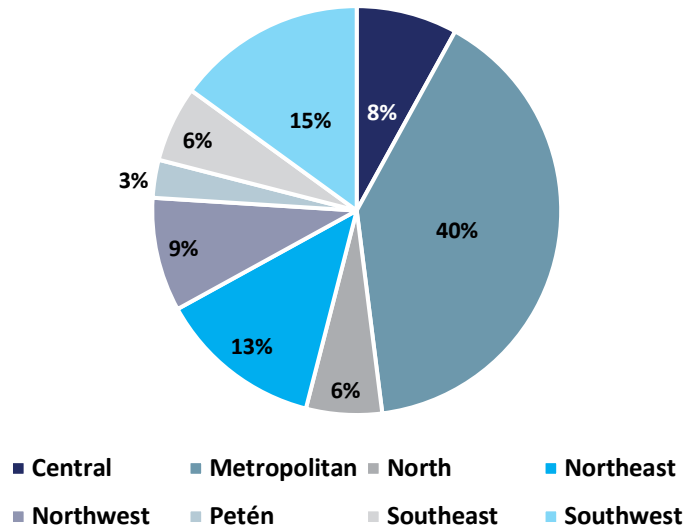


Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

Trial courts

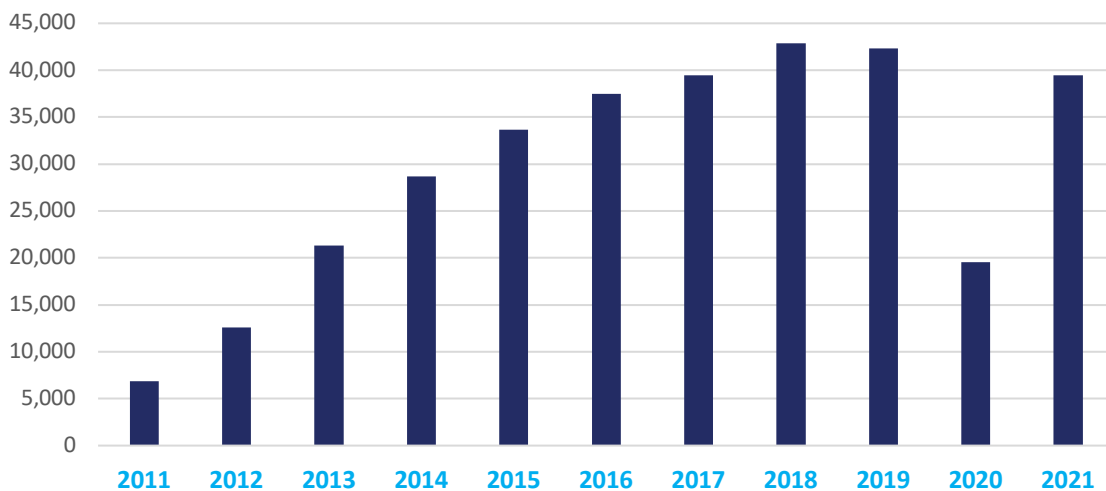
About 40% of all trial hearings were held in the Metropolitan region, the region that has the highest rates of reported crime and the most judicialized cases in Guatemala. The Southwest region accounts for 15% of the cases, representing the second largest cluster of cases, followed by the Northeast region (13%). The region with the smallest number of hearings in trial courts is the region of Petén (3%).

Percent distribution of hearings in trial courts, 2011-2021 (by region)



Over time, the number of trial hearings has increased. The COVID-19 pandemic reduced the number of hearings in 2020 to about half of what was reported for 2019. The year 2021 saw an increase of the total number of hearings, which shows that trial courts in Guatemala were able to return to holding almost the same number of hearings as in 2019.

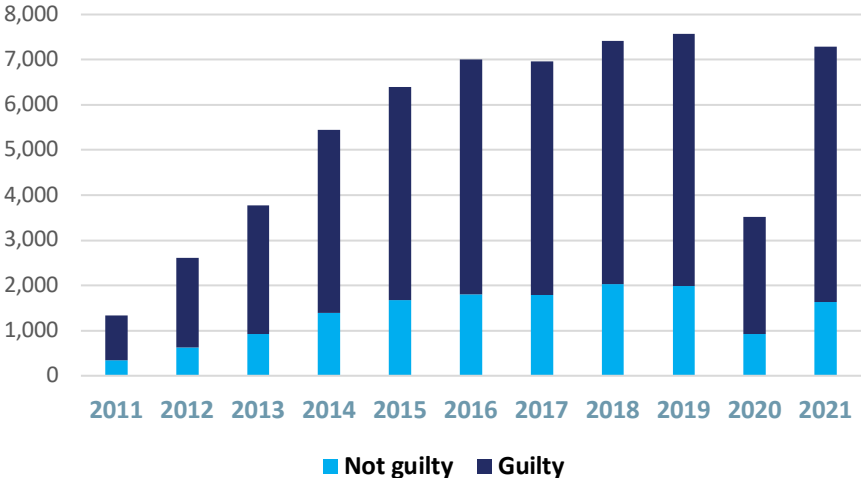
Total sum of hearings in trial courts, 2011-2021 (nationally)



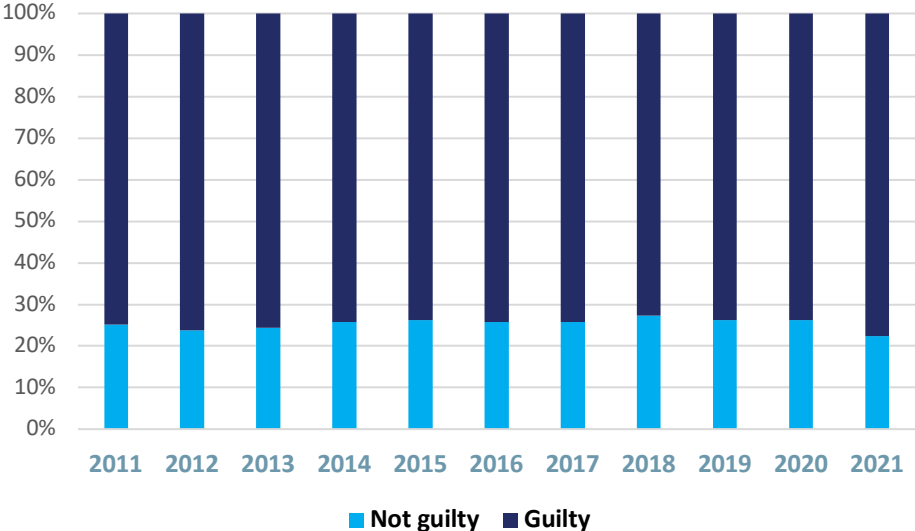
Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

For the time period we studied, 2011-2021, trial courts in Guatemala have observed both an increase of hearings and an increase in sentencing. It is worth noting that in 2020, the year of the global COVID-19 pandemic, trial courts experienced also a decrease in sentencing. However, this decrease was temporary as the number of sentences increased, nearly on par with 2019 numbers, by 2021. The percentage of acquittals has remained stable over time, with roughly 25% of cases ending in acquittals.

Total number of verdicts in trial courts, by type, 2011-2021



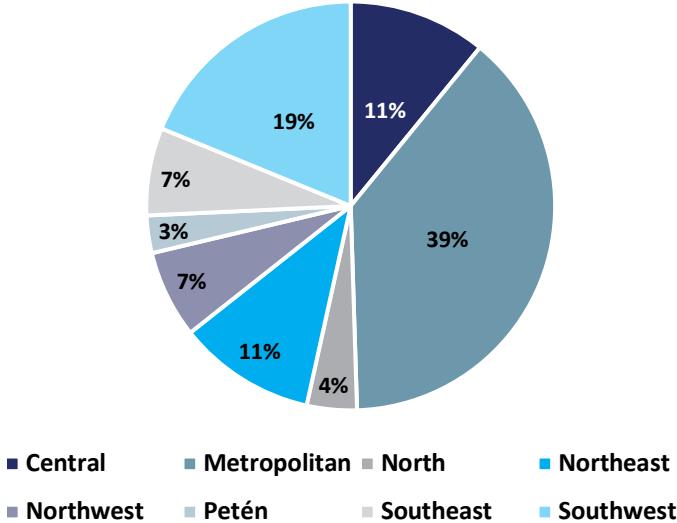
Percent of guilty convictions among all verdicts in trial courts, by type, 2011-2021



Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

Most of the verdicts issued during the study period took place in the Metropolitan region (39%), followed by the Southwest region (19%). The region with the lowest share of verdicts issued during this time period was Petén. These sentencing trends coincide with the distribution of cases as they are judicialized and then reach a Trial Court.

Percent distribution of verdicts in trial courts, 2011-2021 (by region)

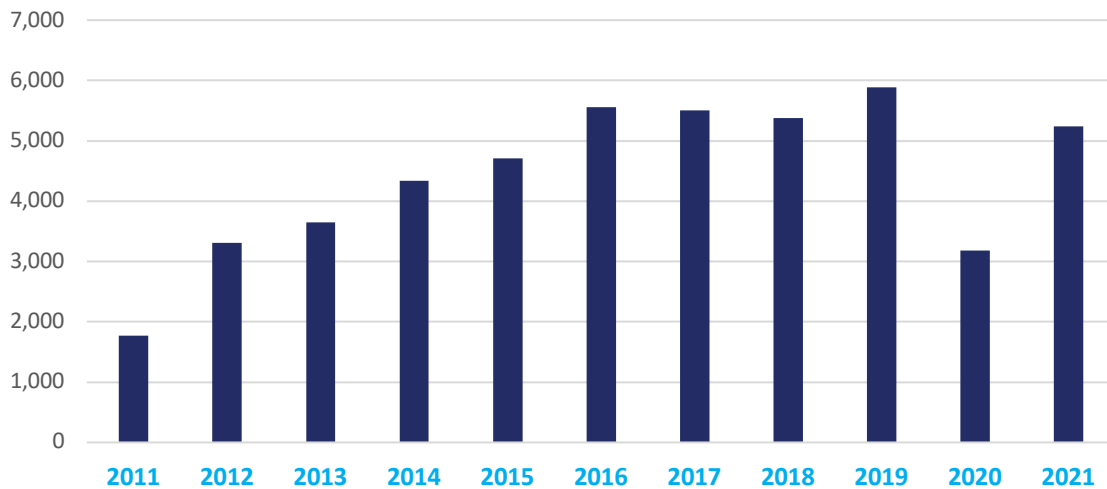


Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

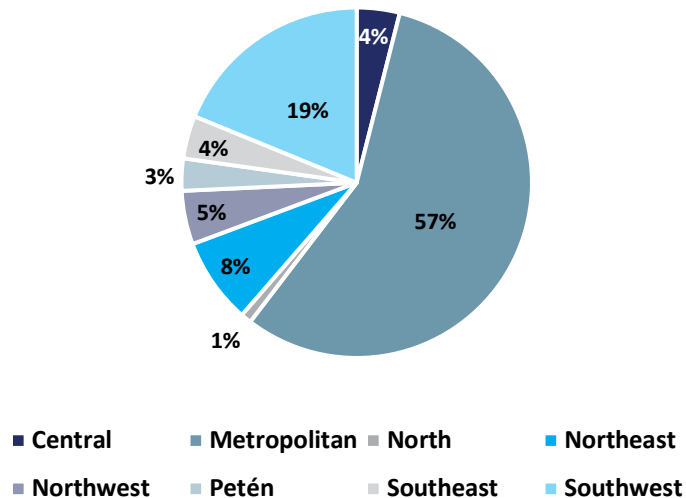
Appellate courts

Between 2011 and 2021 there were 44,643 appeals admitted in appellate courts. Most appeals (57%) admitted at the appellate level since 2011 have taken place in the Metropolitan Region, followed by the Southwest region (19%). The Petén accounted for 3% and the Norte region for 1% of all appeals admitted to the appellate courts. The COVID-19 pandemic decreased the number of appeals admitted in 2020 to the appellate courts in Guatemala, though the number of petitions increased again the following year though still below the numbers observed in 2019.

Total sum of appeals admitted to appellate courts, 2011-2021 (nationally)



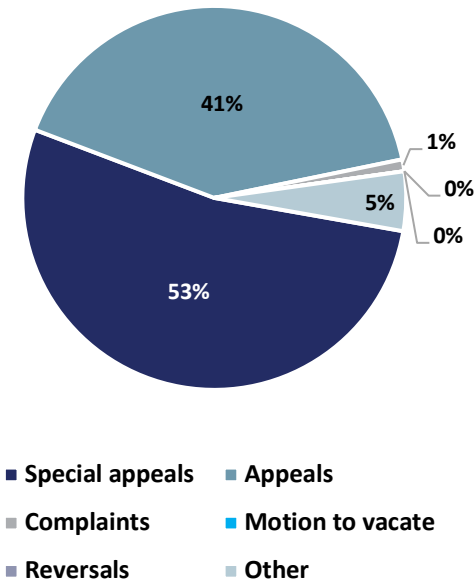
Percent distribution of all appeals admitted to appellate courts, 2011-2021 (by region)



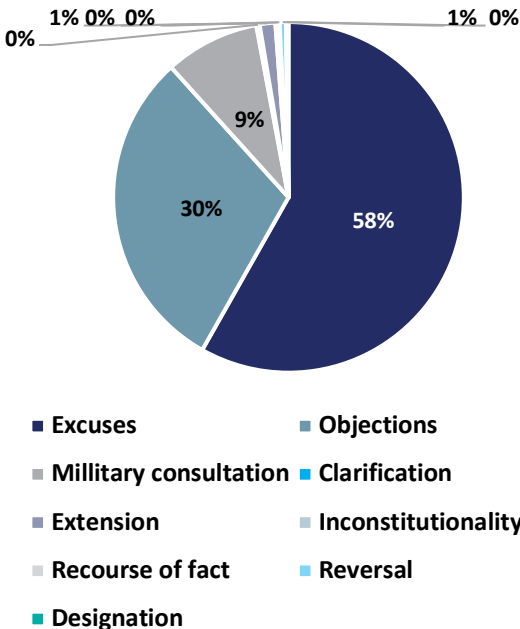
Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

The criminal procedure code describes the six different appeals available in Guatemala (Decree 51-92, Art. 398-463). These are: reversals (*recurso de reposición*) a request to reverse decisions made without a previous hearing, appeals (*recurso de apelación*) are against judicial decisions made in pretrial courts (including pretrial detention), complaints (*recurso de queja*) to reconsider the denial of an appeal request, special appeals (*apelación especial*) against decisions made in trial and sentencing courts, motion to vacate (*casación*) an appeal against decisions made in appellate courts, and the recourse of review (*recurso de revisión*) which is a request to annul a conviction on the basis of new exculpatory evidence. Among the recourses admitted to appellate courts, the most common was the special appeal (53%), followed by appeals (41%). The special appeal is important in accusatorial systems, as it allows parties to appeal a sentence. Only 1% of the recourses were complaints. During this time period, less than 0% of the recourses admitted included reversals (a total of 43) and motions to vacate (a total of 2). About 5% of all recourses admitted (2,576) in the 2011-2021 period included a variety of petitions that were admitted to the appellate courts. Most of these other petitions focused on excuses by judges (58%), objections to a judge (30%), and military consultations (9%).

Percent distribution of appeals admitted to appellate courts, 2011-2021 (nationally, by type of appeal)



Breakdown of Other appeals admitted to appellate courts, 2011-2021 (nationally, by type of appeal)

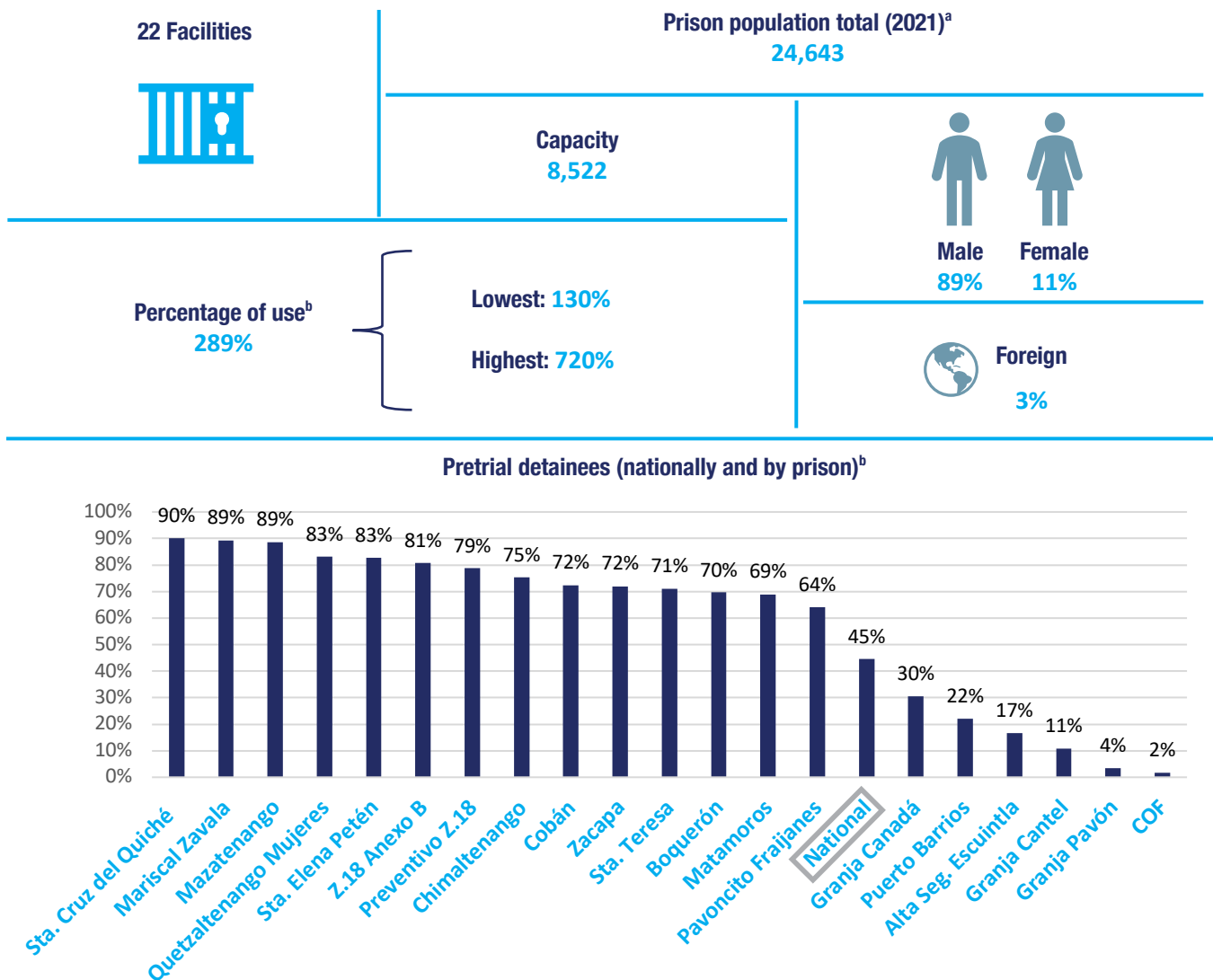


Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

The prison system

By the numbers

Guatemala has 22 facilities with a total prison population of 24,653 in 2021. By law, the prisons are classified as Centros de Detención Preventiva for pretrial detainees, Centros de Cumplimiento de Condena for the sentenced population, and Centros de Cumplimiento de Condena de Máxima Seguridad for the sentenced population who require a maximum-security setting. In addition, the Granja de Rehabilitación Penal place sentenced individuals in a farm setting with a focus on work and rehabilitation. Despite these differences in prisons, the majority of the prisons house both detainees and sentenced together. As in many Central American countries, the prison population exceeds capacity, with over 24,00 people living in prisons that are designed to hold approximately 6,800 prisoners. The majority of prisoners are male and more than 49% are pretrial detainees.



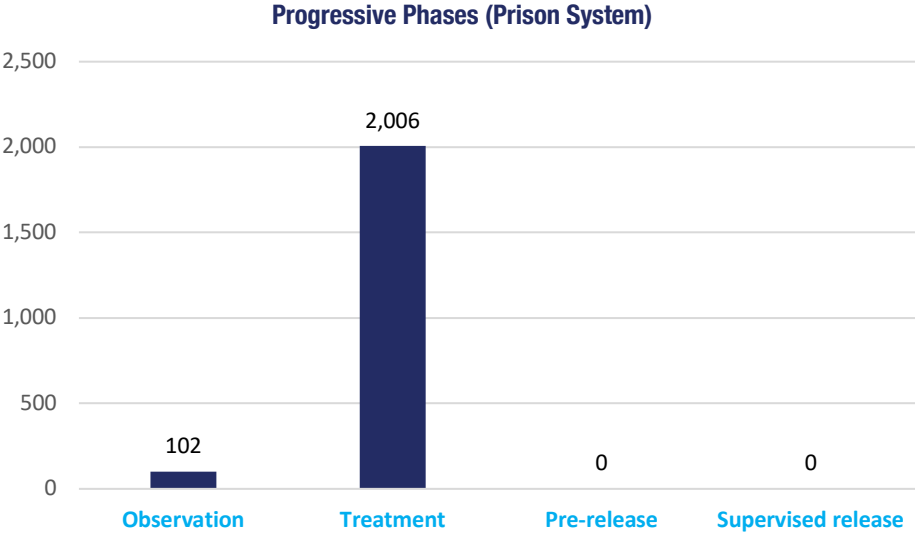
Source: Dirección General del Sistema Penitenciario, 2021.

^a7 prisoners housed in Malacatán were removed from calculations.

^bFraijanes II housed 0 prisoners in 2021.

Classification

The prison system classifies sentenced prisoners using progressive phases. The classification system includes four phases with the benefits available to prisoners varying by level. The four phases include Observation (Diagnóstico y Ubicación), Treatment (Tratamiento), Pre-Release (Prelibertad), and Supervised Release (Libertad Controlada). Moving from one phase to the next is largely dependent on prisoner behavior and length of time served, relative to the sentence length. As indicated below, among those who had been classified, 95% were in the Treatment phase. During this phase, prisoners are eligible to work within the facility but are not able to leave the facility. No prisoners were classified as pre-release, which allows individuals to work outside the facility and have weekend leaves. Likewise, no prisoners were on supervised release, which allows individuals to fully live in the community. Increasing the number of prisoners on pre-release and supervised release could help reduce the prison population.



Source: Dirección General del Sistema Penitenciario, 2021.
^a7 prisoners housed in Malacatán were removed from calculations.
^bFraijanes II housed 0 prisoners in 2021.

Capacity of the Criminal Justice System

In this section, we review the capacity of the various institutions that constitute the criminal justice system in Guatemala, apart from the police force. As noted earlier, limited data were available. Thus, although we include a summary of capacity indicators for the Public Prosecutor’s Office, the Judiciary, the Victim’s Institute, the Public Defense, and the Penitentiary System from various sources, there is some variation in reporting. Available public information is presented to highlight how funding and personnel have an impact on the work of criminal justice operators and the services they provide to victims and defendants alike.

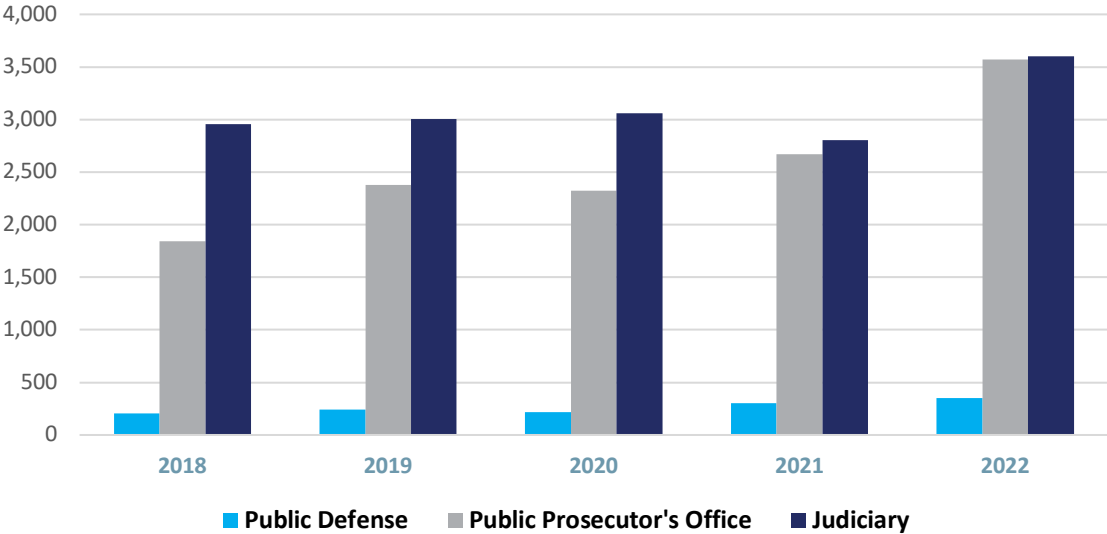
Budget and Personnel in the Criminal Judicial System in Guatemala

	Prosecutors	Judges	Public defenders	Victim defenders	Prison system
Budget (2021)	346 million USD	363 million USD	39 million USD	6.5 million USD (2020)	70.7 million USD
Personnel per 100,000 habitants (2020)	4.50 prosecutors	4.43 judges	2.65 public defenders	n/a	n/a

Sources: Budget data from Diálogos, 2024 and Instituto de la Víctima, 2020. Personnel data from ICCPG, 2021.

Among the institutions reviewed, the Judiciary had the largest budget for 2021 followed by the Public Prosecutor’s Office. By 2022, these two institutions had virtually similar budgets with nearly twice as many prosecutors and judges per 100,000 as there are public defenders. The Victim’s Institute had a budget of 6.4 million USD in 2020. The operating budget for the prison system for 2021 was \$71 million USD.

Budget by institution in Guatemala (in million USD), 2018-2022



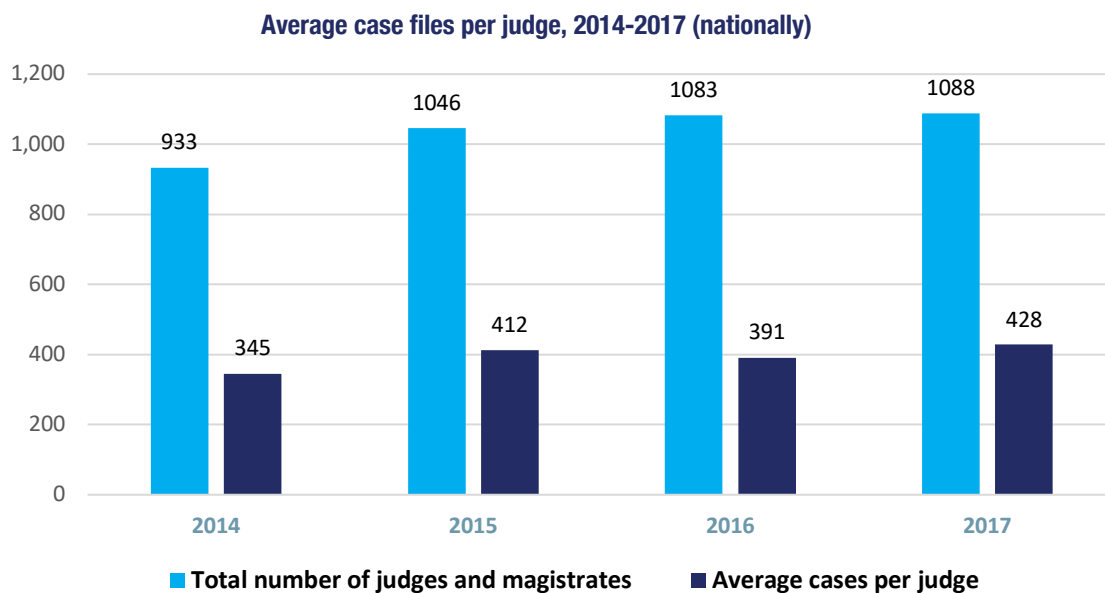
Source: Diálogos, 2024.

Workload in the justice system

A widespread concern that criminal justice operators expressed in interviews was the lack of human and material resources for the system to operate properly, even in Guatemala City where most resources are concentrated. We were not able to obtain recent workload data, so we contextualize the concerns expressed in our stakeholder interviews with data from a previous study covering the Judiciary, the Public Prosecutor’s Office, and the Public Defenders’ Office (WOLA & Fundación Myrna Mack, 2019). We could not find workload data for the Victim’s Institute.

Judges

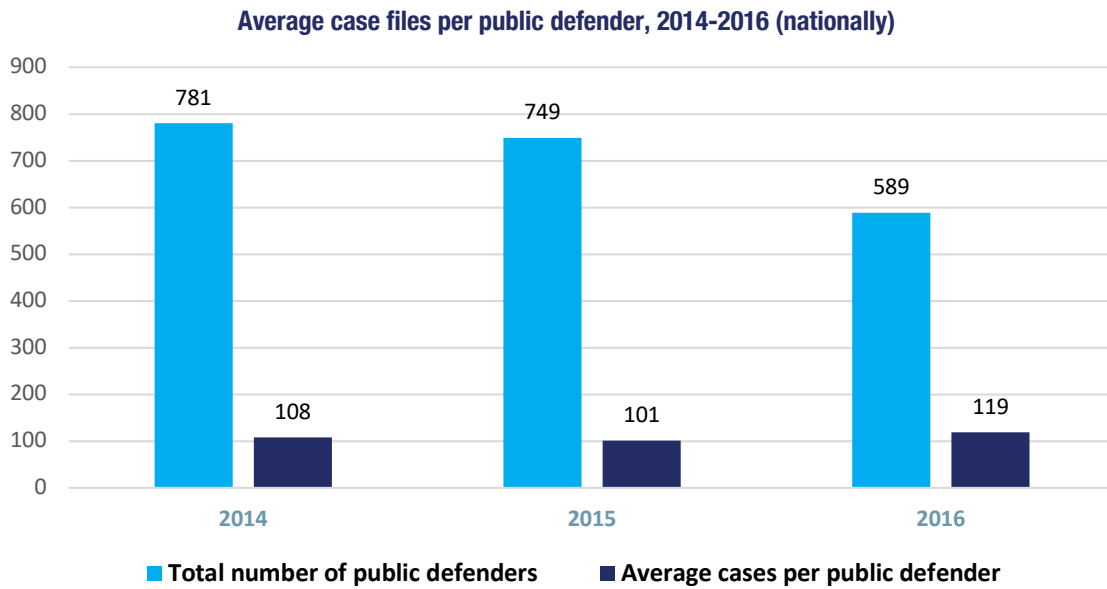
During 2014-2017 judges and magistrates had an estimated average workload of 394 cases per judge. In interviews, judges expressed being overwhelmed with cases, particularly those who get “mega-cases” (cases with more than 10 defendants) in their dockets. Future research should try to gather data to distinguish workload for judges by stage (pretrial, trial, or sentencing) and type of court, and compare workload across regions to better assess workload differences across the jurisdictions.



Source: WOLA & Fundación Myrna Mack, 2019.

Public defenders

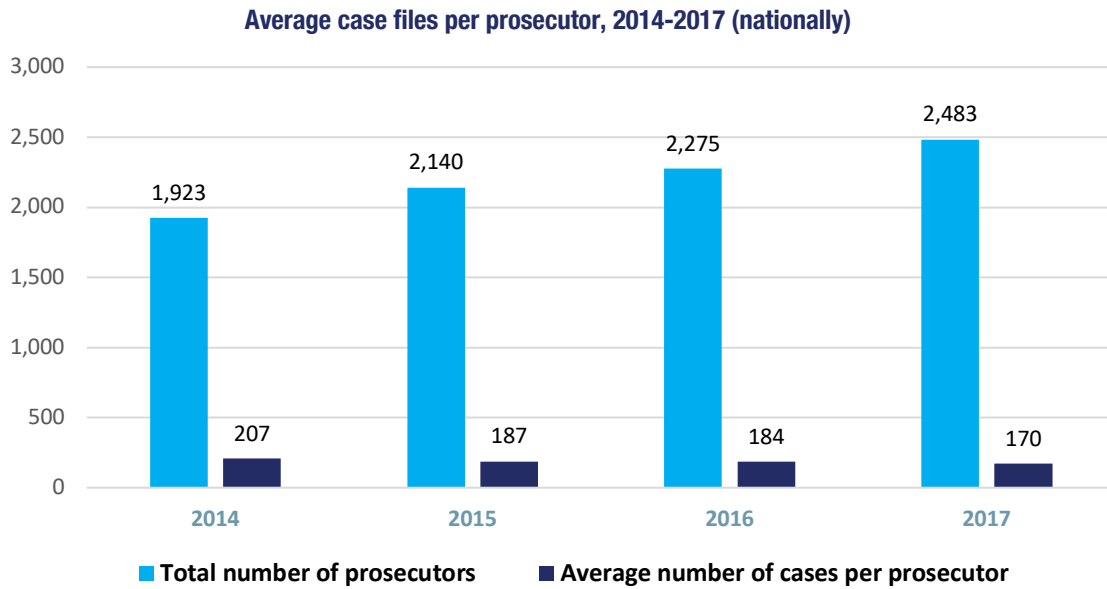
Most interviewees agreed that public defenders are among the justice operators with the heaviest workload and the least amount of resources. The number of public defenders decreased over the three years for which there is data. This in turn increased the average number of cases assigned per public defender. Future research should find if there is variation across regions on the workload, as well as across types of defense attorneys (public or private).



Source: WOLA & Fundación Myrna Mack, 2019.

Prosecutors

Most interviewees agreed that the institution with the most human and financial resources was the Public Prosecutor's Office. The number of prosecutors has increased over the time period for which data was found, which decreased the overall average of new case files assigned to prosecutors. Note that this workload does not reflect cases that are judicialized, but rather all complaints and reports that are made to the Public Prosecutor's Office.

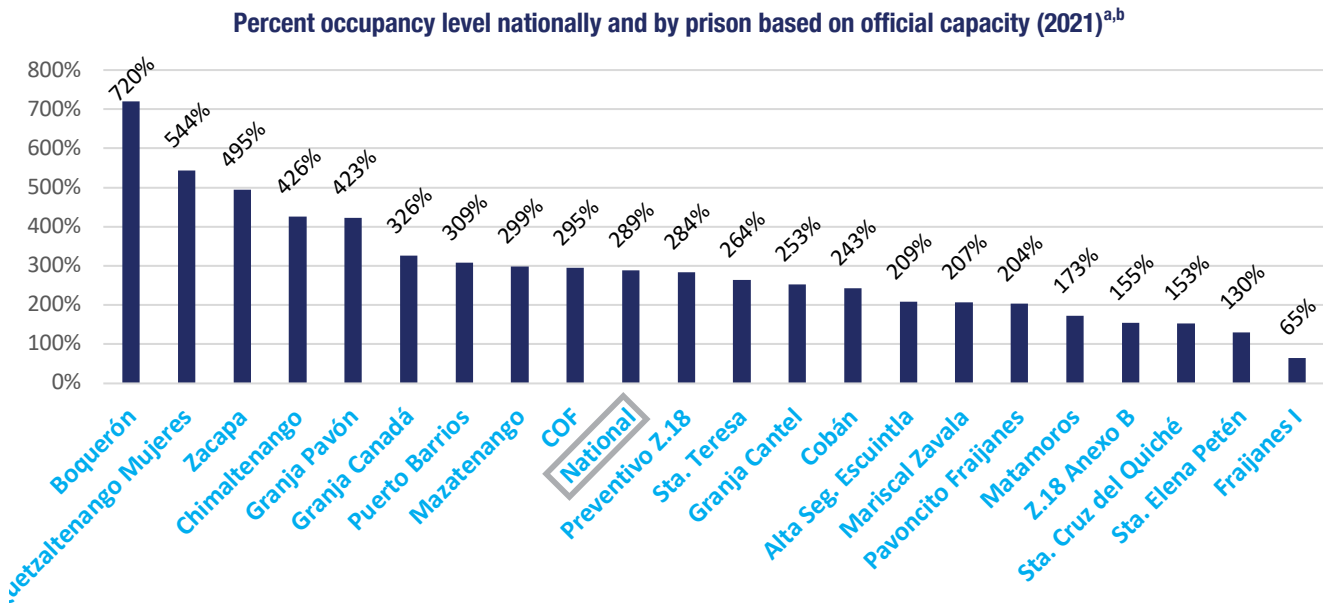


Source: WOLA & Fundación Myrna Mack, 2019.

The prison system

Structural capacity

As noted, the Guatemalan prison system is operating over-capacity. As indicated in the figure below, the average occupancy level is 289% nationally, with only one institution operating below capacity at the time data was provided. Operating over-capacity poses challenges for the safe management and treatment of prisoners. For example, prison overcrowding is associated with increased health issues and, in some instances, higher rates of violence among prisoners. At the same time, overcrowding can lead to higher levels of stress and turnover among correctional officers.



Source: Dirección General del Sistema Penitenciario, 2021.

^a7 prisoners housed in Malacatán were removed from calculations.

^bFraijanes II housed 0 prisoners in 2021.

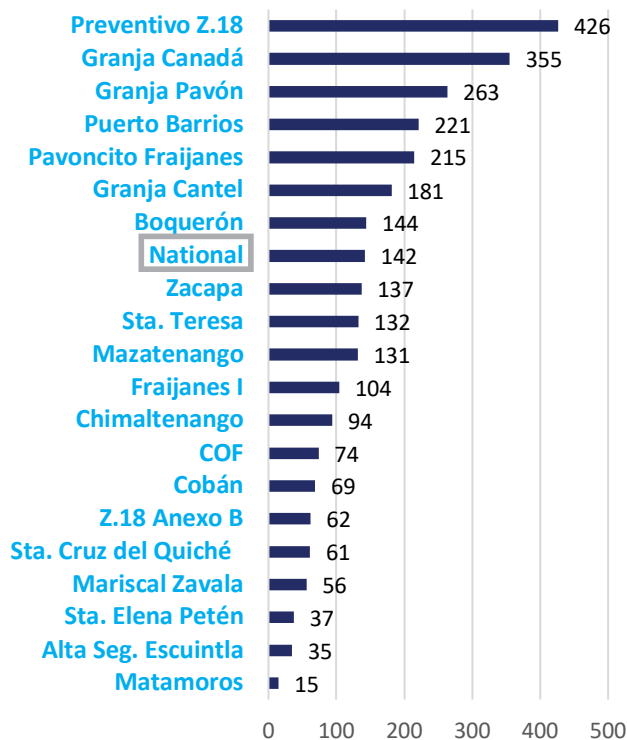
The prison system: Staffing

The overall ratio of prisoner to staff was relatively consistent in 2020 and 2021. Though there is not an “ideal” ratio, it is important that there are sufficient corrections officers to manage the number of prisoners in a safe and secure manner. Similarly, there should be sufficient treatment and medical staff to provide the necessary services. It appears that the number of treatment staff per prisoner improved in 2021. However, there remained significant differences across the prisons. For example, Preventivo Z.18 and Granja Canadá both had ratios exceeding 350 prisoners per treatment staff. It seems unlikely that the treatment teams in these facilities are able to meet the needs of the prisoners. In contrast, ratios were less than 50 prisoners per staff in Sta. Elena Petén, Alta Seg. Escuintla, and Matamoros. Similar patterns were observed for prisoner to medical staff ratios.

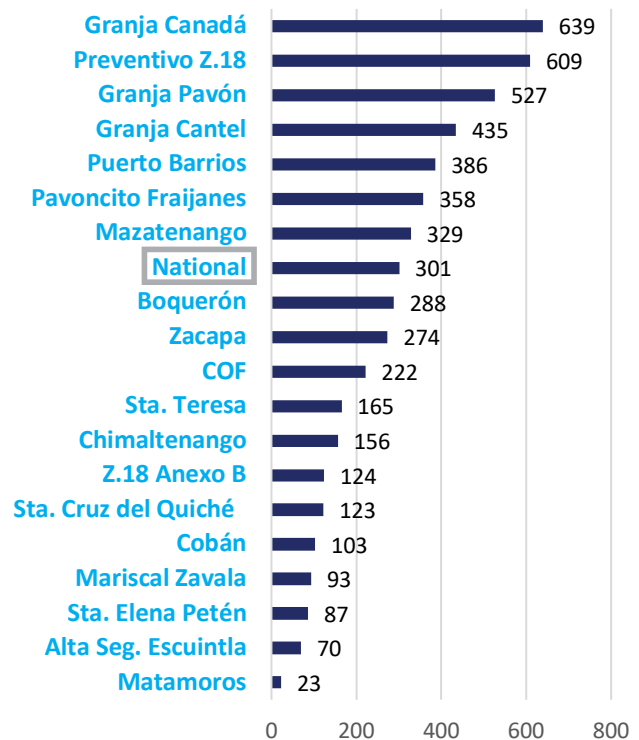
Ratio of prisoners per staff (nationally, 2020-2021)^{a,b}

Year	Prisoner-total staff	Prisoner-correction officers	Prisoner-administrative staff	Prisoner-treatment staff	Prisoner-medical staff
2020	7	10	33	200	309
2021	6	9	26	142	301

Ratio of prisoners per treatment staff (nationally and by prison, 2021)^{a,b}



Ratio of prisoners per medical staff (nationally and by prison, 2021)^{a,b}

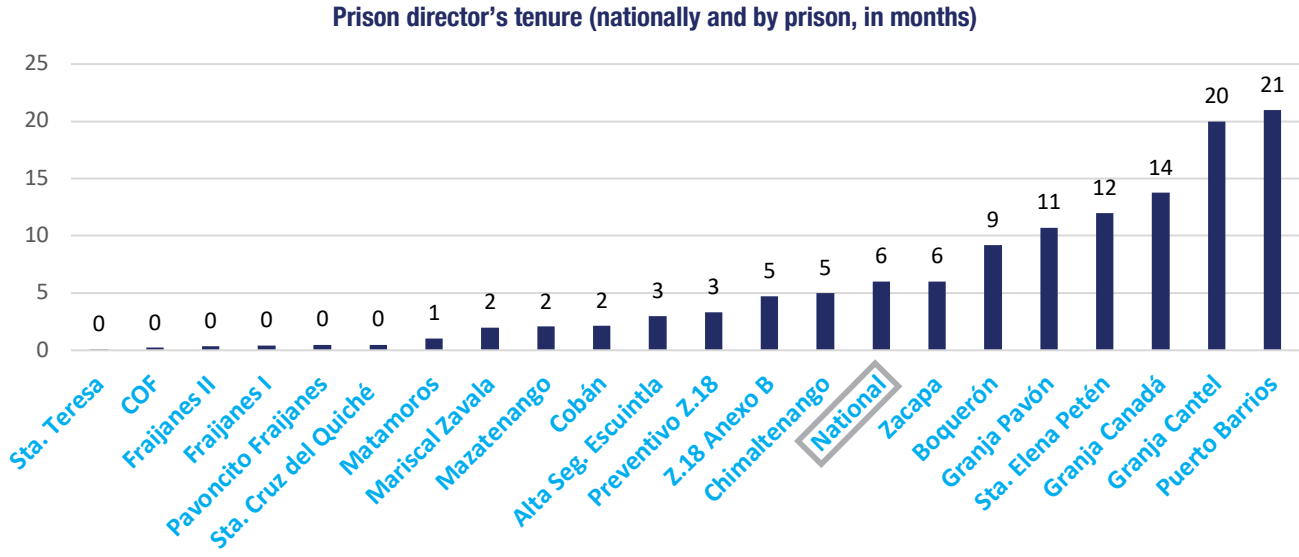


Sources: Ministerio de Gobernación, 2021; Ciudad de Guatemala, septiembre 2021; Chumil, 2021, Cárceles en Guatemala: existe un guardia por cada 20 reclusos (prensalibre.com) and Dirección General del Sistema Penitenciario, 2021.

^a7 prisoners housed in Malacatán were removed from calculations.

^bFraijanes II housed 0 prisoners in 2021. Missing data for Quetzaltenango Mujeres. Missing medical staff data for Fraijanes I, 2021.

Finally, the tenure of the prison directors ranged significantly from 0 months to 21 months, with an average of 6 months. At times, high rates of turnover among directors can undermine operational continuity and institutional knowledge, which can impact the prison’s mission or its policies and practices.



Source: Dirección General del Sistema Penitenciario, 2021.
^a7 prisoners housed in Malacatán were removed from calculations.
^bFraijanes II housed 0 prisoners in 2021.

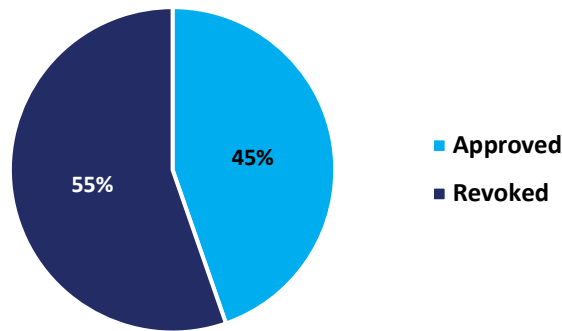
Compliance with accusatorial principles

A key component of the Accusatorial System Assessment Framework is to assess how the system respects and protects key principles that constitute the pillars of an accusatorial model of conflict resolution. Our data requests for variables that would allow us to measure compliance with these principles were not successful. Thus, in this chapter we draw mostly on interview data, and where available, on public resources to assess compliance with key accusatorial principles: contraction, orality, publicity, equality, and due process.

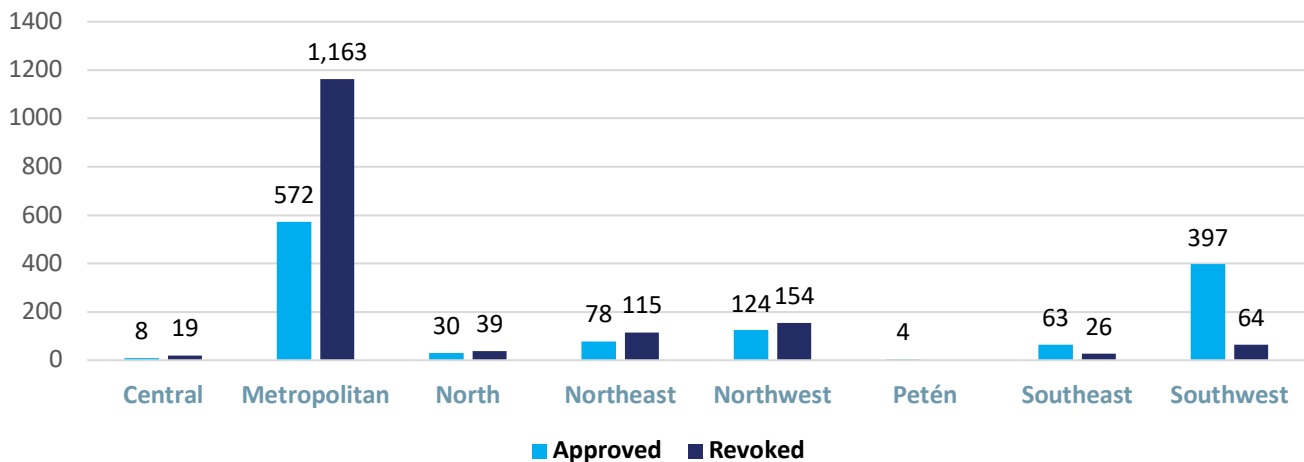
Contradiction

The principle of contradiction enables parties to present evidence, challenge decisions, and file appeals. Evidence of contradiction is thus seen in the use of appeals, which are used against decisions made by pretrial judges, including ruling a dismissal, an ACD, or pretrial detention. We found that in Guatemala, for the period 2011-2021, there were 19,990 appeals admitted to the appellate courts. However, the judiciary reported that during that time period only 2,856 judicial decisions were made approving or revoking appeals. The majority of the appeals are revoked.

Percent distribution of appeals by type of decision (approved/revoked), 2011-2021 (nationally)



Total appeals by type of decision (approved/revoked) in appellate courts, 2011-2021 (by region)

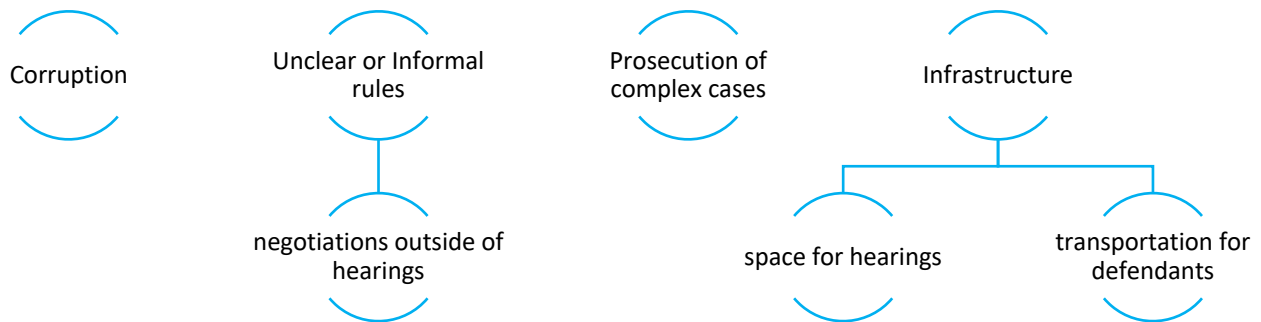


Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

Publicity

The principle of publicity is fundamental to support the transparency and impartiality of proceedings. It requires that courts allow open hearings in which public attendance is allowed. Only when impartiality cannot be guaranteed with public hearings (like in high profile cases), closed hearings are advised. Our research found that for criminal justice operators the four most important factors impacting the principle of publicity are: corruption, unclear or informal rules, the prosecution of complex cases, and infrastructure.

Publicity in Guatemala: top concerns (in 2021)

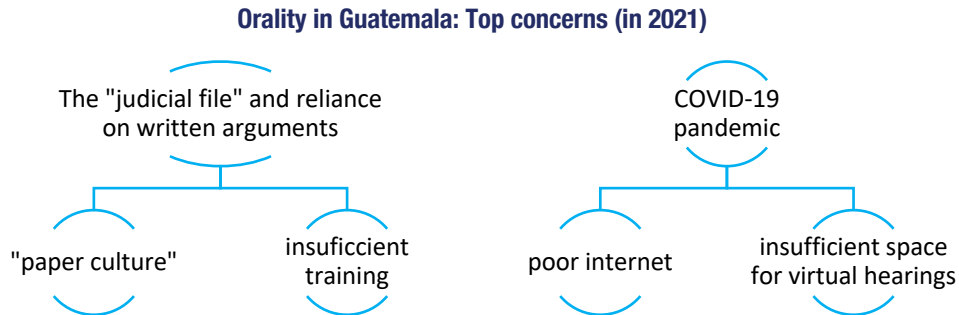


Many interviewees noted that there is a problem of corruption across the judiciary that can negatively impact the perception of the transparency in the proceedings. Corruptions is most visible when case files are lost or misplaced, impacting also due process rights when this produces delays in proceedings. However, transparency is also impacted with the application of informal rules. Publicity can be affected in Guatemala when judges request prosecutors, victims' attorneys, and defenders, written requests outside of a hearing. This has created an informal yet common practice where parties reach agreements outside of a public, oral hearing. Also, the lack of clear rules (or the manipulation of existing rules) can also negatively impact transparency. For example, when judges ask individuals to leave a hearing, without a clear justified reason (such as social distancing or the profile of the accused or victim).

Guatemala also faces incredible challenges with the prosecution of complex cases, which are those related to gangs. Usually these cases have multiple defendants (20-30 defendants). For security reasons, not all defendants are brought to the hearings, and only the defense attorney is present. Another factor mentioned in interviews was that of insufficient infrastructure: not enough court rooms to hold hearings or lack of transportation to bring defendants to hearings.

Orality

In an accusatorial system, the principle of orality plays a crucial role in guaranteeing transparency, efficiency, and immediacy. All parties must present their arguments orally, and the debate should take place within a hearing, which ensures that the process is fair and just. Pretrial hearings should be concise, while hearings during an oral trial may last for days or even months, depending on the severity of the case. The “judicial file” (carpeta judicial) as a challenge to the principle of orality, and the COVID-29 pandemic and the introduction of virtual hearings.

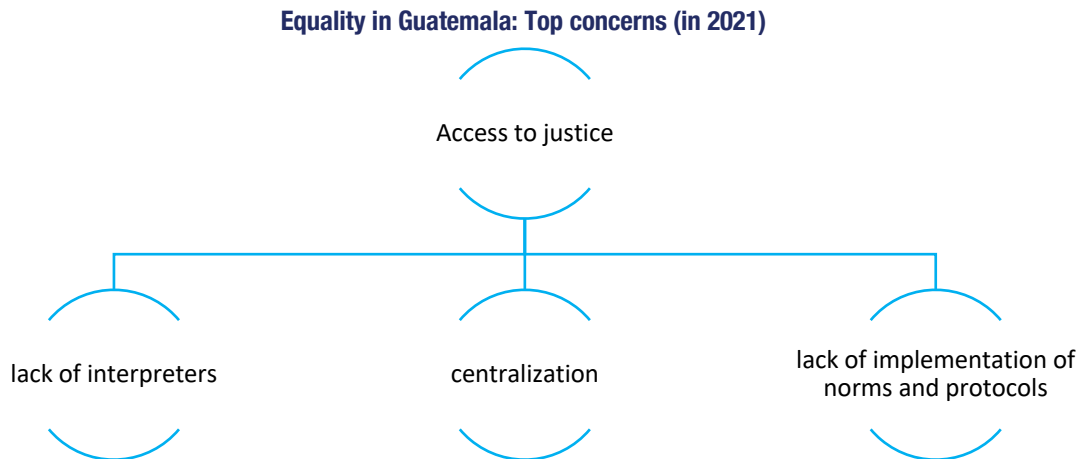


In Guatemala, criminal justice operators highlighted that although the criminal procedure system should be understood as a “mixed system” and not a purely accusatorial system, over time they have seen that there are “remnants” of inquisitorial times evident in the reliance of a “paper culture”. Compared to the previous inquisitorial system that regulated proceedings in the 1990s, there is an overall respect for orality. However, some also mentioned that a main challenge to the principle of orality was the reliance on the judicial file for the judge to make a resolution, and for parties to read (rather than verbally summarize) their legal arguments, petitions, and decisions, as required by the principles of contradiction and immediacy. Some interviewees believed part of this reliance on paper stems from insufficient training in proper litigation skills among all criminal justice operators.

The COVID-19 pandemic impacted the judiciary like it did the whole country. Hearings had to be cancelled or delayed, and the judiciary had to find a way to continue providing services introducing virtual hearings, and always leaving “judges in turn” or available to deal with any case that got to the courts. Even though the pandemic emergency ended, many interviewees agreed that virtual hearings would remain because they increased flexibility. However, many also noted that many defendants were negatively impacted by this because hearings often got cancelled due to poor connectivity or lack of space in the prisons to accommodate virtual hearings. For instance, at the time of our study, an interviewee noted that each prison had only one computer in one room to hold virtual hearings, and not always with good internet connection. Even with a defense attorney present, the principles of orality, transparency, and immediacy can be negatively impacted when virtual hearings do not allow the defendant to properly participate in the proceedings.

Equality

An accusatorial model should give all parties involved in a conflict a seat at the table. This means creating the conditions for an equal opportunity to participate and have access to resources. In terms of equality, our research found important improvements but also considerable challenges. Probably the best effort to improve equal access to justice has been the creation of the Victims' Institute. Although it is still in the process of being implemented, it has the potential to increase access to justice to victims of crime. However, in interviews, criminal justice operators stressed important challenges defendants still face in terms of equal access to justice.

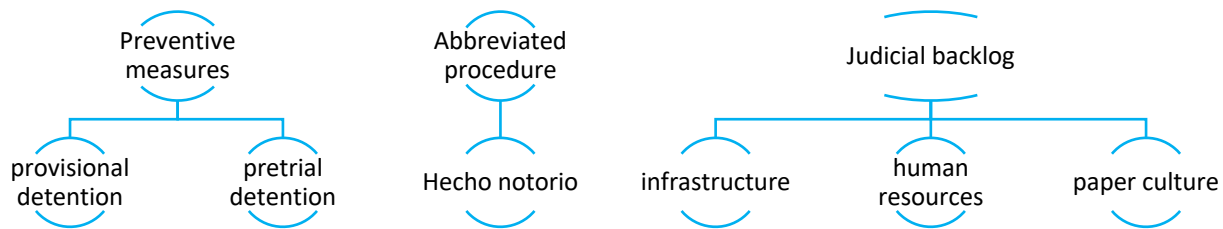


In interviews, many operators stressed the lack of equal access to the justice system, particularly for indigenous defendants and victims. Aside from Spanish, in Guatemala there are 24 languages spoken (Xinca, Garífuna, and 22 of Mayan origin) by about 30% of the population. Interpreters for all languages may not necessarily be available for defendants in court. Sometimes the court may bring an interpreter, but the interpreter does not necessarily speak the same dialect as the defendant (or victim), or some interpreters are tasked with doing interpretation of a language they have not mastered, leading to inaccurate interpretation. Indigenous women in rural communities were noted as being most negatively impacted. A second concern expressed by interviewees was the centralization of resources in the Metropolitan region, which leaves rural areas with fewer resources to access services and resources that are available to those in urban areas. This inequality in training can adversely impact defendants' and victims' rights. Finally, most interviewees agreed that Guatemala has created important laws to prevent discrimination against vulnerable groups (such as women and/or indigenous groups), but the lack of resources, capacity, and will leave most of these norms and laws without proper implementation.

Due process

The fundamental concept behind the principle of due process is that the entire legal process should be just and free from any unnecessary delays. Some important improvements to protect due process rights and to guarantee that judicial decision are made within legal timeframes came in 2006 when the Supreme Court introduced the “Courts in Shift” (*Juez de Turno*) (Agreement 3-2006 and Agreement 44-2007). Having a Court in Shift has made sure that defendants are not left without access to a judge during holidays, and provided the institutional framework to keep the courts open during the pandemic. In interviews, however, criminal justice operators expressed concerns in three areas: the practice of allowing abbreviated procedures (or plea bargains) in trial courts, the abuse of pretrial detention and the normalization of “provisional detention,” and judicial backlog.

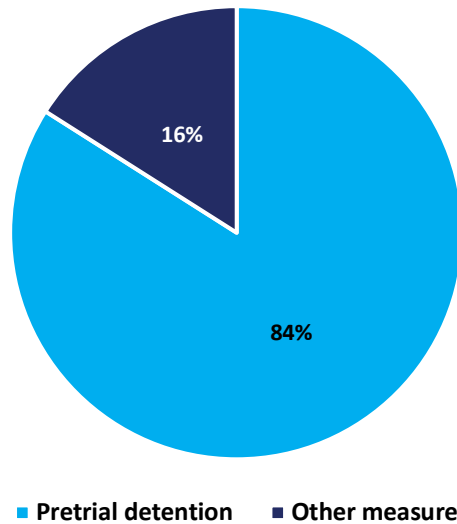
Due process in Guatemala: Top concerns (in 2021)



First, many interviewees called attention to a practice of trial judges who, using the procedural norm of the “notorious fact” (*hecho notorio*), are de facto allowing the change of the accusation in a trial hearing to reach an agreement between the defense and prosecution to avoid trial. This represents an extemporaneous and informal use of the abbreviated procedure (or plea bargain). The defendant is thus forced to wait months (or years) for a trial that never happens. The courts schedule a trial that never takes place. Therefore, this practice burdens the system with unnecessary delays and costs for all parties involved.

Second, many interviewees agreed that prosecutors do not request most preventive measures, and that pretrial detention is often abused, rather than used scarcely and strategically. Provisional detention continued to be practiced and, de facto, authorized by judges. The right to speedy proceedings is violated when judges fail to see an arrested individual within the legal term of 24 hours. Colloquially this practice has been named as “provisional detention,” but this does not diminish the violation of the rights of the accused. Studies have found that pretrial detention has been the most widely preventive measure adjudicated by the courts. Other personal preventive measures, such as domiciliary arrest or electronic locator, have rarely been issued. Bail, a common preventive measure in the US, is rarely granted in Guatemala.

**Breakdown of the use of pretrial detention compared to other preventive measures
(based on a review of 200 files)**

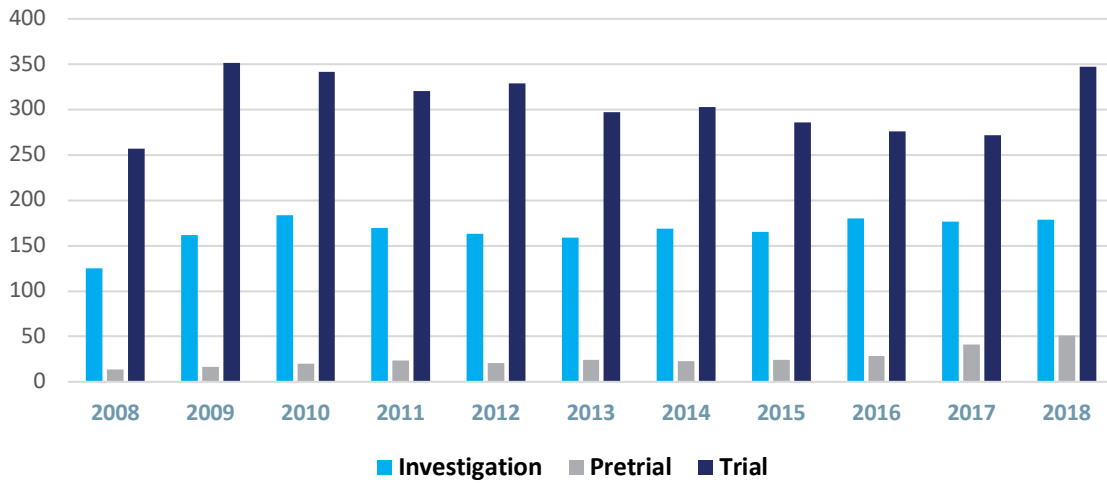


Source: ICCPG, 2021.

And finally, another challenge to due process rights comes from the judicial backlog. Interviewees did recognize that, compared to the inquisitorial system, criminal justice has indeed improved, as there is a common perception that proceedings are generally faster. However, there is considerable backlog in the system. Some reasons given to the persistence of backlog were in part human resources (few judges with heavy workload), as well as infrastructure (insufficient space to hold hearings). Interviewees mentioned that the COVID-19 pandemic exacerbated the existing backlog. At the time of our study, some trial hearings were being scheduled to take place in 3 to 5 years. Some also mentioned that the workload of judges who have jurisdiction over complex cases (like, organized crime, gangs, extorsions), tends to be multiplied when a case has multiple defendants, which can further delay proceedings.

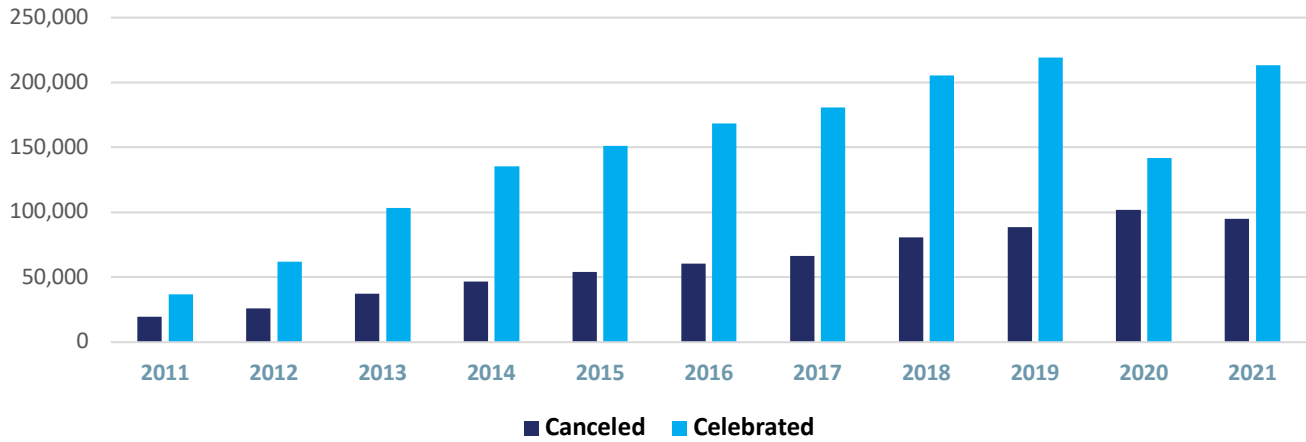
Though we do not have official statistics on judicial backlogs we do have data on average length of proceedings, and on the number of canceled hearings, which can lead to delays in adjudication. Data shows that the investigation stage lasted an average of 166 days in pretrial courts over the 2008-2018 time period. The intermediate stage (the time between the pretrial hearing and trial) had an average duration of 26 days. Proceedings in the trial stage had an average duration of 307 days. These numbers appear consistent with a review of sentences in trial courts in 2019, which found that these cases took an average of 490 days to reach a verdict. Even cases in pretrial detention, on average, lasted three times the period allowed by law (164 days) (ICCPG, 2021).

Average length of proceedings, 2008-2018 (by stage, in days)



Source: Diálogos, 2024. La Balanza: Datos y Acceso a la Justicia en Guatemala, 2023.

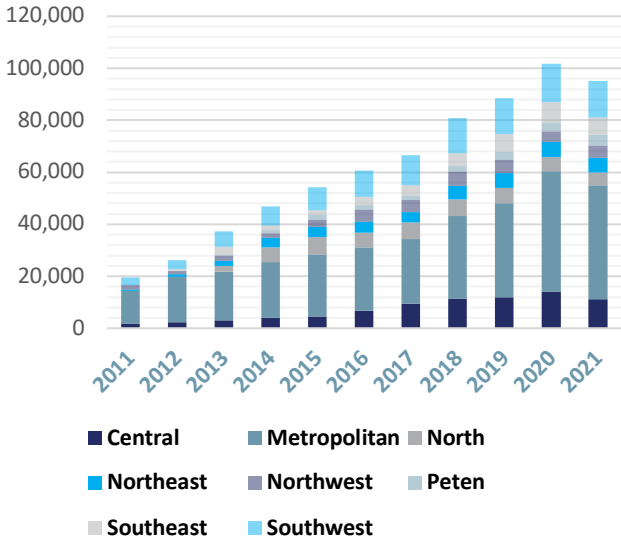
Total sum of hearings celebrated and cancelled, 2011-2021 (nationally)



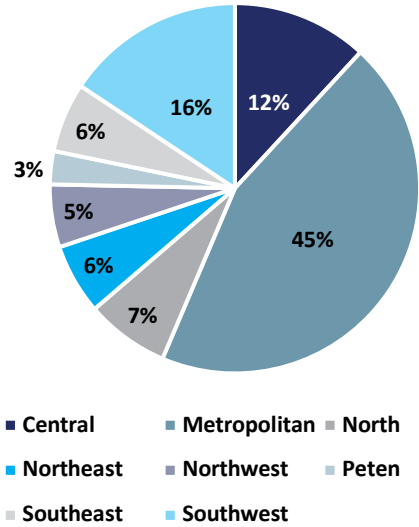
Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala.

Almost half of all cancelled sessions between 2011-2021 period were cancelled in the Metropolitan region (45%), followed by the Southwest region (16%). The region with smallest percentage of cancelled sessions was Petén. About half of all sessions that were cancelled during this period were cancelled due to an “exceptional suspension,” which is defined in the criminal procedure code as a catastrophe or some other extraordinary reason that impedes the continuation of a hearing (Decree 51-92, Art. 360). The judiciary does not have information on about 30% of cancellations. About 16% of all cancellations were cancelled due to the lack of attendance of one party (defense or prosecution). Finally, the COVID-19 pandemic was reported as the reason for 4% of all cancelled sessions.²

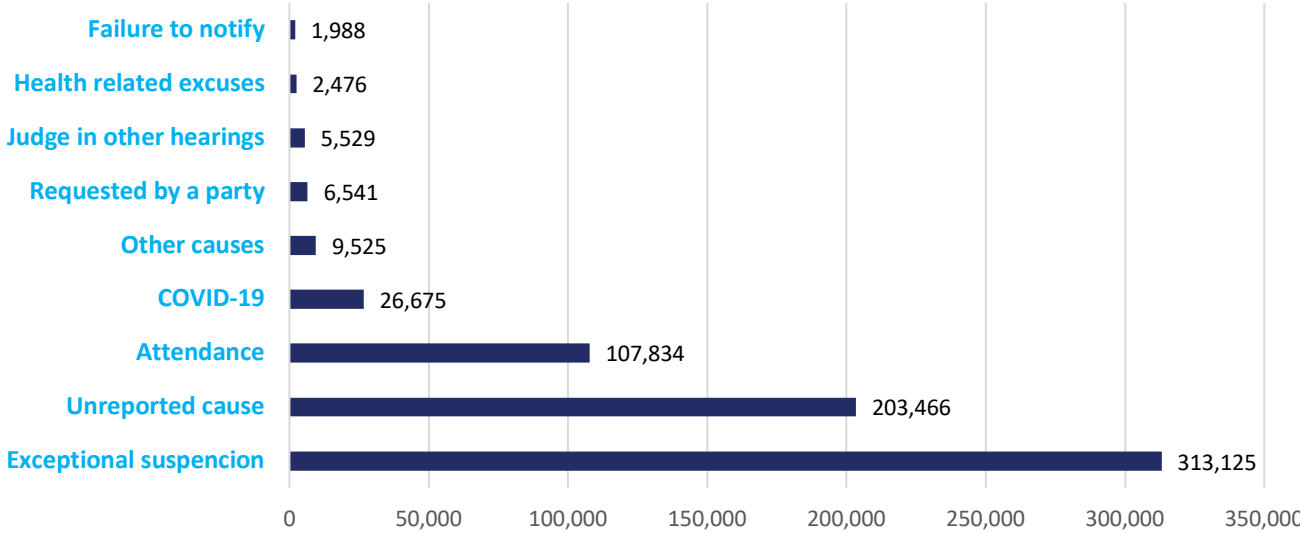
Total sum of canceled sessions in all courts, 2011-2021 (by region)



Percentage of canceled sessions in all courts, 2011-2021 (by region)



Total sum of cancelled sessions in all courts, 2011-2021 (by reported motive)



Source: Sistema de Gestión de Tribunales del Organismo Judicial de Guatemala, 2023.

² Note: multiple hearings can take place in one session.

4. PRISONER EXPERIENCES WITH THE JUSTICE SYSTEM AND PERCEPTIONS OF PROCEDURAL JUSTICE

This and the following chapter review our findings from the *Inmate Perceptions of Procedural Justice and Correctional Standards of Care Survey* in Guatemala. This chapter focuses on the experiences with the criminal justice system, from the moment of arrest to detention and conviction. Originally, we wanted to compare experiences with the inquisitorial and the accusatorial criminal system in Guatemala. However, the number of respondents that had experienced the inquisitorial system was quite small (n=5), making such a comparison impossible. Therefore, we focus our comparisons on experiences with the justice system across judicial regions. The chapter first provides a description of the survey sample by judicial region, followed by a review of the prisoners’ reported experiences with the criminal justice system.

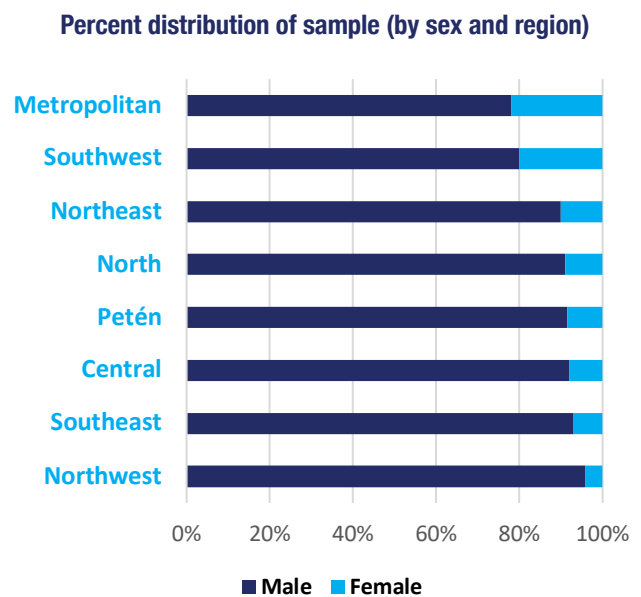
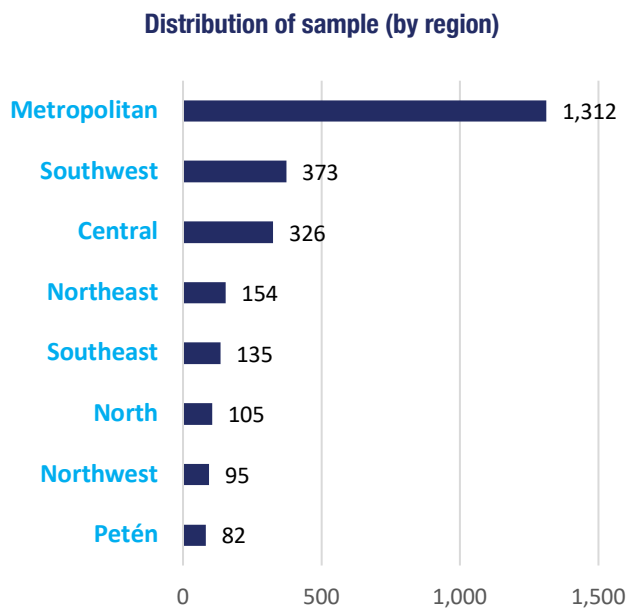
Distribution of Sample by Judicial Region

In Guatemala, eight judicial regions provide coverage to the 22 departments in which the national territory is divided. Each judicial region has at least one penitentiary center. The largest judicial region, the Metropolitan region, has eight penitentiary centers.

Region	Penitentiary Center
Central	Alta Seg. Escuintla
	Chimaltenango
	Granja Canadá
Metropolitan	COF
	Fraijanes I
	Granja Pavón
	Mariscal Zavala
	Pavoncito Fraijanes
	Preventivo Z.18
	Sta. Teresa
	Z.18 Anexo B
North	Cobán
Northeast	Puerto Barrios
	Zacapa

Northwest	Sta. Cruz del Quiché
Petén	Sta. Elena Petén
Southeast	Boquerón
Southwest	Granja Cantel
	Mazatenango
	Quetzaltenango Mujeres

As discussed earlier, our sample consisted of 2,590 individuals in prison. We asked participants to identify the department in which their court proceedings took place. About half of the individuals interviewed experienced proceedings in the Metropolitan region. The majority of the sample were males. The Metropolitan region had the largest percentage of females interviewed (22%) when compared to respondents who experienced proceedings in other regions.



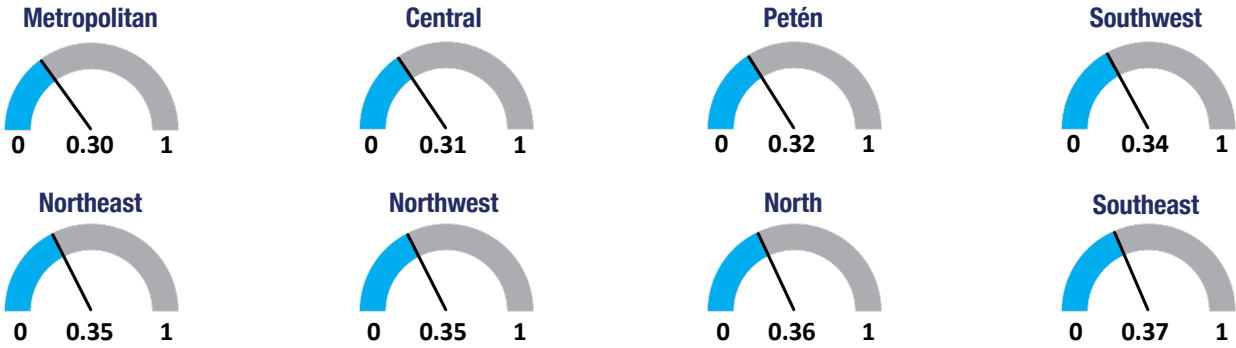
Perceptions of Procedural Justice

Perceptions of access to justice and trust in the rule of law are shaped by individual experiences with the justice system. The Procedural Justice Index below reports the overall extent defendants perceived the criminal proceedings as fair and just. When individuals perceive that the process is fair, neutral, based on facts, and that they have a voice in the process, this can lead to an increase in overall trust in the justice system and, regardless of outcome, more satisfaction with the process. However, individuals must also have positive experiences with the various actors they interact with, in particular they must feel respected. Mistreatment can negatively impact satisfaction with judicial outcomes, and at the same time it erodes overall trust in the criminal justice institutions and in the rule of law. Our Procedural Justice Index ranges from 0 to 1, with numbers closer to one meaning better perceptions of procedural justice. Overall we found that perceptions of procedural justice are low in Guatemala (0.32), with slightly better experiences reported with the justice system in the Southwest (0.37) when compared to the Metropolitan region (0.30).

Procedural Justice Index (nationally)



Procedural Justice Index (by region)



Perceptions of fair decision-making and fair treatment

In Guatemala, the perception of fair decision-making is overall low (0.32), but slightly higher among respondents in the North region (0.36), when compared to those in Petén or the Northeast regions (0.29). The perception of fair treatment is also low (0.32), with slightly higher perceptions among respondents in the Northeast and Southeast regions (0.42) when compared to respondents in the Petén and Metropolitan regions (0.29). Detainees were generally more likely to report feeling that the proceedings were unfair when compared to those who had been convicted. Detainees were also less likely to report that they were able to express their point of view during legal proceedings, compared to convicted respondents.





Perception of fair decision-making
(nationally and by region)





Region	Mean
Northeast	0.29
Petén	0.29
Southeast	0.30
Metropolitan	0.31
National	0.32
Central	0.33
Southwest	0.33
Northwest	0.33
North	0.36

Perception of fair treatment
(nationally and by region)

Region	Mean
Metropolitan	0.29
Petén	0.29
Central	0.30
National	0.32
Southwest	0.34
Northwest	0.36
North	0.38
Southeast	0.42
Northeast	0.42

Criminal proceedings are fair (by legal status, nationally and by region)

 Region			
Petén	14%	10%	76%
North	9%	34%	57%
Southeast	8%	40%	52%
Metropolitan	7%	30%	63%
National	6%	31%	63%
Southwest	6%	27%	67%
Northwest	5%	37%	58%
Central	5%	32%	62%
Northeast	0%	23%	78%

 Region			
North	11%	28%	61%
Northeast	11%	23%	67%
Metropolitan	11%	32%	57%
Southeast	11%	16%	73%
Southwest	11%	31%	57%
National	11%	30%	59%
Central	10%	34%	56%
Petén	6%	25%	70%
Northwest	5%	30%	64%



Detained



Convicted



Very fair

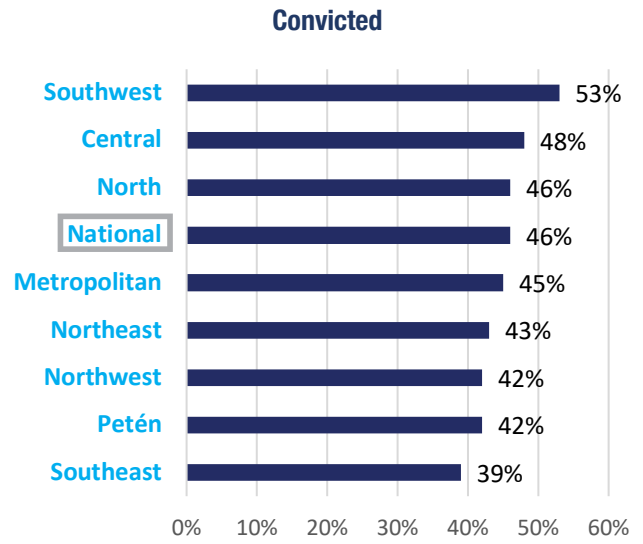
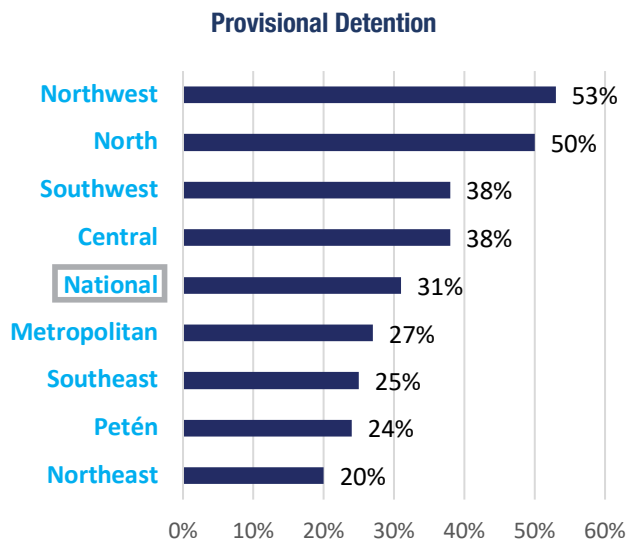


A little fair / Somewhat fair



Not at all fair




Percent respondents that were able to express their point of view (by legal status, nationally and by region)



Understanding




Overall perceptions of procedural justice can be negatively impacted by an individual’s understanding of proceedings. About 21% of respondents indicated they did not understand the proceedings at all and the majority reported that they had little understanding of the proceedings. Some of this understanding can be attributed to educational backgrounds, as individuals with higher education were more likely to report that they understood the proceedings “a lot”.

Understanding of proceedings (nationally and by region)

Region	 A lot	 A little / Somewhat	 Not at all
Central	22%	57%	21%
Metropolitan	29%	52%	19%
National	27%	53%	21%
North	29%	53%	17%
Northeast	22%	45%	33%
Northwest	29%	54%	17%
Petén	28%	46%	26%
Southeast	26%	51%	23%
Southwest	24%	53%	23%

* p < .01.

Understanding of proceedings (by level of education)

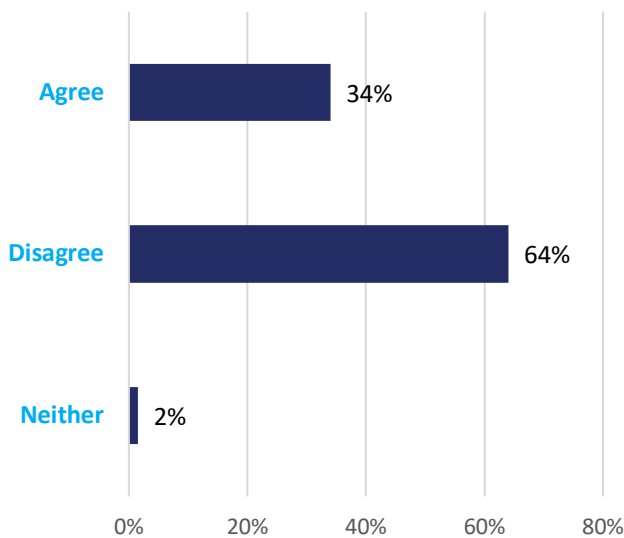
Level of education	 A lot	 A little / Somewhat	 Not at all
8th grade or less	23%	53%	24%
Some high school	29%	55%	16%
High school diploma	27%	55%	18%
Some college	46%	41%	12%
College +	61%	27%	12%

* p < .001.

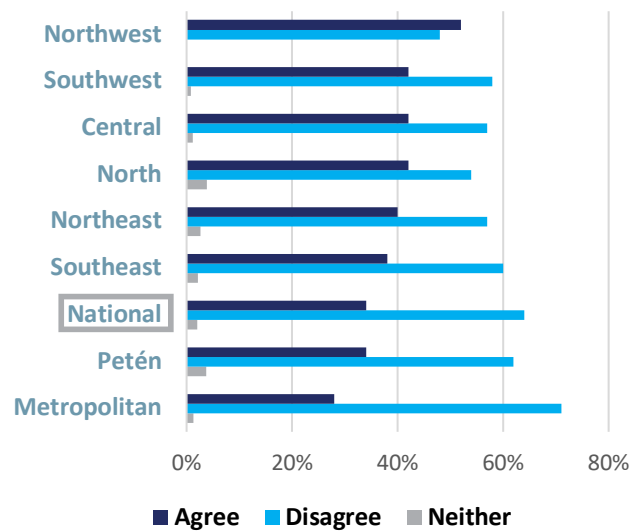
Opinion of police

Perceptions of fair treatment are partially shaped by opinions about how criminal justice actors treat citizens in general. The majority of respondents (64%) disagreed with the notion that police officers provide equal treatment to all citizens. However, there were important variations across judicial regions. Respondents processed in the Northwest region were slightly more favorable in their responses, with 52% of respondents agreeing that police officers provide equal treatment to citizens, whereas only 28% in the Metropolitan region felt the same way.

Percent respondents who agree with the statement “police officers treat everyone equally” (nationally)



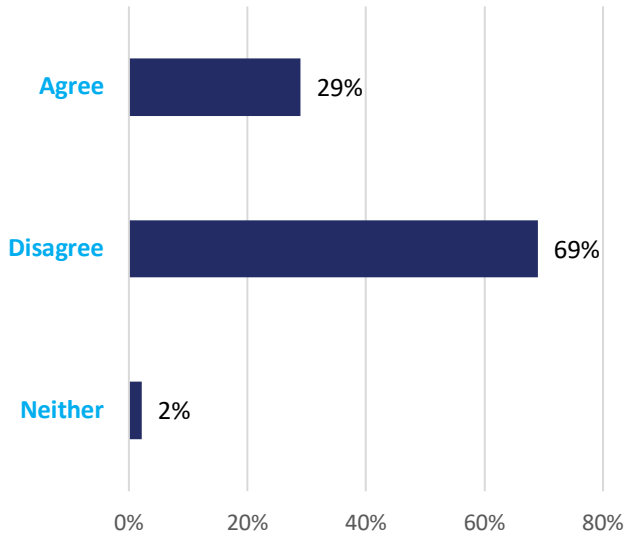
Percent respondents who agree with the statement “police officers treat everyone equally” (nationally and by region)



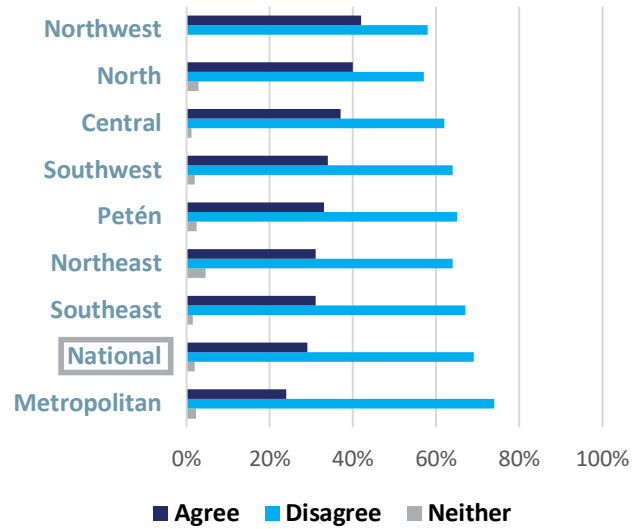
Opinion of prosecutors

The majority of respondents also disagreed with the notion that prosecutors treat everyone equally. Interestingly, more respondents in the Northwest region (42%) agreed with this statement, when compared to those in the Metropolitan region (24%).

Percent respondents who agree with the statement “prosecutors treat everyone equally” (nationally)



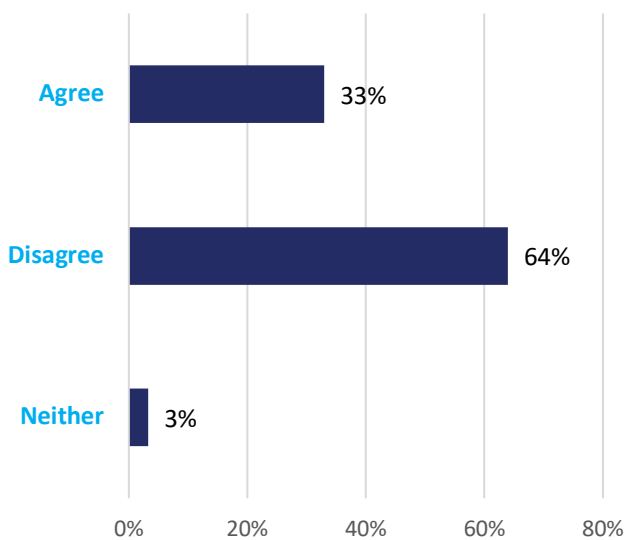
Percent respondents who agree with the statement “prosecutors treat everyone equally” (nationally and by region)



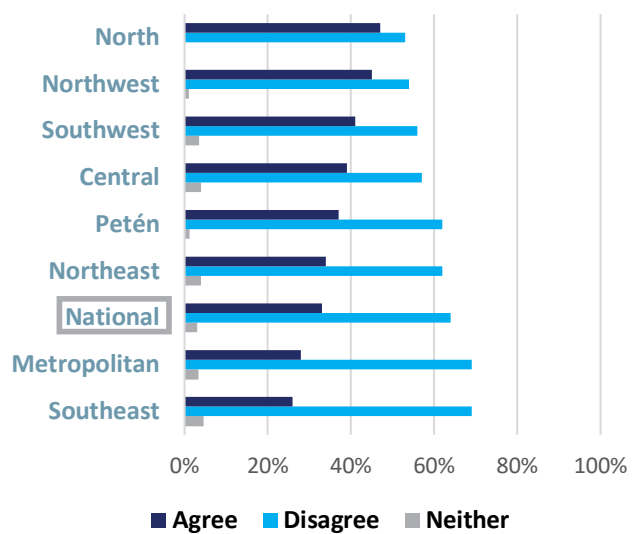
Opinion of judges

The perception of neutrality is a key component in an individual’s perception of procedural justice. Because of this, the judge is key in an accusatorial system. Neutrality in the judicial function is also necessary for the rule of law. Overall, about a third of respondents (33%) agreed that judges treat everyone equally. However, there are also variations across judicial regions. About 26% of respondents in the Southeast region agreed that judges treat everyone equally, compared to 47% of those in the North region. Respondents generally agreed that judges protect the rights of the incarcerated. This opinion was more favorable among respondents in the Northwest region (62%) compared to those in the Metropolitan region (48%).

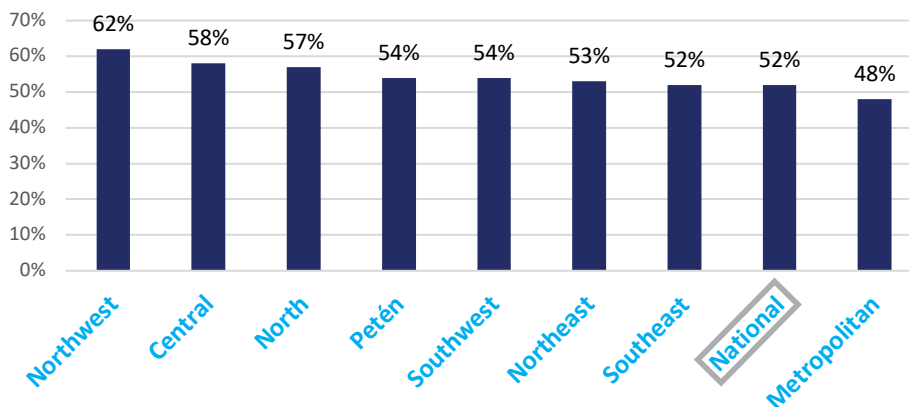
Percent respondents who agree with the statement “judges treat everyone equally” (nationally)



Percent respondents who agree with the statement “judges treat everyone equally” (nationally and by region)







Percent respondents who agree with the statement “judges protect the rights of incarcerated” (nationally and by region)







Experiences During Arrest

Procedural justice, and in particular, perception of fairness in treatment, is also shaped by the various experiences individuals have from the moment of arrest and throughout criminal proceedings. In Guatemala, on average, the majority of respondents were arrested with a warrant (51%) or in flagrante (35%) (that is, at the crime scene). About 7% of respondents reported they had been arrested during a police raid. Individuals processed in the Northeast region were more likely to have been arrested as the result of a warrant, whereas those in the Central region were more likely to be arrested in flagrante. Half of the respondents were immediately sent to jail after their arrests and 38% were sent to a court. As with other experiences, there were variations across regions. Those in the Metropolitan region were more likely to be sent first to the court, and those in the Northwest reported being sent directly to jail.

How was the respondent arrested?
(nationally and by region)

Region	 Arrest warrant	 Crime scene	 Police raid	 Other
Northeast	63%	21%	8%	8%
North	63%	21%	8%	9%
Petén	61%	21%	5%	13%
Northwest	58%	28%	8%	5%
Southwest	56%	35%	5%	4%
Southeast	54%	31%	6%	9%
National	51%	35%	7%	7%
Metropolitan	48%	38%	7%	7%
Central	42%	45%	6%	7%

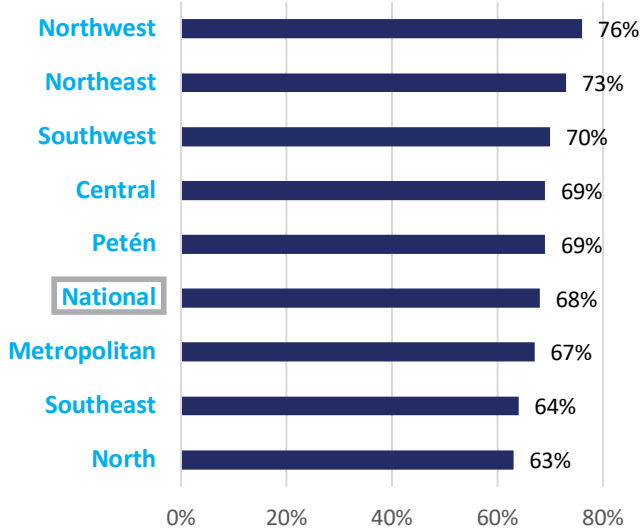
Where was the respondent held in custody after arrest?
(nationally and by region)

Region	 Jail	 Court	 PPO	 Other
Northwest	84%	11%	2%	3%
Petén	73%	15%	4%	9%
North	71%	17%	5%	7%
Southwest	69%	24%	3%	5%
Southeast	65%	21%	7%	7%
Northeast	63%	25%	5%	7%
Central	53%	36%	6%	5%
National	50%	38%	7%	5%
Metropolitan	35%	51%	9%	5%

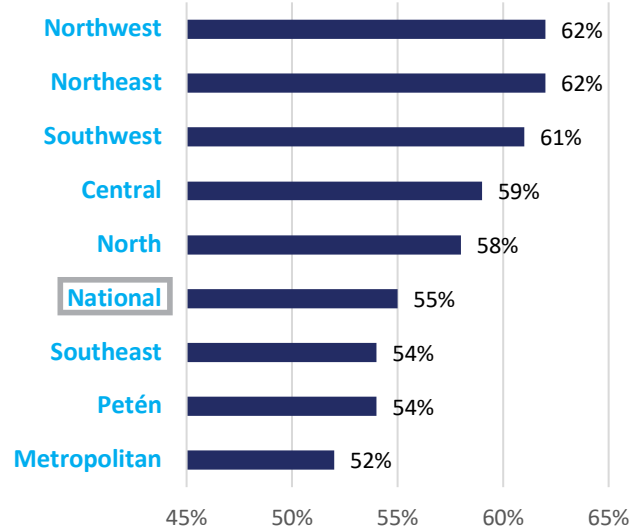
Due process rights

In Guatemala, the accused have the right to be informed about the act of which they are being accused, the right to know the identity of who is arresting them, to have legal counsel, to withhold from speaking or declaring without it being held against them, and to be taken to a judge as soon as possible (Arts. 71, 81 and 92, Decree 51-92). The majority of participants were informed of their rights after their arrest. However, more respondents reported they were informed of their right to remain silent (68%) compared to their right to an attorney (55%). The most common setting for giving their initial testimony was in the courthouse (49%). The majority did not feel heard by the police at the moment of arrest (59%).

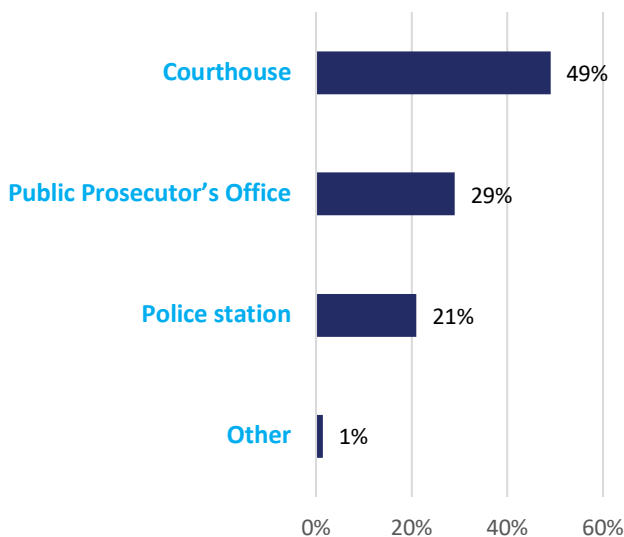
Percent respondents informed of their right to remain silent (nationally and by region)



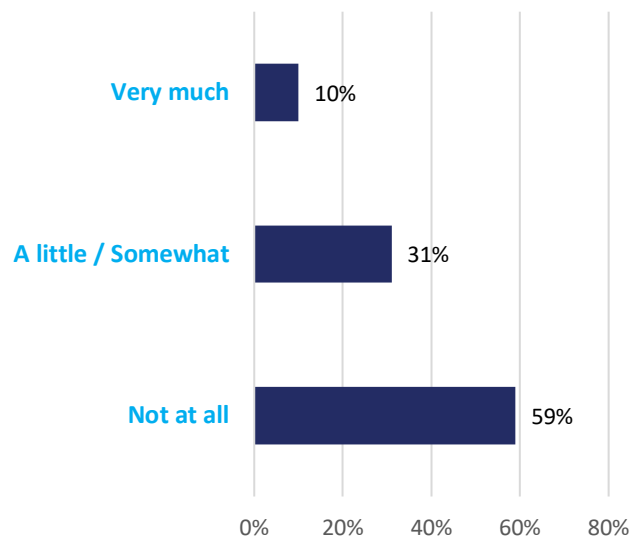
Percent respondents informed of their right to an attorney (nationally and by region)



Location of the initial testimony



At the time of arrest, how much did the police listen to you?

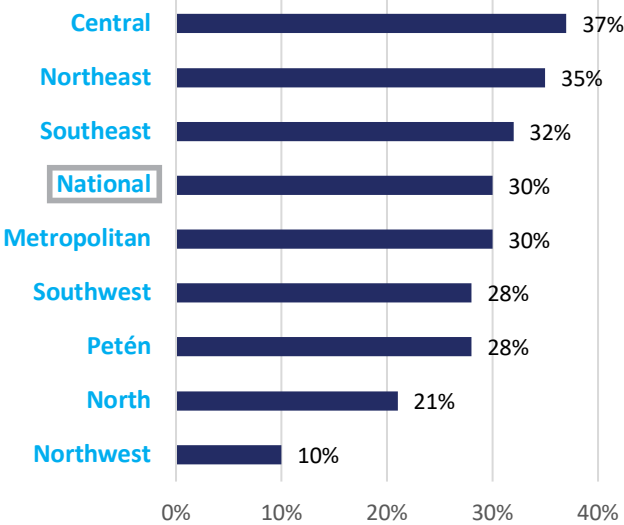


In Guatemala, the top five crimes that individuals were charged with after their arrest involved crimes against public order (7%), weapons (11%), sex crimes (13%), property (25%), and against the person (27%). There are interesting variations to highlight across judicial regions. In the Northwest region, 41% respondents were charged with sex crimes, more than three times the national average. In the Northeast region, 44% reported being charged with crimes against the person, also above the national average. Thirty percent of all respondents were accused of possessing a firearm at the time of arrest, and 25% were accused of using a firearm during the commission of the crime.

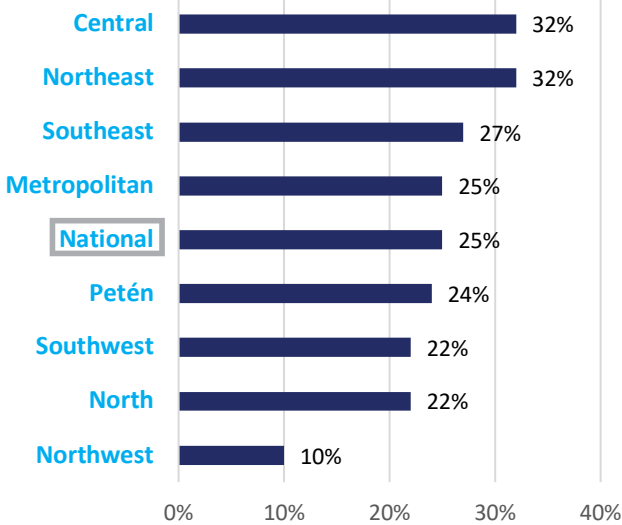
Top 5 crimes accused of at the time of arrest (nationally and by region)

Region	Public order	Weapons	Sex	Property	Person
Metropolitan	12%	10%	9%	27%	25%
National	7%	11%	13%	25%	27%
Central	6%	11%	13%	25%	25%
Petén	4%	10%	22%	9%	30%
Southwest	3%	15%	15%	29%	25%
Southeast	2%	8%	16%	21%	31%
Northwest	2%	3%	41%	15%	21%
Northeast	1%	13%	15%	15%	44%
North	1%	4%	20%	14%	33%

Percent respondents accused of possessing a firearm during crime (nationally and by region)



Percent respondents accused of using a firearm during crime (nationally and by region)



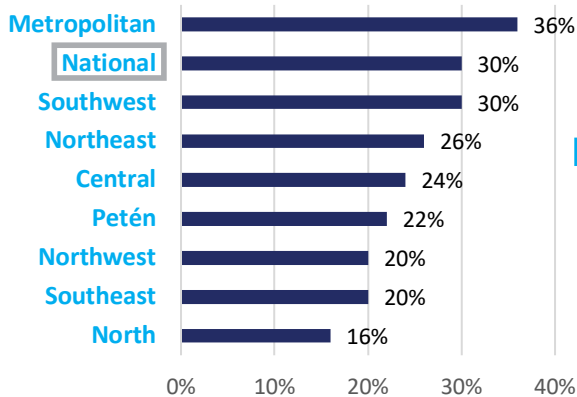
Experiences of Mistreatment After Arrest

Treating individuals who are in custody following an arrest with dignity and respect can shape their perceptions of access to justice and procedural justice. A significant number of individuals reported important abuses or mistreatment while in the custody of Guatemalan authorities after their arrest. The abuses that were most widely reported relate to due process rights (threats with false charges, denial of communication, and coercion), economic rights (access to food and water), and physical integrity rights (being forced to undress). Respondents most often identified the police as the responsible party. In most cases, respondents indicated that they did not report any experienced abuse or mistreatment mostly out of fear of retaliation, or were not allowed to report it, or because they felt it was pointless.

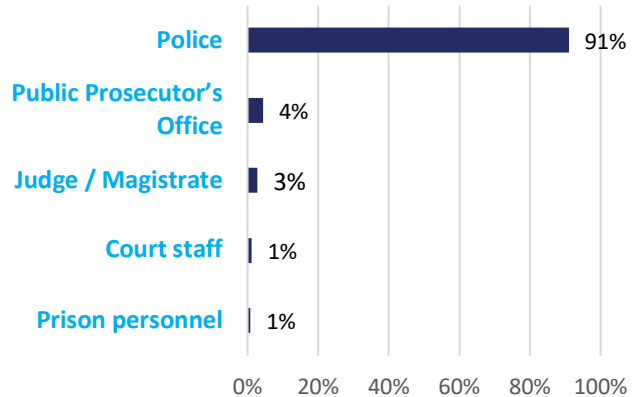
Access to food

About 30% of our sample was denied access to food while in custody after their arrest. Thirty-six percent of respondents from the Metropolitan region stated that they were denied access to food. The police were identified as the primary party responsible for denying access to food. On average, about 11% reported to authorities this denial, with a larger proportion reporting the abuse in the region of Petén. Those who did not report indicated they were not allowed or felt it pointless to report.

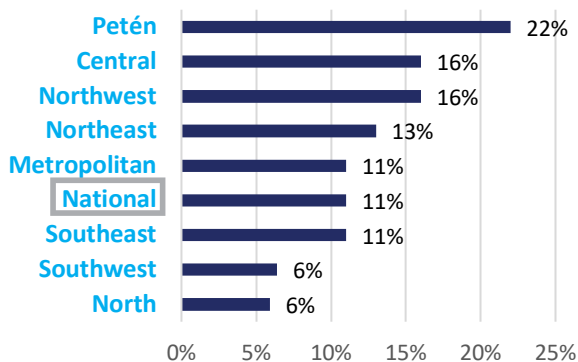
Percent respondents who were denied access to food after arrest (nationally and by region)



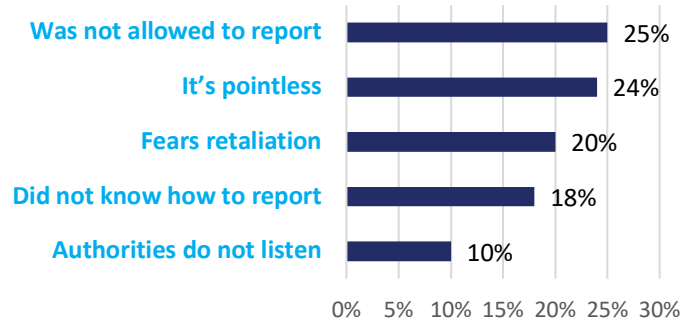
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were denied food, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been denied access to food (nationally)*

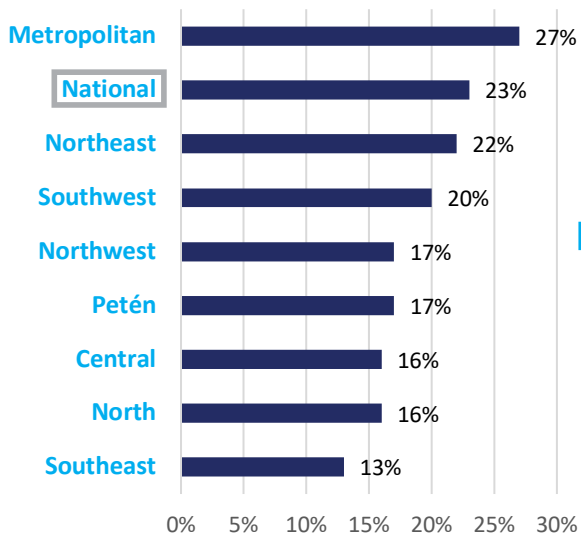


* Respondents could answer more than one item.

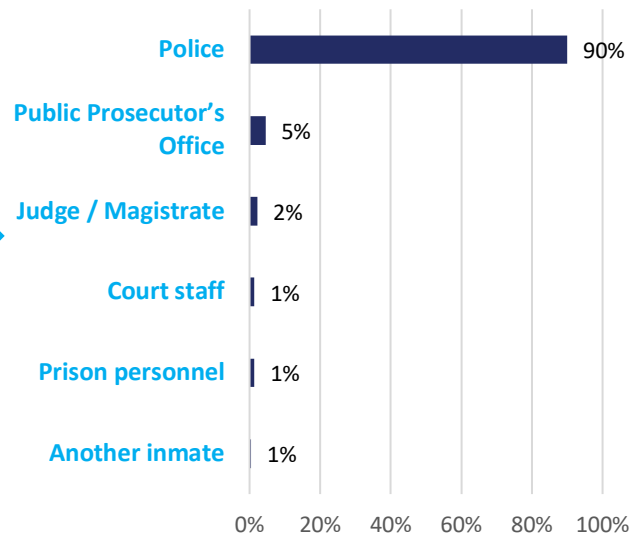
Access to water

On average, 23% of respondents were denied access to drinking water while in custody. The region with the largest percentage of respondents reporting denial of water was the Metropolitan region. Most identified the police as the party responsible for denying access to water. A small percentage of those respondents who were denied water reported it to an authority. More respondents in the Central region reported this type of abuse compared to the other regions. Primary reasons for not reporting denial of water respondents included the belief that reporting was pointless or that they feared retaliation.

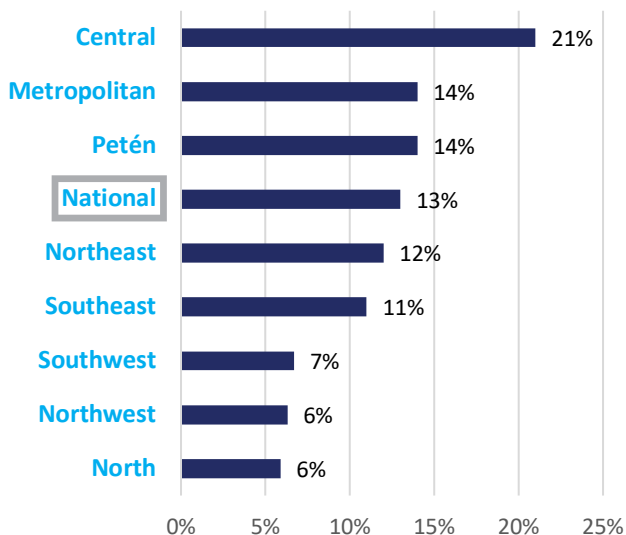
Percent respondents who were denied access to water after arrest (nationally and by region)



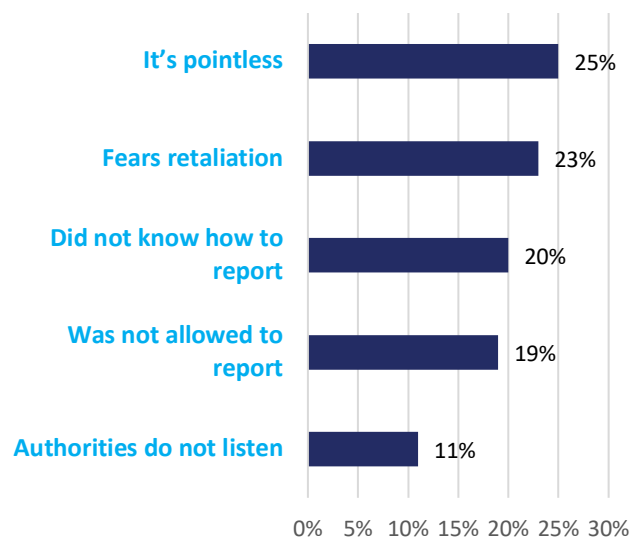
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents denied water, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been denied access to water (nationally)*

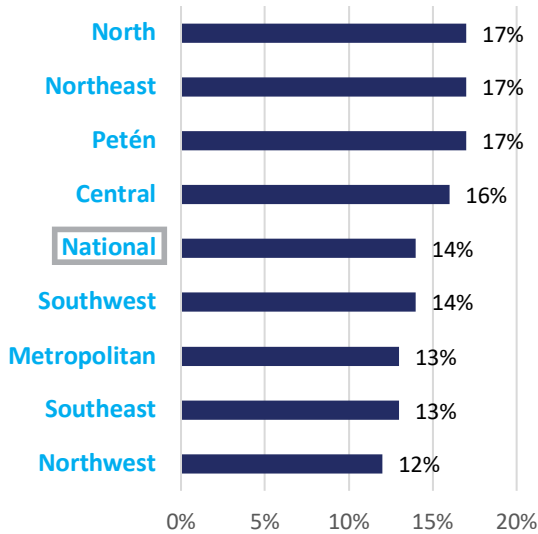


* Respondents could answer more than one item.

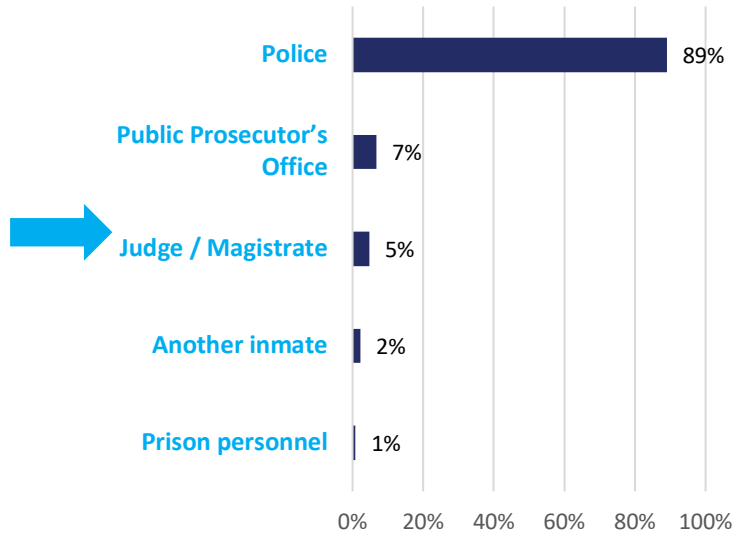
Bribes

About 14% of respondents were asked for money or a bribe by a state authority after their arrest. The percentage of respondents that were asked for bribes was slightly higher in the Petén, Northeast, and North regions (17%), compared to the other judicial regions. The majority identified the police as responsible for asking for a bribe, followed by members of the Public Prosecutor’s Office. The Central region had the largest percentage of respondents (27%) that reported this behavior to an authority. It is interesting to note that none of the respondents in the Northwest region that reported being bribed reported this behavior. Respondents identified fear of retaliation and feeling that it was pointless to do so as the two top reasons for not reporting.

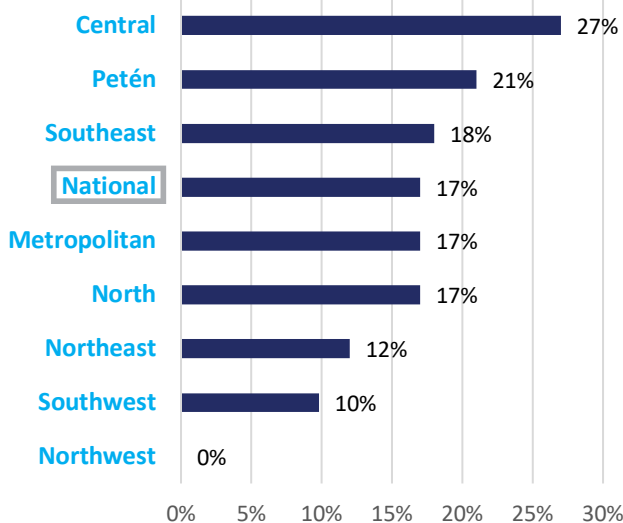
Percent respondents who were asked for a bribe after arrest (nationally and by region)



Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were asked for a bribe, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been asked for a bribe (nationally)*

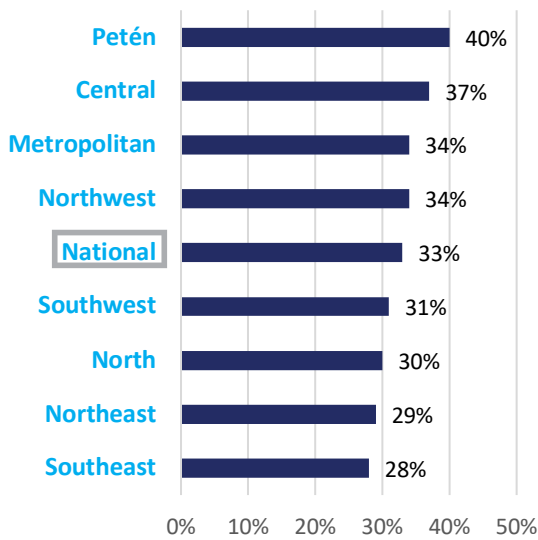


* Respondents could answer more than one item.

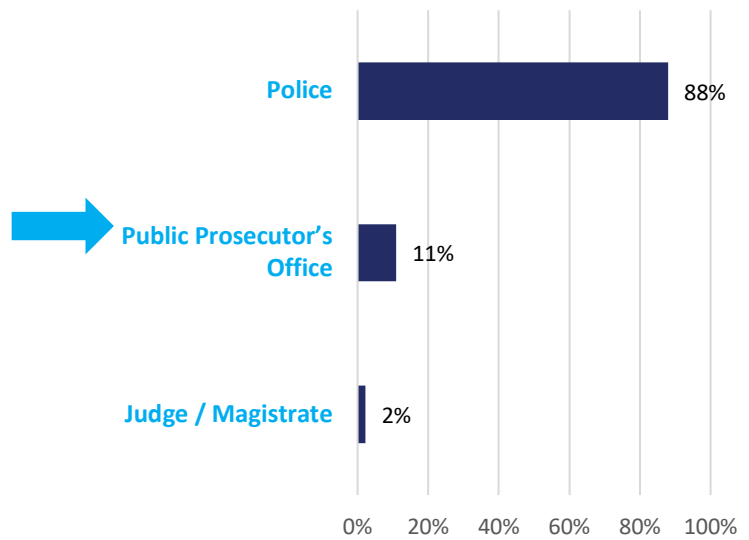
False charges

The most likely type of abuse or mistreatment experienced by respondents involved being threatened with false charges following an arrest. Thirty-three percent of respondents, on average, experienced such threats. Forty percent of respondents of those processed in the Petén region experienced such threats, compared to 28% of respondents in the Southeast region. The police and the Public Prosecutor’s Office were identified as the primary source of these threats. Among those respondents who experienced threats with false charges, those in the Central region were more likely to report the behavior to authorities. As with other types of abuse, fear of retaliation and not being allowed to report it were among the main reasons for not reporting the threats.

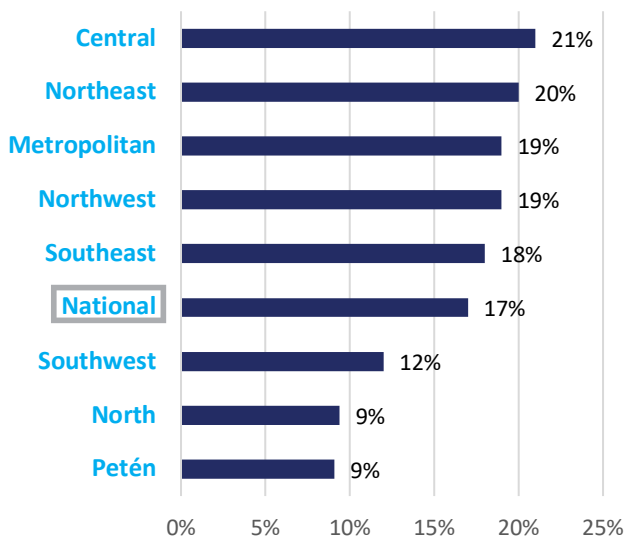
Percent respondents who were threatened with false charges after arrest (nationally and by region)



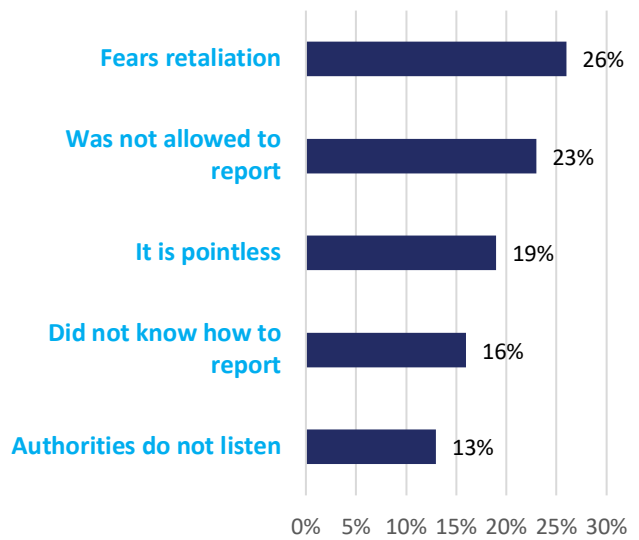
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were threatened with false charges, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been threatened with false charges (nationally)*

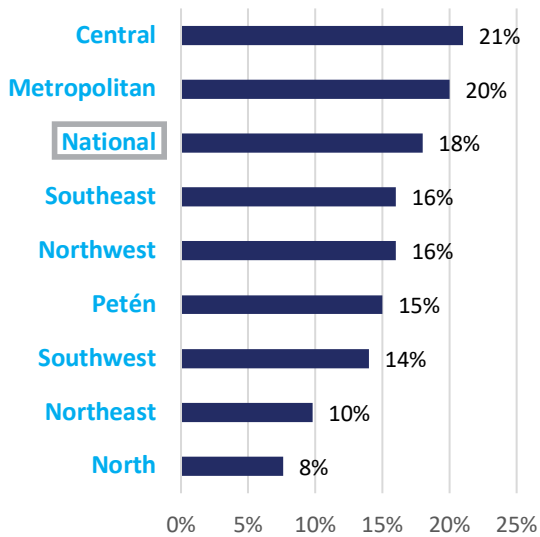


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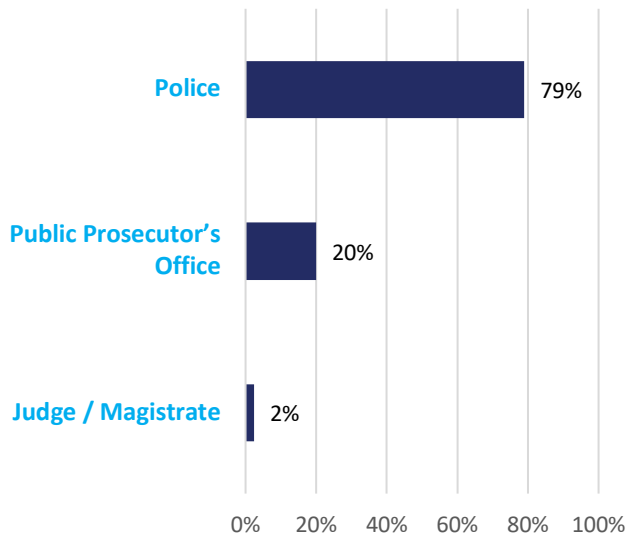
Coercion to implicate others

About 18% of respondents indicated they had felt pressured or coerced to implicate others in the crime. This perception was reported by 21% of respondents in the Central region, compared to only 8% of respondents in the North region. As with other types of mistreatments, the police and the Public Prosecutor’s Office were identified as the main source of these threats. Among those who experienced this type of coercion, about 15% reported this form of abuse. The reasons for not reporting included fear of retaliation, feeling that it would be pointless, and not being allowed to do so.

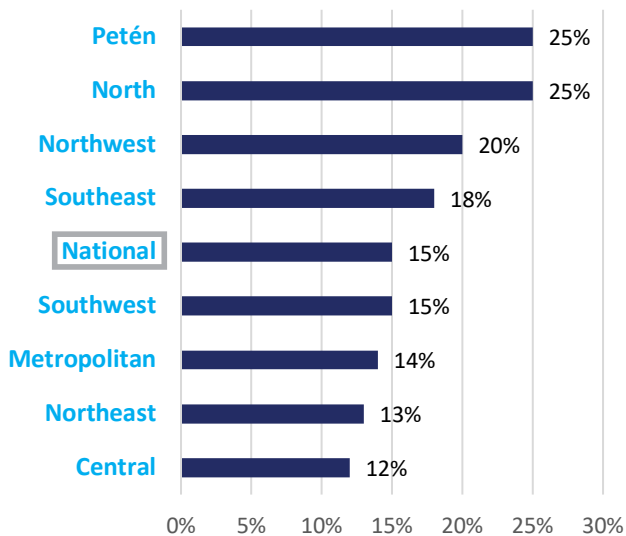
Percent respondents who were coerced to implicate others after arrest (nationally and by region)



Percent respondents identifying the following actors as responsible (nationally)*



Among respondents coerced to implicate others, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been coerced to implicate others (nationally)*

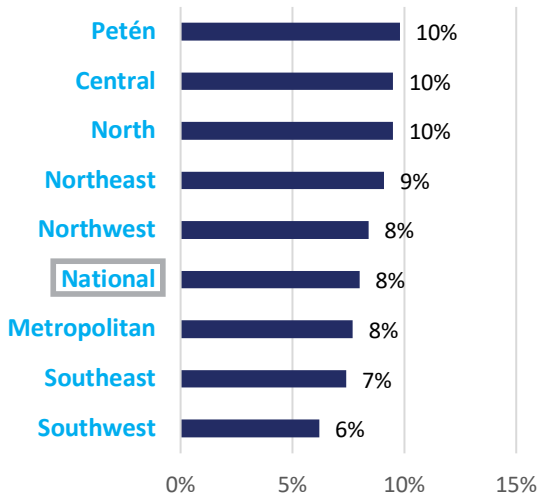


* Respondents could answer more than one item.

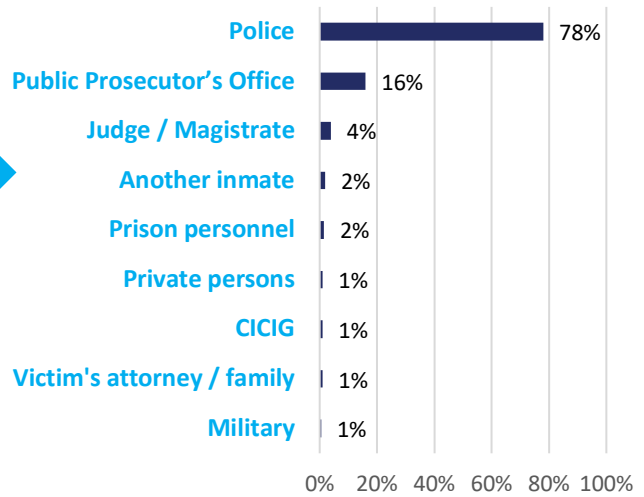
Threats against family

About 8% of those interviewed received threats against their family while in custody after their arrest. Petén had the largest percentage of respondents experiencing this type of abuse, when compared to other regions. Among those who were threatened, the police were identified as responsible for making these threats by 78% of respondents. Among those who suffered these threats, those in the Southeast region were more likely to report this type of abuse when compared to other regions. The top reason for not reporting was fear of retaliation.

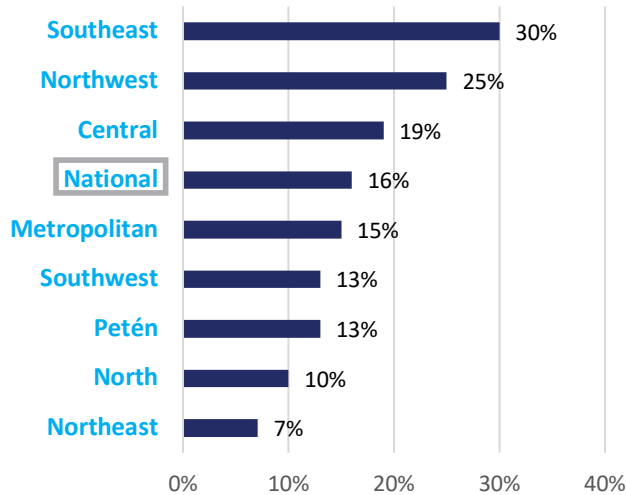
Percent respondents who suffered threats against family after arrest (nationally and by region)



Percent respondents identifying the following actors as responsible (nationally)*



Among respondents whose family was threatened, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having had family threatened (nationally)*

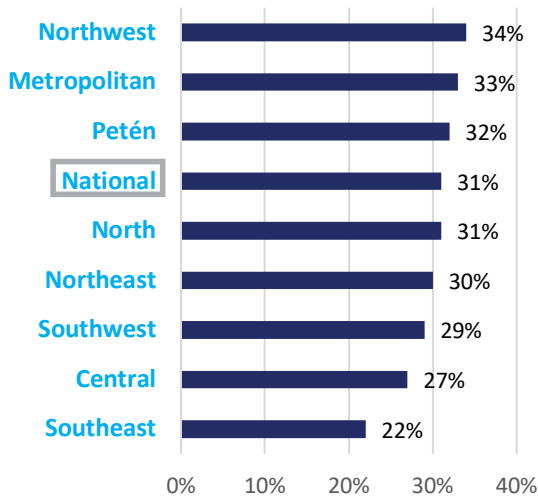


* Respondents could answer more than one item.

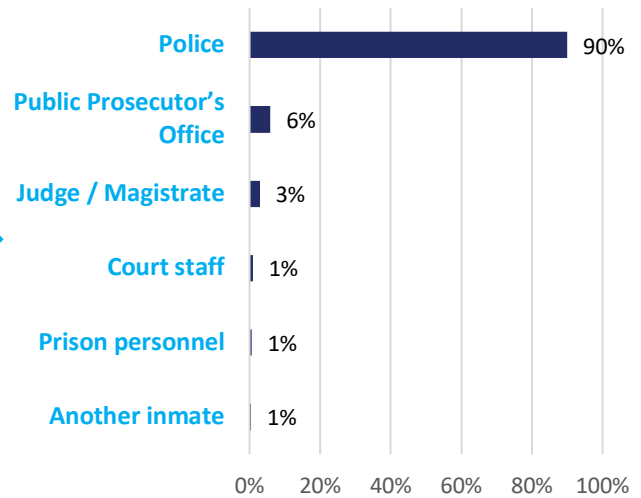
Denial of communication

Over a third of respondents indicated that they were denied communication with their relatives while in custody after their arrest. These instances were reported slightly more among prisoners in the Northwest region (34%) compared to those in the Southeast region (22%). Most respondents who were denied communication identified the police as the institution most responsible for this behavior. Among those that reported this experience, those in the Central region were more likely to do so when compared to other regions. Among the top reasons for not reporting this behavior to authorities were not being allowed to do so, fear of retaliation, and feeling that it was pointless.

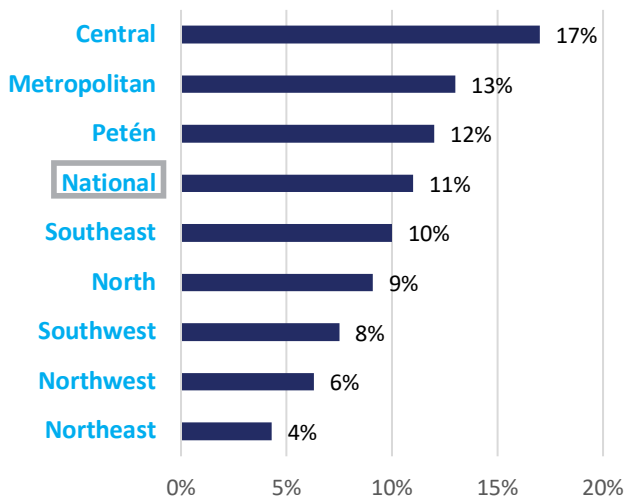
Percent respondents who were denied communication with family after arrest (nationally and by region)



Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were denied communication, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been denied communication with family (nationally)*

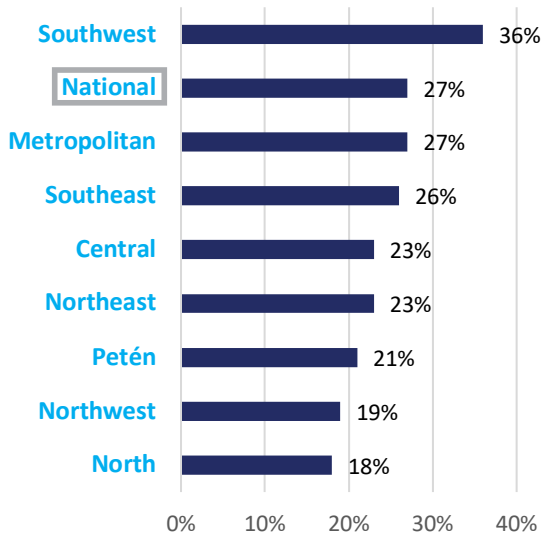


* Respondents could answer more than one item.

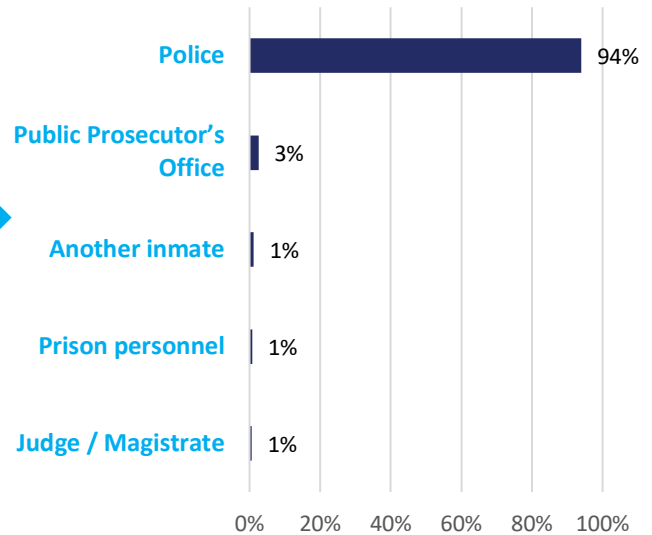
Forced to undress

A total of 27% of respondents indicated they had been forced to undress while in custody. The Southwest region had the largest percentage of respondents (36%) reporting this experience. Most identified the police as the institution responsible for this behavior. Among those who experienced being forced to undress, 11% reported it to an authority. The primary reason identified for not reporting this abuse was that they feared retaliation, that they thought it was pointless or that they were not allowed to report it.

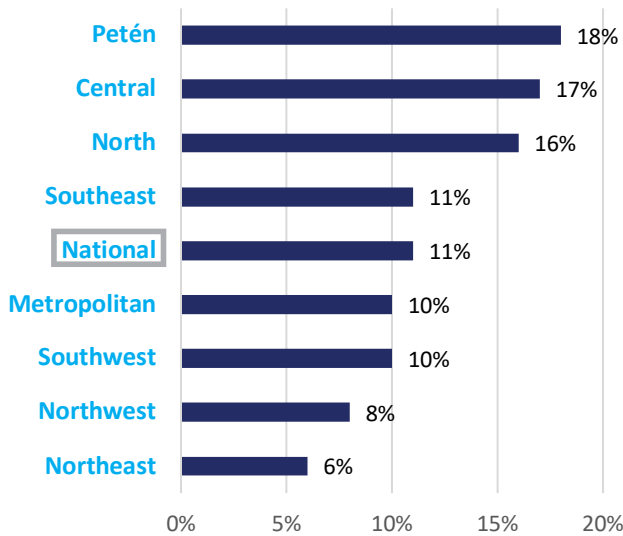
Percent respondents forced to undress after arrest (nationally and by region)



Percent respondents identifying the following actors as responsible (nationally)*



Among respondents forced to undress, percent who reported it (nationally and by region)



Top 5 reasons for not reporting having been forced to undress (nationally)*

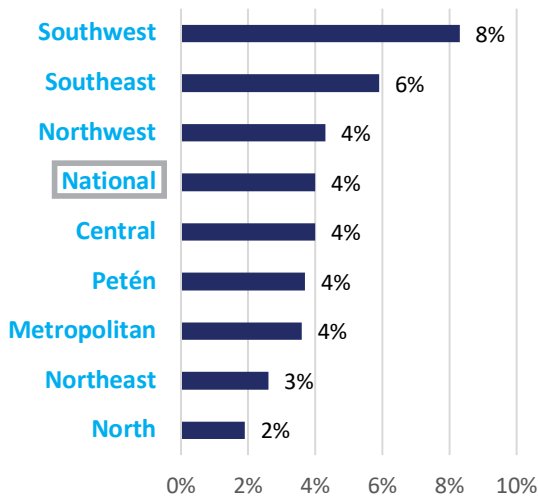


* Respondents could answer more than one item.

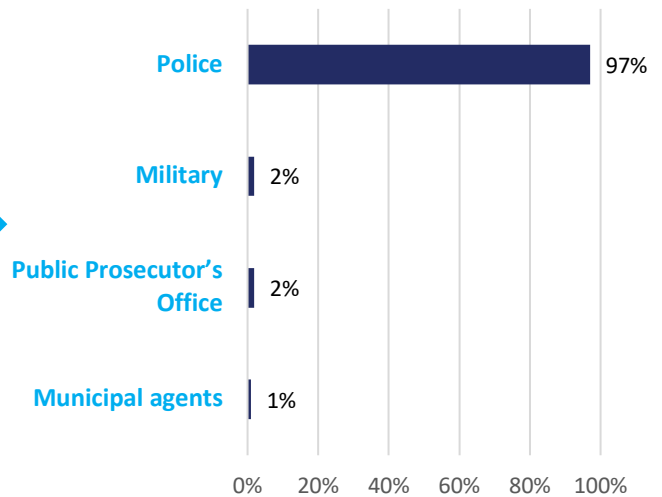
Bound or tied

Very few respondents (4%) indicated that they had their hands and/or feet bound or tied with something other than handcuffs while in custody after their arrest. Among those who experienced this treatment, the majority identified the police as the actor responsible for it. Although this mistreatment was not experienced by many respondents, being bound or tied was the most reported abuse or mistreatment (21%). Thirty percent of those in the Metropolitan region reported this type of abuse to the authorities. In contrast, none of the respondents that suffered this abuse in the regions of Petén, Northwest, Northeast, and North reported it. The main reason for not reporting was fear of retaliation.

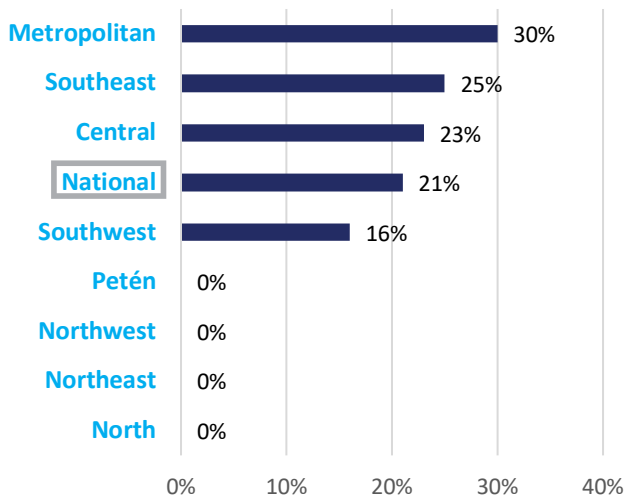
Percent respondents who were bound after arrest (nationally and by region)



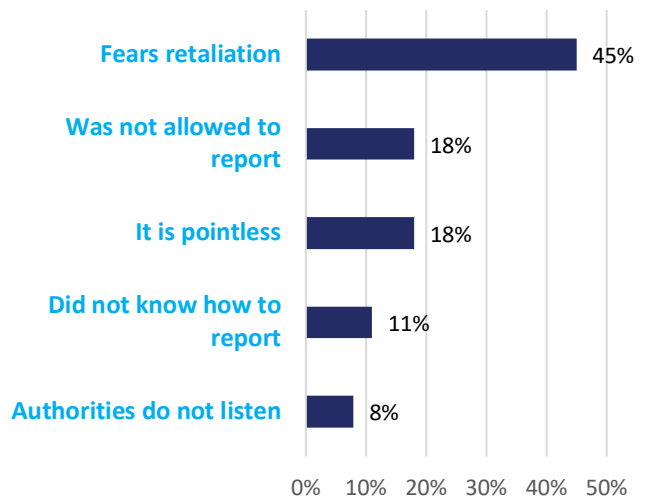
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were bound, percent who reported it (nationally and by region)



Top 5 reasons for not reporting being bound (nationally)*

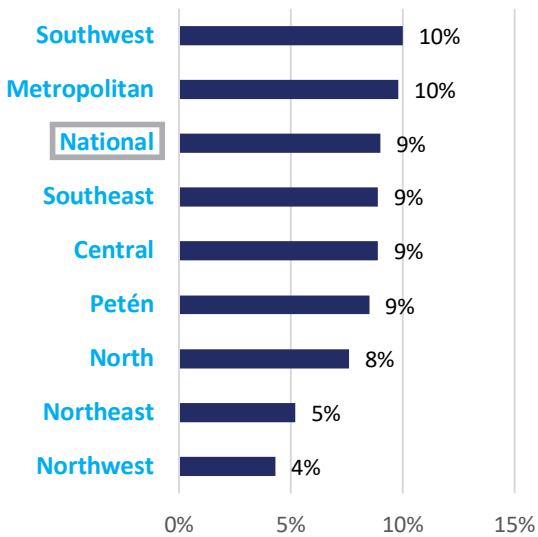


* Respondents could answer more than one item.

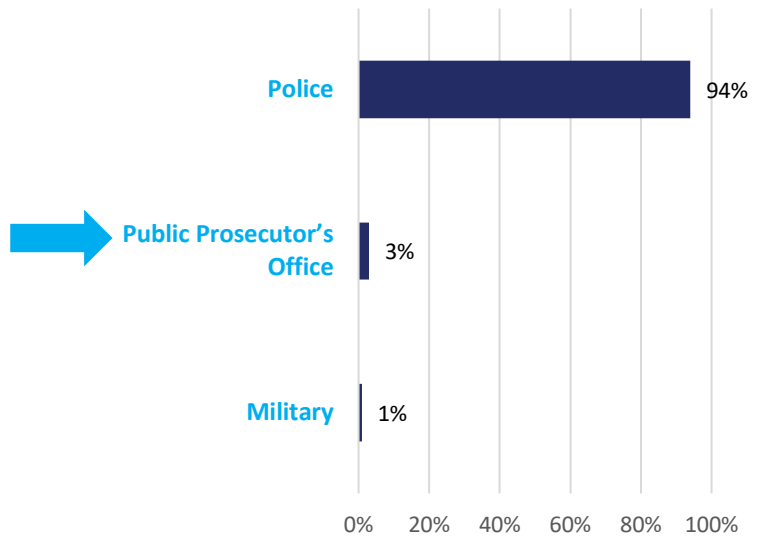
Blindfolding

A small percentage of respondents (9%) said that they were blindfolded or had their head covered with a cloth while in custody after their arrest. The incidence of these reports was slightly higher in the Southwest and Metropolitan regions (10%) compared to the Northwest region (4%). As seen throughout, the police were identified as the primary state actor responsible for this behavior. The majority did not report this mistreatment to authorities because they feared retaliation or were not allowed to report it.

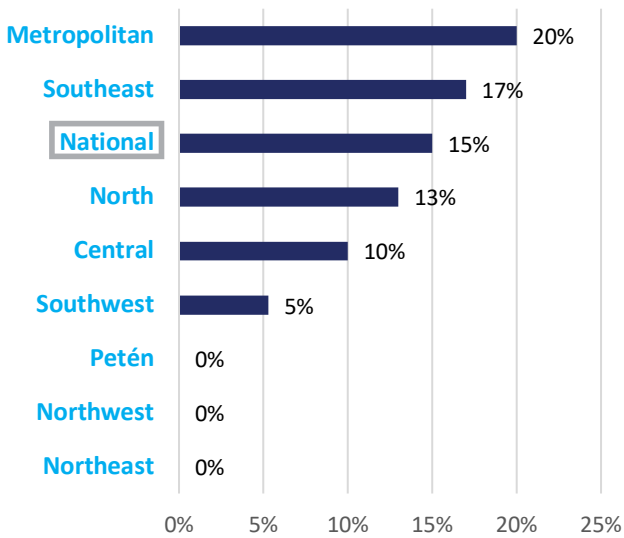
Percent respondents who were blindfolded or had their head covered with a cloth after arrest (nationally and by region)



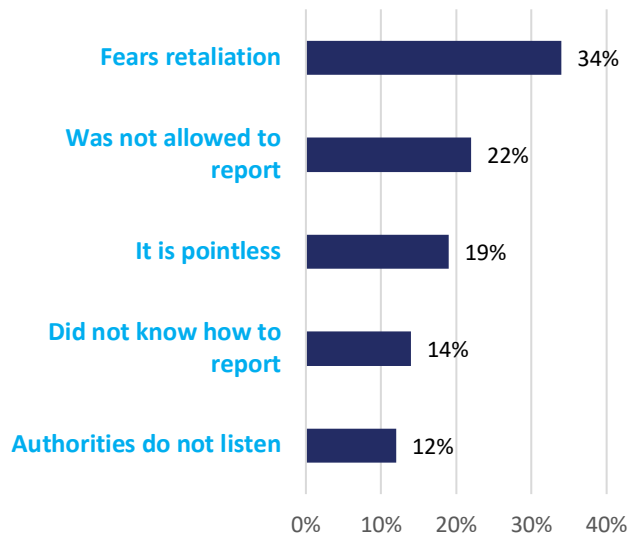
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were blindfolded, percent who reported it (nationally and by region)



Top 5 reasons for not reporting blindfolding (nationally)*

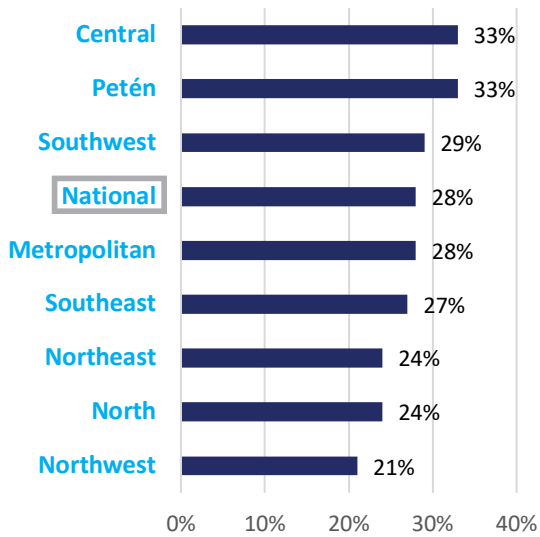


* Respondents could answer more than one item.

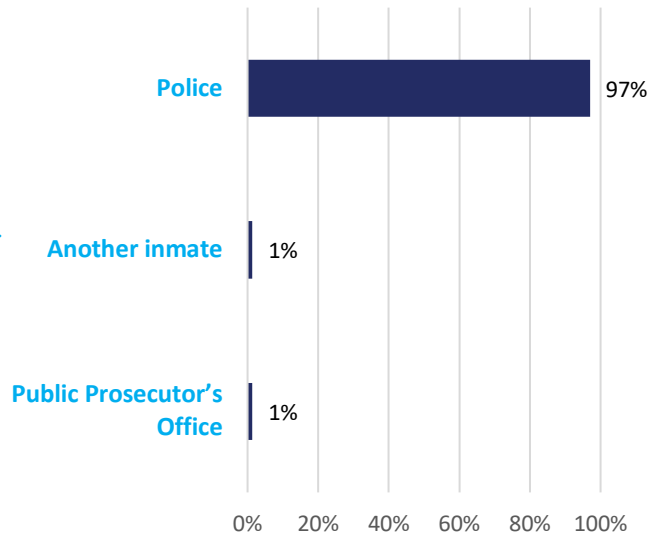
Beatings

Twenty-eight percent of respondents were beaten (punched, kicked, or pushed) while in custody after their arrest. Those in the Central and Petén regions were more likely to report this mistreatment. The police were almost universally identified as the actors responsible for this type of abuse. Among those who had been beaten 14%, nationally, reported the abuse although none of those who suffered beatings in the Northwest region reported it to the authorities. Among the main reasons for not reporting was fear of retaliation and not being allowed to report it.

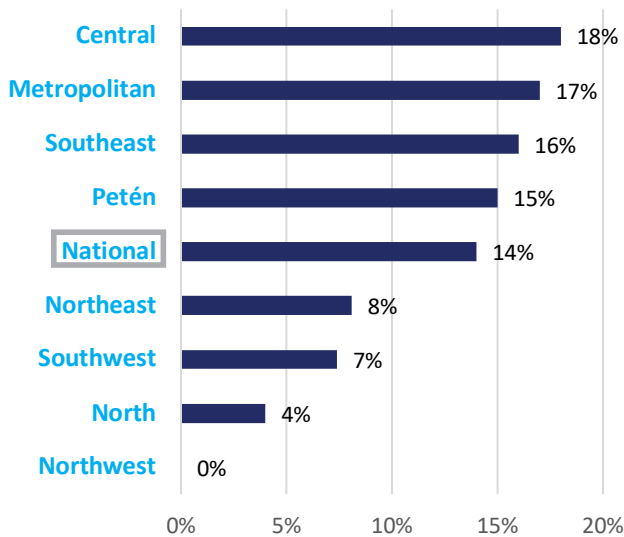
Percent respondents who were beaten after arrest (nationally and by region)



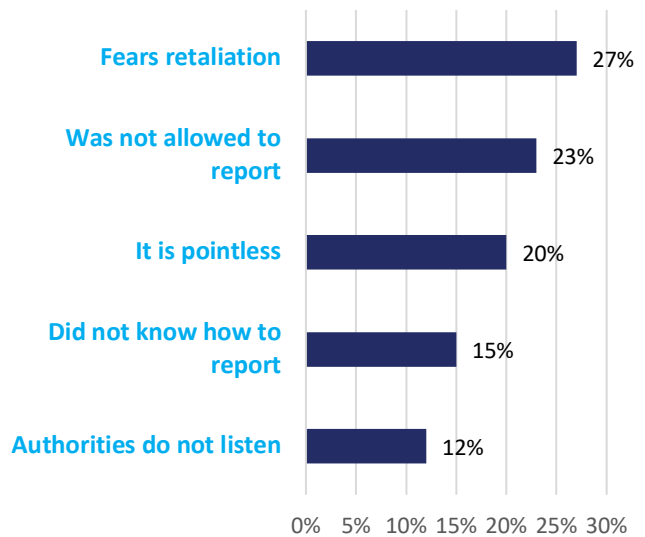
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who were beaten, percent who reported it (nationally and by region)



Top 5 reasons for not reporting beatings (nationally)*

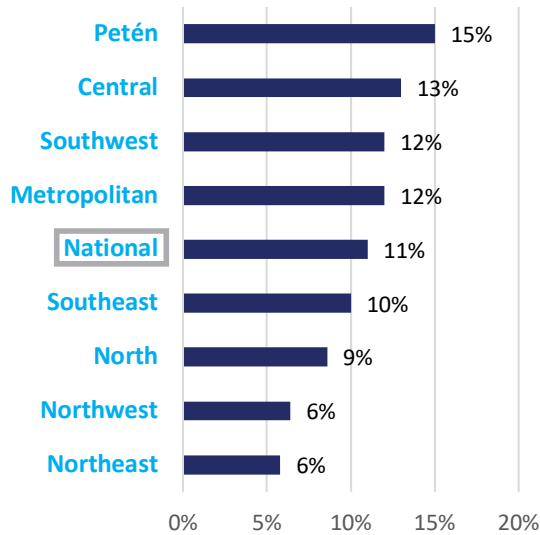


* Respondents could answer more than one item.

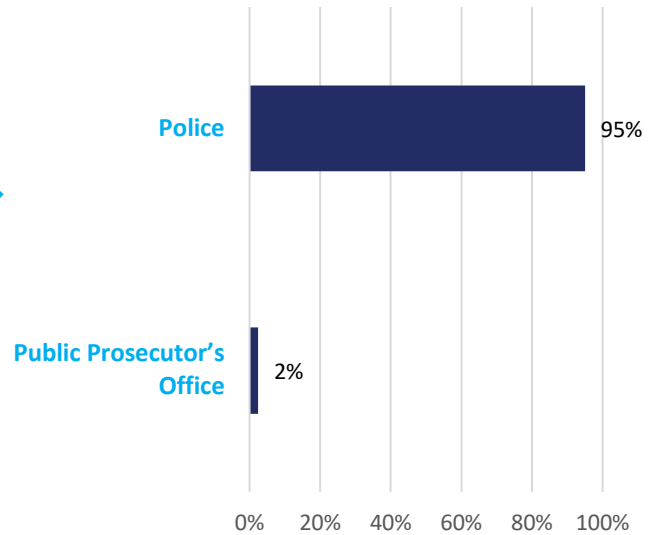
Asphyxiation

About 11% of respondents experienced an asphyxiation attempt after their arrest. The police were widely identified as the responsible party for this type of abuse. Among those who experienced asphyxiation, 18% reported it. Although 15% of respondents in the Petén region reported having experienced this form of abuse, only about 8% reported it. Reasons for not reporting included fear of retaliation and not being allowed to report it.

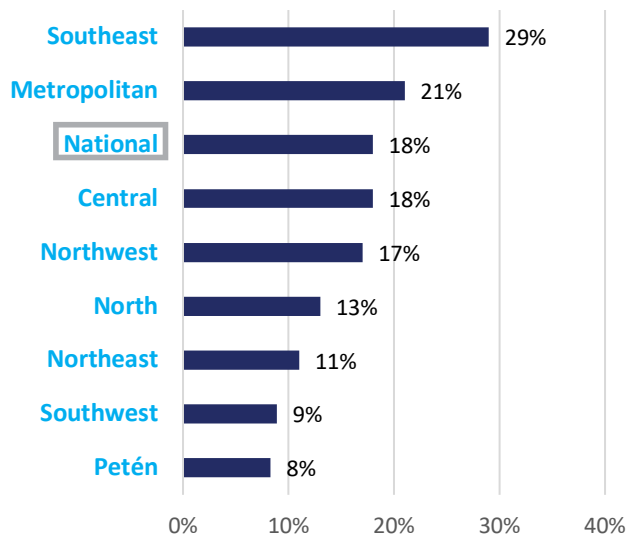
Percent respondents who suffered an asphyxiation attempt after arrest (nationally and by region)



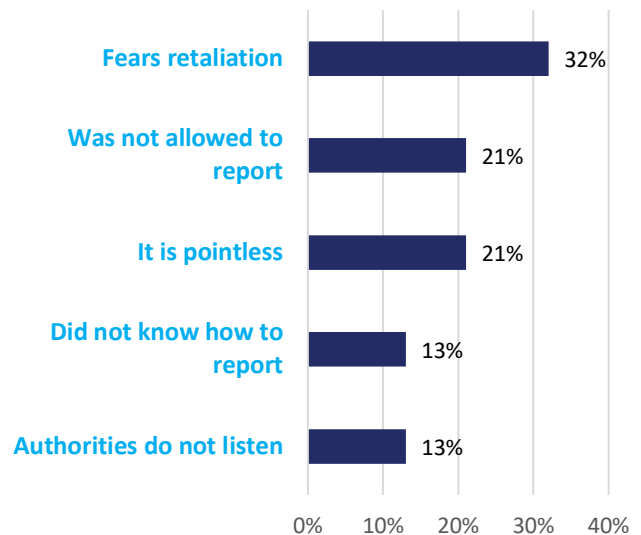
Percent respondents identifying the following actors as responsible (nationally)*



Among respondents who suffered an asphyxiation attempt, percent who reported it (nationally and by region)



Top 5 reasons for not reporting an asphyxiation attempt (nationally)*

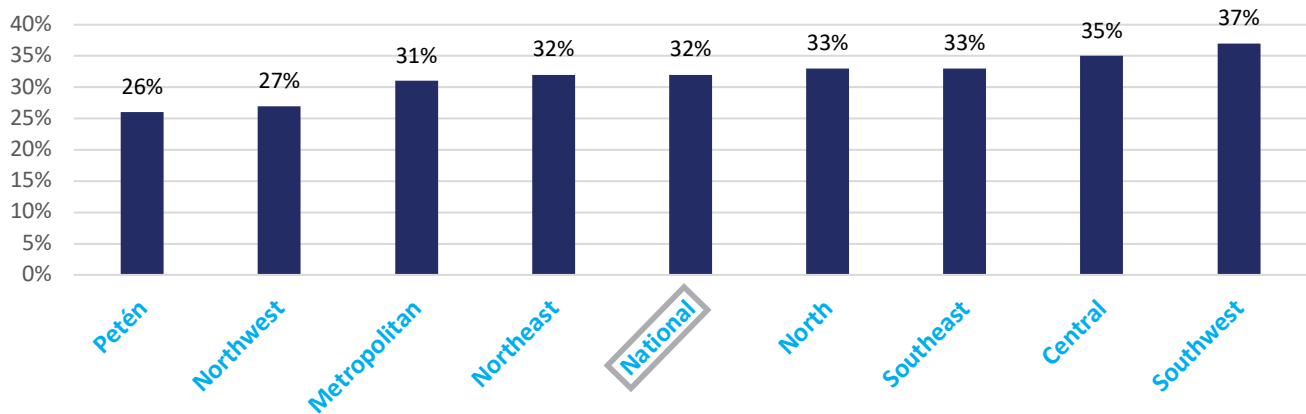


* Respondents could answer more than one item.

Experiences with Plea Bargain

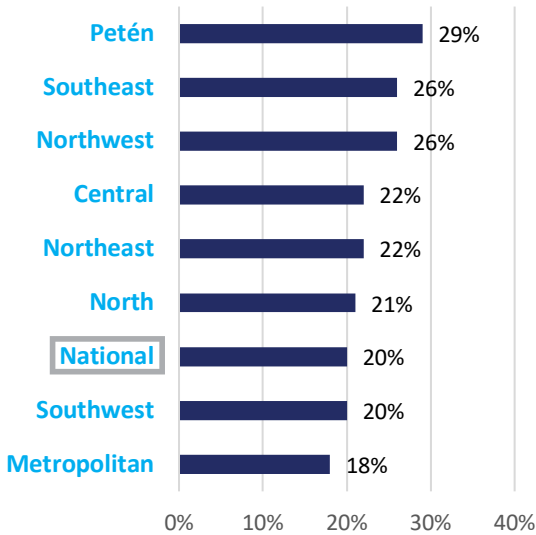
Guatemalan criminal procedure allows for an abbreviated procedure (see Chapter 3) which is somewhat similar to plea bargains in the United States. The use of this procedure is limited to crimes that do not have prison as a punishment or where the potential prison term is less than five years (Decree Art. 464). Furthermore, defendants and their attorneys must concede the facts described in the accusation against them, and must agree to use this procedure. Participating in a plea bargain is usually considered a mitigating factor because the defendant cooperates with the investigation. As a result of this concession, a pretrial judge adjudicate these cases, rather than sending them to a trial court. Our survey asked respondents if they were offered a lower sentence in exchange for accepting guilt. About a third of all respondents agreed that they had been offered a reduced sentence in exchange for accepting guilt.

Percent respondents who agree with the statement “after arrest, an authority explained that I could get a reduced sentence for accepting guilt” (nationally and by region)

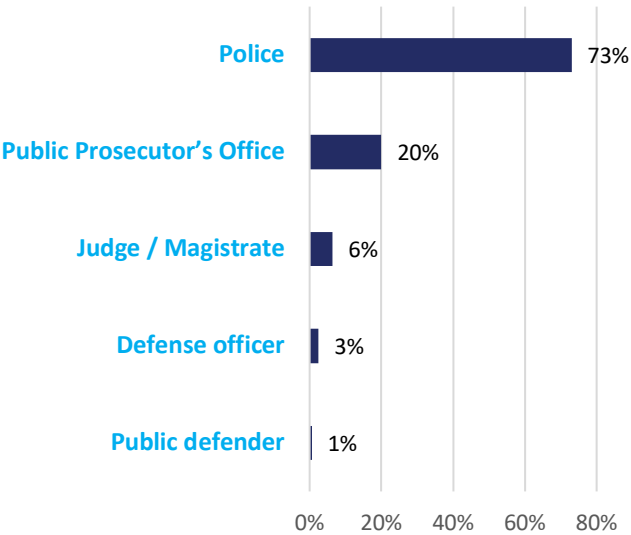


Respondents were also asked if they felt pressured or coerced into accepting guilt. Twenty percent of respondents reported they had experienced pressure to accept the charges against them. Among all judicial regions, Petén had the highest percentage of respondents feeling pressured (29%), and the Metropolitan region had the lowest percentage (18%). Most of the pressure to accept guilt was reported to come from the police (73%) and the Public Prosecutor’s Office (20%) although Judges were also mentioned as a source of pressure or coercion. Among those who reported feeling pressured to accept guilt, about 20% reported it to authorities. Some reasons for not reporting this type of coercion included fear of retaliation and not being allowed to report it.

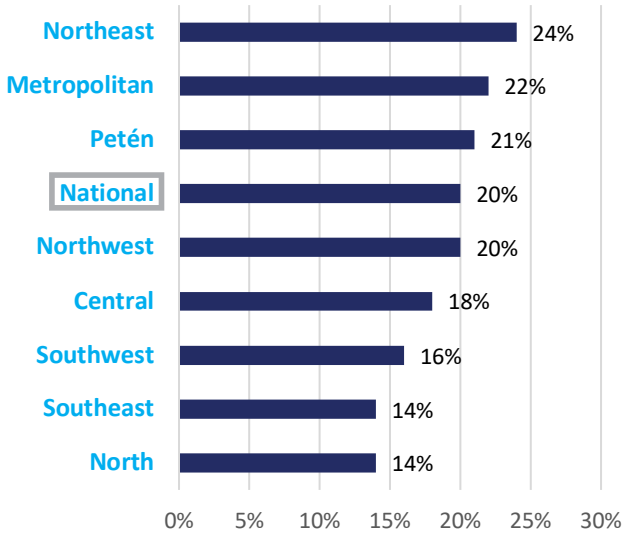
Percent respondents coerced into accepting guilt (nationally and by region)



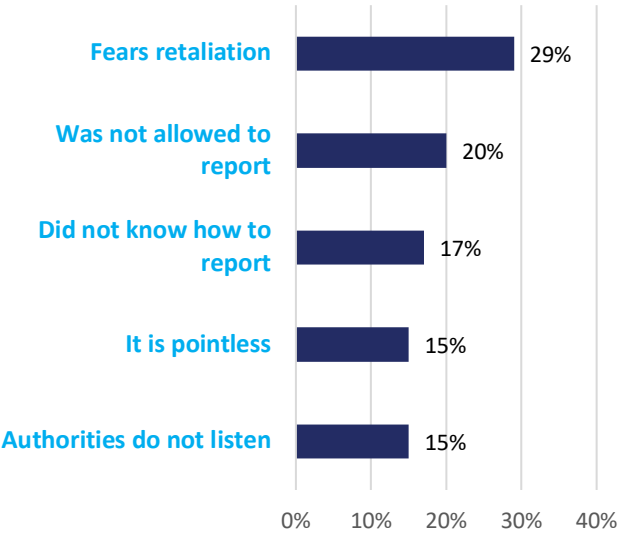
Percent respondents identifying the following actors as responsible (nationally)



Among respondents coerced into accepting guilt, percent who reported it (nationally and by region)



Top 5 reasons for not reporting coercion to plead guilty (nationally)






* Respondents could answer more than one item.




Experiences with Judges

About 25% of respondents felt that the judge adequately explained proceedings to them, and 18% felt that the judge created fair conditions for defense and prosecution to explain their case. There was not much variation across regions on how perceptions of how judges explained the proceedings, but there is variation on the perceptions of the role of the judge in creating fair conditions for prosecutor and defense to explain their cases. Specifically, 25% of respondents that were processed in the North and Petén regions felt the judge did create such conditions, compared to only 11% of respondents in the Northwest. Nationally, 26% of respondents felt that judges listened to them. Thirty-five percent of those respondents in Petén felt that judge listened to them, compared to 18% in the Southeast region.




To what extent do you agree with the statement “the judge explained what was happening during proceedings” (nationally and by region)

Region			
Metropolitan	26%	48%	26%
North	25%	48%	27%
Northwest	25%	48%	27%
Central	25%	50%	25%
Southwest	25%	50%	24%
National	25%	48%	27%
Northeast	22%	44%	35%
Petén	22%	50%	28%
Southeast	22%	48%	29%


To what extent do you agree with the statement “the judge created conditions for defense and prosecutor to have same chance to explain case” (nationally and by region)

Region			
North	25%	42%	33%
Petén	25%	38%	37%
Northeast	19%	39%	42%
Southwest	19%	49%	32%
National	18%	47%	35%
Central	17%	50%	33%
Metropolitan	17%	47%	36%
Southeast	17%	49%	34%
Northwest	11%	49%	40%

To what extent do you agree with the statement “the judge listened to me” (nationally and by region)

Region			
Petén	35%	39%	26%
Central	28%	43%	30%
Metropolitan	28%	45%	27%
Southwest	26%	49%	25%
National	26%	46%	28%
North	25%	41%	34%
Northeast	25%	50%	25%
Northwest	19%	51%	29%
Southeast	18%	50%	32%

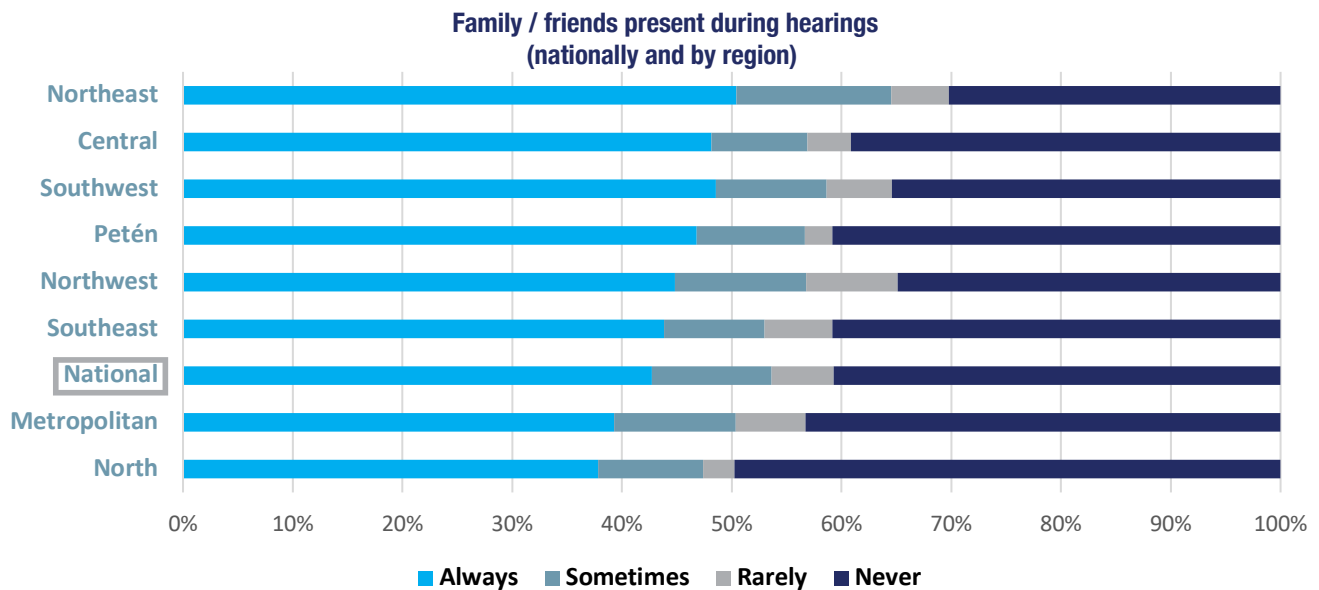
 A lot

 A little / Somewhat

 Not at all

Experiences with Orality and Transparency

In an accusatorial model of criminal prosecution, proceedings are designed to increase transparency and, for this reason, hearings are public.³ Often, it is the family and friends of the victim and defendant who attend such hearings. In Guatemala, about 41% of respondents reported never having family or friends in their hearings. Respondents in the North region had the largest percentage of respondents indicating they never had family or friends (50%) compared to those in the Northeast region, where 30% of the respondents indicated they never had family or friends present at hearings. To assess the impact of the COVID-19 pandemic on the attendance of families and friends to hearings, we divided the responses by those whose hearings took place before the pandemic and those whose hearings took place afterwards.



It is important to highlight the impact that the COVID-19 pandemic had on experiences with transparency by defendants. Among those who had their court proceedings before the pandemic, about 32% of respondents reported that they never had friends or family attend their hearings. In contrast, 58% of respondents whose proceedings took place after the pandemic responded the same.

Transparency before and after the COVID-19 pandemic*

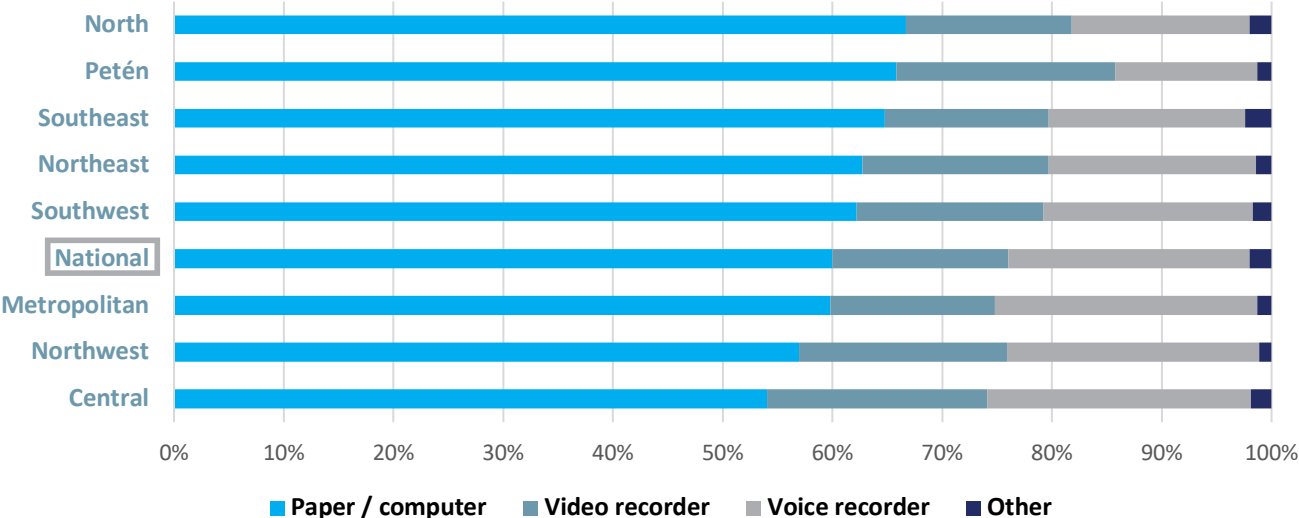
Characteristic	Pre-March 2020, N = 1,713	Post-March 2020, N = 877
Family/friends present during hearings		
Never	32%	58%
Rarely	7%	4%
Sometimes	13%	7%
Always	48%	31%

* p < .05

³ In rare instances, like high profile cases, judges may decide to close proceedings to the public.

Public proceedings and oral (not written) arguments are additional indicators of transparency in an accusatorial system. Recording key hearings is crucial to ensure transparency and to preserve the record of testimonies. In the US, a stenographer is usually used to record proceedings whereas in Latin America, recordings can include stenography, computer/typewriter, video, or audio. Respondents in Guatemala indicated that paper recording was the most common method of recording court hearings (60%), followed by voice recorders (22%), and video recorders (16%). These findings were largely consistent across the regions.

Transparency (nationally and by region)



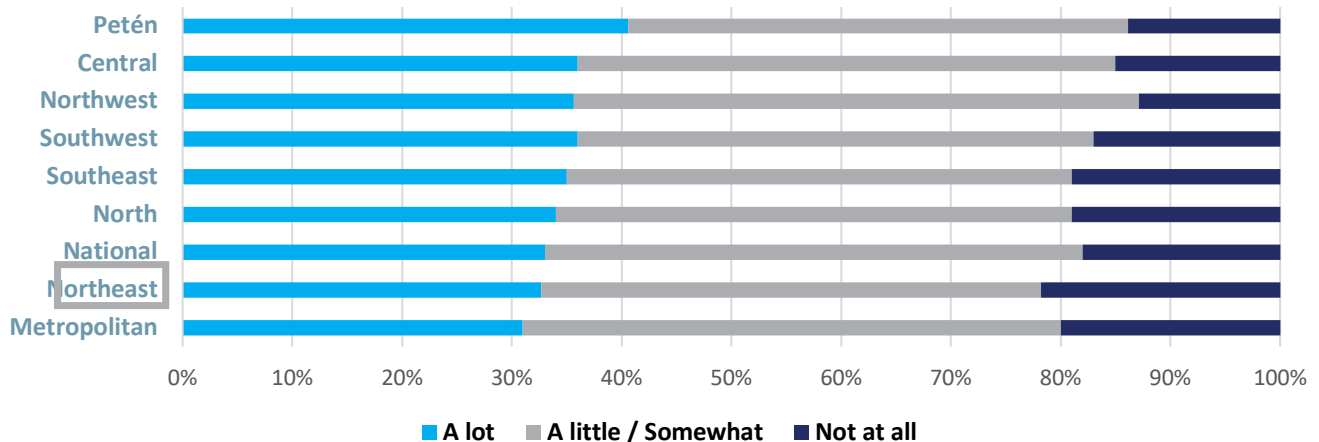
Experiences with Defense Attorneys

Respondents were also asked about their experiences with defense attorneys. Nationally, the majority of respondents agreed that their defense attorney spoke to them in private (52%), advised them prior to speaking in court (62%), explained proceedings to them (63%), explained next steps (61%), and introduced exculpatory evidence (61%), with some variations across regions. Overall, 12% of respondents reported that their defense attorney asked them for money or bribes to speed up proceedings. In the Northeast 20% of respondents reported that experience, compared to only 9% in the North. About 33% of respondents agreed with the statement that their attorney listened to them “a lot,” with some variations across regions.

Percent respondents who agreed that their defense attorney... (nationally and by region)

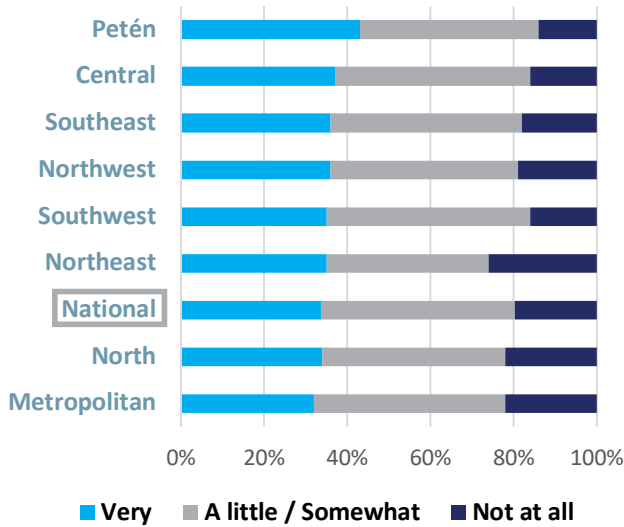
	National	North	NE	NW	Petén	Central	Met.	SE	SW
... spoke to them in private	52%	43%	52%	52%	57%	57%	50%	50%	59%
... advised them prior to speaking in court	62%	54%	61%	58%	62%	65%	61%	59%	67%
... explained proceeding to them	63%	60%	63%	65%	65%	66%	60%	65%	72%
... explained next steps	61%	59%	58%	62%	68%	63%	59%	65%	67%
... introduced exculpatory evidence	61%	56%	62%	57%	65%	61%	59%	70%	68%
... asked them for money	12%	9%	20%	11%	17%	14%	10%	16%	13%

Percent respondents who agreed with the statement “My defense attorney listened to me...” (nationally and by region)

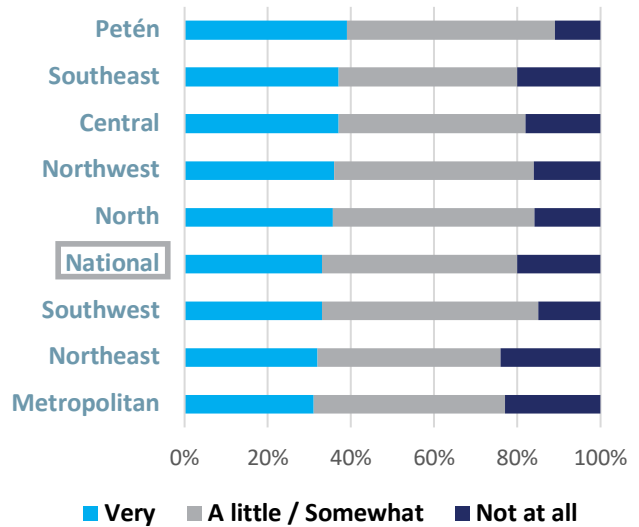


In general, about a third of the respondents reported feeling very well-defended at various points in the proceedings, with some slight variations across regions. As illustrated below, 34% felt very well-defended during their testimony to the police or the Public Prosecutor’s Office and 33% of respondents felt very well-defended during their first hearing. Among those who had a police lineup, 36% of respondents felt that their attorney defended them very well at that moment. Finally, 34% felt they were very well-defended by their attorneys when the evidence against them was introduced.

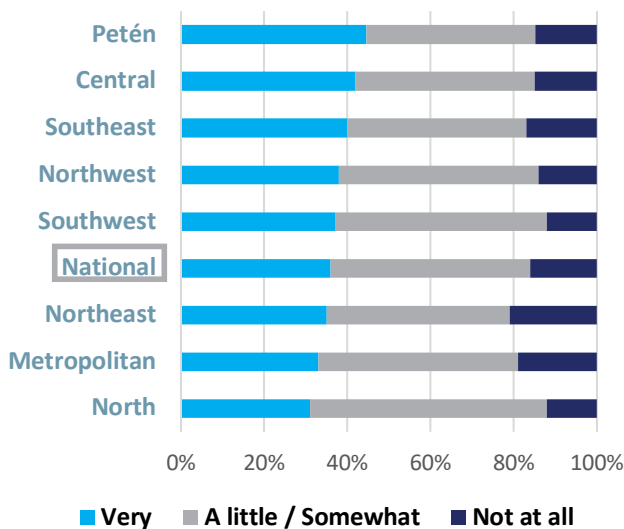
“How well defended did you feel when you gave your testimony to the police or the public prosecutor?” (nationally and by region)



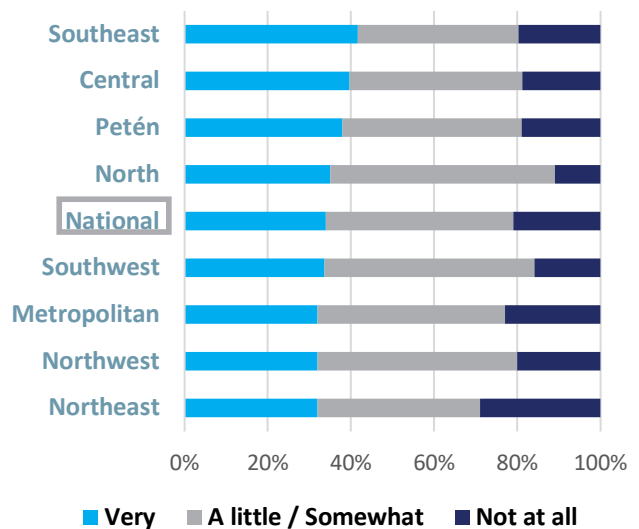
“How well defended did you feel during your first hearing?” (nationally and by region)



“How well defended did you feel during the police lineup?” (nationally and by region)

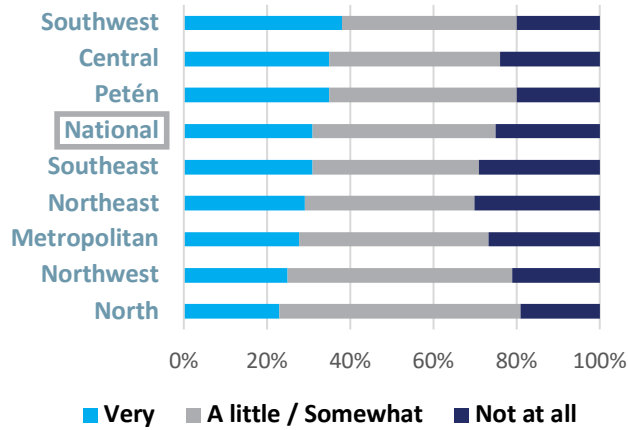


“How well defended did you feel at the moment that evidence against you was presented?” (nationally and by region)

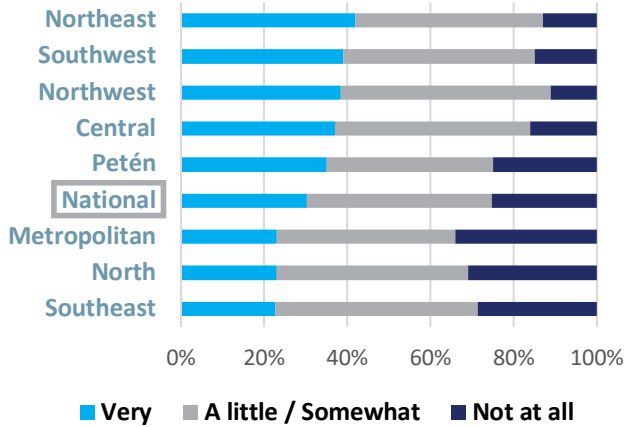


Individuals who had been convicted were asked about the quality of defense during trial and post-conviction. The findings were similar. Thirty-one percent of convicted individuals reported feeling very well-defended by their attorneys during their trial. And, 30% of convicted individuals reported feeling very well-defended during post-conviction visits. Finally, 32% reported they felt very well defended when they had an appeal.

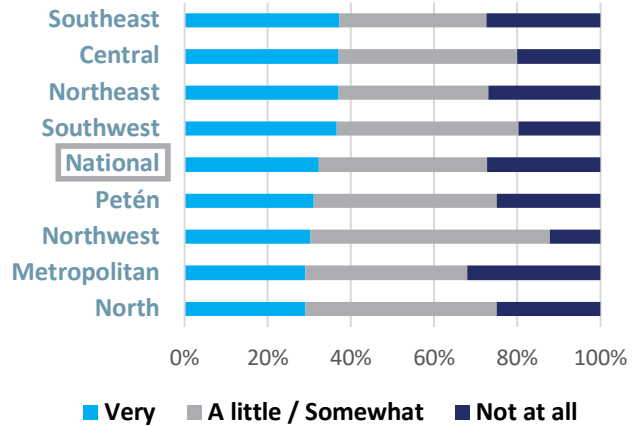
“How well defended did you feel during the trial?” (nationally and by region)



“How well defended did you feel during post-conviction visits?” (nationally by region)

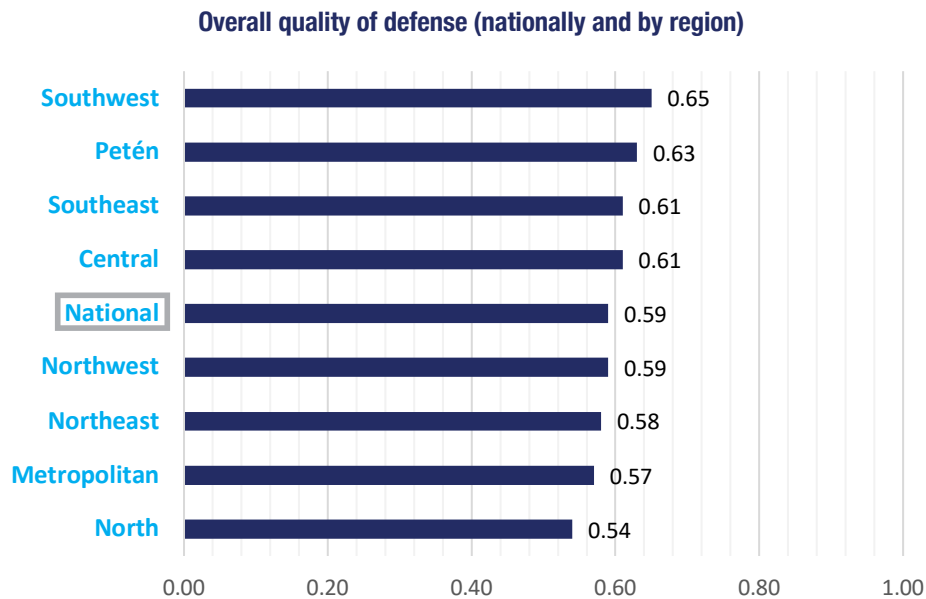


“How well defended did you feel during sentence appeal?” (nationally and by region)



Quality of Defense

We constructed a Quality of Defense Index to compare experiences with defense attorneys across judicial regions. The Quality of Defense Index ranges from 0-1, with higher values reflecting better experiences with defense attorneys. This index allows for a better comparison across regions in terms of experiences with defense attorney. With a national average of 0.59, the scores range from the highest in the Southwest region (0.65) to the lowest in the North (0.54).



Experiences with the quality of defense also varied by type of defense. Respondents who were mostly defended by a public defender reported worse experiences with the quality of their defense (0.55) when compared with respondents that had a private attorney (0.66).

Quality of defense by type of defense*

Characteristic	Public Defender N = 1,722	Private Defender N = 846
Quality of defense normalized	0.56	0.66

* p < .001.

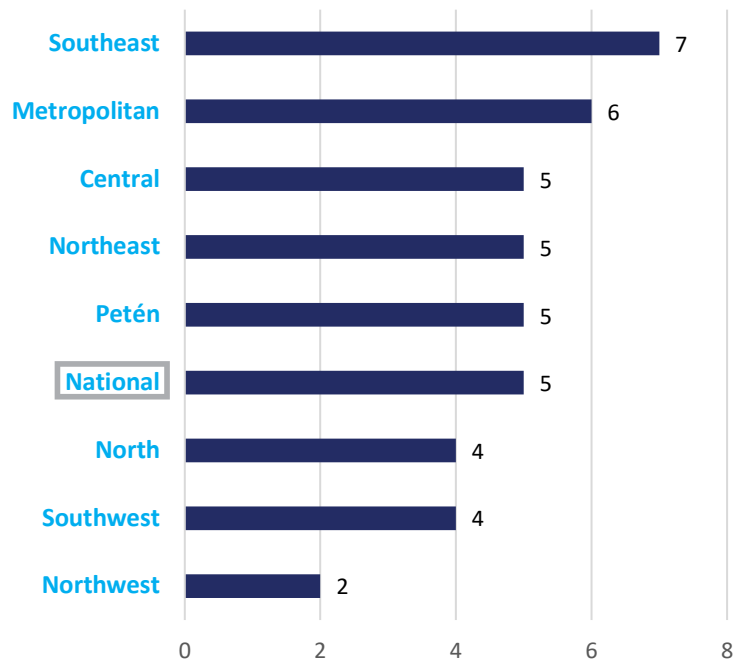
Experiences with the Right to a Speedy Trial

In Guatemala, trials must be open to the public, protecting due process rights. By law, the defendant must be brought to a judge within 24 hours following an arrest. However, delays between the arrest and first hearing are common practice and is officially known as “provisional detention”. Our findings show that, although the majority of respondents (53%) were seen within the legal timeframe of 24 hours, the average amount of time between an arrest and first hearing was 5 days. The region with the longest average time was the Southeast region (7 days), and the Norwest region had the lowest average (2 days).

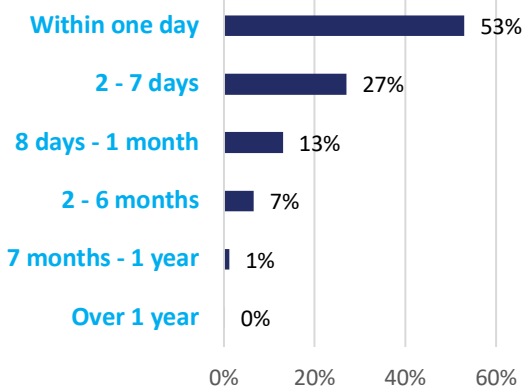
Time from arrest to first hearing (nationally)

National	
Mean	5 days
Mode	1 day

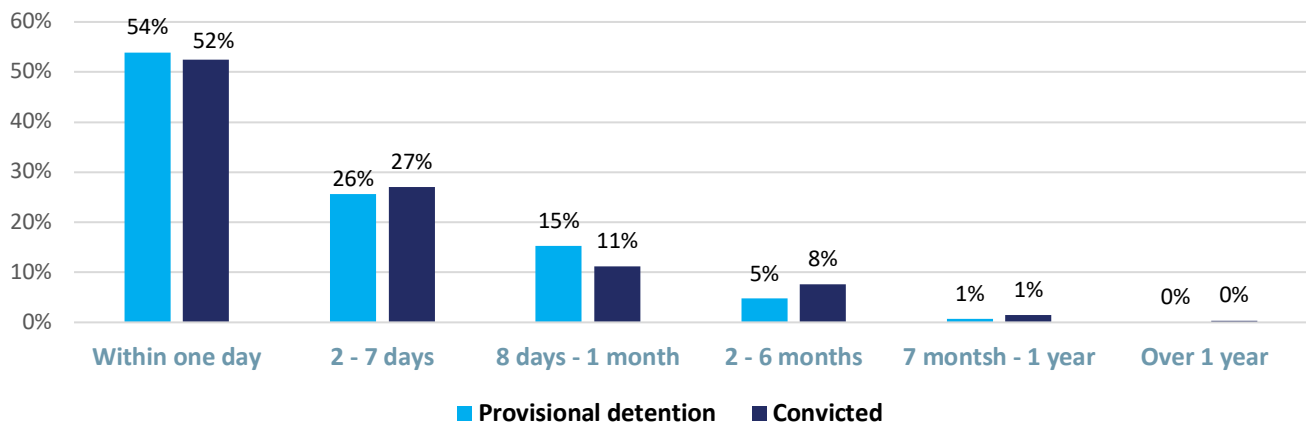
Average time from arrest to first hearing (by region, in days)



Percent of cases by time from arrest to first hearing (nationally)



Percent of cases by time from arrest to first hearing (by legal status, nationally)

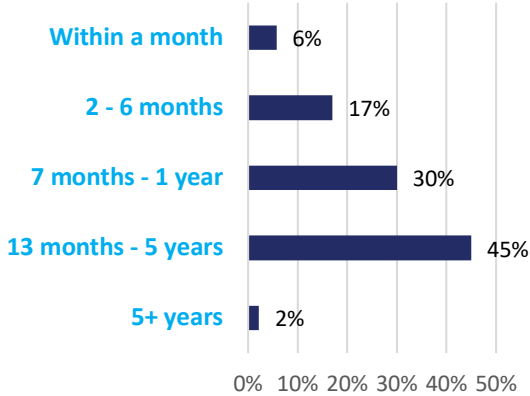


We also calculated the length of time respondents waited from the moment of arrest to the day they were convicted, using self-reported dates of arrest and conviction. The average time from arrest to conviction was 17 months. In average, respondents in the Southeast region waited 31 months from the moment of arrest to conviction, the longest mean length of time across all regions. Individuals convicted of weapon crimes in the Southeast had the longest time for their case to reach a verdict with an average of 48 months.

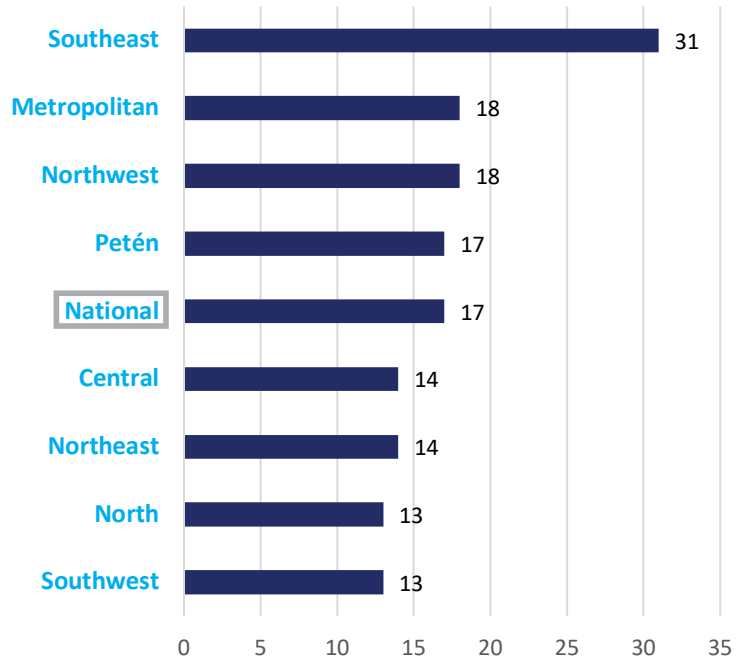
Time from arrest to conviction in months (nationally)

National	
Mean	17
Median	12

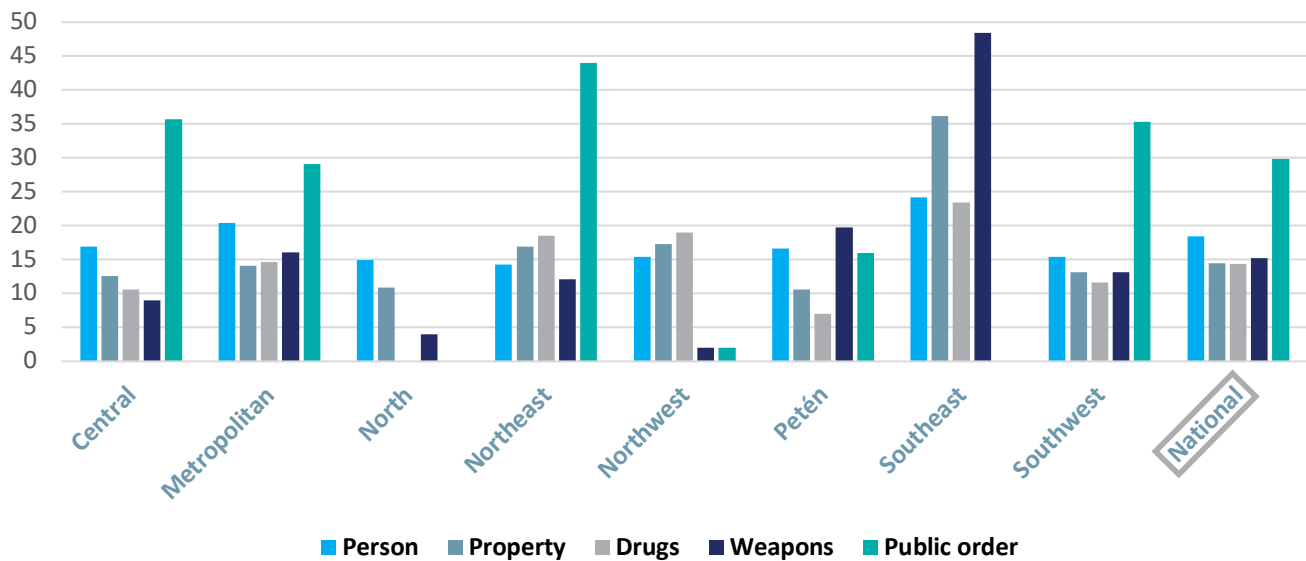
Percent of cases by time from arrest to conviction (nationally)



Average time from arrest to conviction (by district, in months)

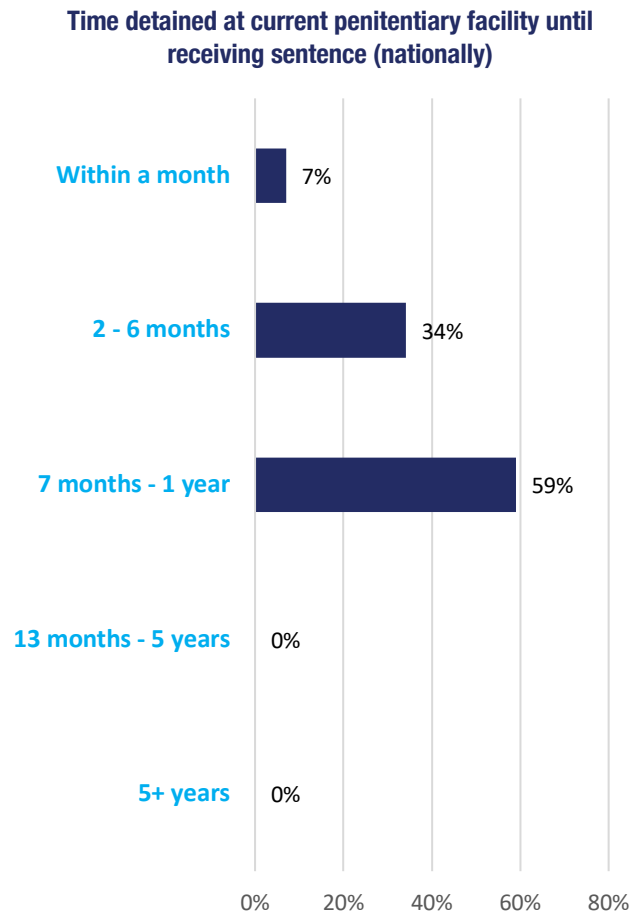
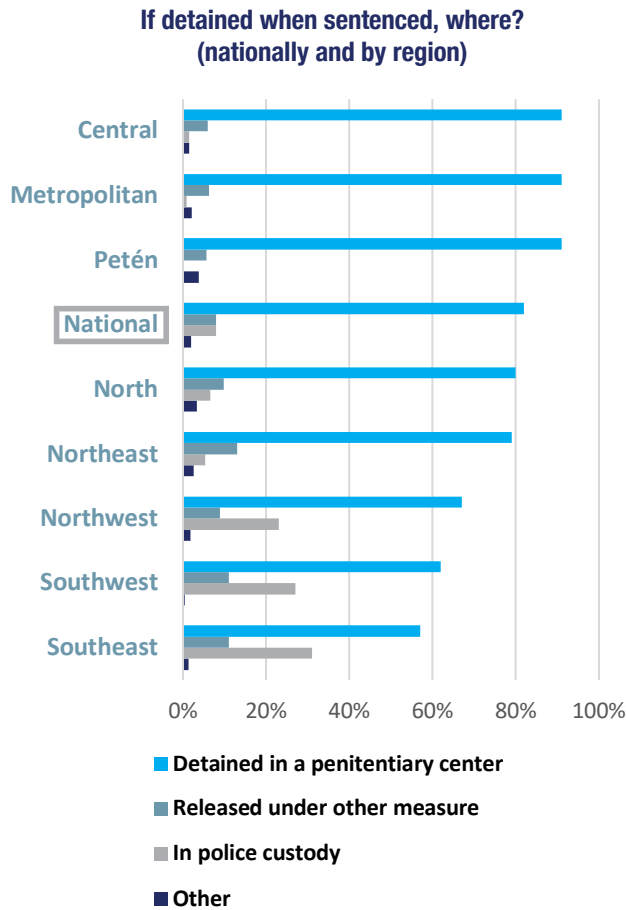


Average time from arrest to conviction among top crimes (nationally and by region, in months)



Experiences with Pretrial Detention

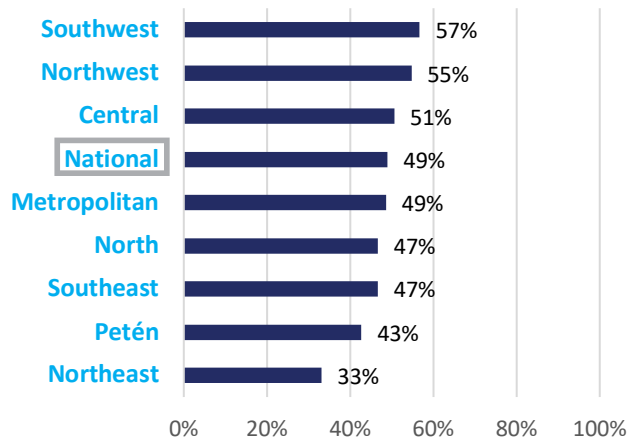
The majority of respondents had been detained in prison prior to sentencing and were in prison at the moment of conviction. In our sample, 35% (900 respondents) reported to be in provisional detention, and only 17 respondents said to be in pretrial (preventive) detention at the time they were interviewed. The length of detention ranged from less than a month to more than 5 years. The majority (59%) of respondents waited between 7 months to a year in their current facility before obtaining a conviction.



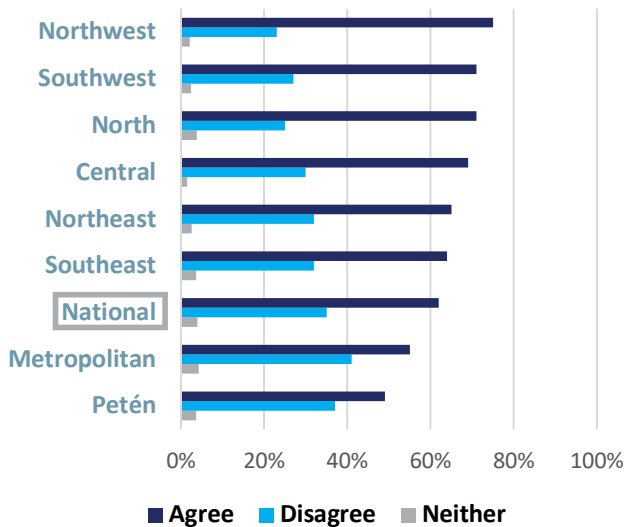
Experiences with Prison Staff by System

Almost half of the respondents reported that they were informed of their rights and obligations when being held in prison (49%). This was more likely in the Southwest region (57%) compared to the Northeast region (33%). The majority agreed that “prison staff treat all prisoners equality” and that “prison staff protects the rights of the incarcerated” although respondents in the Petén and the Metropolitan regions, were somewhat less likely to agree with such statements. In the next chapter we will review the respondents’ experiences of life in prison.

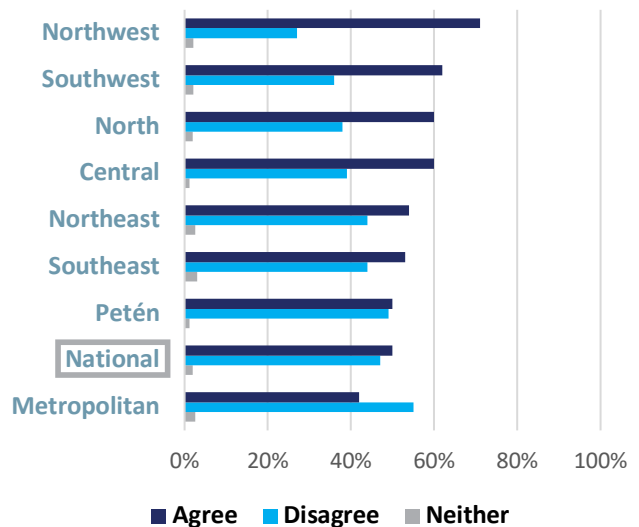
Percent respondents who agree with the statement “prison staff informed me of my rights and obligations” (nationally and by region)



Percent respondents who agree with the statement “prison staff protects rights of the incarcerated” (nationally and by region)



Percent respondents who agree with the statement “prison staff treats everyone equally” (nationally and by region)

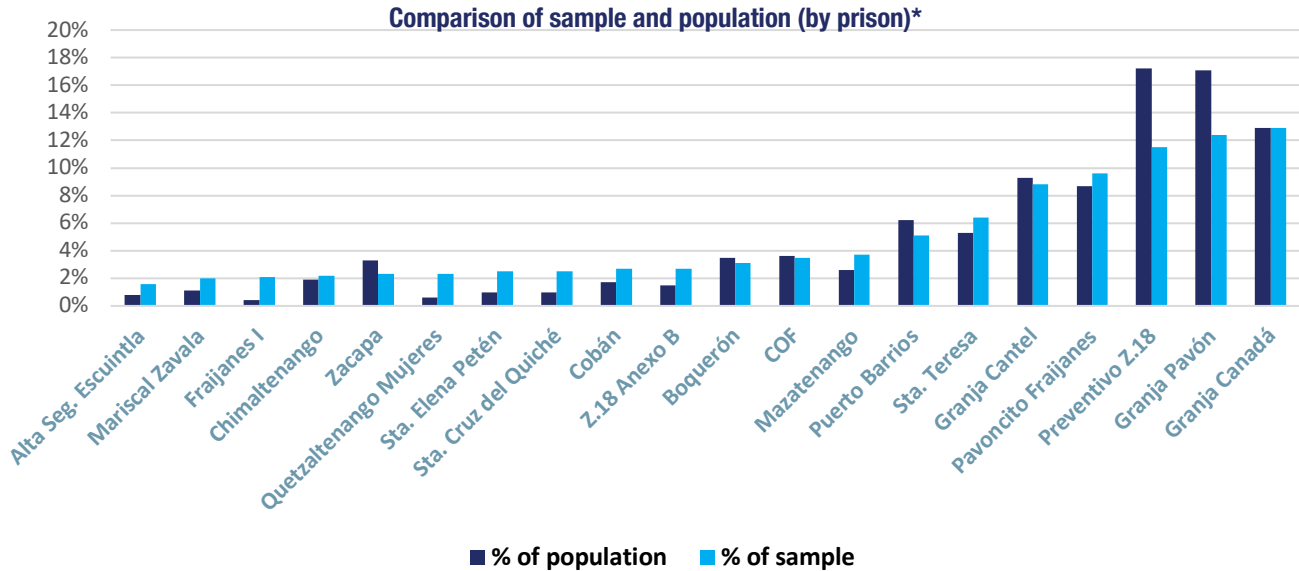


5. RULE OF LAW IN PRISON

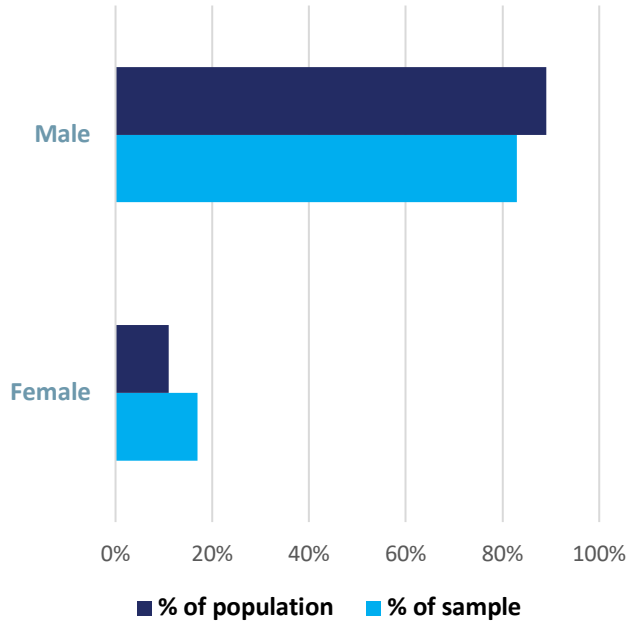
As noted in the introduction, the experiences of individuals in prisons is of pivotal importance to the overall health of the rule of law in a country. For this reason, correctional systems should seek to develop policies, procedures and programs aimed at enhancing the rule of law in their facilities. Doing so is important for several reasons including: (1) Prisoners’ carceral experiences impact their belief in the criminal justice system and that of their families; (2) Order maintenance in prison is often dependent on how prisoners perceive the legitimacy of the staff and administration (Sparks, Bottoms, & Hay, 1996); (3) Depriving prisoners of their basic needs and fundamental rights can promote violence; and (4) Safe, secure, and accountable staff are necessary to provide an environment conducive to rehabilitation and successful reintegration. In this chapter, we provide the survey results related to the treatment and experiences of people in prison. We begin with a comparison of the sample and prison population characteristics, followed by our findings on the Rule of Law indicators for the Guatemalan prison system. We conclude with a comprehensive overview of the survey results to provide a detailed description of prisoners’ perceptions and experiences of the correctional standards of care.

Comparison of Sample and Population Characteristics

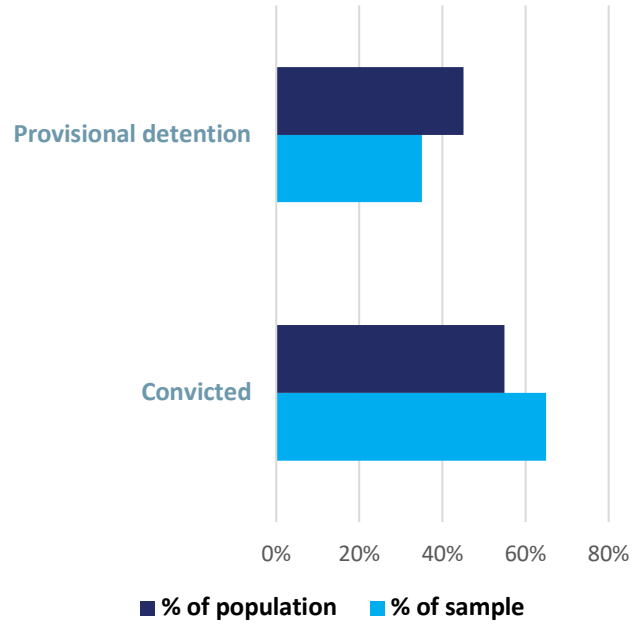
As previously noted, the survey was implemented in 20 prisons in Guatemala with a total of 2,590 interviews completed. Efforts were made to match the sample to the population on characteristics including legal status and prison; however, limitations to the sampling methods precluded this from happening. As illustrated below, although the sample generally resembles the population, significant differences exist, and caution should be taken about making inferences to the larger prison population. This is especially important in regard to sensitive issues, which may be more prone to bias.



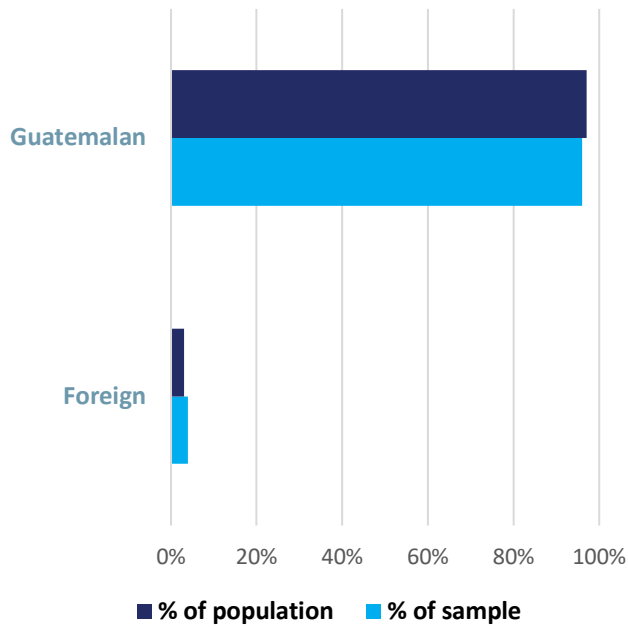
Sex*



Legal status*



Nationality*



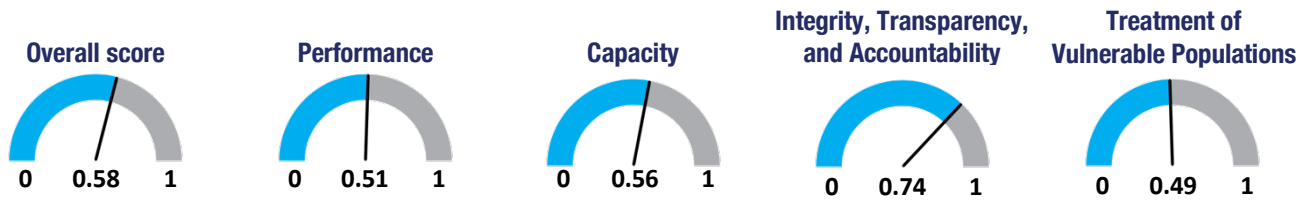
* $p < 0.001$

Source for national-level data: DGSP, 2022.

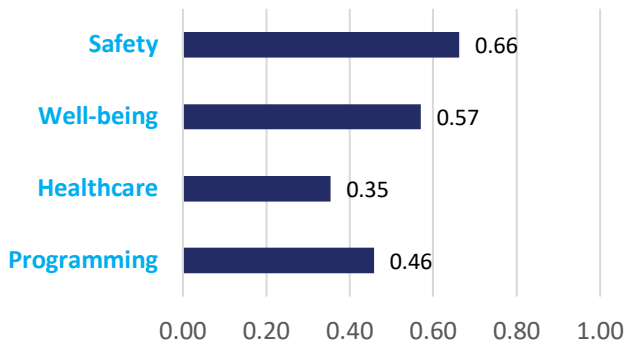
Rule of Law Indicators in Prisons

Adherence to the Rule of Law requires that prisons operate or perform in meaningful ways, have sufficient capacity, have integrity, transparency, and accountability, and are sensitive to the treatment of vulnerable groups. The index below reports the overall extent to which the survey results reflect each of these metrics (see Appendix C for the survey questions that make up the Rule of Law Index). Scores closer to 1 indicate greater adherence to Rule of Law. Overall, prisoners reported that staff respect specific rights and do not threaten or bribe them. However, prison conditions and performance are in need of improvement. The index suggests the need for improving access to healthcare and programming, structural conditions, accountability, material resources, and additional efforts to ensure equal and fair treatment of vulnerable groups. Below we report the overall results, and the dimensions within each domain.

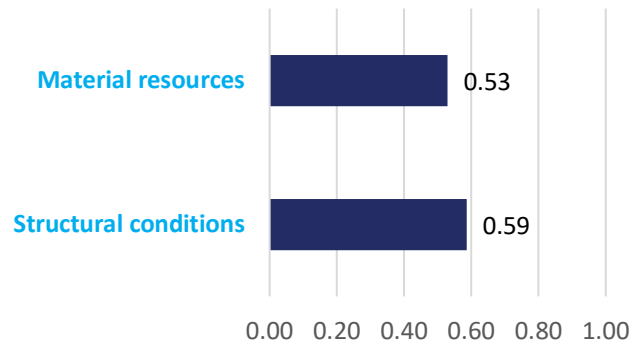
Overall index



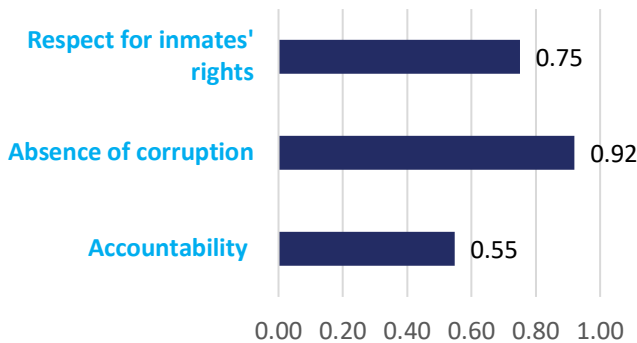
Performance



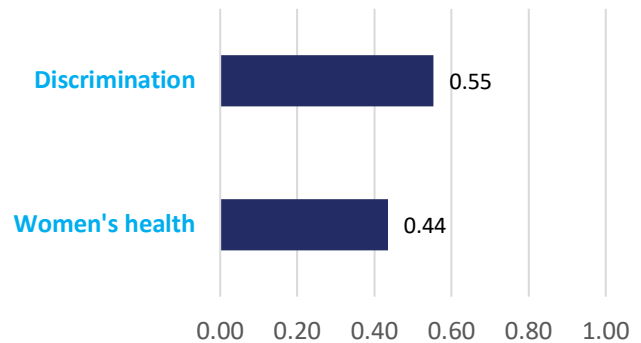
Capacity



Integrity, Transparency, and Accountability

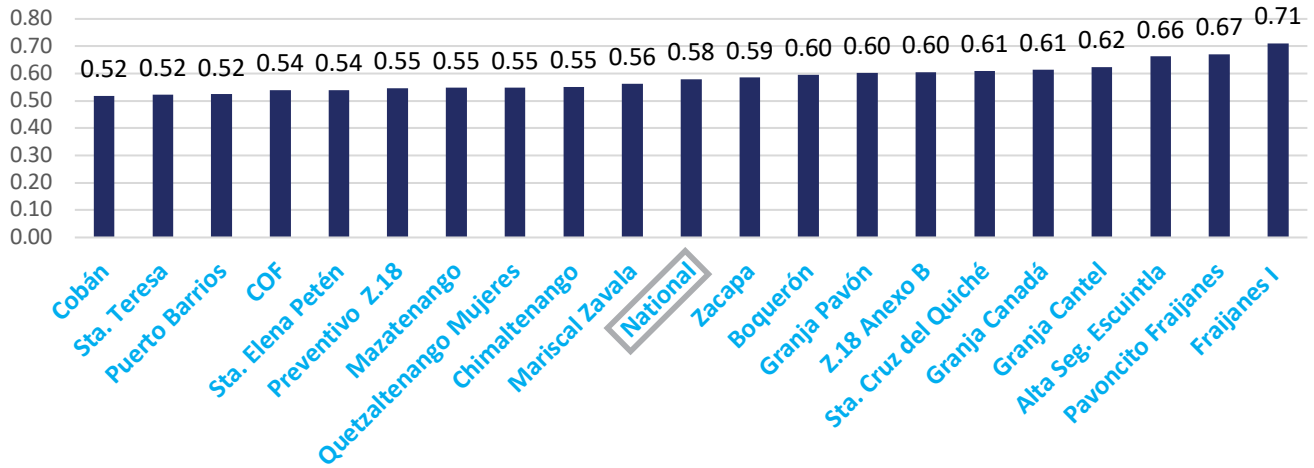


Treatment of Vulnerable Populations

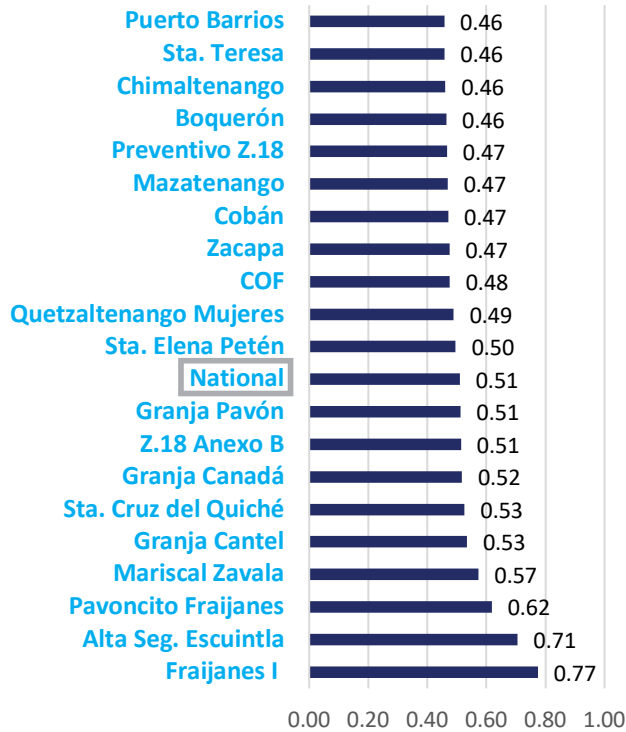


Index scores were calculated for each individual prison based on survey responses. It is important to take care in interpreting differences between the prisons as these may be reflective of bias in the sample. However, some clear trends emerge, namely that 9 of the 10 prisons rated below the national average either housed males and females or only females. All the Granjas and Fraijanes I of the New Model were rated above the national average. To better understand these trends, we report more detailed survey findings for each of the factors and subfactors beginning on the following page.

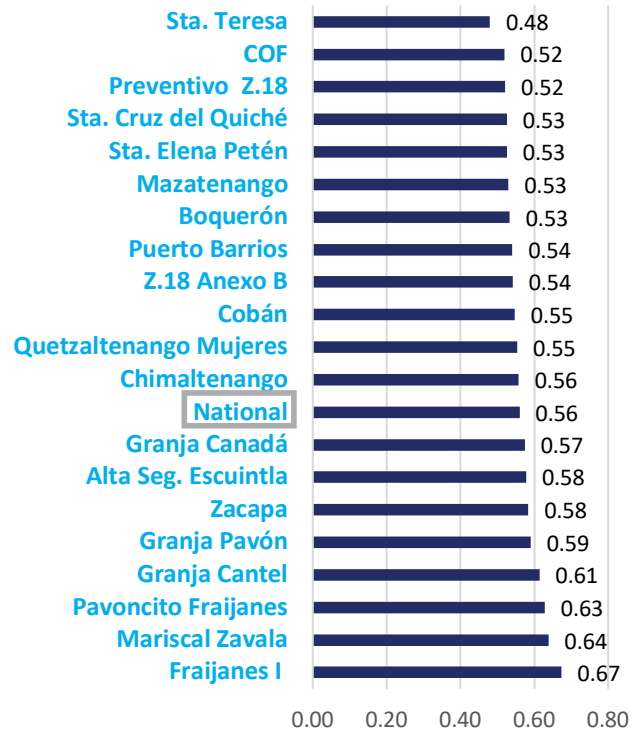
Overall index score (nationally and by prison)



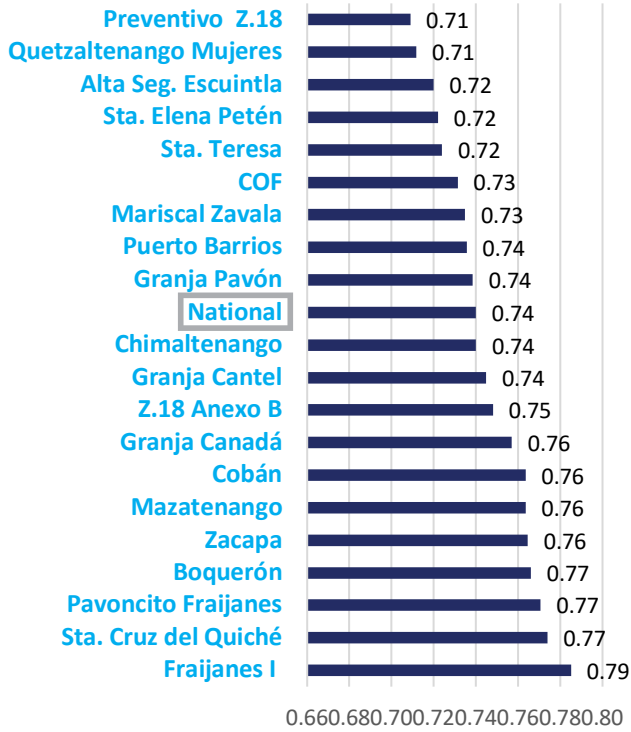
Performance score (nationally and by prison)



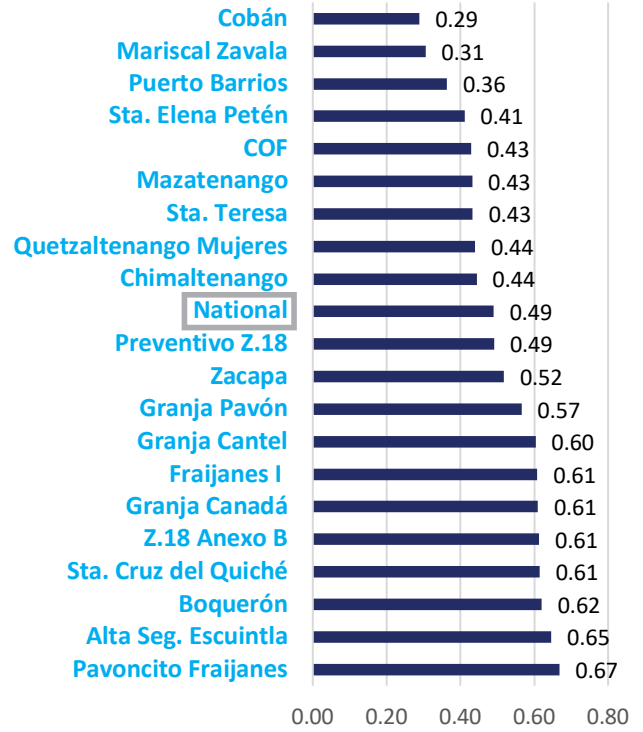
Capacity score (nationally and by prison)



**Integrity, transparency, and accountability score
(nationally and by prison)**



**Treatment of vulnerable populations score
(nationally and by prison)**



Performance

Perceptions of safety

Keeping people safe should be a core goal for any prison system and questions were asked about perceptions of safety. Nationally, close to 70% of respondents reported feeling “safe in this prison”. However, this rate varied considerably. Only 49% of those at COF felt safe compared to nearly 100% at Mariscal Zavala and Alta Seg. Escuintla. Roughly one-third of participants indicated it was common to see prisoners beating other prisoners and 11% felt it was easy to escape. Although respondents generally felt safe, only 51% felt that staff are accountable for mistreatment. Interestingly, 41% of respondents at Sta. Elena Peten and at Quetzaltenango Mujeres, respectively, agreed with this statement compared to 71% of respondents at Fraijanes I.

Perceptions of safety

35% do not believe that prison staff protect the rights of the prisoners



29% do not feel safe in their current prison



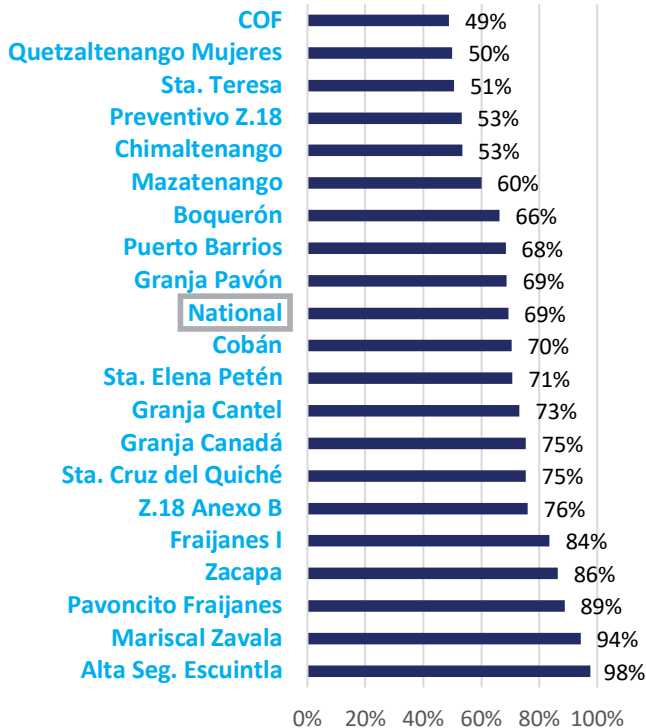
36% say it is common to see prisoners beating other prisoners



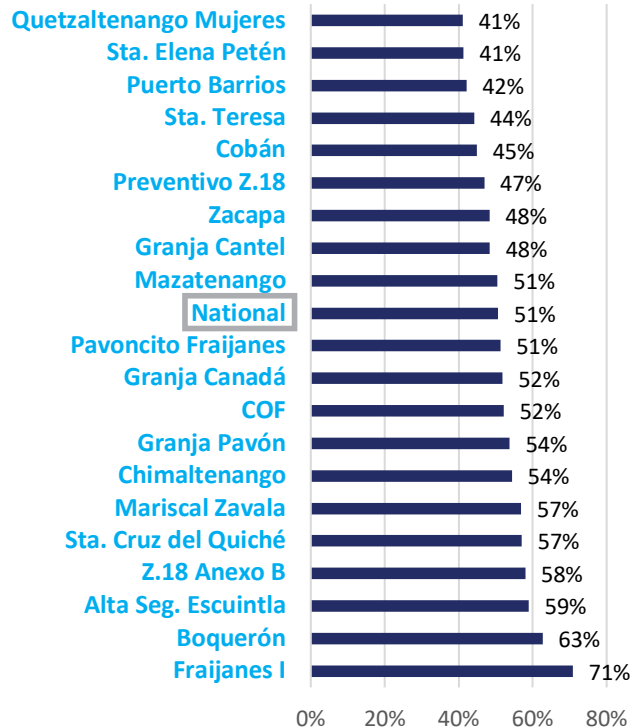
11% believe it is easy to escape from their current prison



Percent respondents who agree with the statement “I feel safe in this prison” (nationally and by prison)



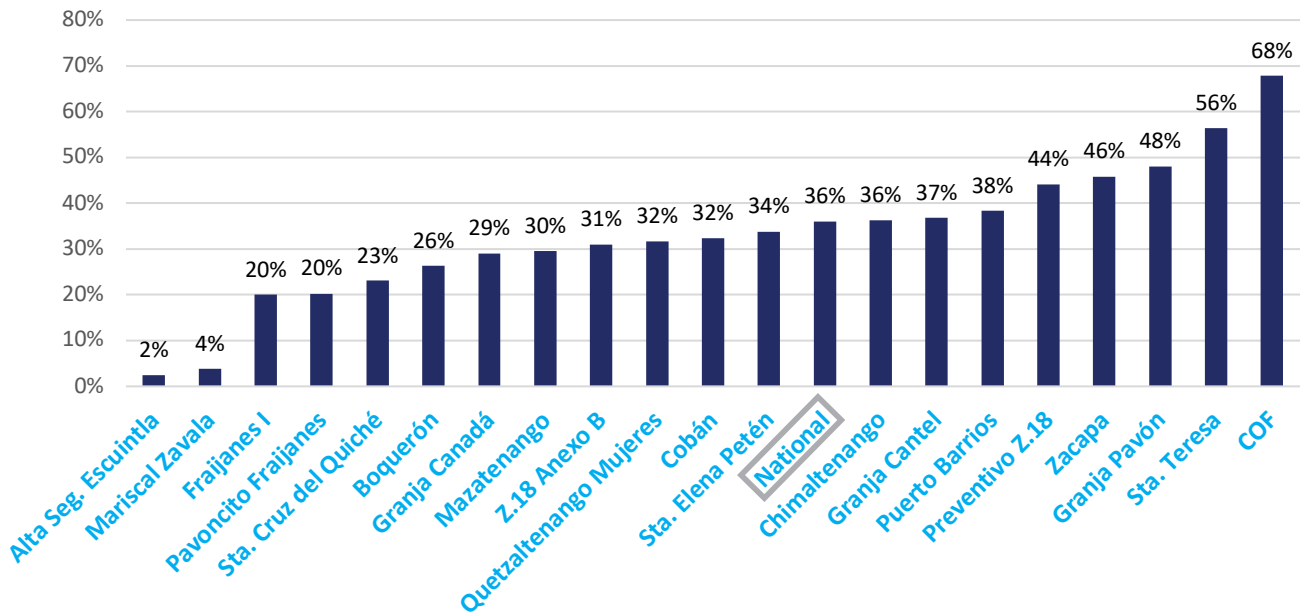
Percent respondents who agree with the statement “Staff are accountable for mistreatment” (nationally and by prison)



Potential for victimization

The potential for victimization can vary across different types of activities and reports of victimization are generally assumed to be under-reported. Whether through witnessing or experiencing trauma, it is important to note that victimization is often associated with increased substance use, mental health disorders, and suicide attempts, along with poorer reentry outcome. Approximately a third of the respondents indicated they had observed physical fights between prisoners. More than half of the respondents at Sta. Teresa and COF agreed with this statement, compared to less than 10% at Alta Seg. Escuintla and Mariscal Zavala.

Percent respondents who agree with the statement “I have witnessed fights among prisoners” (nationally and by prison)






Perceptions of safety

Violence can occur in various areas within a prison setting. Respondents were asked about their feeling of safety during a number of routine daily activities including eating meals, showering, using the bathroom, and at night while in a cell. As illustrated on the next two pages, roughly 80% of respondents reported feeling safe or very safe during these types of routine daily activities. Generally speaking, approximately a quarter of the respondents in Cobán, Puerto Barrios, COF, and Quetzaltenango Mujeres reported feeling unsafe.

Considering the possibility of being attacked by another prisoner, how safe do you feel...?




...When food is distributed





Prison			
COF	64%	4%	31%
Puerto Barrios	68%	2%	29%
Cobán	72%	1%	27%
Sta. Teresa	72%	2%	26%
Quetzaltenango Mujeres	73%	2%	25%
Chimaltenango	78%	0%	22%
Preventivo Z.18	78%	1%	21%
Granja Pavón	80%	0%	19%
Sta. Elena Petén	80%	2%	19%
Mazatenango	82%	1%	17%
National	82%	1%	17%
Sta. Cruz del Quiché	80%	3%	17%
Granja Canadá	84%	1%	15%
Zacapa	87%	0%	14%
Granja Cantel	85%	1%	14%
Z.18 Anexo B	86%	1%	13%
Boquerón	91%	0%	9%
Pavoncito Fraijanes	92%	0%	8%
Mariscal Zavala	94%	0%	6%
Fraijanes I	96%	0%	4%
Alta Seg. Escuintla	98%	2%	0%


...While bathing



Prison			
Quetzaltenango Mujeres	68%	0%	32%
Puerto Barrios	74%	1%	25%
Cobán	73%	4%	23%
Preventivo Z.18	77%	1%	22%
COF	76%	2%	22%
Boquerón	78%	1%	21%
Sta. Teresa	78%	2%	20%
Chimaltenango	81%	0%	19%
Granja Pavón	81%	0%	18%
Sta. Elena Petén	78%	3%	18%
Mazatenango	83%	0%	17%
Z.18 Anexo B	82%	1%	17%
National	83%	1%	16%
Zacapa	85%	2%	14%
Sta. Cruz del Quiché	83%	3%	14%
Granja Canadá	87%	0%	13%
Granja Cantel	89%	0%	11%
Pavoncito Fraijanes	92%	0%	8%
Fraijanes I	96%	0%	4%
Mariscal Zavala	96%	0%	4%
Alta Seg. Escuintla	98%	2%	0%

 Very safe / Safe

 Neither safe or unsafe

 Unsafe / Very unsafe

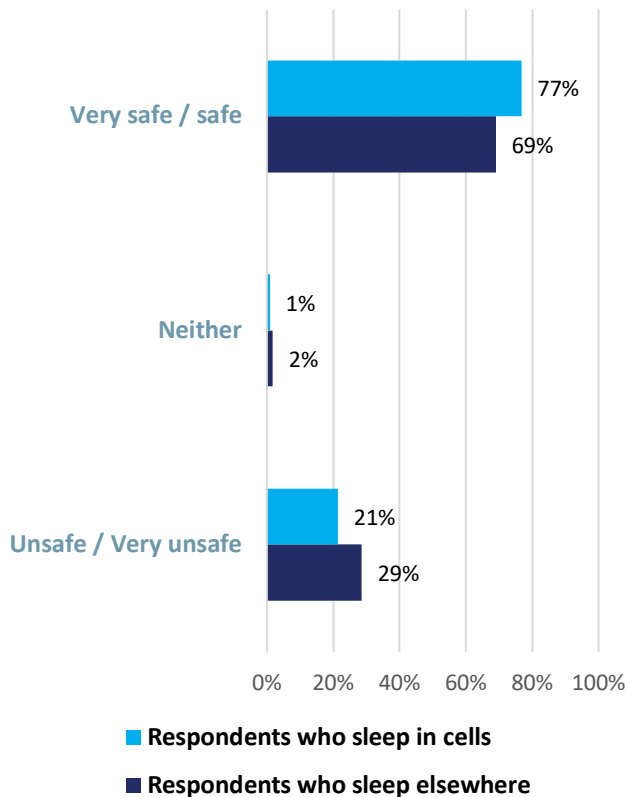
Considering the possibility of being attacked by another prisoner, how safe do you feel...?

...In the lavatory



Prison	😊	😐	😞
Cobán	59%	1%	40%
Quetzaltenango Mujeres	63%	0%	37%
Puerto Barrios	68%	1%	32%
Sta. Teresa	69%	2%	30%
COF	72%	2%	26%
Sta. Elena Petén	75%	0%	25%
Preventivo Z.18	74%	1%	25%
Z.18 Anexo B	77%	0%	23%
Sta. Cruz del Quiché	77%	0%	23%
Chimaltenango	79%	0%	21%
Granja Canadá	79%	0%	21%
Mazatenango	79%	0%	21%
Boquerón	79%	0%	21%
National	79%	1%	21%
Granja Pavón	81%	0%	19%
Granja Cantel	85%	0%	15%
Zacapa	83%	2%	15%
Pavoncito Fraijanes	90%	1%	9%
Fraijanes I	96%	0%	4%
Mariscal Zavala	96%	2%	2%
Alta Seg. Escuintla	98%	2%	0%

...In cell at night



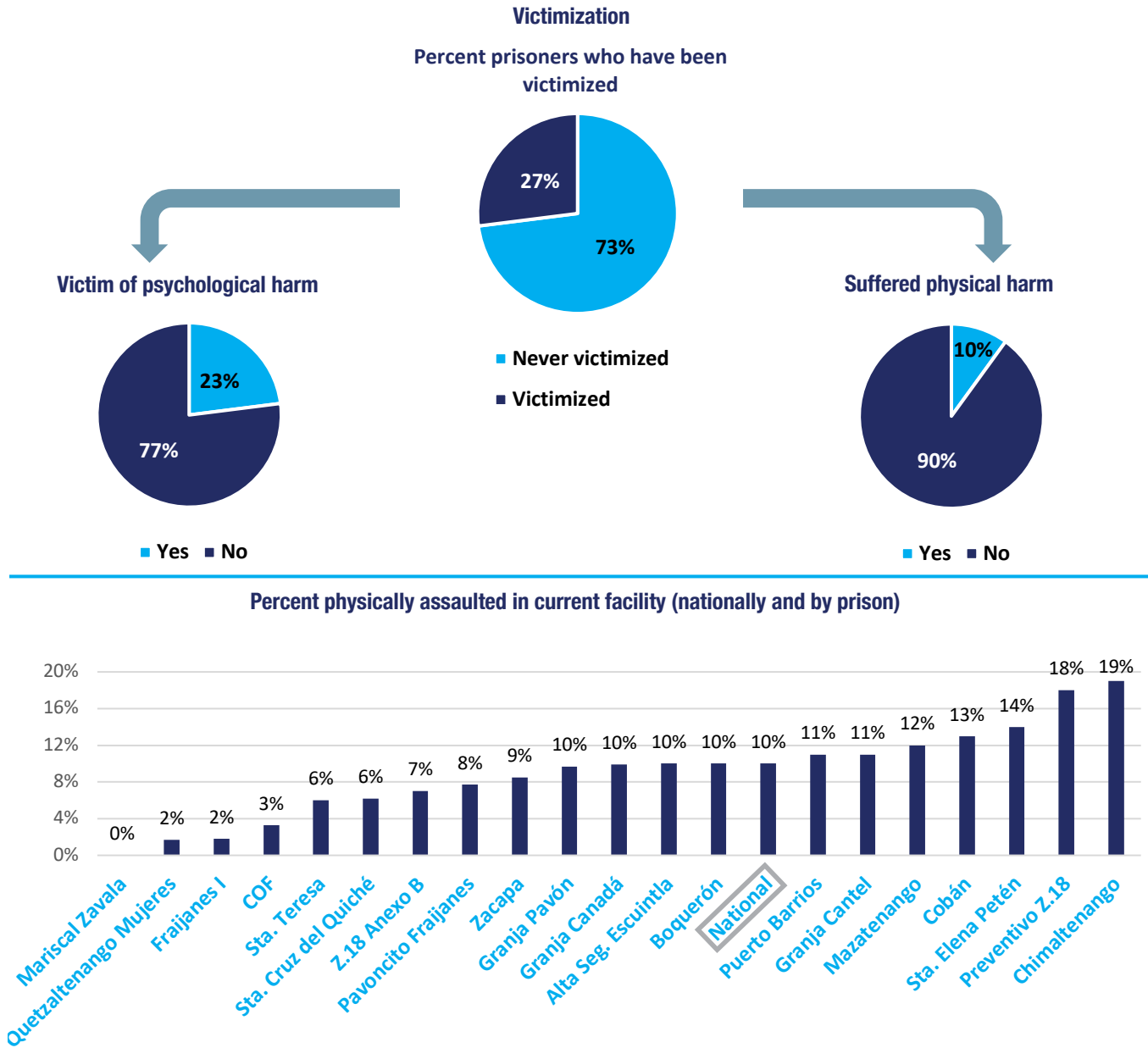
😊 Very safe / Safe

😐 Neither safe or unsafe

😞 Unsafe / Very unsafe

Experience of victimization

Though respondents generally reported feeling safe, just over a quarter reported being victimized while in prison. Among these individuals, 10% reported physical harm⁴ and 23% reported psychological harm.⁵ However, no respondents reported being physically assaulted while at Mariscal Zavala. In the majority of the prisons, at least 10% of the respondents indicated being physically assaulted with 18% of those in Preventivo Z. 18 and 19% of those in Chimaltenango responding affirmatively. Victimization is generally underreported in prison-based surveys and the actual rates of victimization may be greater than reported by the respondents; therefore, caution should be taken when interpreting these results.



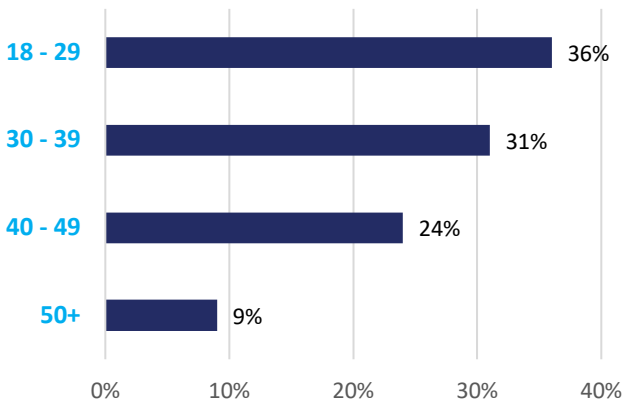
⁴ Physical harm includes assault, bounded, blindfolded, asphyxiated, and sexual assault.

⁵ Psychological harm includes -with false charges, food deprivation, violence against families, bribes, denied communication, denied visitors, and forced to undress.

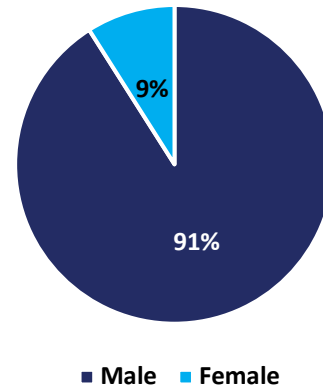
Physical victimization

As noted on the prior page, 10% of respondents indicated being physically assaulted during their current term of incarceration. To more fully explore this, we examined characteristics of those who reported being assaulted. The majority of those who indicated they had been victims of assault were under the age of 40 and overwhelmingly male. Among those who were assaulted only 9% were women, which accounts for about 6% of the total sample of women. Roughly 10% of all men reported an assault, accounting for 91% of all those who reported an assault. No assaults, for men or women, were reported in Mariscal Zavala, Zacapa, and Cobán. A third of the women who reported being assaulted were housed in Chimaltenango.

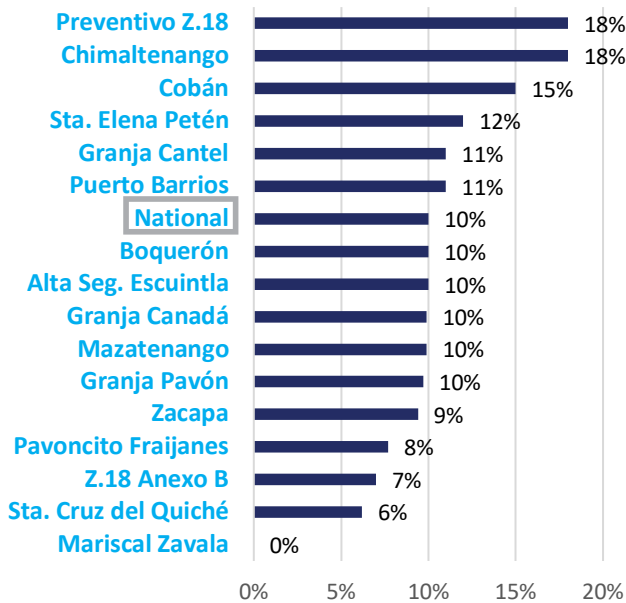
If physically assaulted, current age of respondent



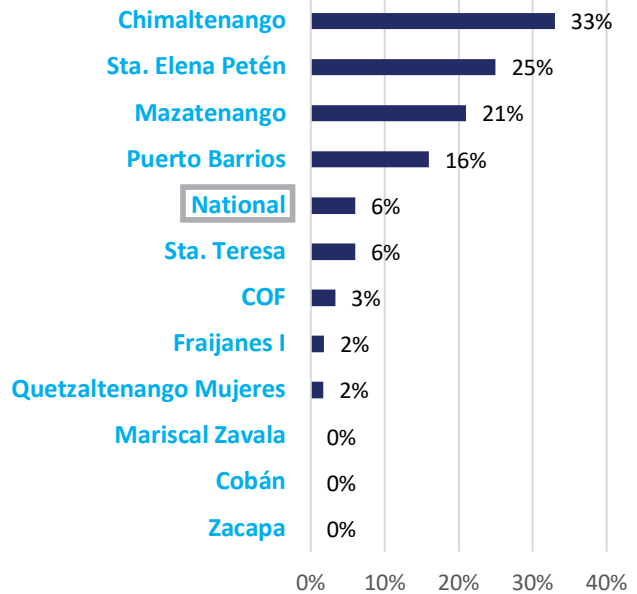
If physically assaulted, sex of respondent



Percent male prisoners physically assaulted in current facility (nationally and by prison)



Percent female prisoners physically assaulted in current facility (nationally and by prison)

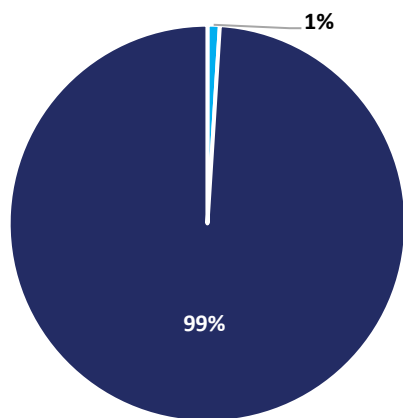


Prisoner Health, Welfare and Rehabilitation

Food

Access to adequate food is a basic right for those living in prison. Almost all the respondents reported receiving food three times a day and only 1% reported receiving food only twice a day. Although respondents regularly receive food, the quality of food was consistently rated poorly. Across the country, 45% of respondents rated the food as bad or very bad and 21% rated the food as regular. Nationally, only 34% rated food as very good or good though 93% of Fraijanes' prisoners rated the food quality positively. In comparison 60% or more of the respondents rated food as bad or very bad at Sta. Teresa, Quetzaltenango Mujeres, and Sta. Cruz del Quiché.

How many times a day do you receive food?



■ Twice a day ■ Three times a day

Where do you eat?

56% of respondents say they eat in their cell



How would you rate the quality of the food served in this prison? (nationally and by prison)

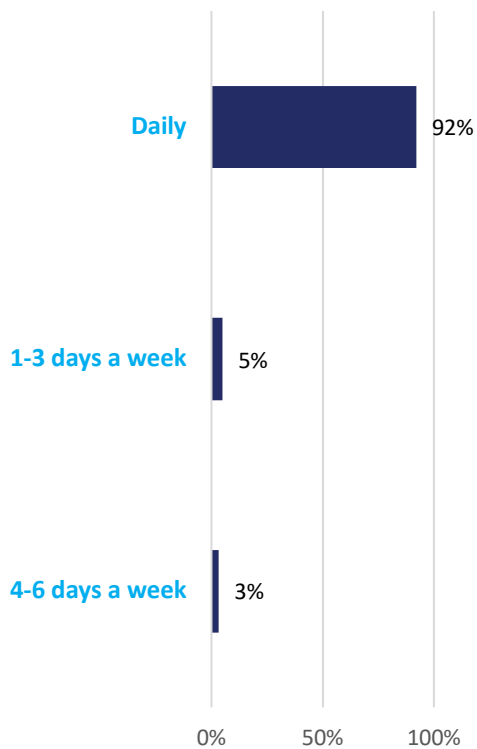
😊 Very good / Good 😐 Regular ☹️ Bad / Very bad

Prison	😊	😐	☹️
Sta. Teresa	9%	13%	78%
Quetzaltenango Mujeres	27%	12%	62%
Sta. Cruz del Quiché	20%	20%	60%
COF	22%	21%	57%
Chimaltenango	24%	21%	55%
Sta. Elena Petén	26%	22%	52%
Granja Pavón	31%	18%	50%
Granja Cantel	31%	21%	48%
Preventivo Z.18	26%	27%	47%
National	34%	21%	45%
Granja Canadá	39%	18%	43%
Cobán	35%	23%	42%
Alta Seg. Escuintla	34%	24%	41%
Zacapa	41%	19%	41%
Z.18 Anexo B	37%	24%	40%
Puerto Barrios	42%	20%	38%
Mazatenango	34%	33%	34%
Boquerón	40%	33%	28%
Mariscal Zavala	57%	19%	25%
Pavoncito Fraijanes	51%	26%	23%
Fraijanes I	93%	7%	0%

Water

In addition to food, prisoners should have access to drinkable water and be provided with the water necessary for hygiene. Ninety-two percent of respondents indicated having sufficient water to meet their daily needs. Across the country, just over half rated the water as good or very good while nearly a third reported it as bad or very bad. The quality of water was generally rated favorably at Pavoncito Fraijanes and Fraijanes I and rated unfavorably at Puerto Barrios, COF, Sta. Teresa, and Alta Seg. Escuintla.

How often do you have water to cover your daily needs and to drink in this prison? (per week)



How would you rate the quality of the drinking water in this prison? (nationally and by prison)

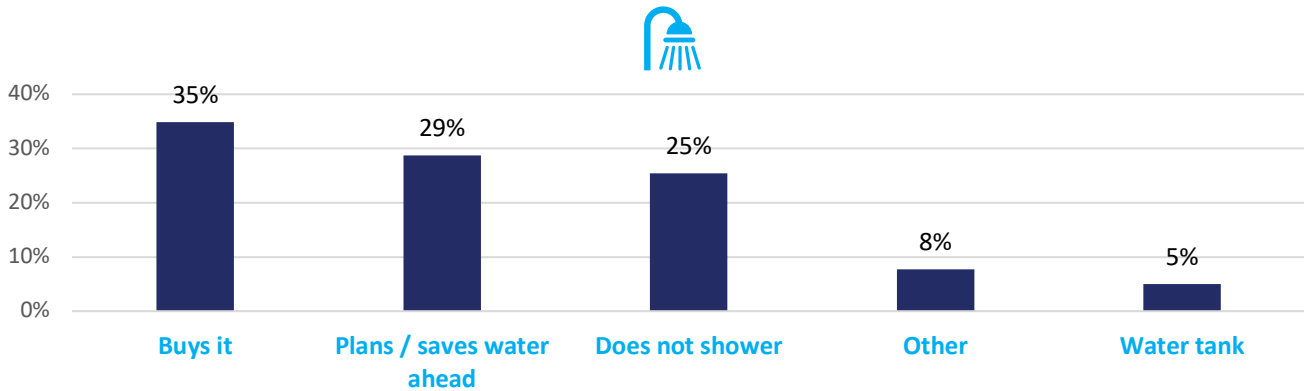
😊 Very good / Good 😐 Regular ☹️ Bad / Very bad

Prison	😊	😐	☹️
Puerto Barrios	27%	7%	67%
COF	28%	12%	60%
Sta. Teresa	29%	14%	57%
Alta Seg. Escuintla	27%	20%	54%
Boquerón	37%	20%	43%
Cobán	47%	11%	41%
Mazatenango	42%	17%	41%
Zacapa	48%	12%	41%
Sta. Cruz del Quiché	45%	15%	40%
Sta. Elena Petén	54%	8%	39%
Quetzaltenango Mujeres	48%	17%	35%
National	52%	13%	35%
Mariscal Zavala	62%	4%	35%
Granja Pavón	50%	17%	33%
Preventivo Z.18	51%	17%	32%
Granja Canadá	58%	11%	32%
Chimaltenango	64%	9%	28%
Z.18 Anexo B	55%	18%	27%
Granja Cantel	64%	13%	23%
Pavoncito Fraijanes	78%	9%	13%
Fraijanes I	84%	6%	11%

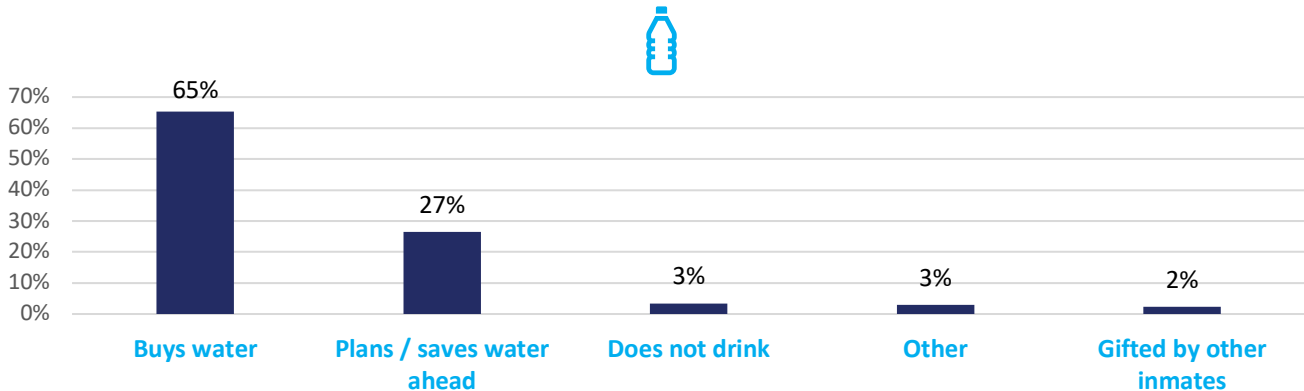
Water

Individuals who reported less than daily access to water were asked about strategies used to manage the limited access. At least half of the respondents reported buying water or planning ahead by saving water for bathing, drinking, or using the bathroom. Beyond purchasing or planning ahead, respondents reported simply not engaging in an activity which requires water or receiving water as gifts.

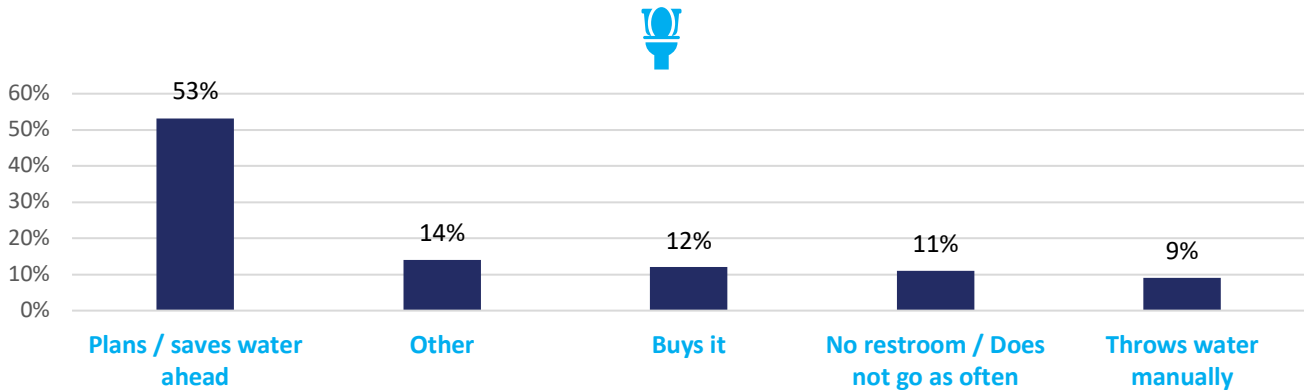
For respondents who have less than daily access to water, how do you bathe when there's no water?



For respondents who have less than daily access to water, how do you drink water when there's no water?

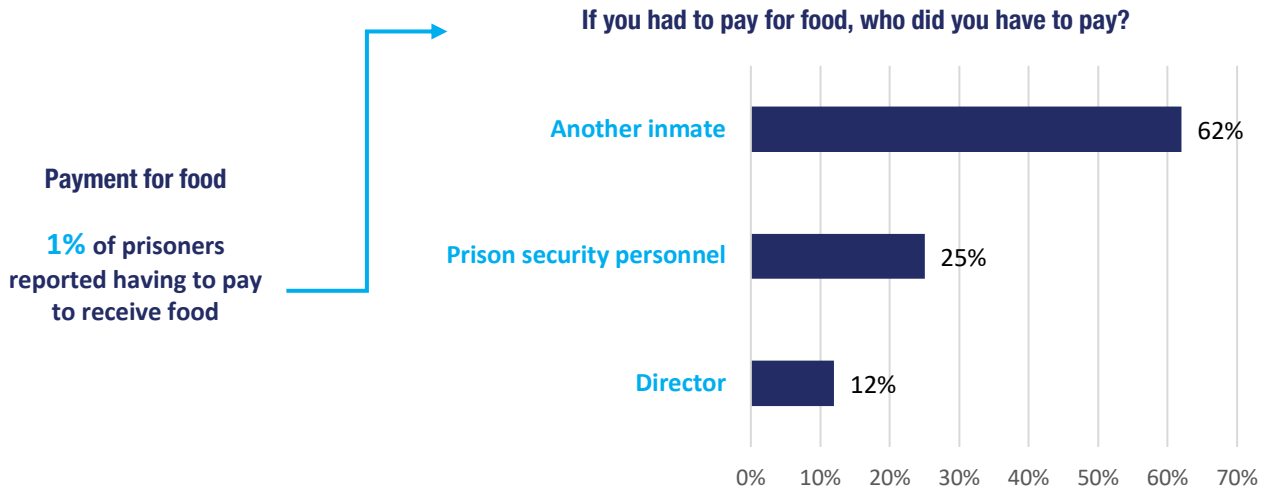


For respondents who have less than daily access to water, how do you use the restroom when there's no water?



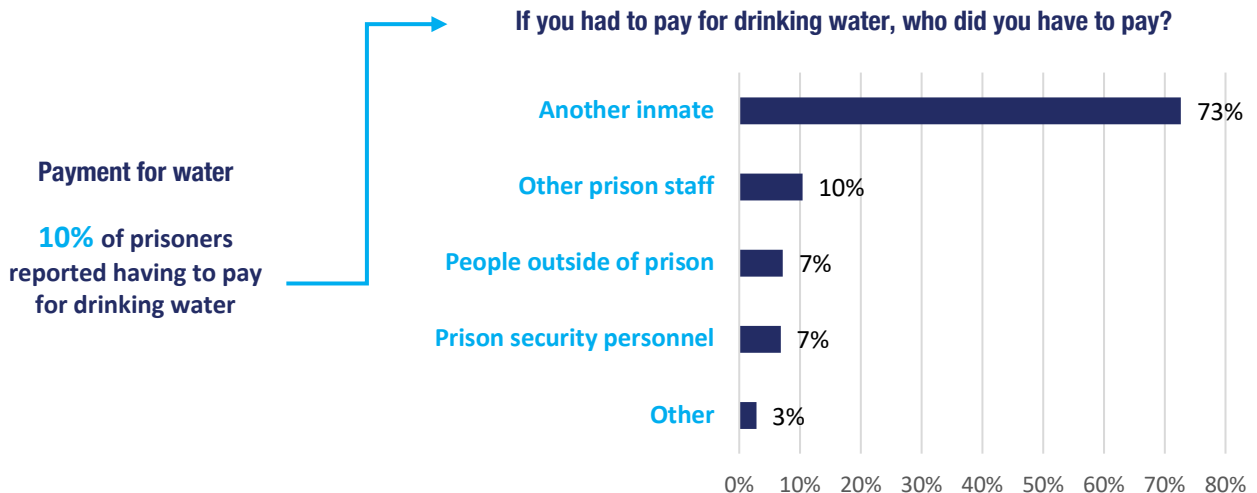
Payment for food

Although nearly all of the respondents reported receiving food three times a day, 1% (33) indicated they had to pay someone to receive food. Among these, the majority had to pay another prisoner. For example, 25% reported paying prison security, and 12% reported paying the Prison Director for food.



Payment for water

Unlike food, a notable number of individuals reported having to pay for water. Specifically, 10% indicated they had to pay for water, and, as with food, it was most common to report paying another prisoner. A smaller number reported paying people outside the prison (7%) or prison security (7%).



Accommodation: Ventilation and temperature

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) indicate that living conditions and accommodations should be suitable for good health (United Nations, 2016). This means, in part, having adequate ventilation and temperature in cells. Respondents were asked to rate the quality of their accommodations. Nationally, 30% of respondents reported having poor ventilation and one-third of respondents reported having poor temperatures. Nearly half of respondents in Sta Elena Petén and Sta. Teres reported poor ventilation, while 50% or more of respondents rated the cell temperature poorly in Boquerón, Alta Seg. Escuintla, Sta. Teresa, and Chimaltenango. Across the country, Pavoncito Fraijanes, Fraijanes I, Mariscal Zavala, and Granja Cantel were rated most favorably in terms of ventilation and temperature.

How would you rate the ventilation you have in your cell?
(nationally and by prison)



Prison	😊	😐	😞
Sta. Elena Petén	39%	12%	49%
Sta. Teresa	40%	11%	48%
Cobán	48%	9%	44%
Puerto Barrios	52%	9%	39%
Sta. Cruz del Quiché	48%	14%	39%
Quetzaltenango Mujeres	48%	13%	38%
Boquerón	50%	13%	38%
Chimaltenango	52%	14%	35%
COF	51%	14%	35%
Preventivo Z.18	55%	11%	34%
Zacapa	64%	3%	32%
Mazatenango	48%	21%	31%
National	59%	11%	30%
Granja Canadá	63%	10%	27%
Granja Pavón	63%	12%	26%
Alta Seg. Escuintla	49%	27%	24%
Z.18 Anexo B	66%	10%	24%
Granja Cantel	70%	9%	21%
Mariscal Zavala	77%	8%	15%
Fraijanes I	78%	7%	15%
Pavoncito Fraijanes	76%	10%	14%

How would you rate the temperature that your cell usually has?
(nationally and by prison)



Prison	😊	😐	😞
Boquerón	31%	13%	56%
Alta Seg. Escuintla	32%	17%	51%
Sta. Teresa	31%	19%	51%
Chimaltenango	40%	10%	50%
Sta. Elena Petén	42%	11%	47%
Sta. Cruz del Quiché	40%	14%	46%
COF	38%	17%	46%
Cobán	47%	9%	45%
Preventivo Z.18	39%	16%	45%
Puerto Barrios	47%	8%	44%
Mazatenango	35%	21%	44%
Granja Canadá	53%	11%	37%
National	50%	14%	36%
Zacapa	58%	7%	36%
Quetzaltenango Mujeres	53%	15%	32%
Z.18 Anexo B	54%	16%	31%
Fraijanes I	60%	11%	29%
Granja Pavón	59%	15%	26%
Granja Cantel	68%	9%	22%
Pavoncito Fraijanes	67%	15%	19%
Mariscal Zavala	74%	13%	13%

😊 Very good / Good

😐 Regular

😞 Bad / Very bad

Accommodation: Lighting and floor space

In addition to reporting on ventilation and temperature, respondents were also asked to report on the lighting and overall space in their cell. Both were rated more favorably than ventilation and temperature. Nationally, 85% of the respondents rated lighting favorably with only 15% reporting it as bad or very bad. Ratings of space were less favorable; with 30% of the respondents indicating negative perceptions of space. Ratings were most favorable at Fraijanes I and Pavoncito Fraijanes with almost all rating lighting favorably. Nearly 100% of respondents at Fraijanes I rated the space favorably, a marked contrast from the other institutions.

How would you rate the light or lighting you have in your cell? (nationally and by prison)



Prison	😊	😐	😞
Sta. Elena Petén	62%	11%	28%
Sta. Teresa	63%	10%	27%
Cobán	70%	7%	23%
Chimaltenango	66%	14%	21%
Puerto Barrios	71%	9%	20%
Boquerón	69%	11%	20%
Alta Seg. Escuintla	76%	5%	20%
Preventivo Z.18	74%	7%	19%
Sta. Cruz del Quiché	75%	6%	18%
Mazatenango	70%	13%	18%
Mariscal Zavala	83%	2%	15%
National	78%	7%	15%
COF	72%	13%	15%
Granja Canadá	81%	5%	14%
Zacapa	85%	3%	12%
Quetzaltenango Mujeres	80%	10%	10%
Granja Pavón	83%	7%	10%
Granja Cantel	85%	6%	9%
Pavoncito Fraijanes	89%	3%	8%
Z.18 Anexo B	85%	9%	7%
Fraijanes I	91%	4%	6%

How would you rate the space that you have in your cell? (nationally and by prison)



Prison	😊	😐	😞
Chimaltenango	36%	12%	52%
Sta. Cruz del Quiché	38%	17%	45%
Boquerón	40%	18%	43%
Sta. Teresa	44%	14%	42%
Mazatenango	42%	16%	42%
COF	42%	17%	41%
Cobán	51%	11%	38%
Puerto Barrios	53%	10%	38%
Preventivo Z.18	44%	18%	38%
Quetzaltenango Mujeres	52%	13%	35%
Z.18 Anexo B	58%	11%	31%
Zacapa	61%	9%	31%
National	57%	13%	30%
Sta. Elena Petén	60%	11%	29%
Granja Canadá	63%	9%	28%
Granja Pavón	64%	12%	25%
Alta Seg. Escuintla	68%	10%	22%
Granja Cantel	67%	13%	21%
Mariscal Zavala	79%	6%	15%
Pavoncito Fraijanes	75%	13%	12%
Fraijanes I	91%	7%	2%

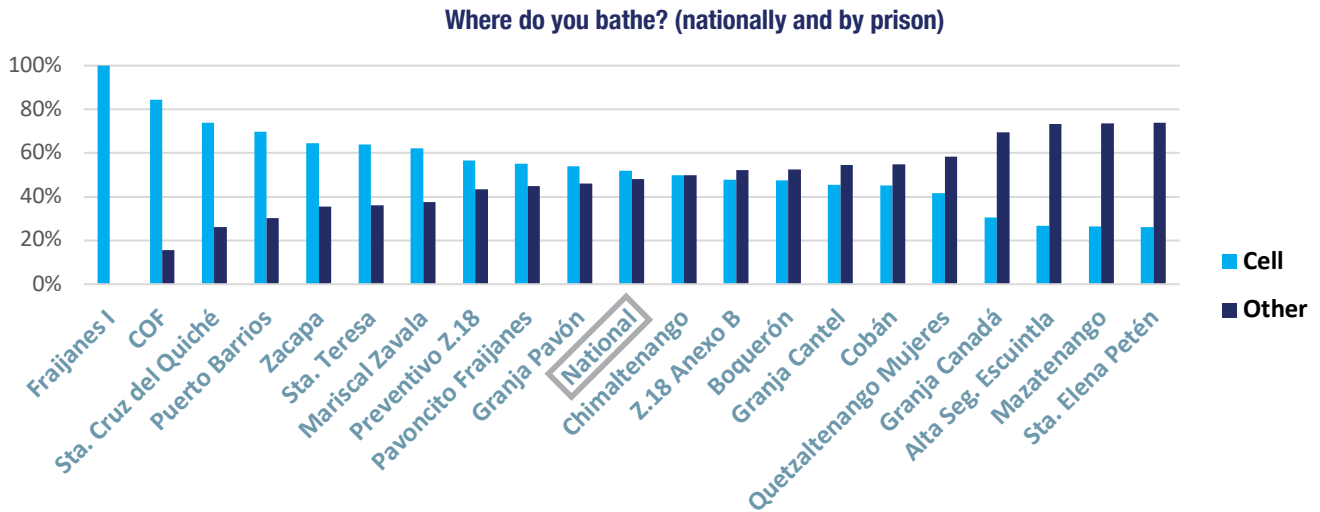
😊 Very good / Good

😐 Regular

😞 Bad / Very bad

Hygiene




The Nelson Mandela Rules recognize hygiene as an important consideration for those living in prison. This includes the ability to bath regularly and have clean living areas. Nationally, just over 50% of respondents reported bathing in their cells. Yet, 100% of respondents at Fraijanes I indicated bathing in their cells compared to 26% of respondents at Sta. Elena Petén. Individuals generally reported being able to bathe on a daily basis and, nationally, nearly 67% of respondents indicate the area to be very clean. Over 90% of respondents reported the bathing area as very clean in Alta Seg. Escuintla, Mariscal Zavala, and Fraijanes I whereas more than half of the respondents in Boquerón, Cobán, Z.18 Anexo B., Chimaltenango, Sta. Cruz del Quiché, and Mazatenango had negative perceptions.





How many times a week can you bathe? (nationally and by prison)

Prison	Less than daily	Daily or more
Sta. Teresa	0%	100%
Z.18 Anexo B	0%	100%
Fraijanes I	0%	100%
Granja Canadá	1%	99%
COF	1%	99%
Sta. Cruz del Quiché	2%	99%
Chimaltenango	2%	98%
Preventivo Z.18	2%	98%
Mariscal Zavala	2%	98%
Alta Seg. Escuintla	2%	98%
Boquerón	3%	98%
National	3%	97%
Sta. Elena Petén	3%	97%
Mazatenango	3%	97%
Quetzaltenango Mujeres	3%	97%
Cobán	4%	96%
Puerto Barrios	5%	96%
Granja Pavón	5%	95%
Zacapa	5%	95%
Pavoncito Fraijanes	5%	95%
Granja Cantel	5%	95%

How would you rate the cleanliness of the bathing area? (nationally and by prison)

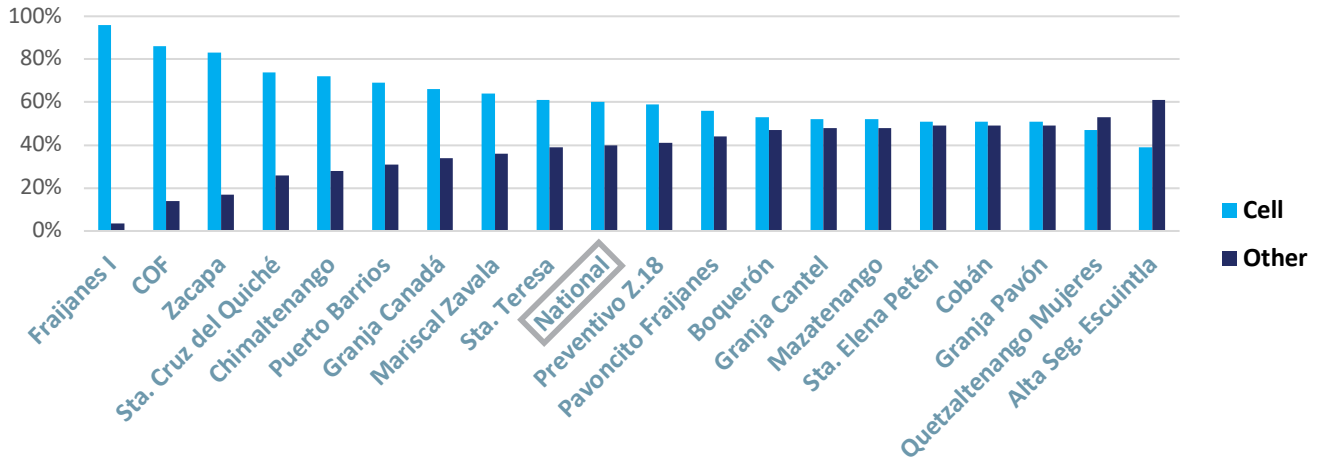
Prison			
Boquerón	39%	45%	16%
Puerto Barrios	50%	38%	12%
Cobán	37%	55%	9%
Z.18 Anexo B	48%	47%	6%
Chimaltenango	45%	50%	5%
Sta. Cruz del Quiché	40%	55%	5%
Granja Canadá	62%	34%	5%
COF	69%	27%	4%
Mazatenango	42%	54%	4%
National	63%	33%	4%
Sta. Teresa	68%	28%	4%
Sta. Elena Petén	68%	29%	3%
Granja Pavón	61%	36%	3%
Preventivo Z.18	66%	31%	3%
Fraijanes I	91%	7%	2%
Zacapa	59%	39%	2%
Granja Cantel	70%	29%	1%
Pavoncito Fraijanes	81%	19%	0%
Quetzaltenango Mujeres	44%	56%	0%
Alta Seg. Escuintla	90%	10%	0%
Mariscal Zavala	91%	9%	0%

 Very clean  Hardly / Somewhat clean  Not at all clean

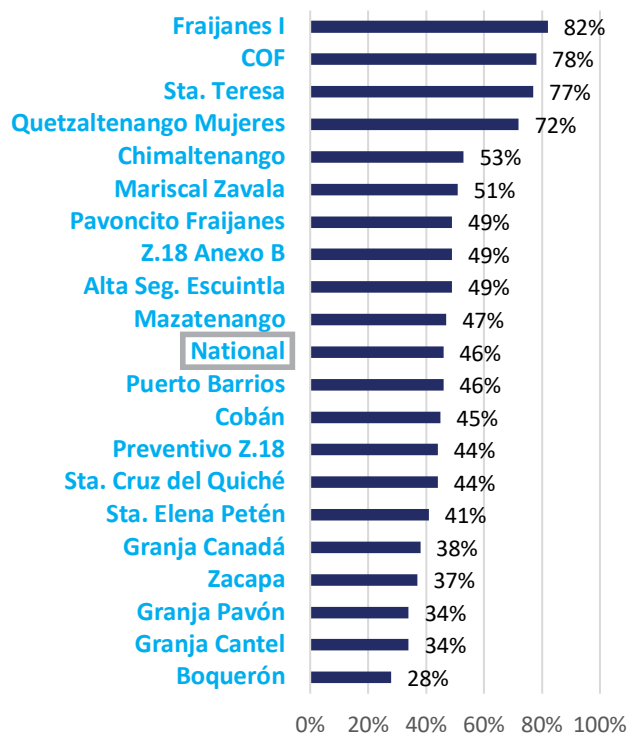
Hygiene

Respondents were asked about access to toilets and as with bathing, the majority reported using the toilet (60%) in their cell. This was true across the majority of prisons except for Quetzaltenango Mujeres and Alta Seg. Escuintla. Access to toilets was somewhat limited as only 46% of respondents reported having regular access to a toilet, defined as at least 3 times a day or “whenever I want.” This was an issue across almost all the prisons. The prisons with the highest rates of reported access included Quetzaltenango Mujeres (72%) Sta. Teresa (77%), COF (78%), and Fraijanes I (80%). Although cleanliness varied across the institutions, 61% reporting the toilet area as very clean. Over 80% of respondents in Pavoncita Fraijanes, Fraijanes I and Mariscal Zavala rated the bathroom area as very clean as did 98% of those in Alta Seg. Escuintla.

Where do you use the toilet? (nationally and by prison)



Percent respondents who have regular access* to the toilet (nationally and by prison)



* "Regular" includes respondents who reported access to the toilet 3 or more times per day or "whenever I want."

How would you rate the cleanliness of the toilet area? (nationally and by prison)

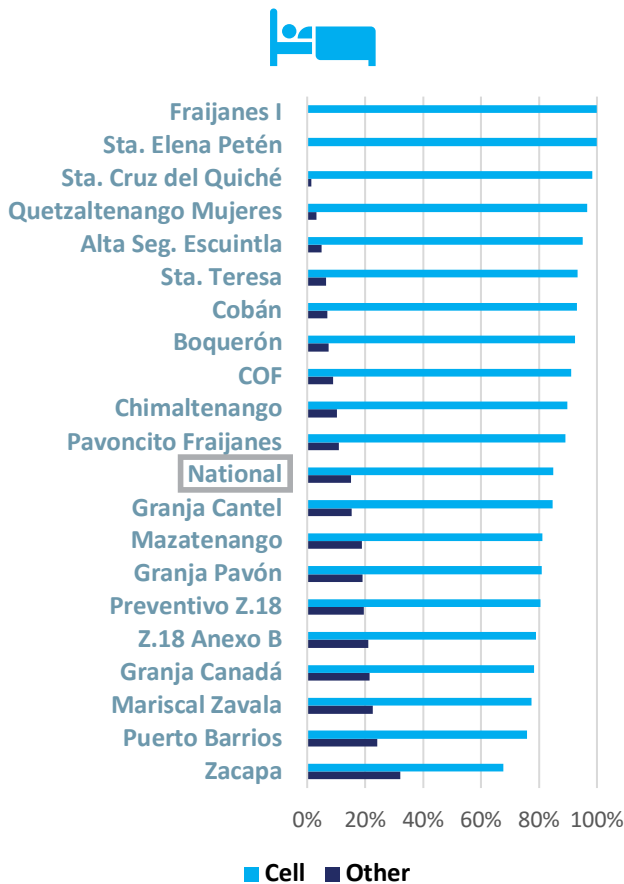
Prison	😊	😐	😞
Cobán	32%	51%	17%
Boquerón	39%	46%	15%
Granja Canadá	61%	32%	8%
Granja Pavón	56%	37%	7%
Puerto Barrios	50%	43%	7%
National	61%	34%	5%
Quetzaltenango Mujeres	43%	52%	5%
Sta. Teresa	58%	37%	5%
Sta. Elena Petén	68%	28%	5%
Mazatenango	44%	52%	4%
Z.18 Anexo B	45%	51%	4%
Preventivo Z.18	63%	33%	4%
Granja Cantel	71%	25%	4%
Zacapa	71%	26%	3%
Chimaltenango	57%	40%	3%
COF	67%	30%	3%
Sta. Cruz del Quiché	45%	52%	3%
Fraijanes I	84%	15%	2%
Alta Seg. Escuintla	98%	2%	0%
Pavoncito Fraijanes	80%	20%	0%
Mariscal Zavala	83%	17%	0%

😊 Very clean 😐 Hardly / Somewhat clean 😞 Not at all clean

Sleep

Individuals in prison should have safe and secure sleeping areas. The majority of respondents (85%) indicated they sleep in cells and almost all the respondents reported sharing their living space with other prisoners. Nationally, the mean number of cellmates was 53, with a range of 0 to 550, and the median number was 19. High occupancy levels are often associated with cramped living space, reduced privacy, poor hygiene, and less staff control. In some prisons, respondents reported sleeping in other locations including hallways and pavilions.

**Where do you sleep?
(nationally and by prison)**



**Number of people with whom you share the sleeping area
(mean and median, nationally and by prison)**

Prison	Mean	Median
Granja Canadá	103	3
Preventivo Z.18	97	40
Boquerón	69	36
Cobán	63	54
Mazatenango	60	23
Puerto Barrios	58	11
National	53	19
Sta. Cruz del Quiché	50	5
Granja Pavón	49	5
Zacapa	48	9
Chimaltenango	48	35
Granja Cantel	39	10
COF	37	8
Z.18 Anexo B	24	14
Pavoncito Fraijanes	24	20
Sta. Teresa	23	19
Quetzaltenango Mujeres	23	73
Alta Seg. Escuintla	19	15
Sta. Elena Petén	15	5
Mariscal Zavala	11	6
Fraijanes I	10	21

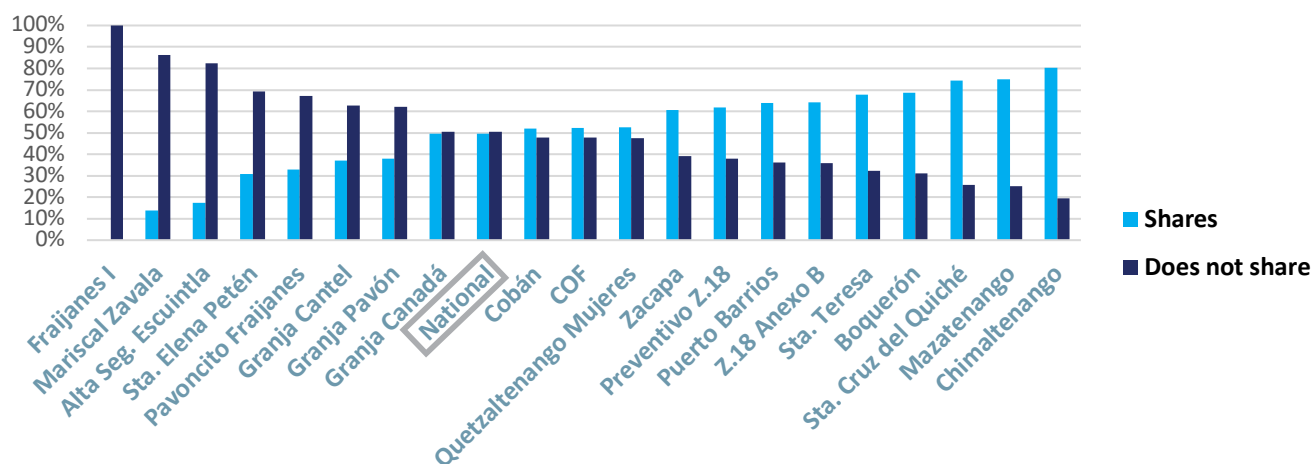
Sleep

Nationally, 37% of respondents reported sleeping in a bed, 38% reported sleeping in hammocks, and 4% reported sleeping on the floor. Just over 20% reported having other types of bedding including sleeping on a cement bed or slab. More than half of the respondents from Chimaltenango, Mazatenango, Zacapa, and Puerto Barrios reported having a bed and all of the respondents in Mariscal Zavala reported using hammocks. Nationally, 50% of respondents reported sharing bedding with others. This rate exceeded 50% at twelve of the prisons. All the respondents at Fraijanes I indicated they had their own bedding.

Type of bedding (nationally and by prison)

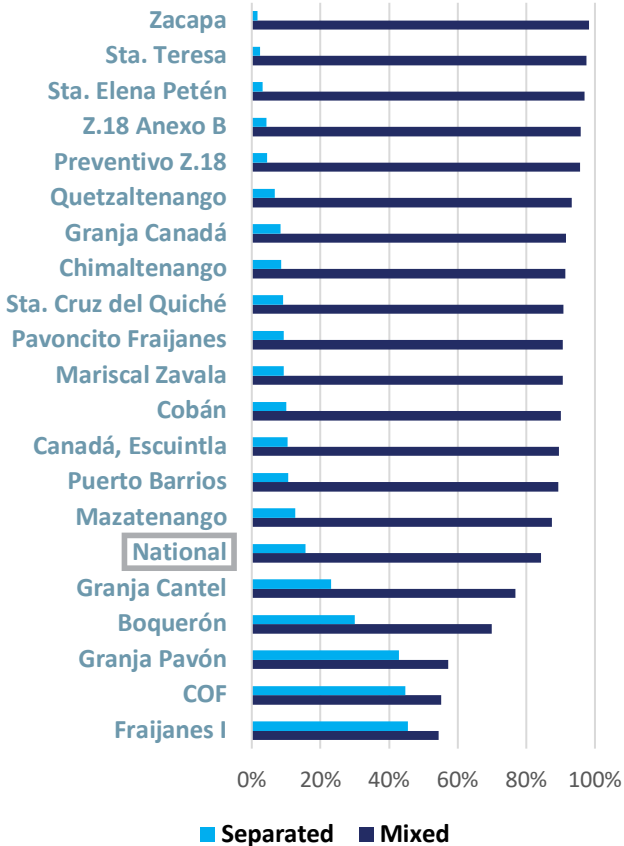
Prison	Bed	Hammock	Floor	Other
Chimaltenango	74%	17%	2%	7%
Mazatenango	58%	30%	1%	12%
Zacapa	58%	15%	7%	20%
Puerto Barrios	57%	14%	15%	14%
Boquerón	46%	20%	0%	34%
Granja Canadá	46%	21%	23%	10%
Preventivo Z.18	43%	26%	0%	31%
Cobán	41%	48%	1%	10%
Z.18 Anexo B	38%	35%	0%	27%
National	37%	38%	4%	21%
Granja Cantel	35%	45%	1%	19%
Granja Pavón	34%	38%	1%	27%
Quetzaltenango Mujeres	32%	58%	0%	10%
Sta. Cruz del Quiché	31%	43%	0%	26%
Pavoncito Fraijanes	27%	48%	0%	24%
Sta. Elena Petén	26%	57%	2%	15%
COF	21%	74%	0%	4%
Sta. Teresa	21%	44%	0%	36%
Alta Seg. Escuintla	15%	46%	0%	39%
Fraijanes I	0%	51%	0%	49%
Mariscal Zavala	0%	100%	0%	0%

Percent respondents who share their bedding (nationally and by prison)



The Nelson Mandela Rules indicate that pretrial detainees should be held separate from convicted individuals and should sleep separately in single rooms unless climate and local customs dictate otherwise. Nationally, 84% of respondents indicated prisoners were mixed regardless of legal status, with over half of respondents in every prison responding similarly. Despite the generally crowded conditions and sharing of space, 71% reported the sleeping area as very clean.

Are detainees and convicted individuals mixed in cells/dorms? (nationally and by prison)



How would you rate the cleanliness of the sleeping area? (nationally and by prison)

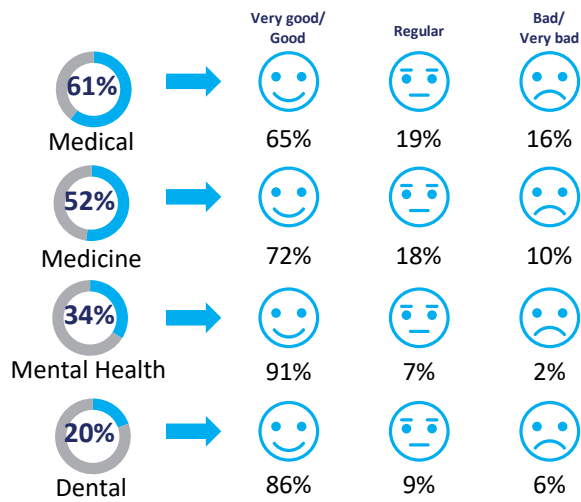
Prison	😊 Very clean (%)	😐 Hardly / Somewhat clean (%)	😞 Not at all clean (%)
Boquerón	44%	45%	11%
Granja Canadá	65%	30%	5%
Puerto Barrios	57%	39%	5%
Mazatenango	53%	43%	4%
Chimaltenango	50%	47%	3%
COF	74%	22%	3%
Sta. Cruz del Quiché	55%	42%	3%
Cobán	50%	47%	3%
National	71%	27%	2%
Mariscal Zavala	81%	17%	2%
Fraijanes I	96%	2%	2%
Preventivo Z.18	67%	32%	2%
Sta. Elena Petén	66%	32%	2%
Granja Cantel	82%	18%	1%
Granja Pavón	77%	22%	1%
Pavoncito Fraijanes	85%	14%	1%
Zacapa	71%	29%	0%
Quetzaltenango Mujeres	77%	23%	0%
Alta Seg. Escuintla	100%	0%	0%
Sta. Teresa	79%	21%	0%
Z.18 Anexo B	72%	28%	0%

😊 Very clean 😐 Hardly / Somewhat clean 😞 Not at all clean

Medical care

Access to healthcare is a critical issue for those in prison. Over 60% of respondents reported receiving medical care and 52% had received medicine though less than a third reported receiving mental health (34%) or dental care (20%). Respondents were generally favorable about the quality of care. Among those who received services, 65% rated medical care favorably, with higher ratings for mental health (91%) and dental (86%) care. Respondents were somewhat pessimistic when it came to the availability of care; 58% doubted they would receive emergency medical care if needed. Nationally, 39% of respondents indicated they had a physical in prison; among this group, 88% reported having a physical in the last 12 months. Over half of the respondents in Fraijanes I, COF, and Alta Seg. Escuintla indicated they had received a physical.

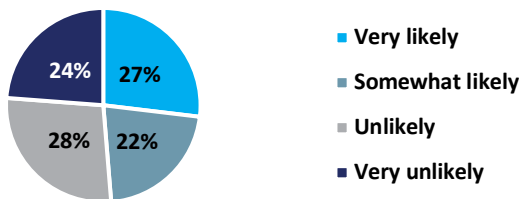
Percent of prisoners who received medical care at current prison and perceived quality of service*



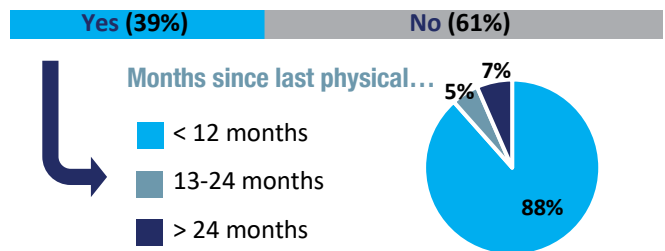
If you needed medical care, do you think it would be provided when you ask for it?



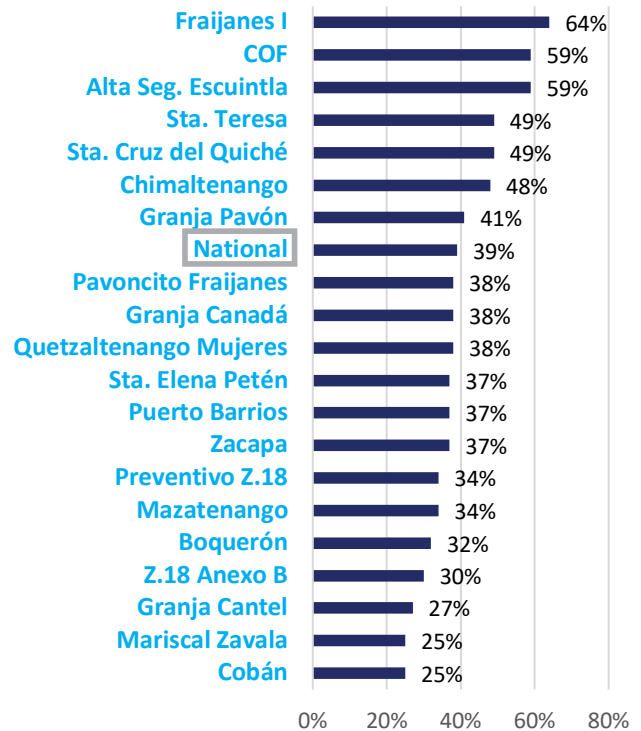
How likely is it that you will receive emergency medical care?



Have you ever had a physical in prison? (nationally)

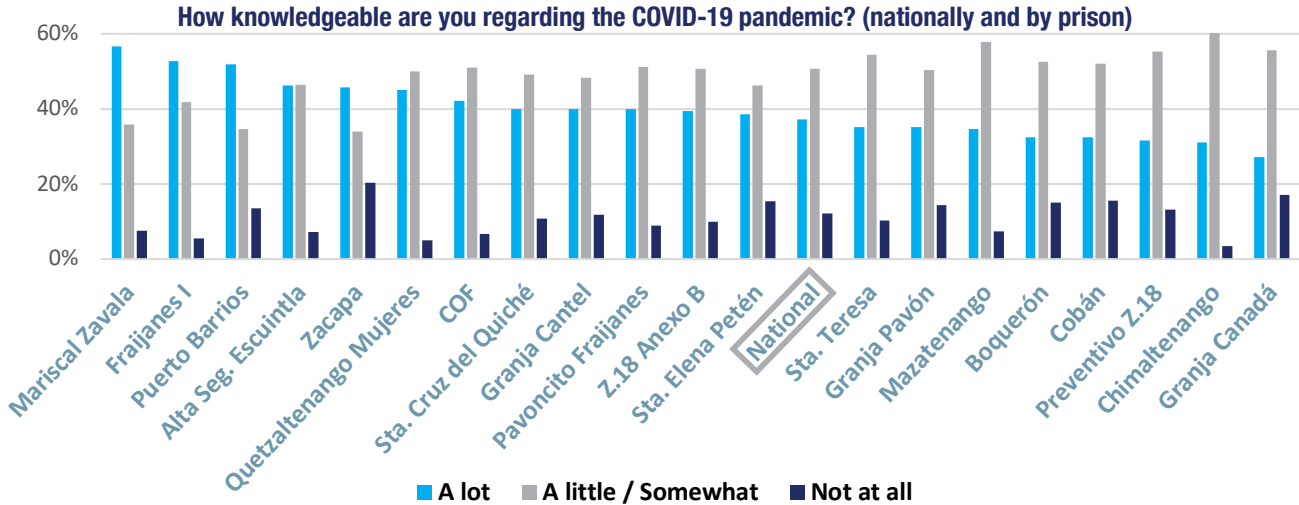


Percent respondents who have ever had a physical in prison (nationally and by prison)

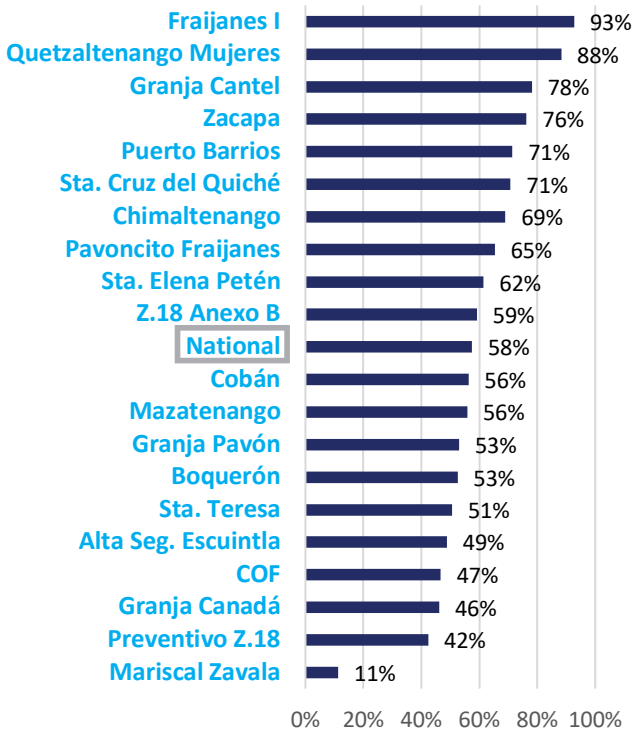


Medical care and Covid-19

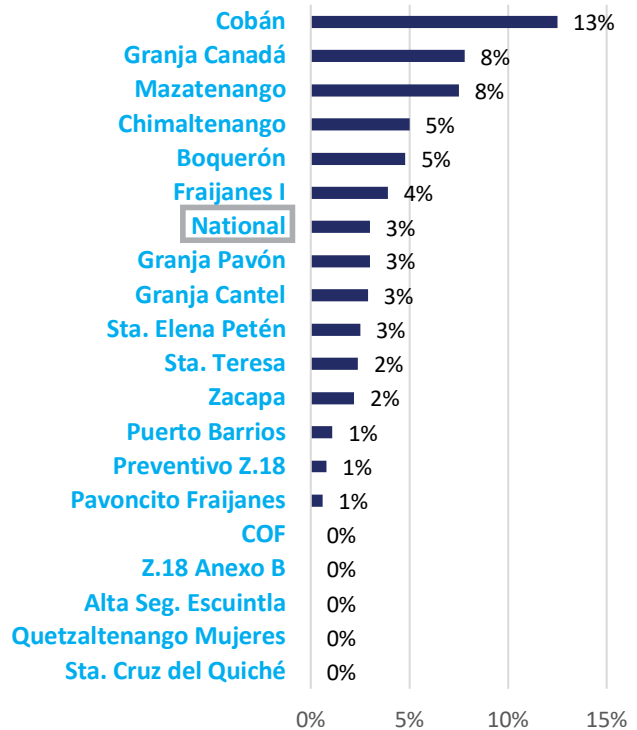
Respondents were also asked about COVID-19. Nationally, 51% reported some knowledge of COVID-19, but only a third had a lot of knowledge. More than half of the respondents from Mariscal Zavala, Fraijanes I and Puerto Barrios had a lot of knowledge; more than half reported relatively little or no knowledge in the remaining prisons. Access to masks varied across prisons. Nationally, 58% of respondents indicated prison staff provided them with masks. However, this number ranged from less than half (Alta Seg. Escuintla, COF, Granja Canadá, Preventivo Z.18, Mariscal Zavala) to over 80% (Fraijanes I, Quetzaltenango Mujeres). Masks were typically provided for free, with fewer than 3% of respondents indicating they had to pay for masks.



Percent respondents who reported that prison staff provided them with face masks (nationally and by prison)

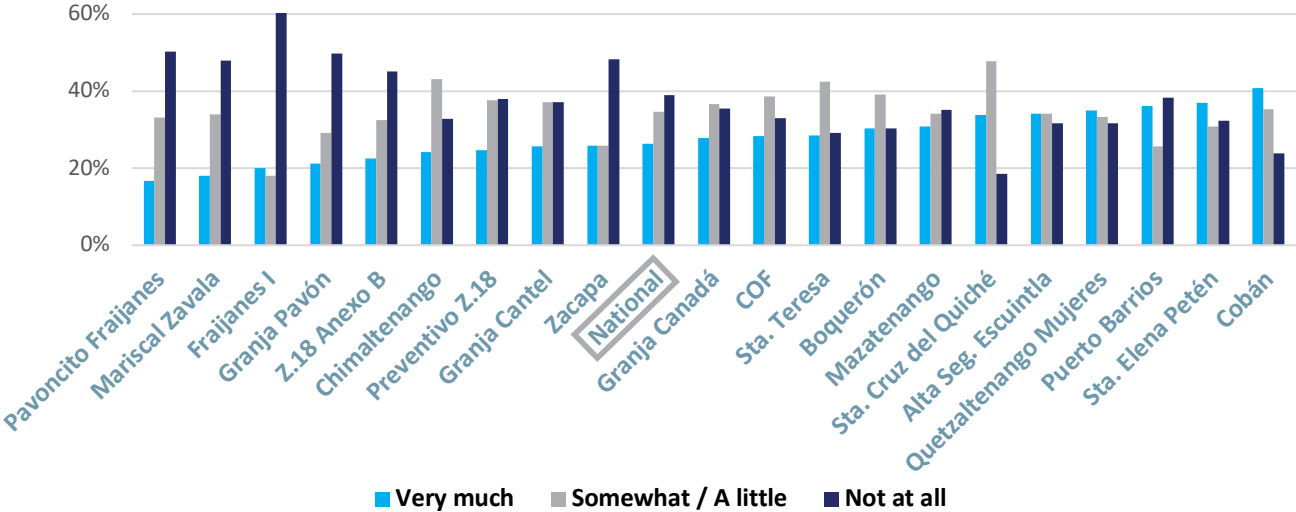


If prison staff provided face masks, percent respondents who had to pay for them (nationally and by prison)

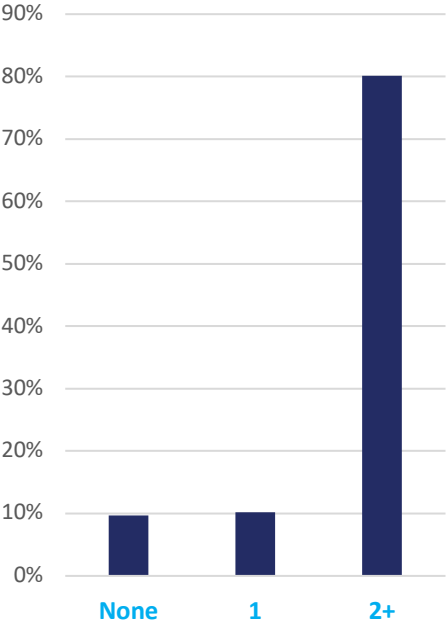


Some respondents expressed concern about contracting COVID-19, with 40% indicating they were at least somewhat worried about contracting it. Thirty-nine percent indicated they were not worried at all. This group included 22 people who had previously been diagnosed with COVID-19. The level of concern varied across the prisons. Respondents in prisons with higher ratings regarding ventilation (Pavoncito Fraijanes, Mariscal Zavala, Fraijanes I) were less likely to report being concerned. Prisoners began having access to Covid-19 vaccines in late summer 2021⁶ and 80% of the respondents reported they were fully vaccinated (defined as having two doses) at the time of the survey. Less than half of those at Sta. Cruz del Quiché were fully vaccinated compared to 98% of respondents in Fraijanes I.

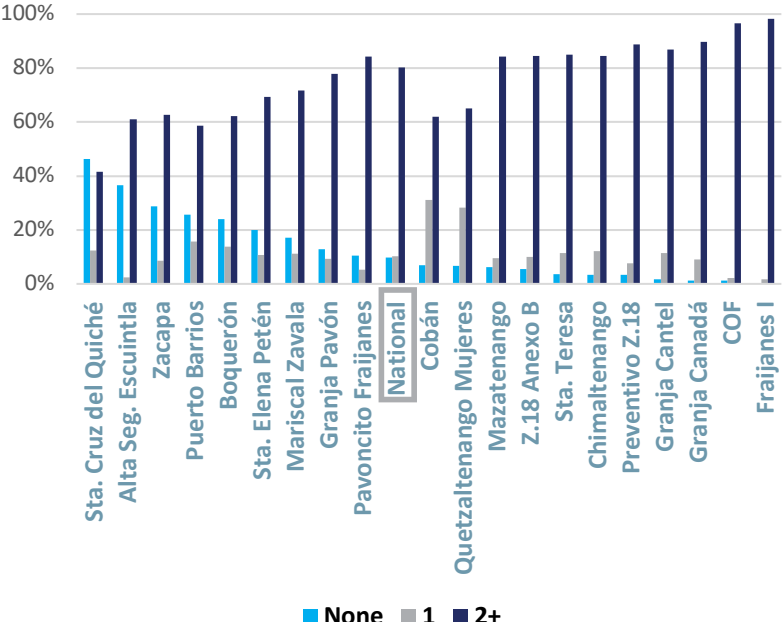
How worried are you about contracting COVID-19? (nationally and by prison)



Number of COVID-19 vaccines received



Number of COVID-19 vaccines received (nationally and by prison)

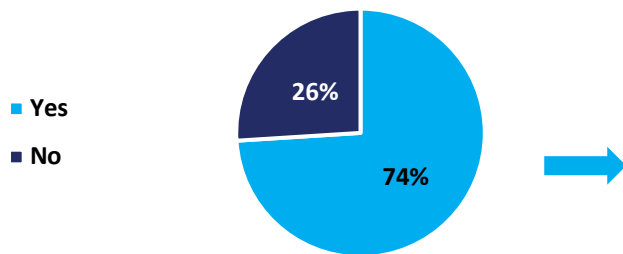


⁶ <https://dgsp.gob.gt/privados-de-libertad-reciben-primera-y-segunda-dosis-de-vacuna-contra-el-covid-19/>

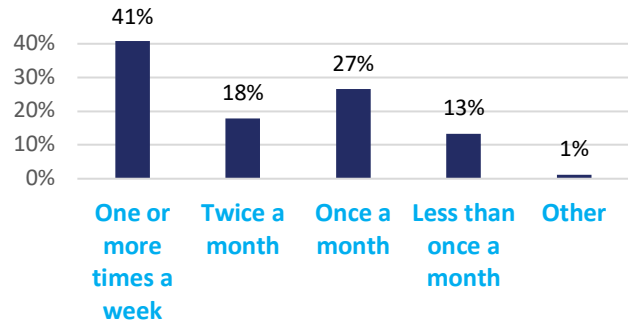
Family/visitation: Pre-Covid

Regular communication and visits with family and friends is important. In addition to the Nelson Mandela Rules, research is clear that visitation and communication is associated with improved health, behavior, and reentry outcomes. Almost 75% of respondents indicated having family visits prior to the COVID-19 pandemic, and 59% had more than monthly visits. Visitation did not vary by sex, but citizens were significantly more likely than foreign prisoners to have visits. Over 67% of prisoners in every prison had visits; 90% of the respondents from Sta. Cruz del Quiché indicated the same.

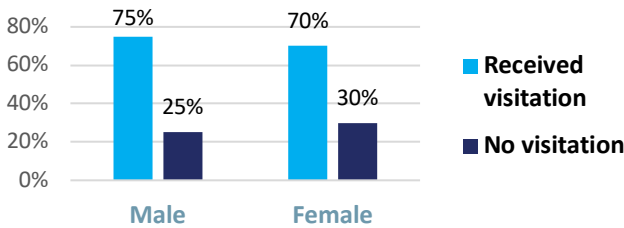
Before the COVID-19 pandemic, had you received a family visit in this prison?



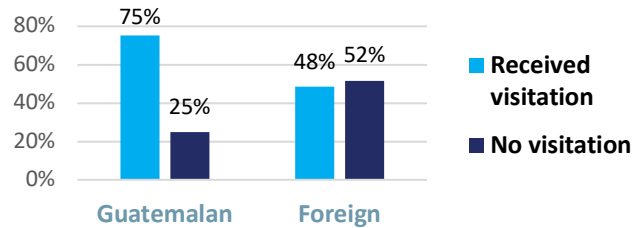
If yes, how often did you receive family visits?



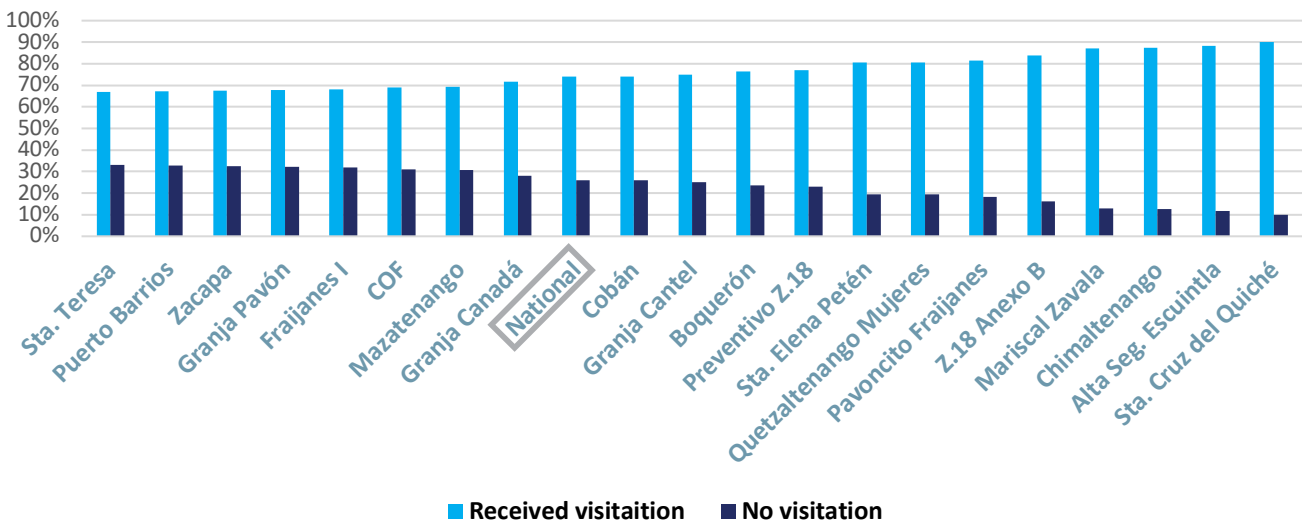
Visitation status (by sex)



Visitation status (by nationality)



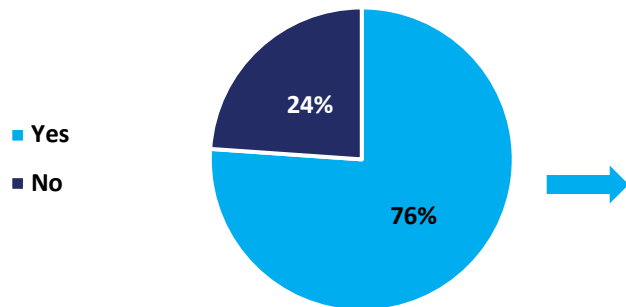
Visitation status (nationally and by prison)



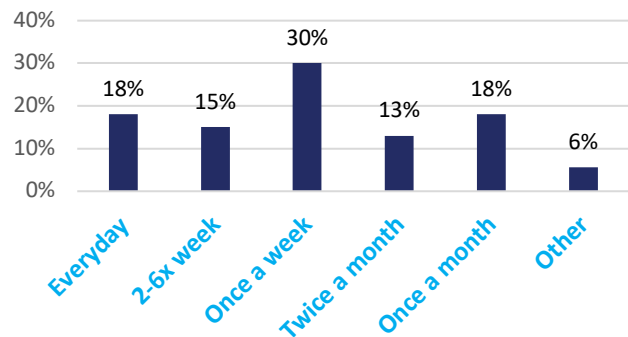
Family/visitation and Covid

The COVID-19 pandemic resulted in limited opportunities for in-person visits. However, phone calls can serve as a key mechanism for maintaining contact with the outside world. Over 75% of respondents indicated having phone calls with relatives and 63% had at least weekly contact. Women were more likely to report being able to make phone calls compared to men while foreign prisoners were less likely to have access to phone calls relative to Guatemalan citizens. More than half of the respondents in Puerto Barrios, Chimaltenango, Quetzaltenango Mujeres, and Cobán reported not having the ability to make calls.

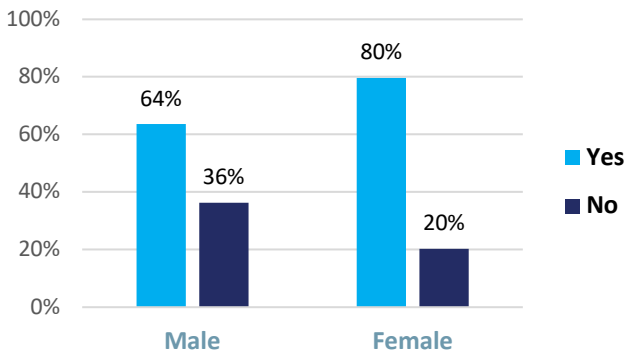
Have you been able to make phone calls to your relatives since you have been in this penitentiary?



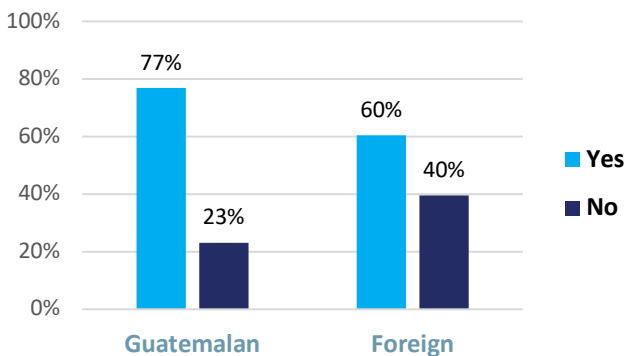
If yes, how often do you speak with your relatives by phone?



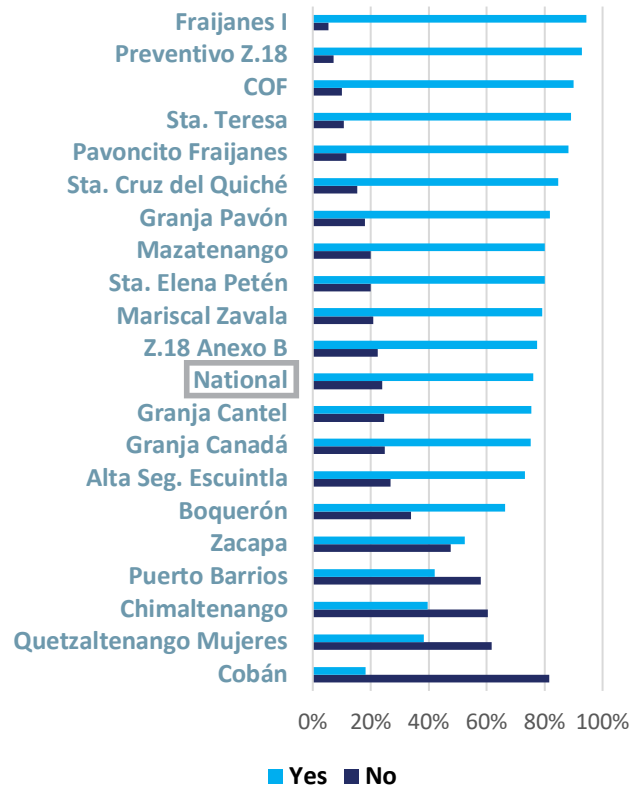
Able to make phone calls (by sex)



Able to make phone calls (by nationality)



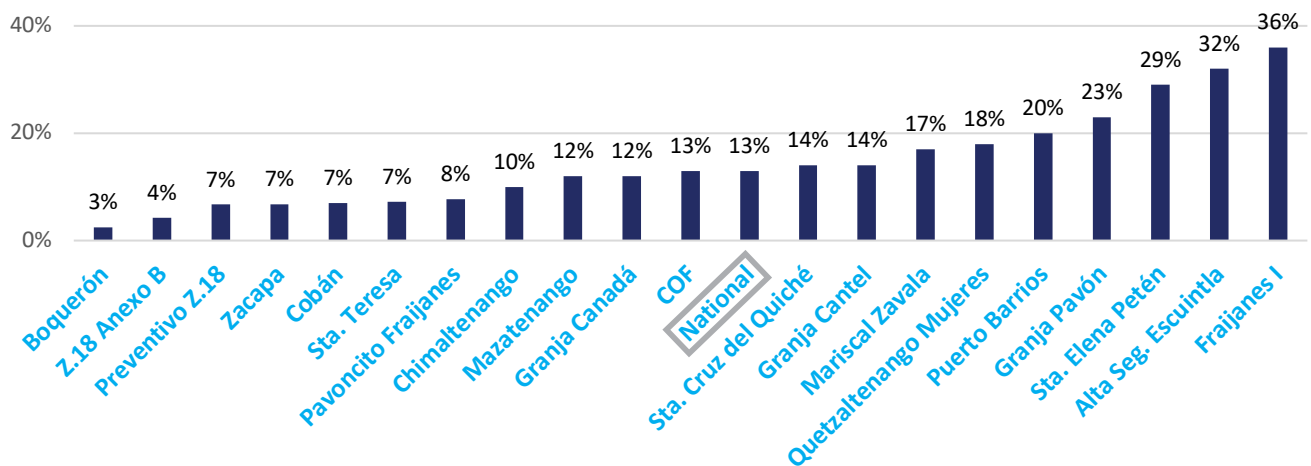
Able to make phone calls (nationally and by prison)



Technical teams

Guatemala utilizes a Progressive System to classify prisoners. The system consists of four phases: (1) Observation (Fase de Diagnóstico y Ubicación), (2) Treatment (Fase de Tratamiento), (3) Pre-Release (Fase de Prelibertad), and (4) Supervised Release (Fase de Libertad Controlada). Of those who were convicted, the majority (86%) of respondents were in the treatment phase. Best practices suggest the need for regular evaluations of prisoner progress and adjustment. Nationally, only 13% of respondents indicated they had received a technical evaluation in the last 12 months. This ranged from 3% at Boquerón to 36% at Fraijanes I. Just over 10% indicated their file had been reviewed. Despite the low rates of evaluations and file reviews, respondents viewed the technical teams favorably with 82% rating the quality of care as very good or good.

Percent respondents who have received a technical evaluation in the last 12 months (nationally and by prison)

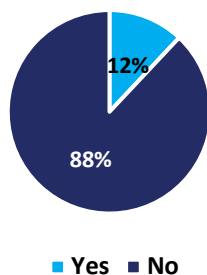


If you have received a technical evaluation in the last 12 months, when was the last time?

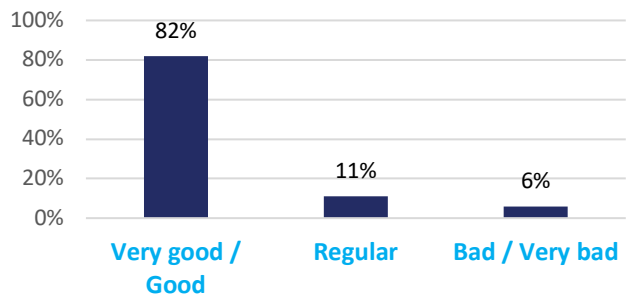
Mean
4 months

Median
8 months

Has your file been updated or reviewed according to technical evaluations in this penitentiary?



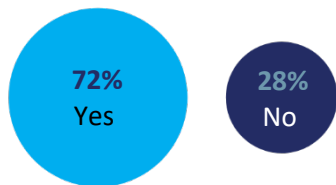
How would you rate the care you received from the technical team?



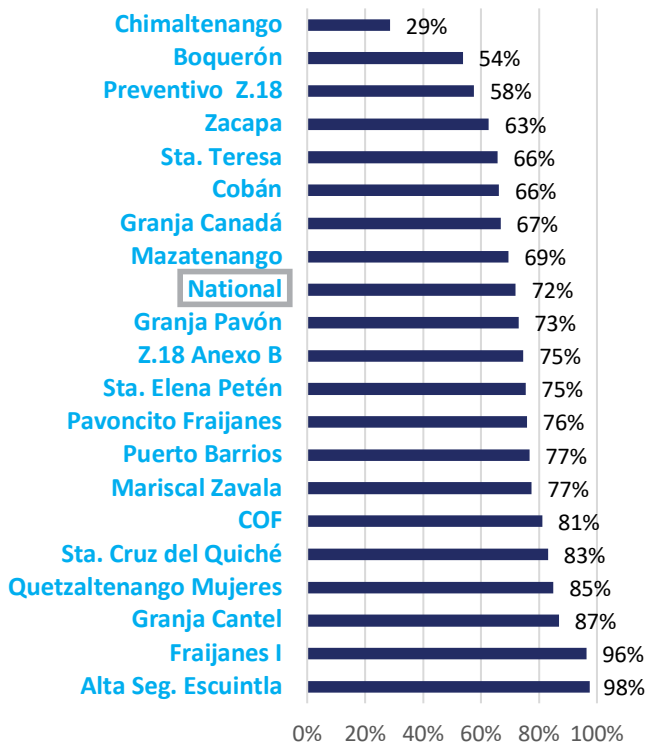
Programming

People in prison should have the opportunity to participate in programs and activities. Nearly 75% of respondents indicated they had participated in some type of rehabilitative programming. Participation was relatively high across the prisons; with the exception of Chimaltenango, more than half of the respondents reported participation in activities. Over 80% of prisoners in COF, Sta. Cruz del Quiché, Quetzaltenango Mujeres, Granja Cantel, Fraijanes I, and Alta Seg. Escuintla reported programming. The most common types of programs were job training (55%), education (44%), and psychosocial programming (34%). In addition, 34% indicated they participated in sports activities. Participants appeared satisfied with the services provided; over 85% reported services as good or very good, regardless of program.

Percent of prisoners who have participated in any rehabilitative program^a



Percent of prisoners who have participated in any rehabilitative program (nationally and by prison)^a

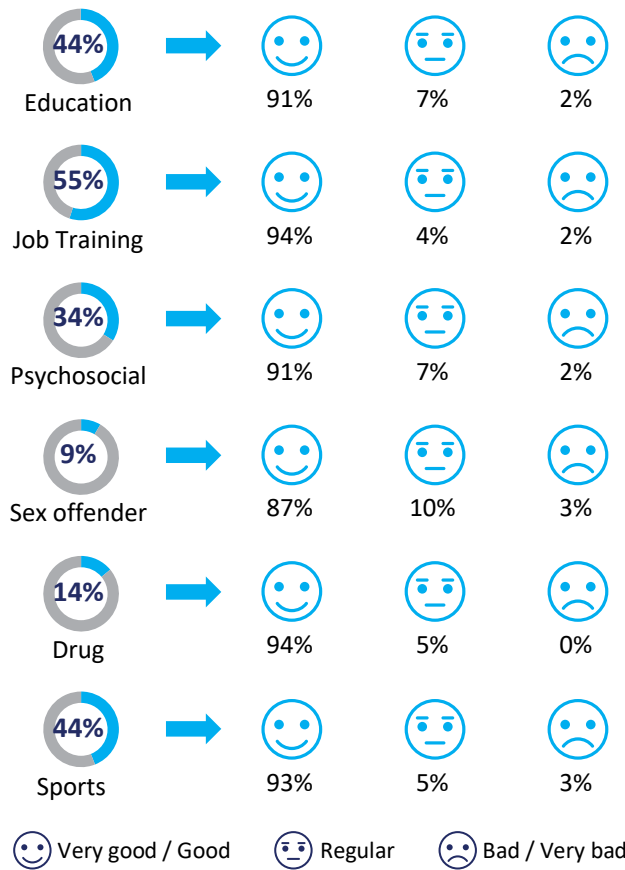


^a Excluding sports.

Number of rehabilitative programs in which respondents have participated^a

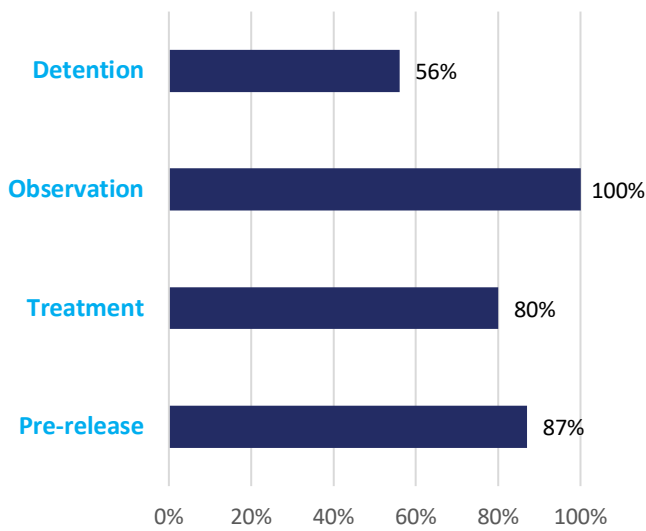
Mean: 1 program | Range: 0 – 5 programs

Percent of prisoners who received programming at current prison and perceived quality of service

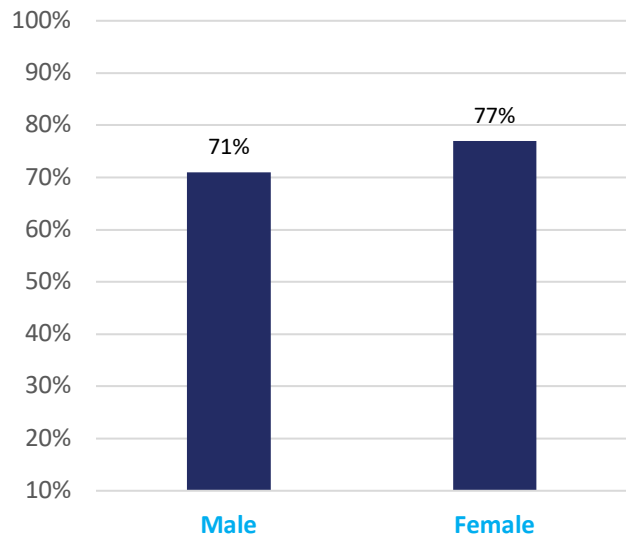


Program participation varied by phase, prison, and sex. Those being held in preventive detention were significantly less likely to report participation, which may reflect their legal status. Female respondents were significantly more likely to report participation than men. The ability to work in prison is also important; nationally, 67% of respondents indicated there were opportunities to work, though these perceptions ranged across the prisons. At least half of the respondents at COF, Fraijanes I, Chimaltenango, and Z. 18 Anexo indicated they did not have opportunities to work. In contrast, at least 80% of respondents in Pavoncito Fraijanes, Franja Pavón, Granja Cantel, and Alta Seg Escuintla reported that they were able to work.

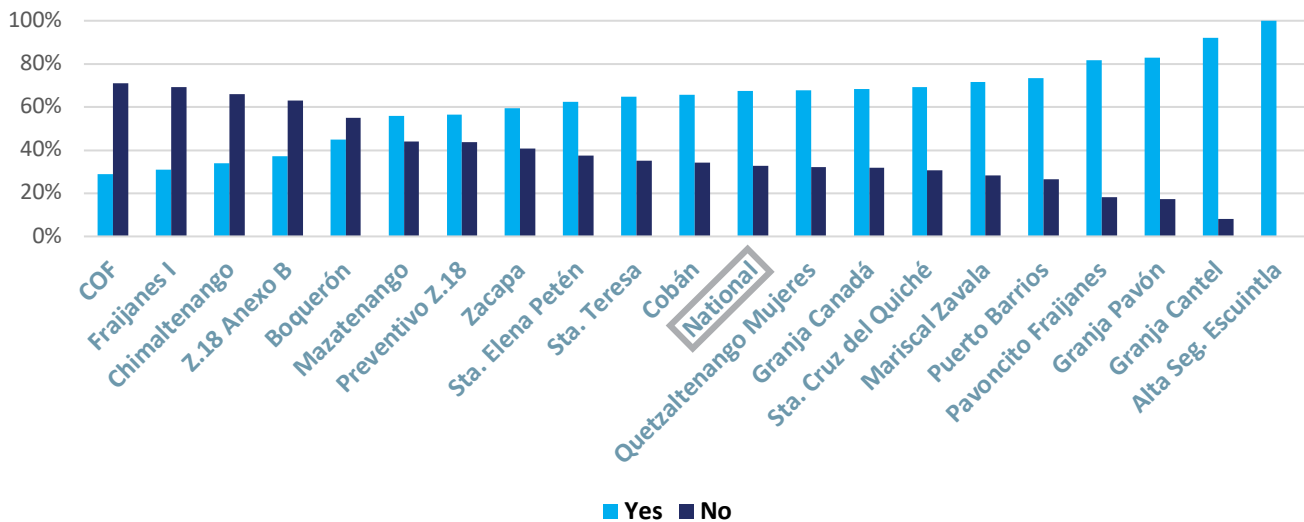
Percent of prisoners who have participated in any rehabilitative program (by phase and legal status)^a



Percent of prisoners who have participated in any rehabilitative program (by sex)^a



If you wanted to work, do you think there are opportunities to work in this penitentiary? (nationally and by prison)

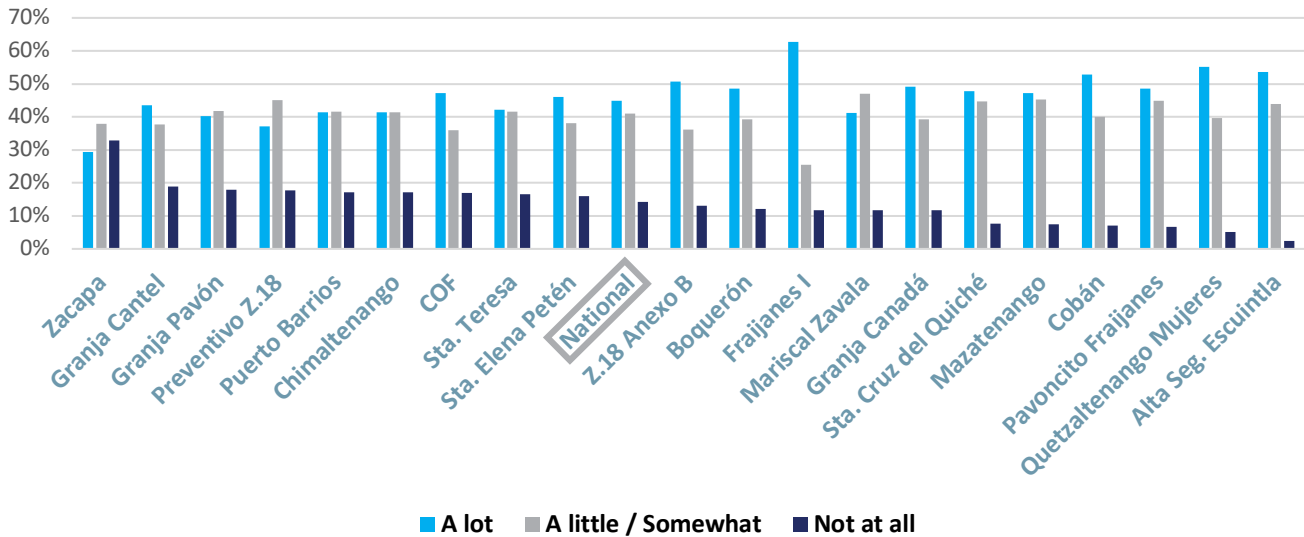


^a Excluding sports.

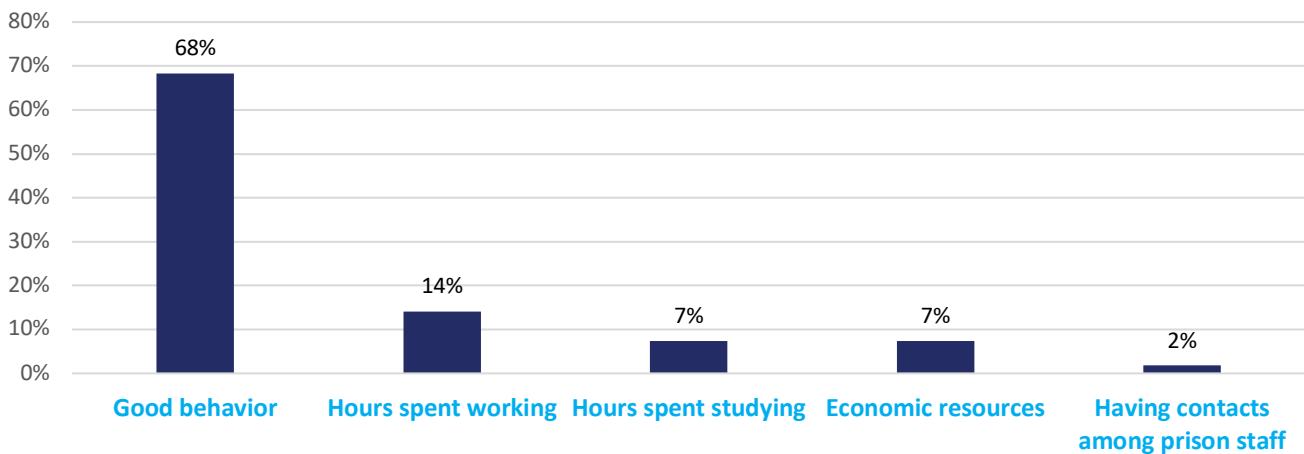
Programming and parole

Participation in programs and work is often viewed favorably by technical teams and judges, particularly in terms of parole considerations. Prisoners were asked about their perceptions of the relationship between parole and program participation. Nationally, 44% of respondents believed program participation helped “a lot” to obtain parole whereas 41% estimated it mattered a little or somewhat. Only 14% indicated it did not help at all. As with access to work and program participation, these rates varied across the prisons with 63% of respondents in Fraijanes I believing participation mattered. Respondents were also asked what they believed were the most important factors for determining parole. Nearly 90% of respondents indicated that their behavior, either in terms of work, having good behavior, or time spent studying, was most important. Less than 10% indicated that resources, including economic factors and contacts among staff, were most important.

**Does participating in programs help obtain parole?
(nationally and by prison)**



What is the most important factor for parole?

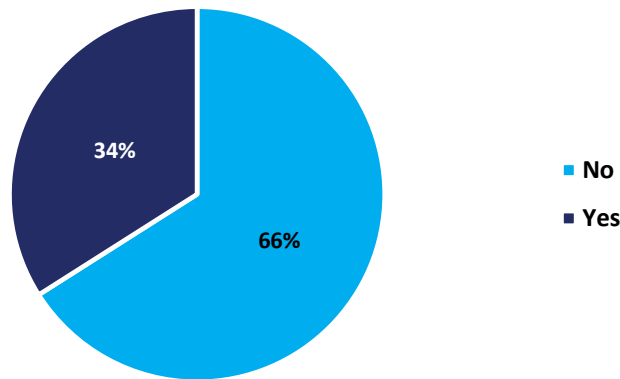


Integrity

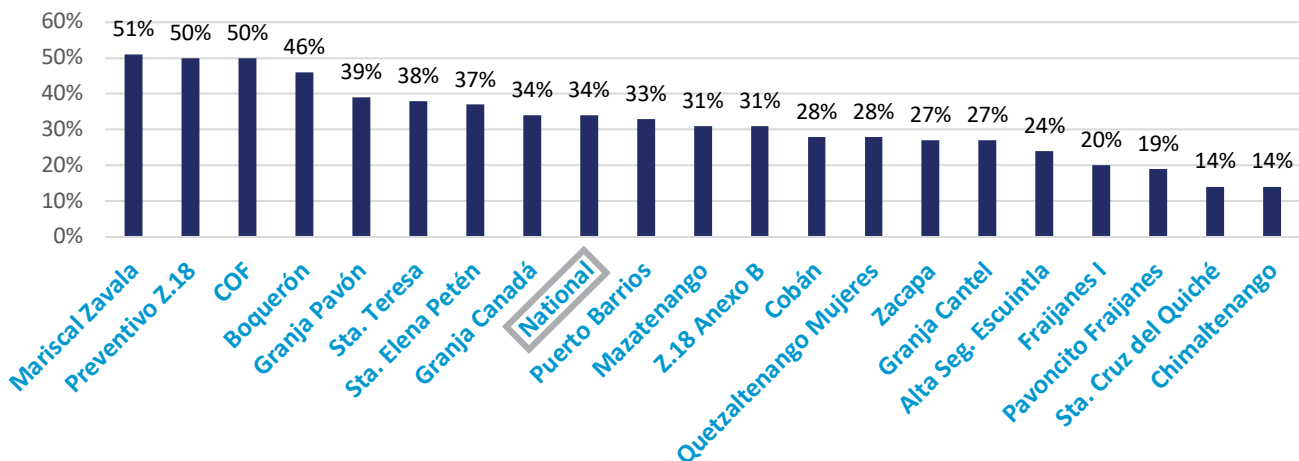
Paying for services

Integrity can be measured a number of ways within a prison setting. Though often underreported, one way to measure integrity is to measure the extent to which staff engage in acts of corruption or misconduct. As a measure of integrity, respondents were asked about the types of services that required payment and who was paid for those services. Nearly one-third (34%) of respondents indicated they had to pay for services. These include access to family visits, medical and dental care, psychological care, programs, and activities, updating or improving administrative records, and having space to sleep. The following pages report on payment for services, both nationally and by prison, and the reported recipient of those payments. Payments were generally made to prison personnel, but payments to other prisoners were also reported. Though the overall numbers are generally low, the results warrant additional consideration, especially given potential bias in the sample.

Percent of respondents who had to pay for any service^a (nationally)



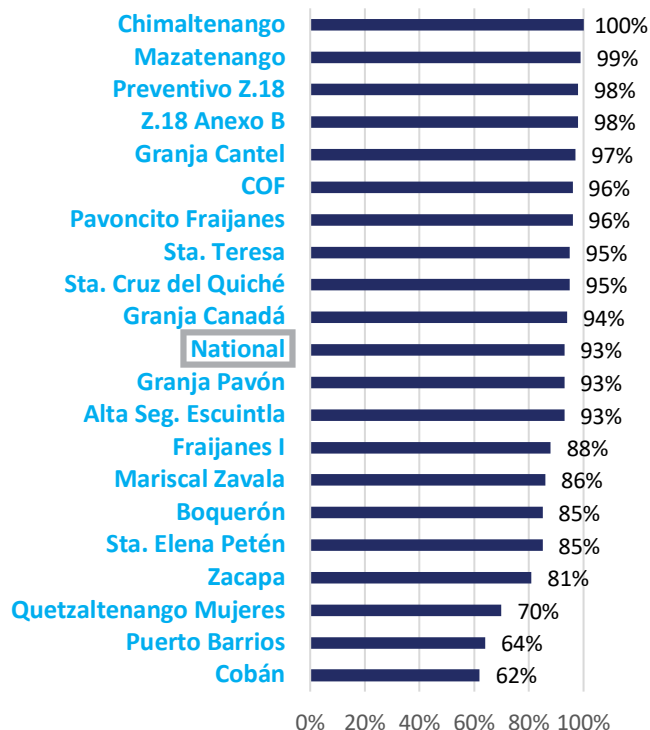
Percent of respondents who had to pay for any service^a (nationally and by prison)



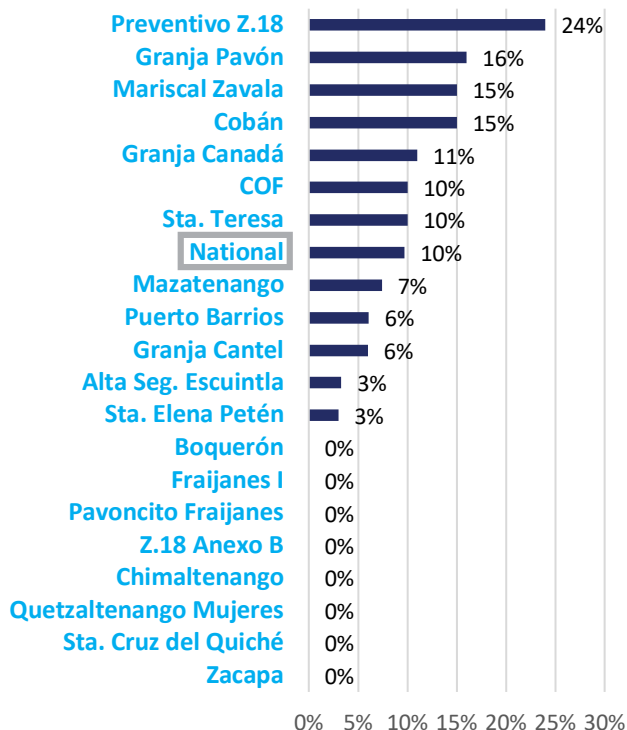
^a Excludes paying to make phone calls.

Paying for services: Phone calls and visitation

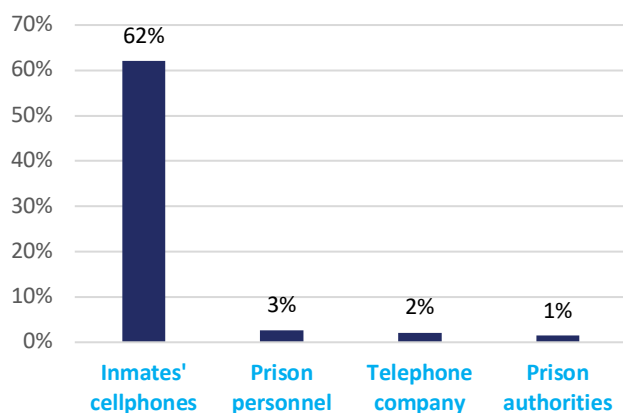
Of those who made phone calls, percent of respondents who had to pay for them (nationally and by prison)



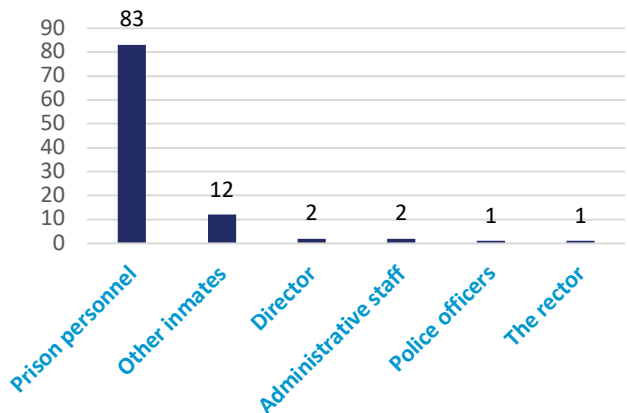
Of those who received family visitation, respondents who had to pay for them (nationally and by prison)



Among those who had to pay to make phone calls, who did they pay?



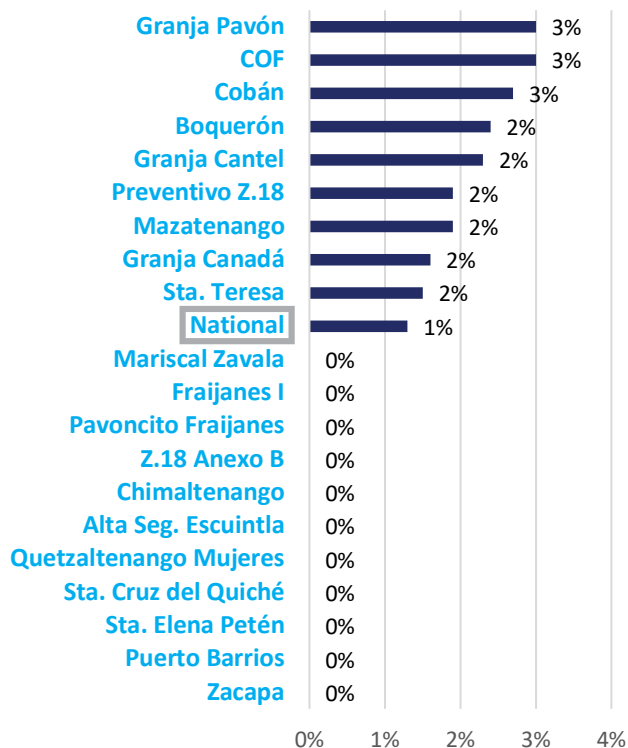
Among those who had to pay for family visitation, who did they pay?^a



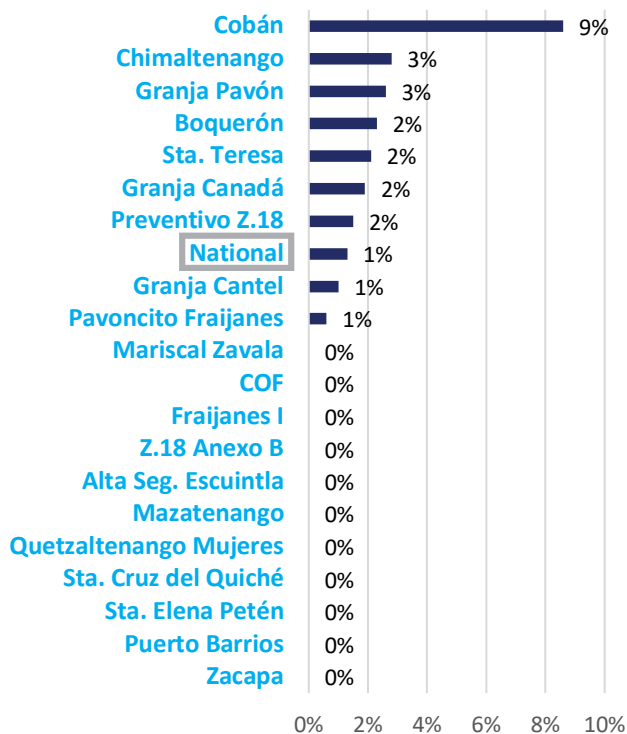
^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

Paying for services: Medical care

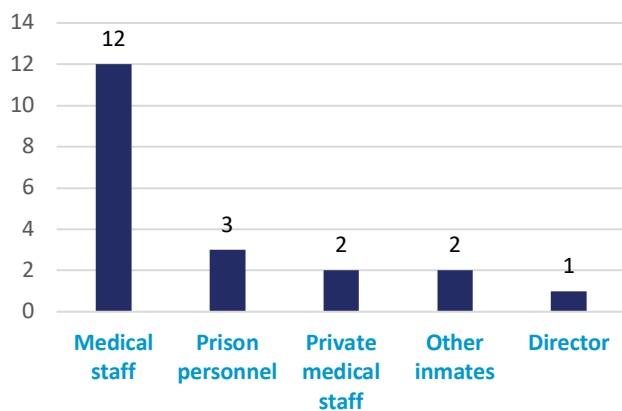
Of those who received medical attention, percent of respondents who had to pay for it (nationally and by prison)



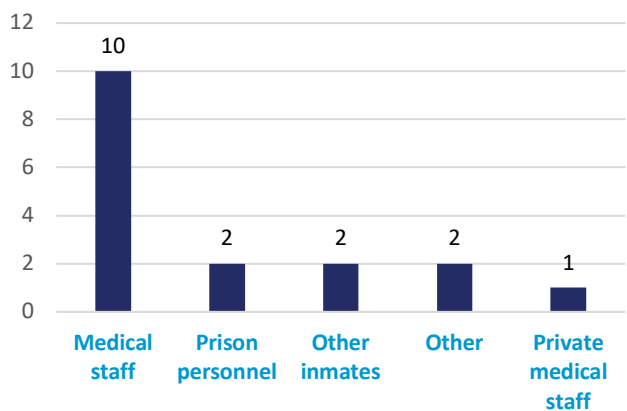
Of those who received medicine, percent of respondents who had to pay for it (nationally and by prison)



Among those who had to pay for medical attention, who did they pay?^a



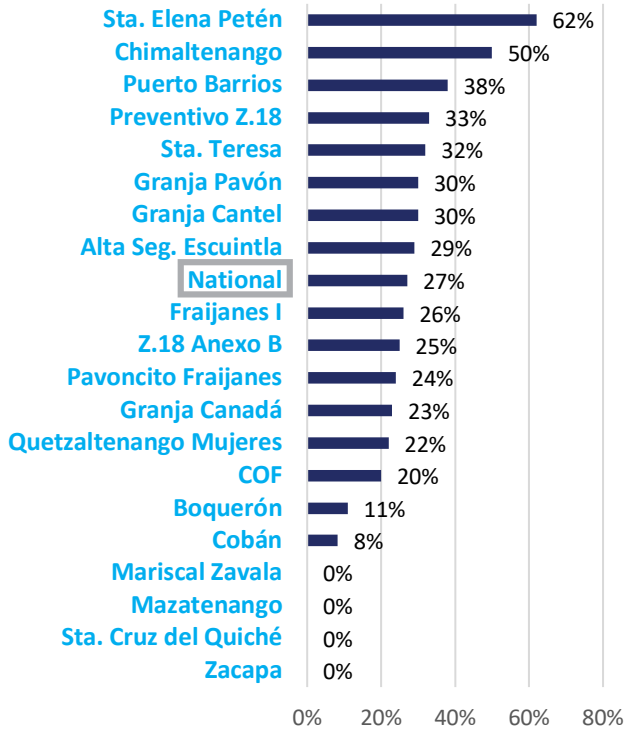
Among those who had to pay for medicine, who did they pay?^a



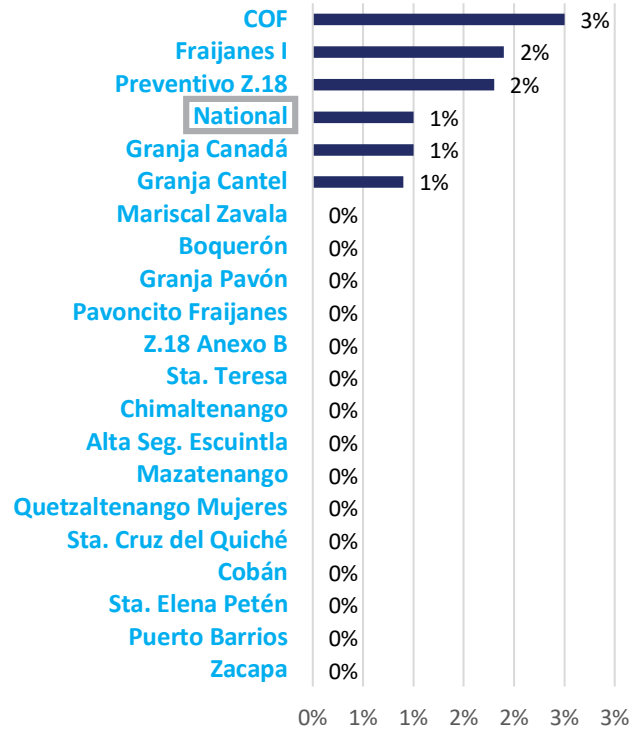
^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

Paying for services: Dental and psychological care

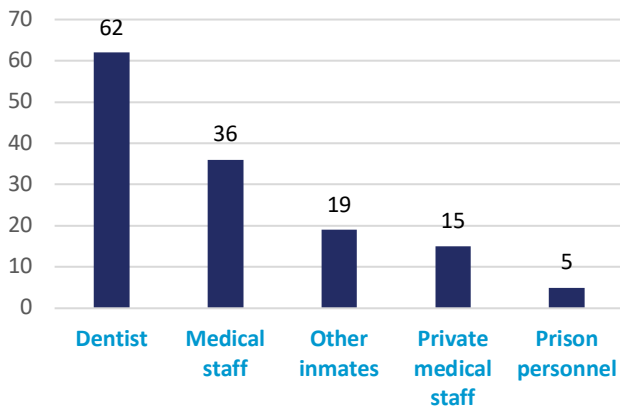
Of those who received dental care, percent of respondents who had to pay for it (nationally and by prison)



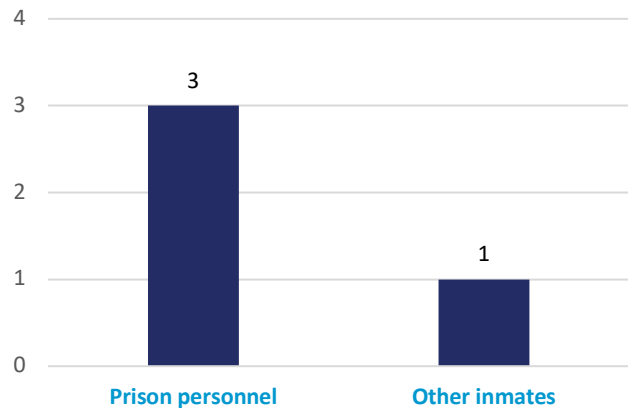
Of those who received psychological consultations, percent of respondents who had to pay for them (nationally and by prison)



Among those who had to pay for dental care, who did they pay?^a



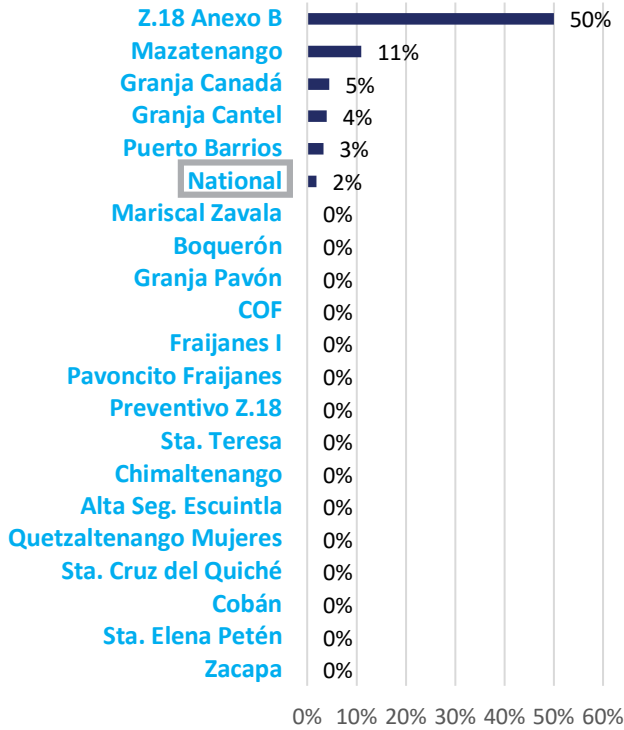
Among those who had to pay for psychological consultations, who did they pay?^a



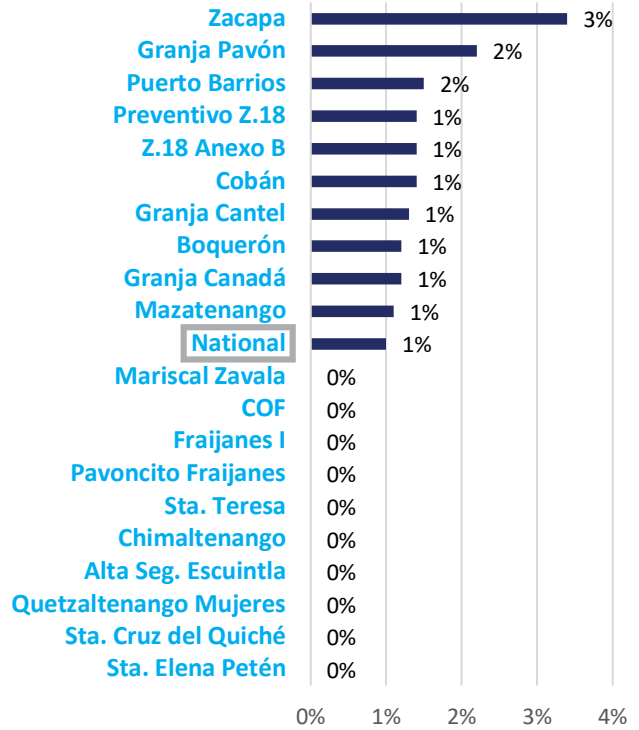
^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

Paying for services: File reviews

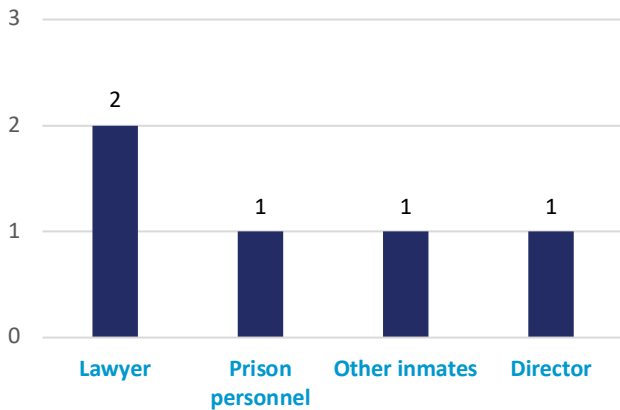
Of those who had a file review/update, percent of respondents who had to pay for it (nationally and by prison)



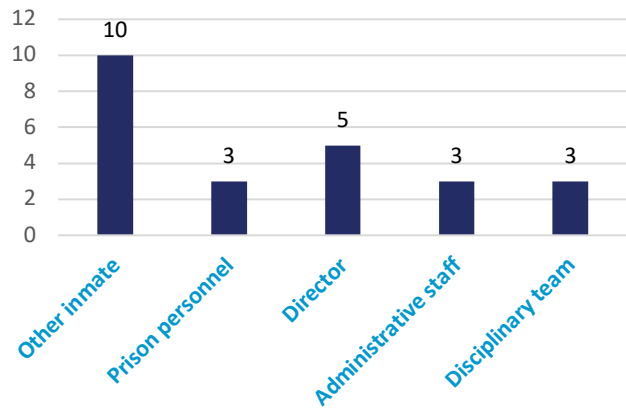
Percent of respondents who had to pay to improve their behavioral records (nationally and by prison)



Among those who had to pay for a file review/update, who did they pay?^a



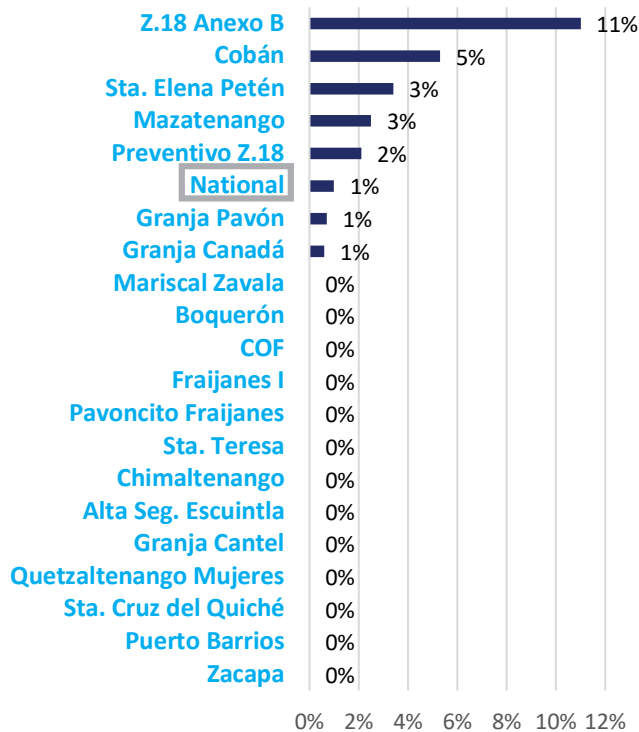
Among those who had to pay to improve their behavioral records, who did they pay?^a



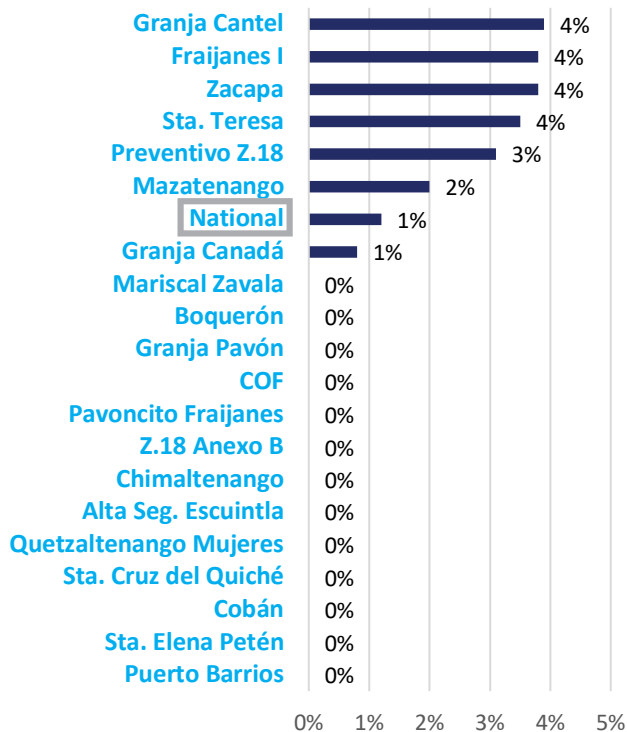
^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

Paying for services: Programming

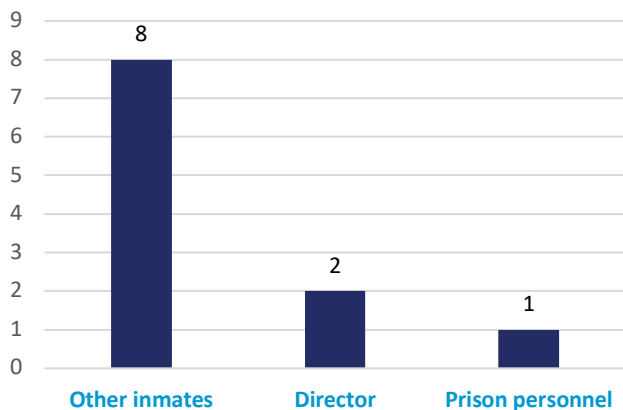
Of those who received sports programming, percent of respondents who had to pay for it (nationally and by prison)



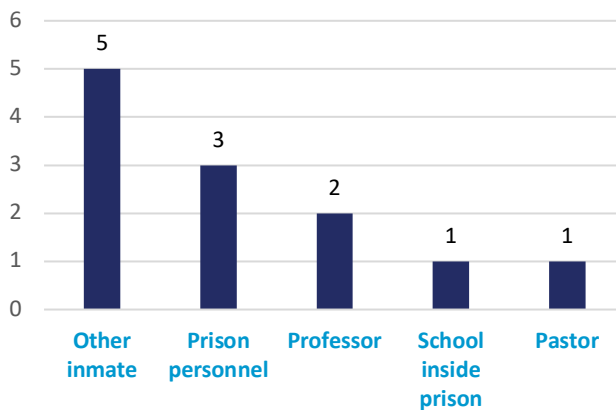
Of those who received educational programming, percent of respondents who had to pay for it (nationally and by prison)



Among those who had to pay for sports programming, who did they pay?^a

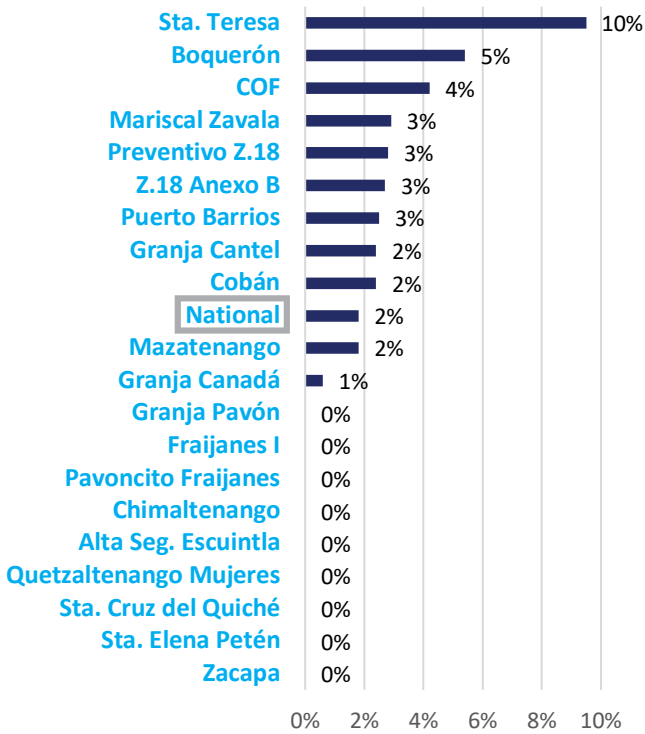


Among those who had to pay for educational programming, who did they pay?^a

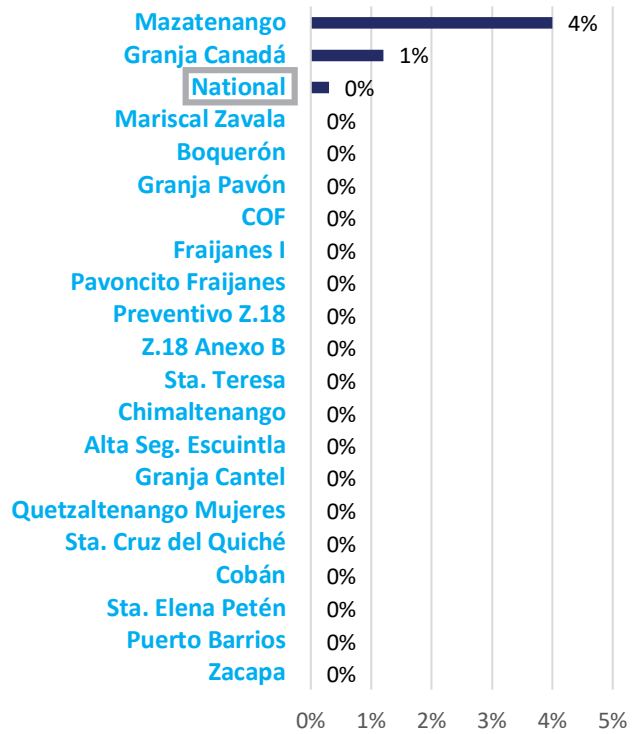


^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

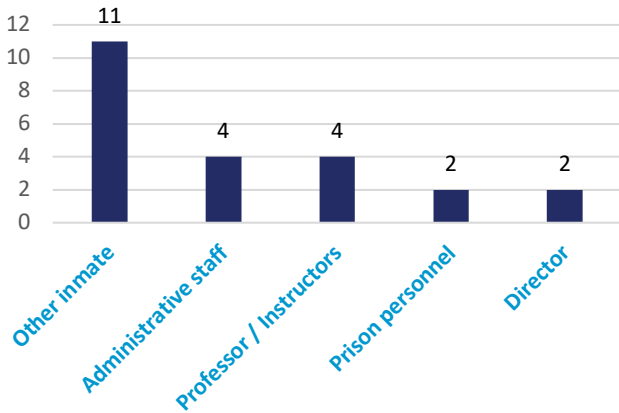
Of those who received job training, percent of respondents who had to pay for it (nationally and by prison)



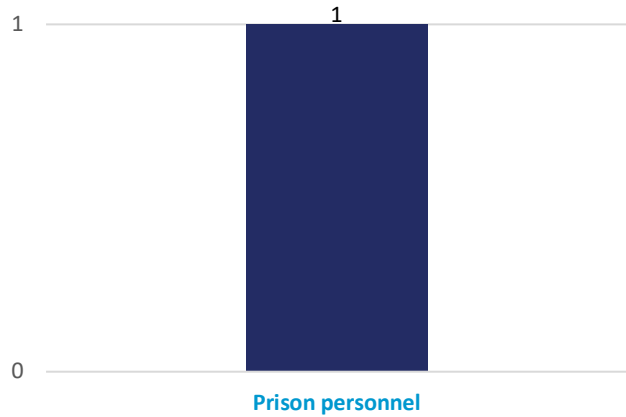
Of those who received psychosocial programming, percent of respondents who had to pay for it (nationally and by prison)



Among those who had to pay for job training, who did they pay?^a

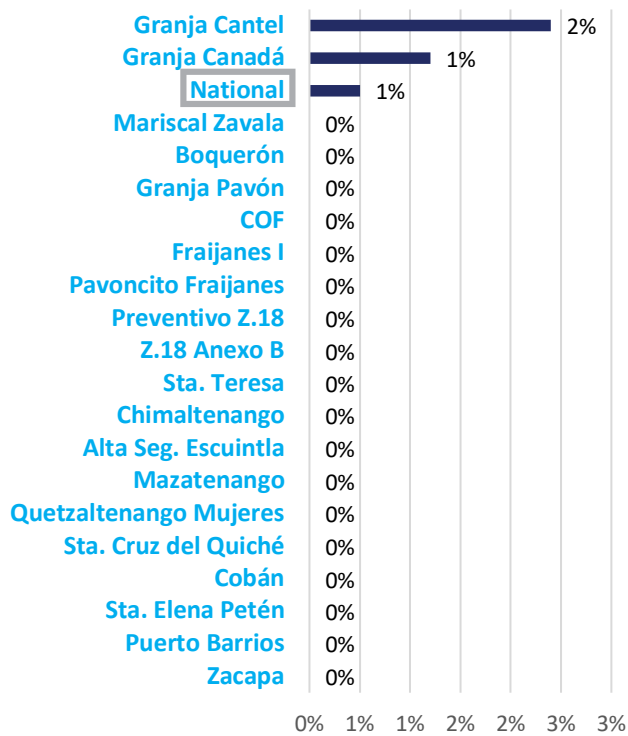


Among those who had to pay for psychosocial programming, who did they pay?^a

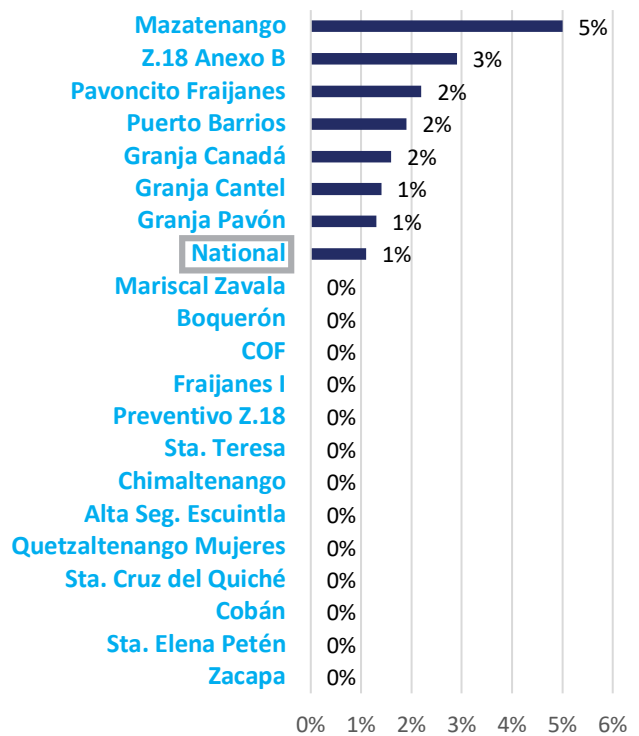


^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

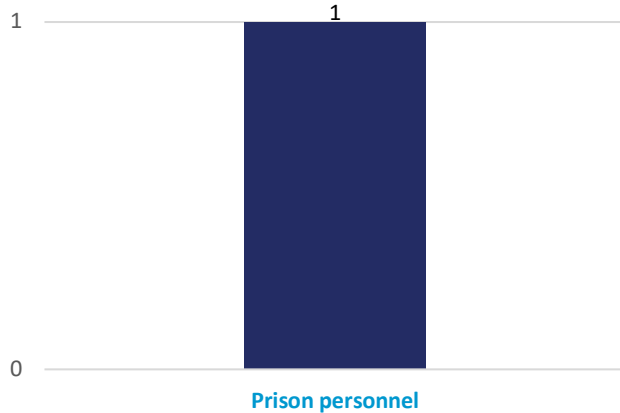
Of those who received substance abuse treatment, percent of respondents who had to pay for it (nationally and by prison)



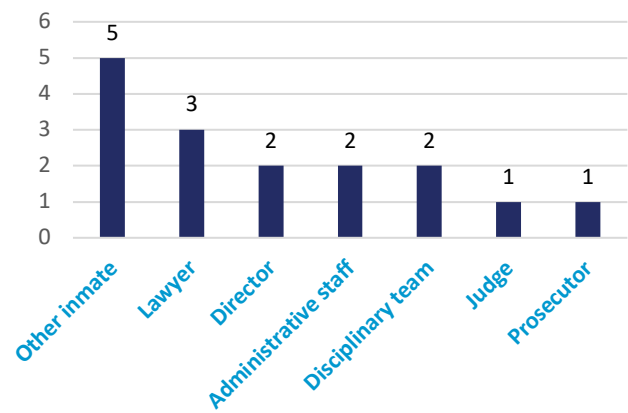
Percent of convicted respondents who had to pay for a reduced sentence (nationally and by prison)



Among those who had to pay for substance abuse treatment, who did they pay?^a



Among those who had to pay for a reduced sentence, who did they pay?^a

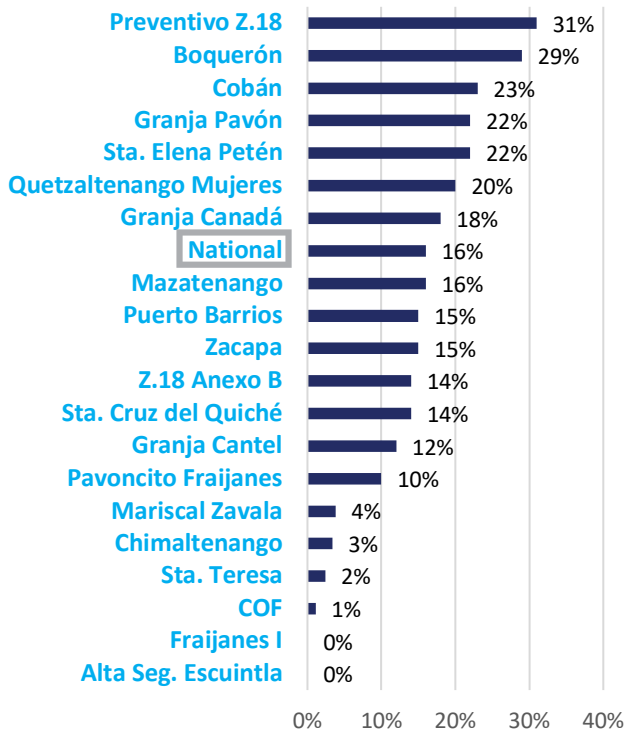


^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

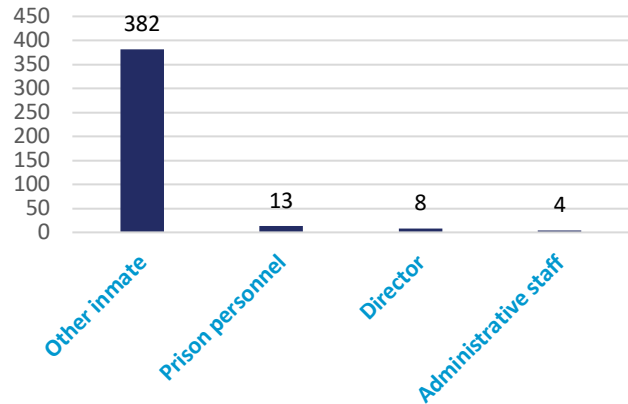
Paying for services: Sleep

Having space to sleep is a basic human need. All prisoners should have access to accommodations, including space to sleep. As indicated, 16% of the sample of the respondents reported having to pay for a place to sleep. The frequency of these reports varied across institutions. None of the respondents from Fraijanes I or Alta Seg. Escuintla reported making payments. In contrast, 31% of the respondents from Preventivo Z.18 and 29% of those in Boquerón reported having to pay for a place to sleep. Among those who reported making payments, the majority reported paying other prisoners rather than prison personnel.

Percent of respondents who had to pay for a place to sleep (nationally and by prison)



Among those who had to pay for a place to sleep, who did they pay?^a

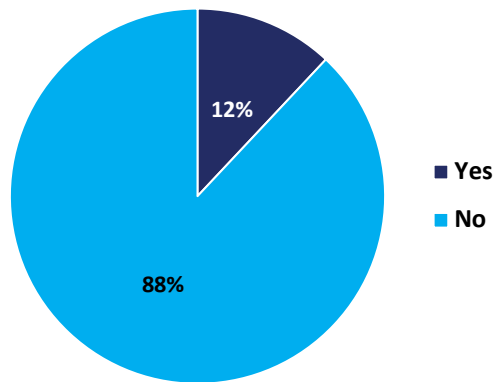


^a Because relatively small numbers of people reported who they paid for services, the n rather than % is reported for this series of graphs. In some cases, prisoners were reluctant to report who they had paid for services. Because of missing data, the numbers reported may be less than the number of people who indicated they paid for these services.

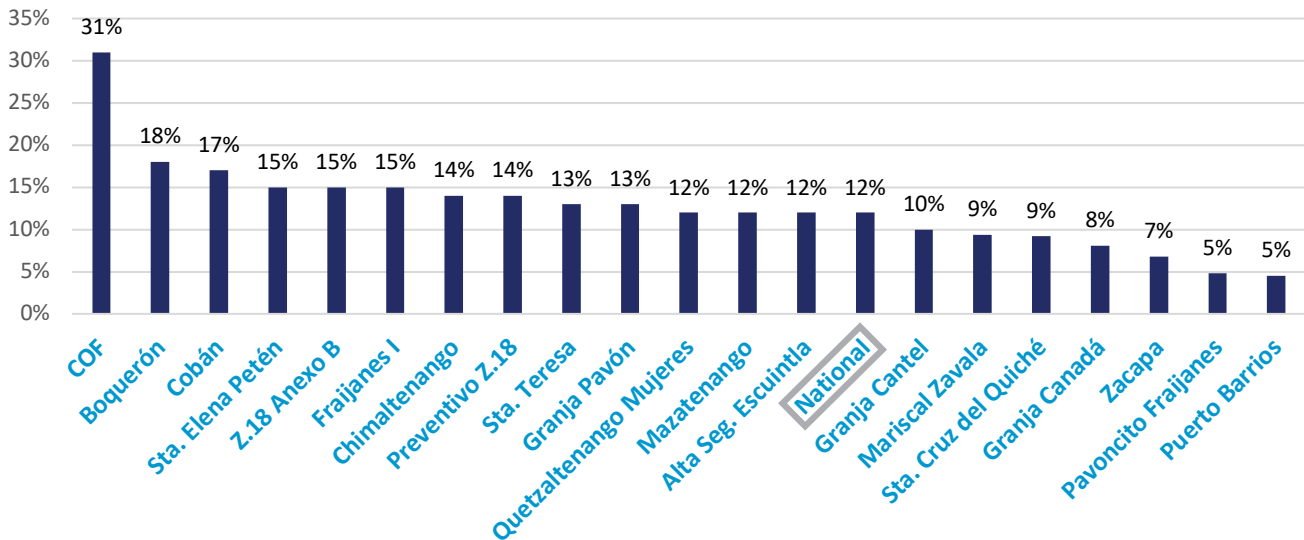
Corruption/abuse

Respondents were also asked about abusive experiences, including threats. This included the position of the abuser, whether it was reported, and reasons for not reporting it. Just over 1 in 10 people (12%) reported being abused or threatened in some way. This rate varied considerably with 31% of respondents in COF indicating they had been abused compared to 5% in both Pavoncito, Fraijanes and Puerto Barrios. Among people indicating they had been abused, very few people reported these incidents to the authorities. The following pages illustrate the findings. As expected, reports of abuse varied across settings. It is important to note that incarcerated people tend to underreport their experiences of abuse, corruption, or mistreatment and caution should be taken when interpreting these results.

Percent of respondents who were ever abused or threatened (nationally)

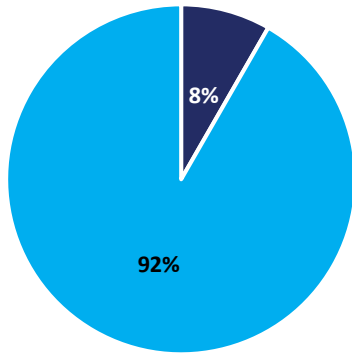


Percent of respondents who were ever abused or threatened (nationally and by prison)



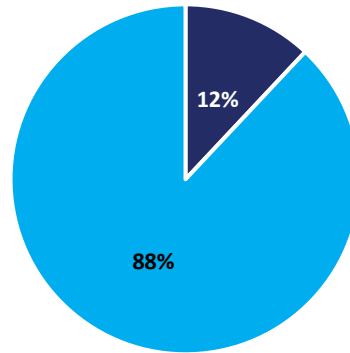
Corruption/abuse: False charges

Percent respondents who reported that they have been threatened with false charges in their current facility



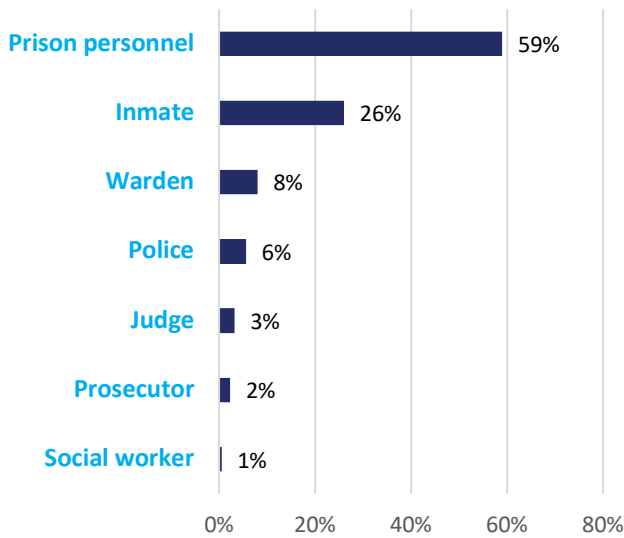
■ Yes ■ No

Of those threatened with false charges, did they report it?

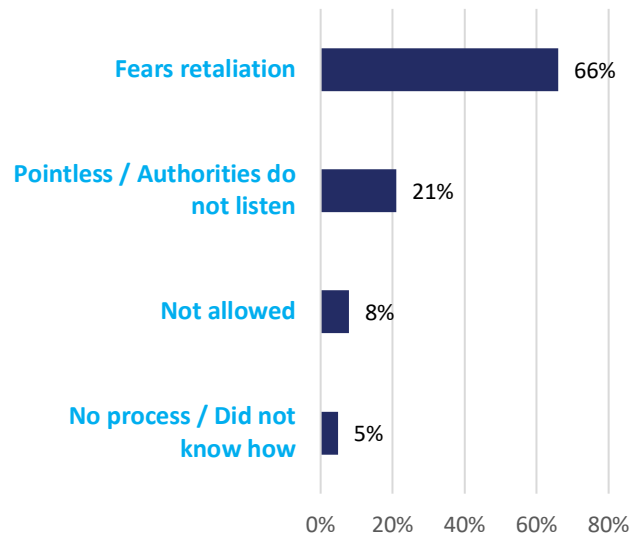


■ Yes ■ No

Of those threatened with false charges, who were they threatened by?^a



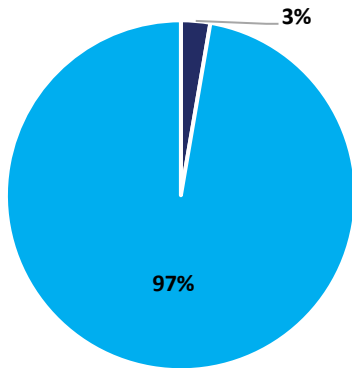
Of those who didn't report being threatened with false charges, reason why



^a Not mutually exclusive categories.

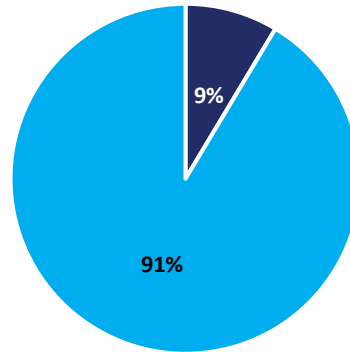
Corruption/abuse: Food deprivation

Percent respondents who reported that they have been deprived of food in their current facility



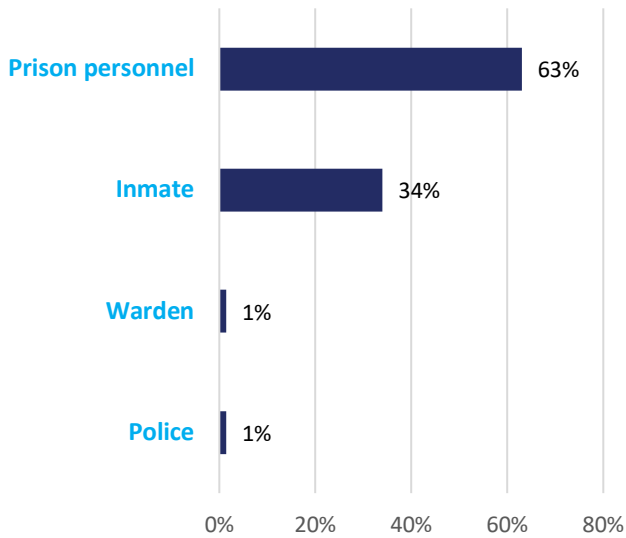
■ Yes ■ No

Of those deprived of food, did they report it?

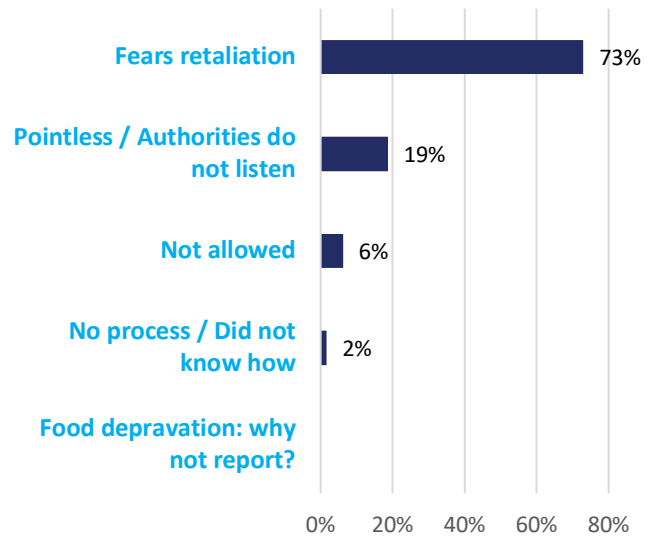


■ Yes ■ No

Of those deprived of food, who deprived them?^a



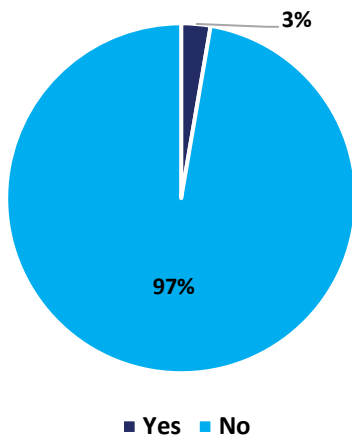
Of those who didn't report being deprived of food, reason why



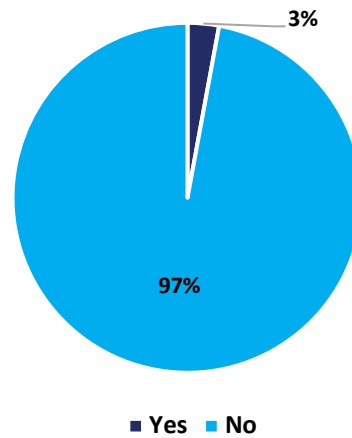
^a Not mutually exclusive categories.

Corruption/abuse: Water deprivation

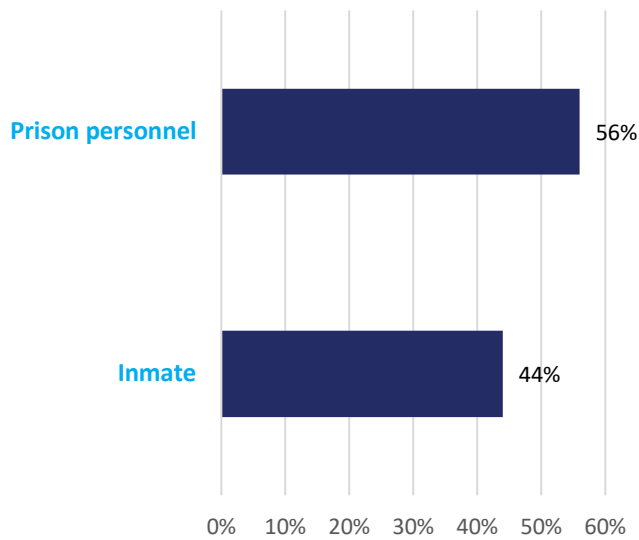
Percent respondents who reported that they have been deprived of water in their current facility



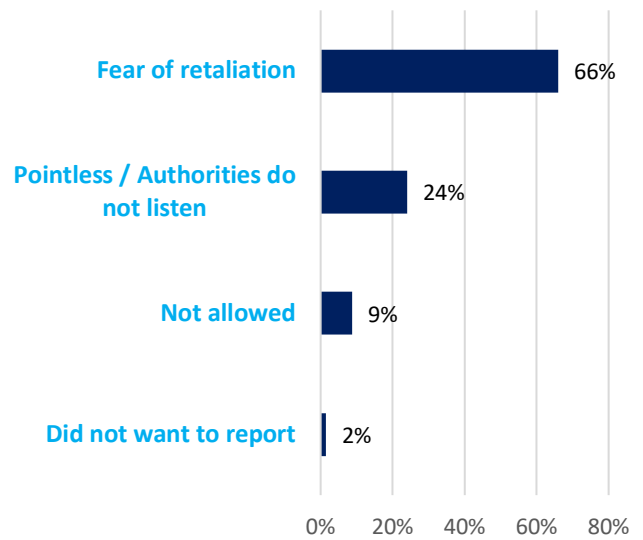
Of those deprived with water, did they report it?



Of those deprived of water, who deprived them?^a



Of those who didn't report being deprived of water, reason why

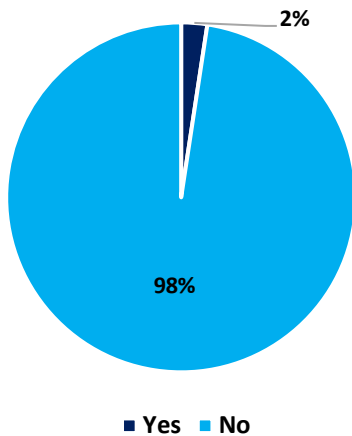


^a Not mutually exclusive categories.

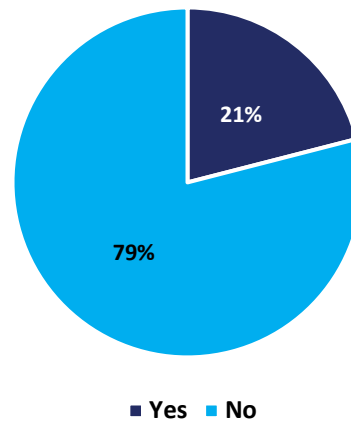
Corruption/abuse: Threats towards family

Two percent or 52 respondents indicated they had been threatened with violence against their family. Prison personnel were most likely to be identified as making other types of threats. However, threats against the family were more likely to come from other prisoners. Moreover, respondents were more likely to report this type of threat relative to many of the other threats. This may be a function of the nature of the threat (against family members) or the source of the threat (other prisoners).

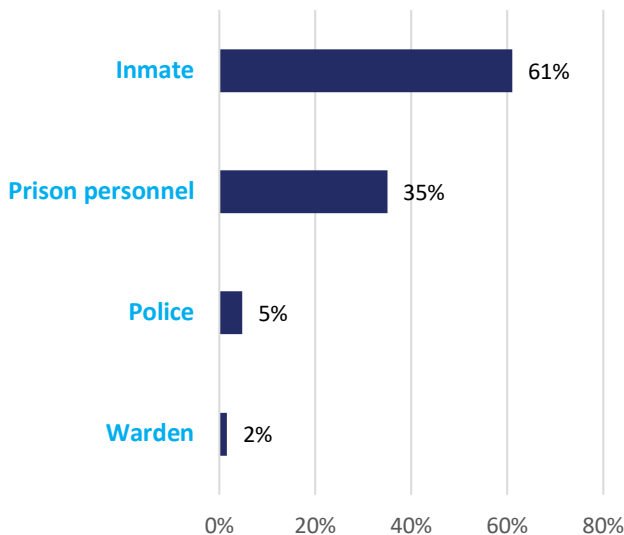
Percent respondents who reported that they have been threatened with violence against their family in their current facility



Of those whose families were threatened with violence, did they report it?



Of those whose families were threatened with violence, who were they threatened by?^a



Of those who didn't report their families being threatened with violence, reason why

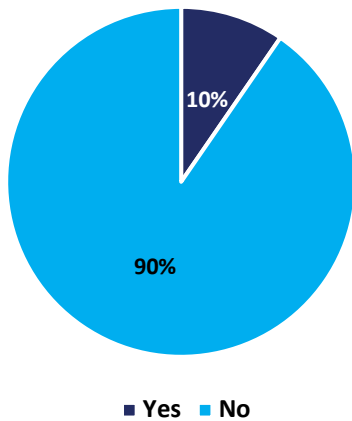


^a Not mutually exclusive categories.

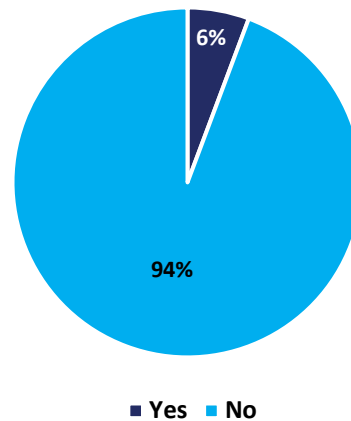
Corruption/abuse: Bribes

Over 250 individuals reported that they had been asked for a bribe. A very small number (6% or 14 prisoners) of those who had been bribed reported these experiences to the authorities. Fear of retaliation was the main reason for not reporting a bribe followed by the perception that it was pointless to do so, it was not allowed, or not knowing the process for reporting. Finally, a small number (23) indicated the behavior was considered normal.

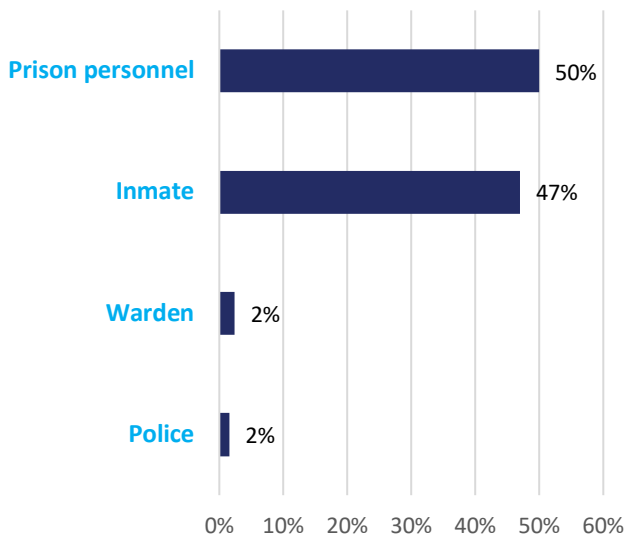
Percent respondents who reported that they have been asked for a bribe in their current facility



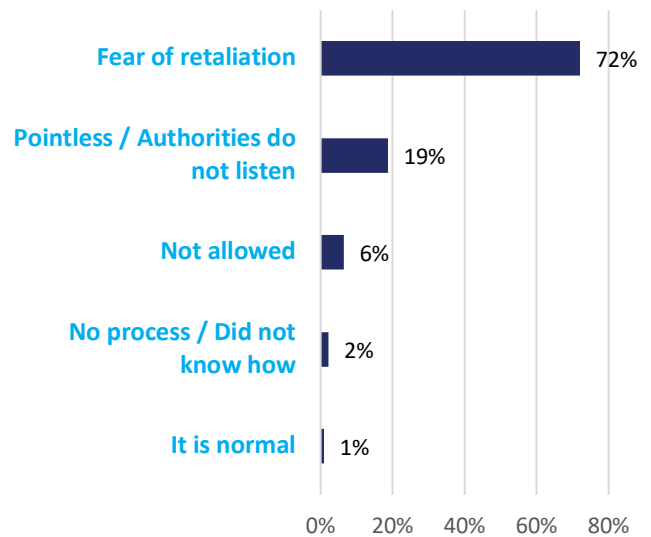
Of those asked for a bribe, did they report it?



Of those asked for a bribe, who asked for it?^a



Of those who didn't report being asked for a bribe, reason why

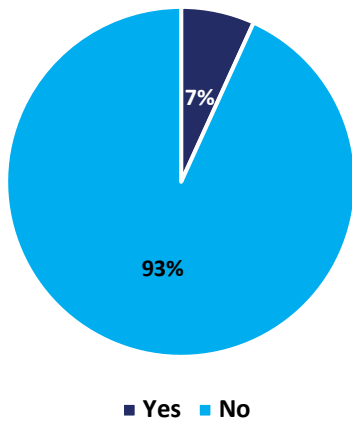


^a Not mutually exclusive categories.

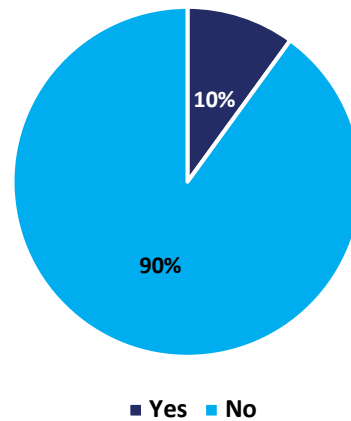
Corruption/abuse: Denied communication

Prisoners were also asked about whether they had been denied communication or visitation with family members. Seven percent indicated they had been denied communication and 4% indicated they had been denied visitation. Similar to threats, these denials were largely attributed to prison personnel. Ten percent of those denied communication reported it while 17% of those denied visitation reported it. In both cases, explanations for not reporting it centered on fear of retaliation and believing it was pointless to do so.

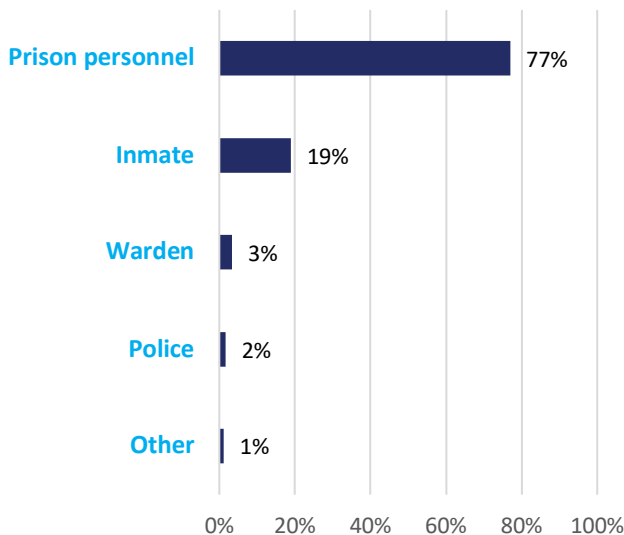
Percent respondents who reported that they have been denied communication with family/friends in their current facility



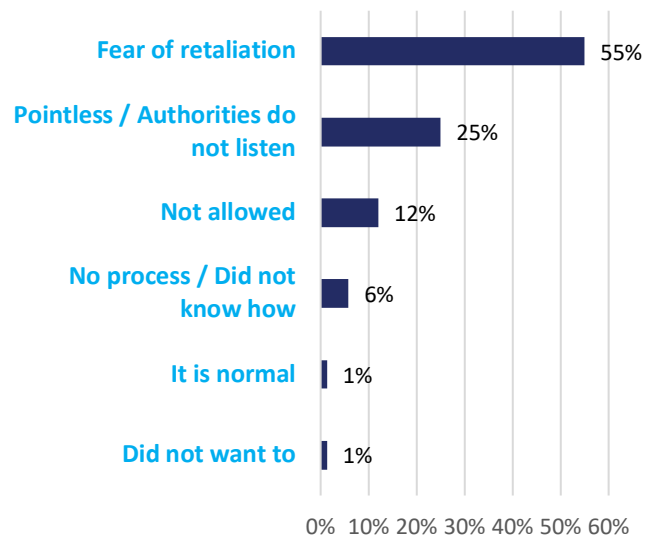
Of those who were denied communication with family/friends, did they report it?



Of those who were denied communication with family/friends, who denied it?^a



Of those who didn't report being denied communication with family/friends, reason why

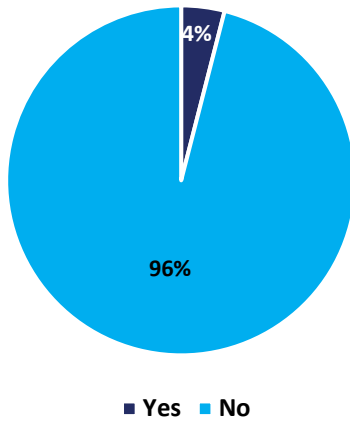


^a Not mutually exclusive categories.

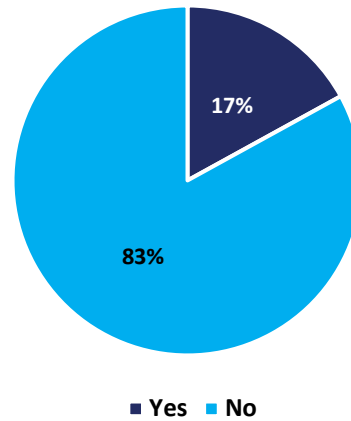
Corruption/abuse: Denied visitors

Just over 100 individuals (4%) indicated they had been denied visitation while in their current prison. Prison personnel were largely responsible for this denial (74%) and only 17% reported this denial to the authorities. As with other types of abuse, respondents failed to report because they were fearful or retaliation or did not believe reporting it would make a difference.

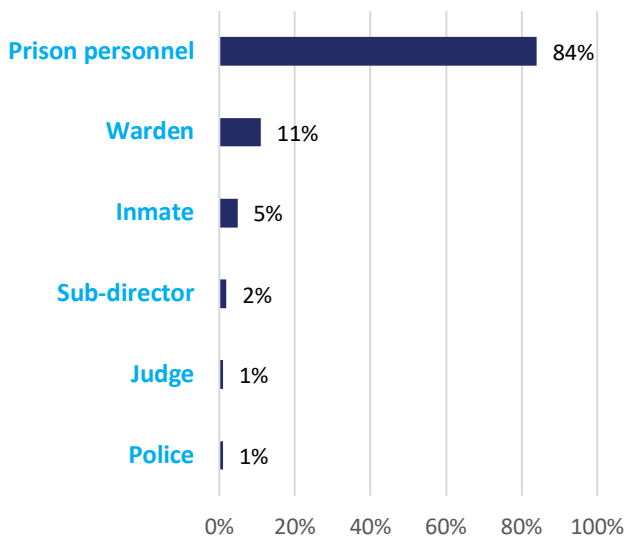
Percent respondents who reported that they have been denied visitors in their current facility



Of those who were denied visitors, did they report it?



Of those who were denied visitors, who denied them?^a



Of those who didn't report being denied visitors, reason why

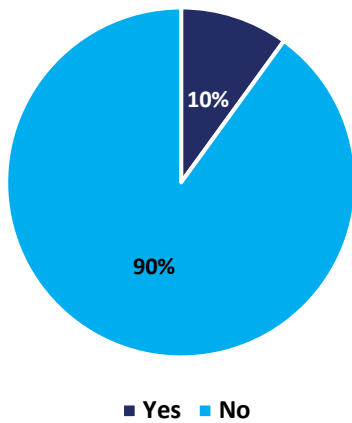


^a Not mutually exclusive categories.

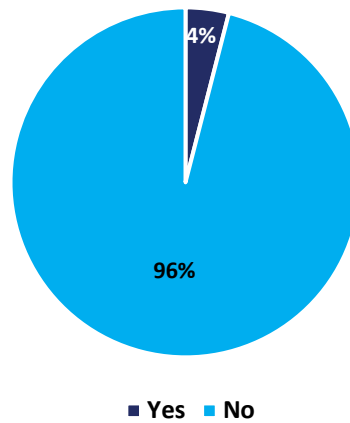
Corruption/abuse: Forced to undress

Results for being forced to undress had similar patterns to other types of abuse or corruption. A small portion of the sample (10%) indicated this had occurred and less than 5% reported it. Sixty-two percent indicated prison personnel had been responsible for this behavior. Fear of retaliation was again the most likely reason for not reporting. Respondents also indicated they did not know the process for reporting abusive behaviors or believed it was normal. Nearly 15% indicated they viewed the behavior as normal.

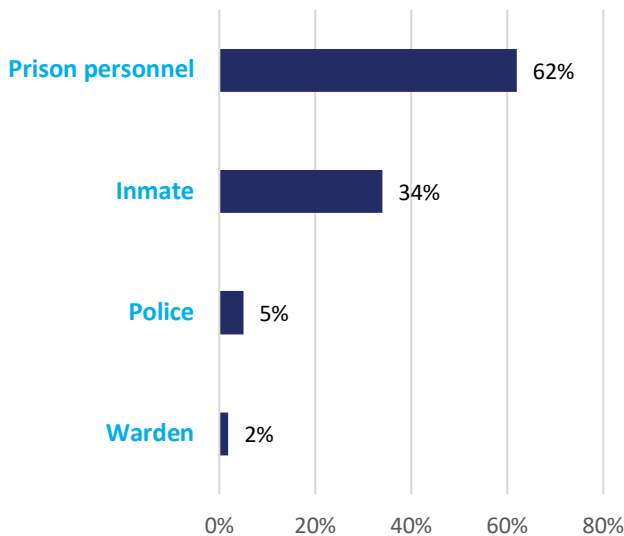
Percent respondents who reported that they have been forced to undress in their current facility



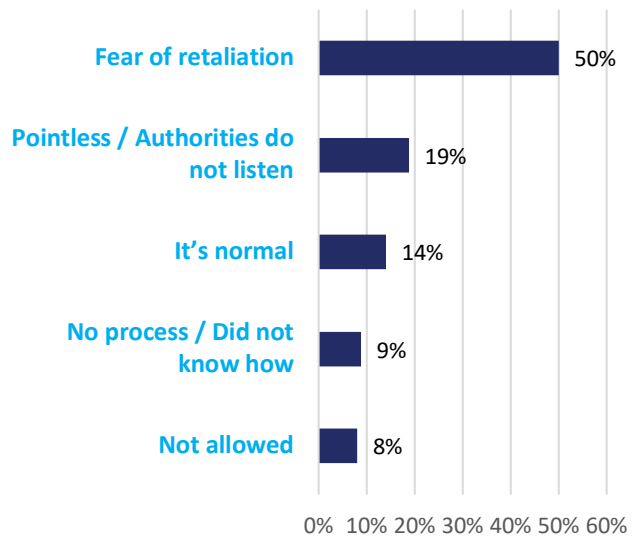
Of those who were forced to undress, did they report it?



Of those who were forced to undress, who forced them?^a



Of those who didn't report being forced to undress, reason why

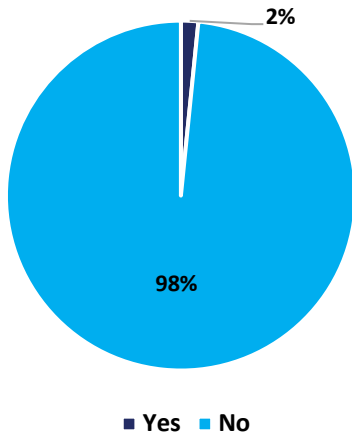


^a Not mutually exclusive categories.

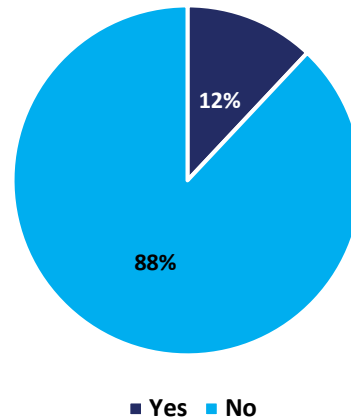
Corruption/abuse: Asphyxiation

Just over 50 respondents (2%) indicated someone had tried to asphyxiate them while in prison, with prison personnel identified as responsible by 73% of the respondents. Consistent with other forms of abuse and corruption, respondents largely failed to report it. The primary reason for not reporting it was a fear of retaliation.

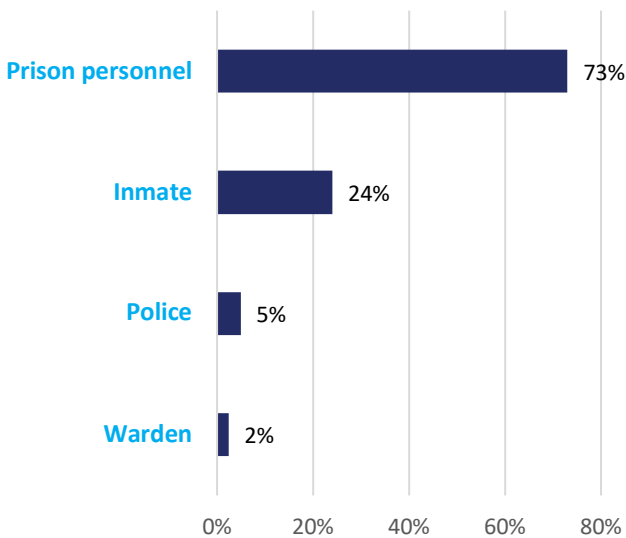
Percent respondents who reported that they have been asphyxiated in their current facility



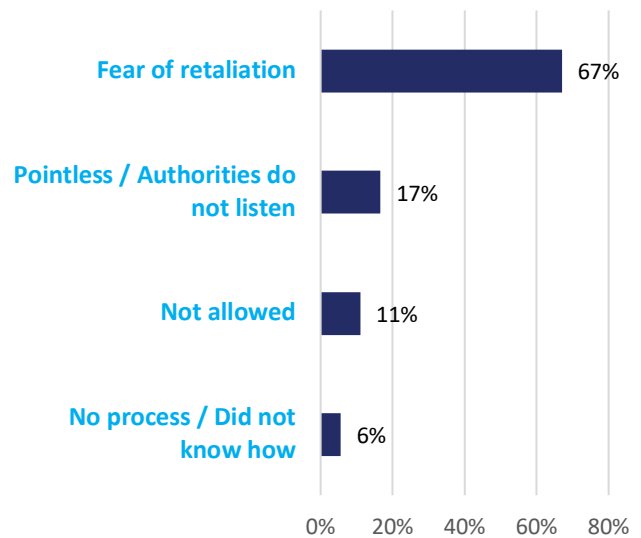
Of those who were asphyxiated, did they report it?



Of those who were asphyxiated, who asphyxiated them?^a



Of those who didn't report being asphyxiated, reason why

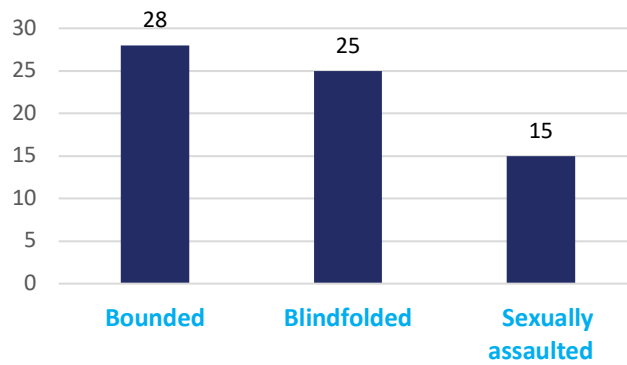


^a Not mutually exclusive categories.

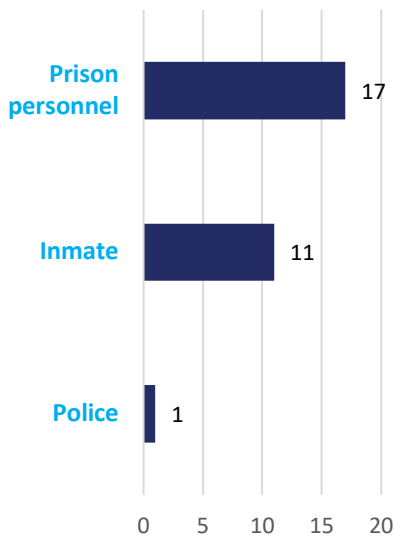
Corruption/abuse: Bounded by wrists or ankles/blindfold/sexual assault

One percent of respondents indicated they had been bound by the wrists or ankles. Though small, this type of abuse is significant which may help to explain the finding that 21% of those who had been bound reported it. Among the 26 people who had been bound, 61% indicated prison personnel had been responsible for the behavior and 82% of those not reporting the abuse indicated they were fearful of retaliation.

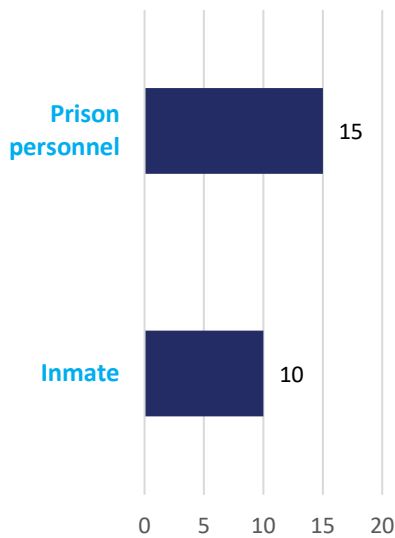
Number of respondents who reported that they have been bounded by their wrists or ankles, blindfolded, or sexually assaulted in their current facility



Of those who were bounded by their wrists or ankles, who bounded them?^a



Of those who were blindfolded, who blindfolded them?^a



Of those who were sexually assaulted, who sexually assaulted them?^a

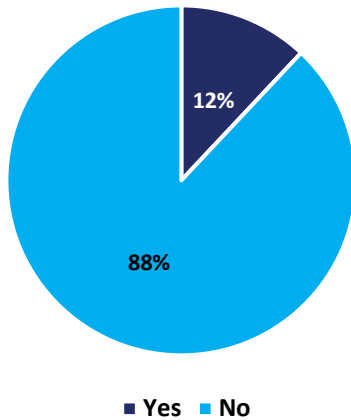


^a Not mutually exclusive categories.

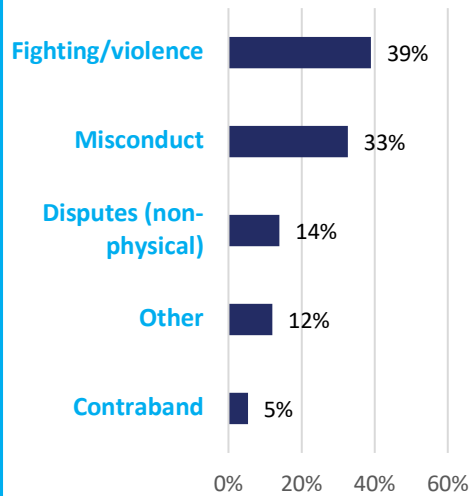
Punishment

The Nelson Mandela Rules allow for the use of solitary confinement as disciplinary response for exceptional cases and indicate it should not be used for indefinite or prolonged periods of time. Over 300 individuals reported being disciplined during their term of incarceration. More than half (59%) were placed in solitary confinement as a result. Forty percent of this group were in solitary confinement for more than 30 days, with 18 individuals spending more than a year in confinement. Behaviors leading to solitary confinement included fighting or violence (39%), followed by misconduct (33%), and non-physical disputes (14%).⁷ Other types of punishments included a loss of visitation, limited movement, physical exercise, and extra work.

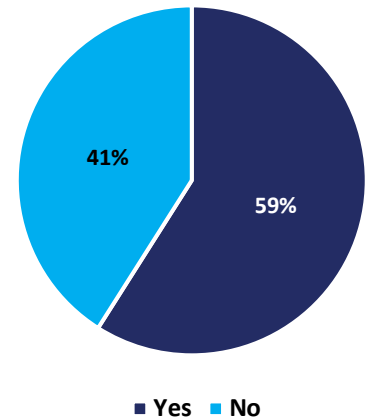
Percent respondents who reported that they have been punished in their current facility



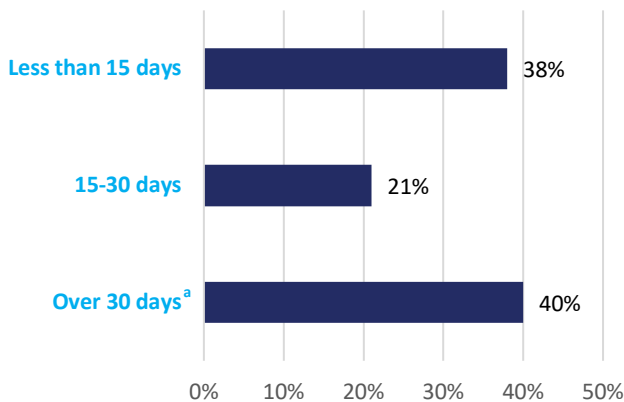
Of those who were punished, reason for punishment



Of those who were punished, percent who reported that they have been placed in solitary confinement in their current facility

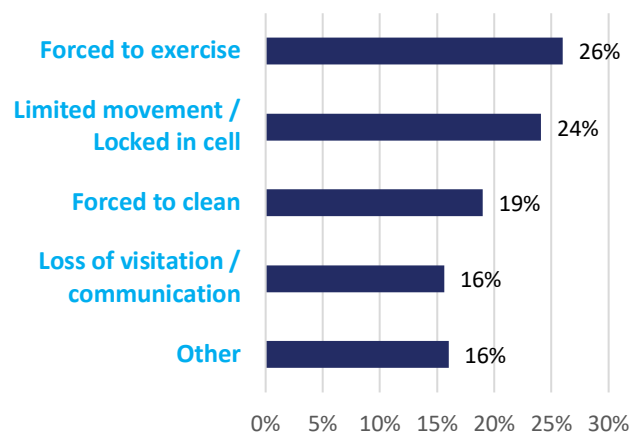


If placed in solitary confinement, length of stay



^a 18 individuals reported a length of solitary confinement of one year or more.

If punished but not placed in solitary confinement, which other punishment did you receive?^b













^b Not mutually exclusive categories.


⁷ Other reasons for punishment included debts or not making payments (3%), reporting physical abuse by staff (1%), being wrongly accused (1%), and having a same sex partner (1%). Four percent reported being punished for no reason.


Capacity

Staff professionalism

The capacity to adhere to the Rule of Law in prison depends, in part, on the quality and professionalism of the staff and officers. Respondents were asked to rate prison personnel across four categories as depicted below. Generally speaking, prisoners rated personnel favorably. Nationally, over 80% of the respondents rated staff favorably, regardless of the category. Respondents were most likely to rate programming and technical staff favorably with over 80% of respondents also rating security staff, administrative staff, and wardens favorably. The national ratings largely reflect the individual prison ratings. Only two prisons had any ratings below 70% favorable: Sta. Teresa 67% favorable security staff and 69% favorable for warden, and COF which had a 66% favorable rating for the warden. Overall, it appears that respondent view the staff favorably.

Prison	Security staff		Administrative staff		Technical staff		Programming staff		Warden	
										
Alta Seg. Escuintla	90%	10%	93%	7%	98%	2%	100%	0%	98%	2%
Boquerón	91%	9%	87%	13%	91%	10%	83%	17%	89%	11%
Chimaltenango	95%	5%	86%	14%	91%	9%	88%	12%	88%	12%
Cobán	89%	11%	81%	19%	84%	16%	90%	10%	80%	20%
COF	70%	30%	72%	28%	89%	11%	87%	13%	66%	34%
Fraijanes I	78%	22%	86%	15%	91%	9%	98%	2%	87%	13%
Granja Canadá	84%	16%	85%	15%	91%	9%	91%	10%	82%	19%
Granja Cantel	87%	13%	87%	13%	92%	8%	93%	8%	85%	15%
Granja Pavón	76%	24%	80%	20%	86%	14%	93%	7%	84%	17%
Mariscal Zavala	92%	8%	92%	8%	90%	10%	96%	4%	85%	15%
Mazatenango	86%	14%	88%	12%	87%	13%	91%	9%	90%	11%
National	82%	18%	83%	17%	89%	11%	92%	8%	83%	17%
Pavoncito Fraijanes	93%	7%	95%	5%	92%	8%	97%	3%	96%	5%
Preventivo Z.18	68%	32%	73%	27%	84%	16%	90%	10%	76%	24%
Puerto Barrios	84%	17%	84%	16%	85%	16%	87%	13%	83%	17%
Quetzaltenango Mujeres	82%	18%	83%	17%	100%	0%	100%	0%	80%	20%
Sta. Cruz del Quiché	95%	5%	94%	6%	89%	11%	92%	8%	97%	3%
Sta. Elena Petén	74%	26%	79%	22%	86%	14%	89%	11%	79%	22%
Sta. Teresa	67%	33%	76%	24%	91%	9%	94%	6%	69%	31%
Z.18 Anexo B	85%	16%	76%	24%	87%	13%	93%	7%	83%	17%
Zacapa	88%	12%	88%	12%	84%	16%	84%	16%	81%	19%

 Very good / Good / Regular

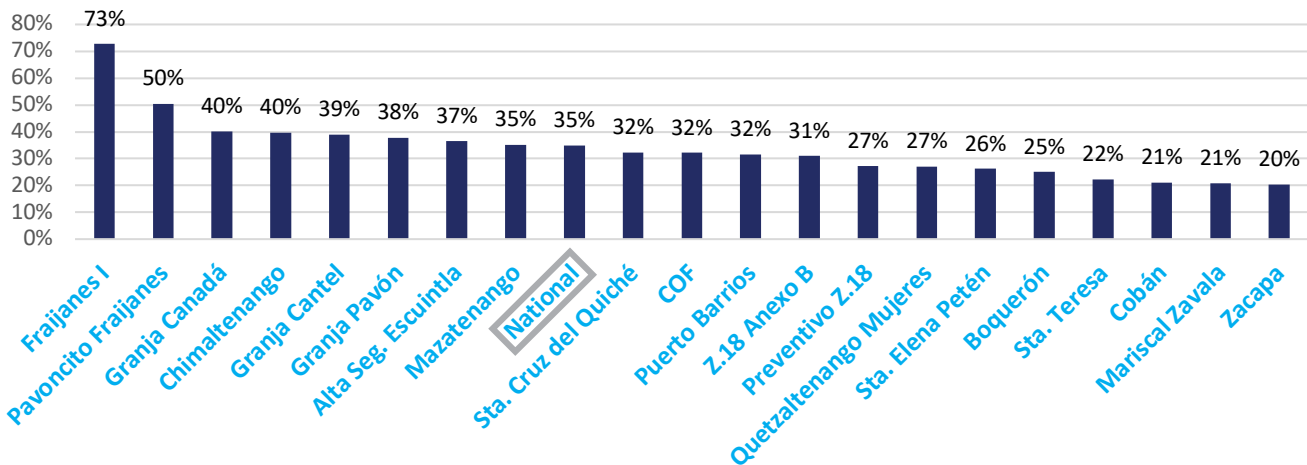
 Bad / Very bad

Transparency and Accountability

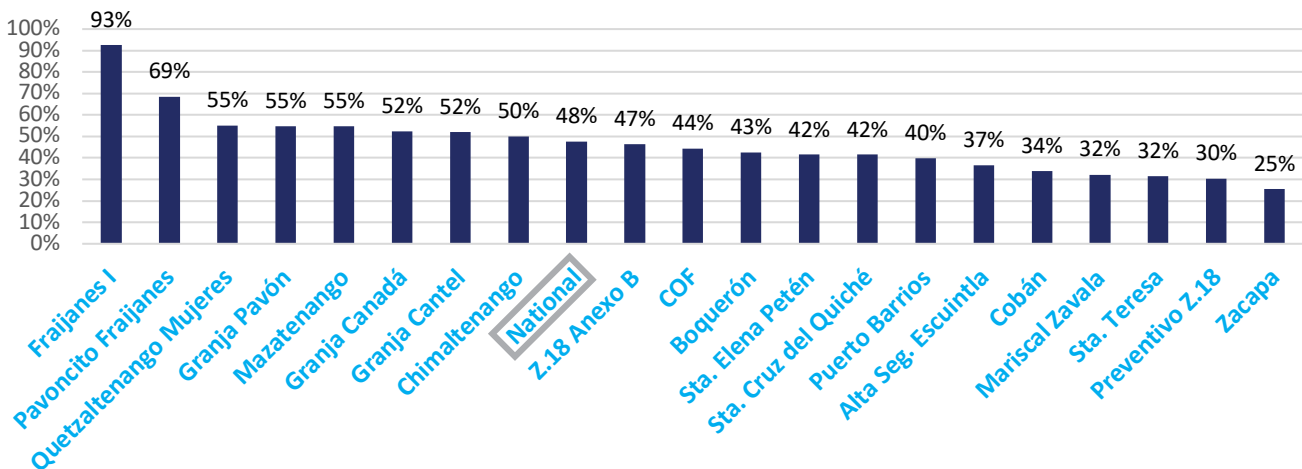
Orientation

As one measure of transparency and accountability, respondents were asked whether the authorities informed them of their rights and the prison’s rules at entry. Nationally, nearly a third (35%) reported receiving a guide or manual about the prison rules while almost half (48%) reported receiving verbal guidance or explanations. Respondents at Fraijanes I were most likely to report receiving information about rules, with 73% indicating they had received written instructions and 93% indicating they had received verbal instructions. Nationally, just under half of respondents reported being given information about their rights as a person deprived of liberty. As with prison rules, respondents at Fraijanes I were most likely to answer this affirmatively.

Percent respondents who reported that authorities provided them with an information manual or guide on the rules of the prison (nationally and by prison)



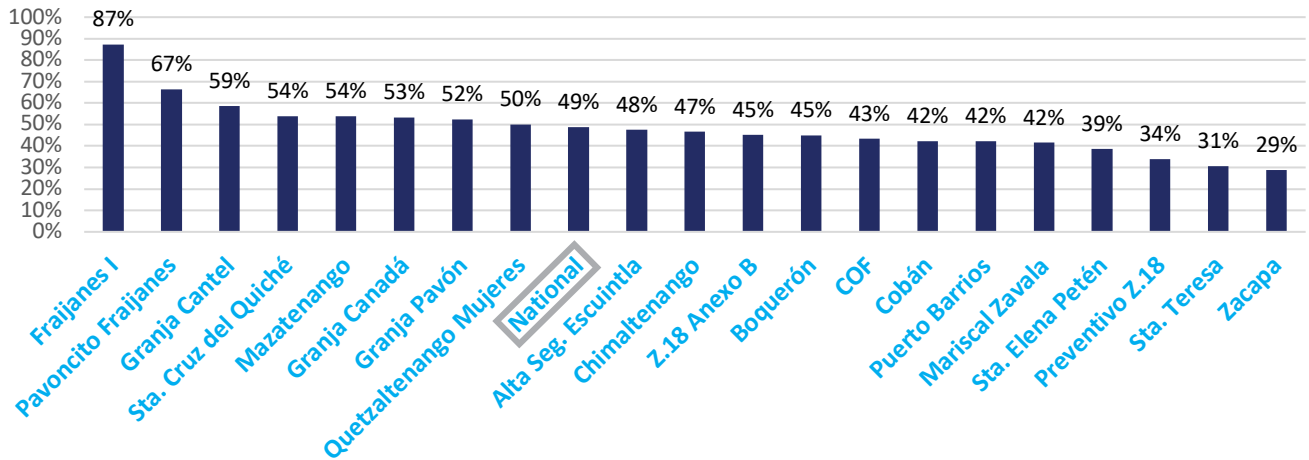
Percent respondents who reported that authorities gave them verbal guidance or explained to them the rules of this prison (nationally and by prison)



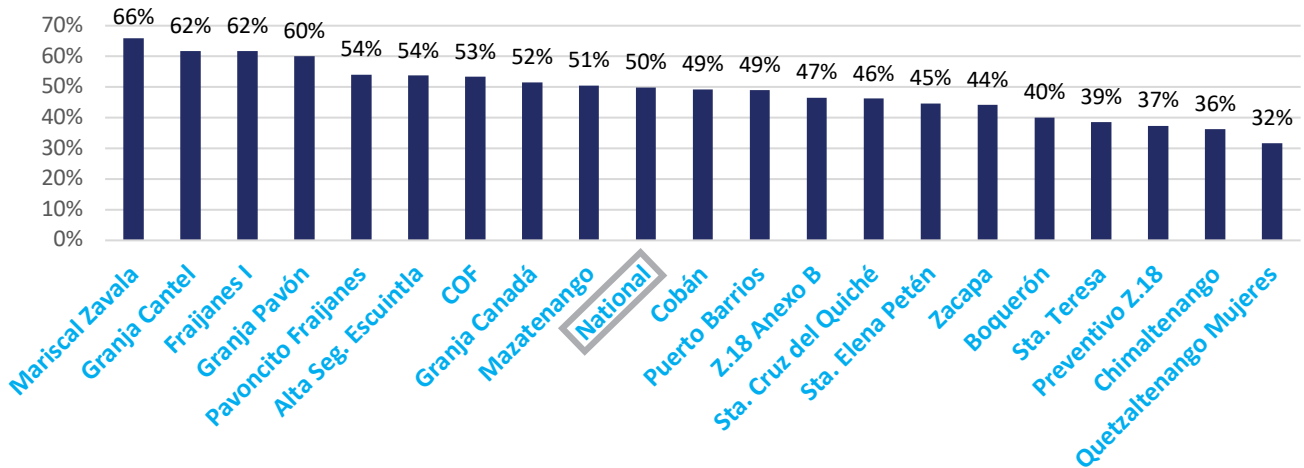
Orientation

Similar to being informed of their rights, only half of the respondents, nationally, indicated they were aware of laws and rules related to sentencing reductions. There was relatively little variation across the prisons, with between 32% and 66% reporting they were aware of these laws and rules.

Percent respondents who reported that the prison authorities informed them of their rights and obligations as a person deprived of liberty (nationally and by prison)



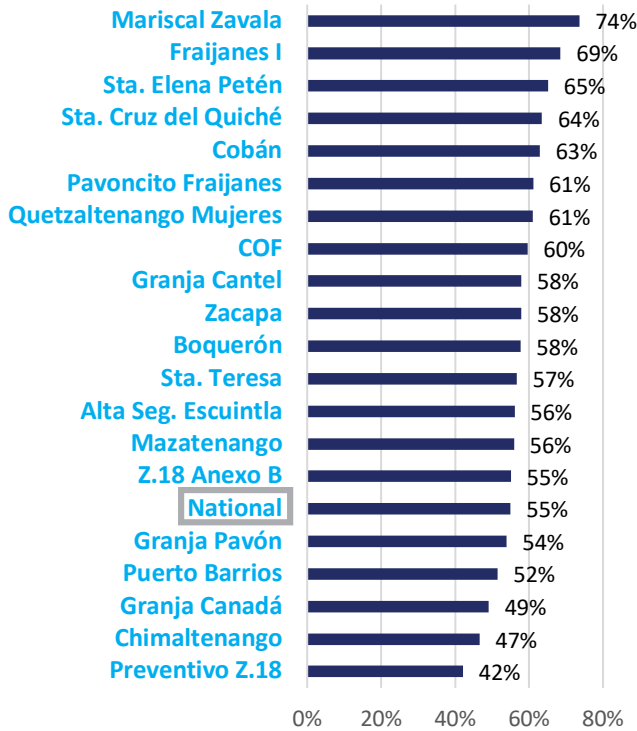
Percent respondents who reported they are aware of sentence reduction laws/rules (nationally and by prison)



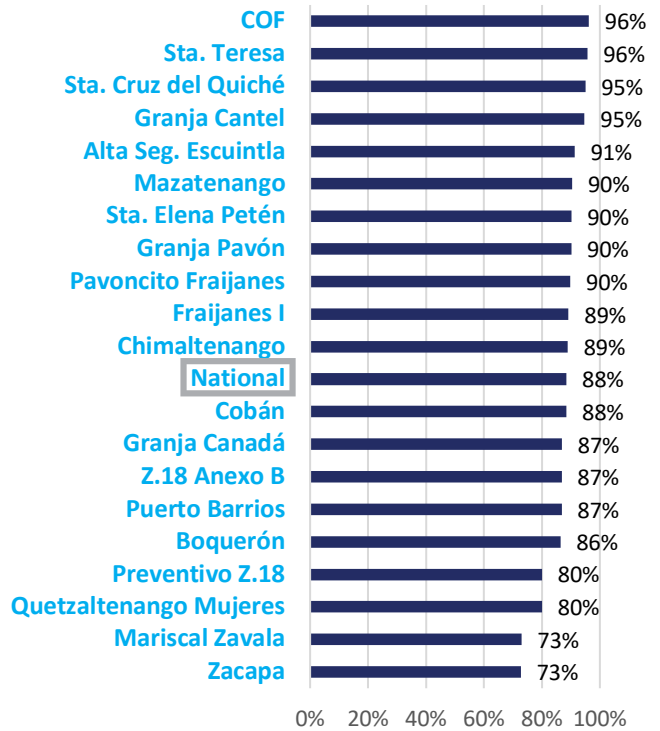
Complaint procedures

There should be transparent and adequate procedures in place for making complaints in prison. As indicated, 55% of the respondents indicated they could make complaints to prison personnel. Though largely consistent, there was some variation across prisons. Over 70% of respondents at Mariscal Zavala responded favorably compared to 42% of those in Preventivo Z.18. However, the majority (88%) reported that complaints must be written, which may be a barrier for individuals who are unable to write (8%). It was reported that complaints could be passed to prison personnel including security staff (34%), the warden (31%), and other prisoners (15%). Having prisoners serve as gatekeepers may pose additional challenges for those with serious complaints, particularly if against other prisoners.

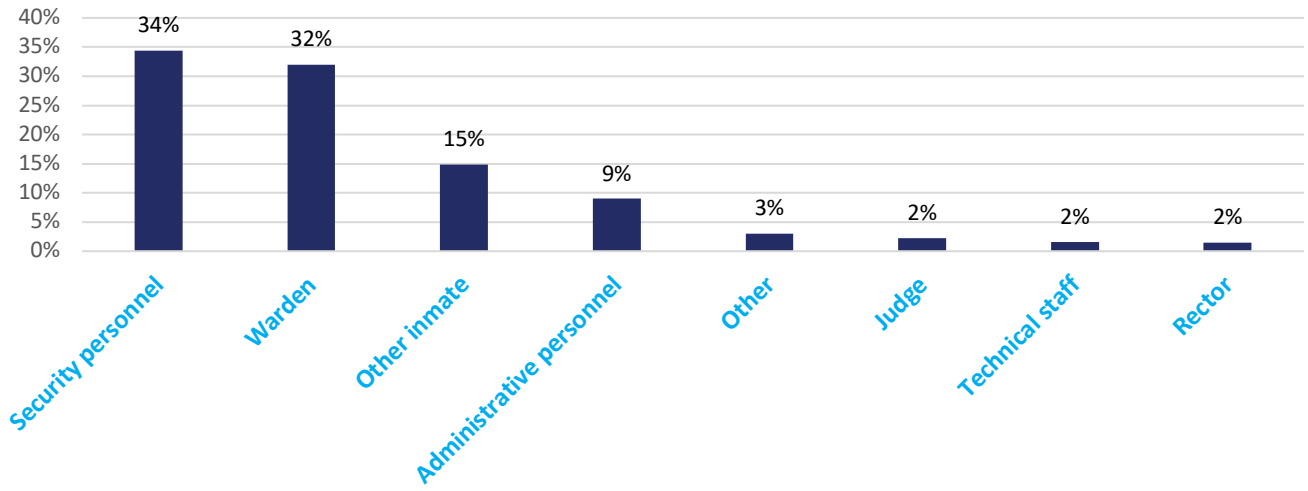
Percent respondents who reported that they are able to pass complaints/requests to prison personnel (nationally and by prison)



Of those who are able to pass complaints/requests, percent respondents who reported that they must be in writing (nationally and by prison)






Of those who are able to pass complaints/requests, who can they pass them to?






Complaint procedures




Prisoners should feel their complaints are responded to in a fair and just manner. Nationally, 53% indicated complaints are resolved in a fair manner while only 21% felt staff gave “a lot” of consideration to complaints. The rates of agreement with these statements were relatively low even in the higher performing prisons. For example, only 56% of respondents agreed that complaints were resolved fairly at Fraijanes I though rates were higher at Pavoncito Fraijanes, Alta Seg. Escuintla, and Sta. Cruz del Quiché. Similarly, just over a third of respondents at Fraijanes I and 34% of those in Sta. Elena Petén felt staff were attentive to complaints.




“Prisoner complaints are resolved by the prison authorities in a fair manner” Do you agree or disagree with this statement? (nationally and by prison)

 Agree
  Neither agree nor disagree
  Disagree

Prison			
Preventivo Z.18	40%	4%	56%
Chimaltenango	48%	2%	50%
COF	38%	12%	50%
Sta. Teresa	42%	9%	49%
Granja Pavón	51%	3%	46%
Quetzaltenango Mujeres	51%	5%	44%
Puerto Barrios	51%	5%	44%
Sta. Elena Petén	54%	3%	43%
National	53%	5%	42%
Mariscal Zavala	49%	9%	42%
Cobán	49%	10%	41%
Z.18 Anexo B	56%	3%	41%
Mazatenango	56%	5%	39%
Boquerón	55%	6%	39%
Fraijanes I	56%	6%	38%
Granja Canadá	59%	3%	38%
Zacapa	60%	3%	36%
Granja Cantel	58%	6%	36%
Pavoncito Fraijanes	65%	2%	32%
Alta Seg. Escuintla	68%	0%	32%
Sta. Cruz del Quiché	69%	2%	29%

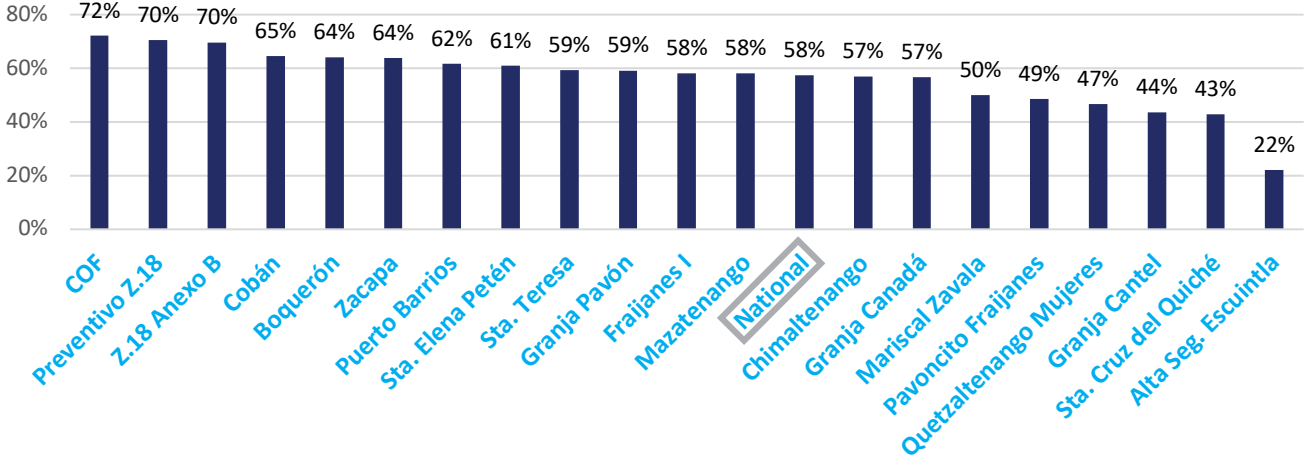
To what extent do you consider that the prison staff listens and attends to your complaint (nationally and by prison)

 A lot
  A little / Somewhat
  Not at all

Prison			
Preventivo Z.18	12%	40%	48%
Z.18 Anexo B	23%	37%	41%
Granja Pavón	15%	50%	35%
COF	10%	56%	34%
Granja Canadá	23%	44%	34%
Zacapa	16%	52%	33%
Chimaltenango	19%	48%	33%
Sta. Teresa	11%	57%	32%
National	21%	48%	31%
Puerto Barrios	21%	49%	30%
Granja Cantel	26%	46%	28%
Sta. Elena Petén	34%	42%	25%
Mazatenango	21%	56%	23%
Cobán	25%	52%	23%
Boquerón	23%	55%	23%
Quetzaltenango Mujeres	29%	48%	22%
Alta Seg. Escuintla	22%	56%	22%
Sta. Cruz del Quiché	23%	55%	22%
Pavoncito Fraijanes	30%	49%	22%
Mariscal Zavala	23%	57%	21%
Fraijanes I	38%	45%	16%

Individuals should be free to make complaints without fear of retaliation. Yet, over half (58%) of respondents indicated that there may be some type of retaliation or punishment by staff as a result of making a complaint or request. Respondents in COF, Preventivo Z.18, and Z.18 Anexo B were more likely to report this whereas those in Alta Seg. Escuintla were less likely to do so.

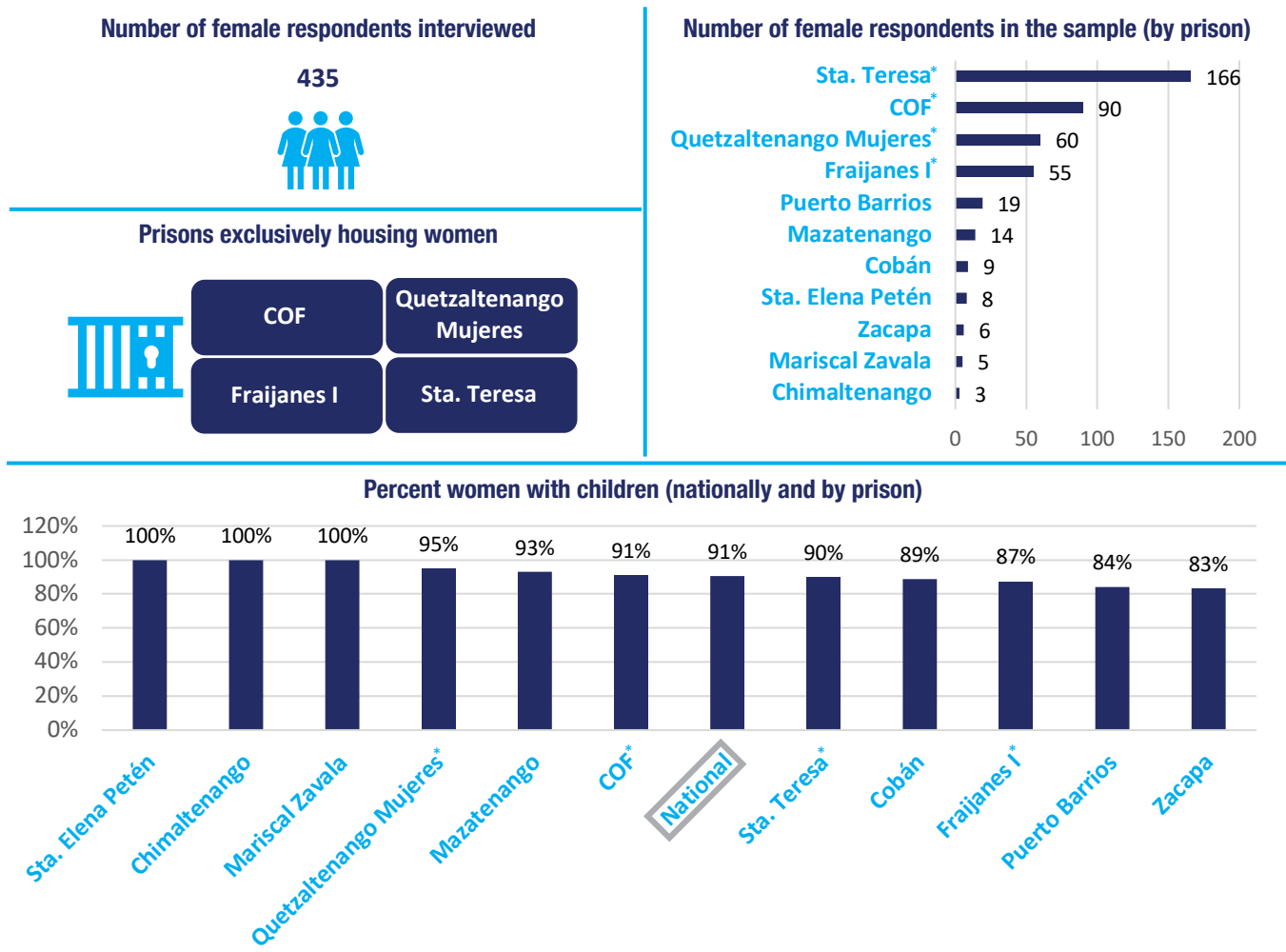
Do you consider that there may be some kind of retaliation or punishment from the staff when a complaint or request is made? (nationally and by prison)



Vulnerable Groups

Women: Sample characteristics

Special attention must be paid to the treatment of vulnerable groups in prison. The United Nations has adopted specific guidelines for the Treatment of Women Prisoners (The Bangkok Rules), which are supplemental to the Nelson Mandela Rules (United Nations, 2010). Eleven prisons were represented among the 435 women that were interviewed. Four of these prisons serve only women, while the remaining serve both men and women. The majority the female sample were housed in Sta. Teresa (38%), followed by COF (21%), and Quetzaltenango Mujeres (14%). However, 15% are housed in co-ed prisons. More than 90% had children, with an average of three children. Sixty-two of the women interviewed indicated their children were living with them in prison.



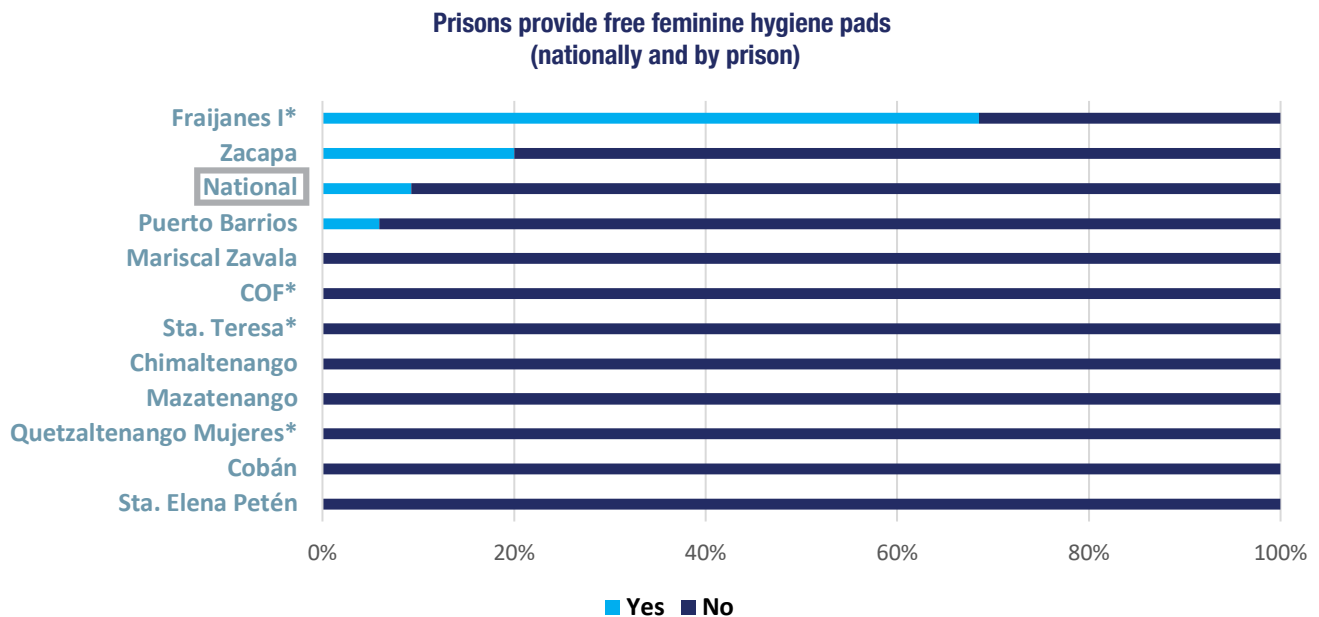
Median number of children (women only)

3 children

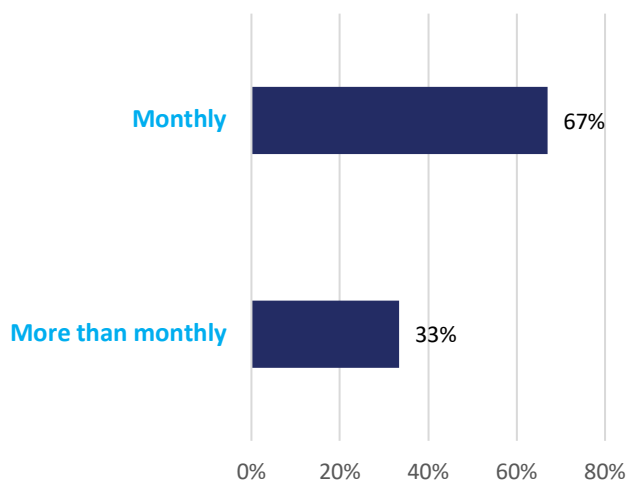
* Women-only prisons.

Women: Hygiene

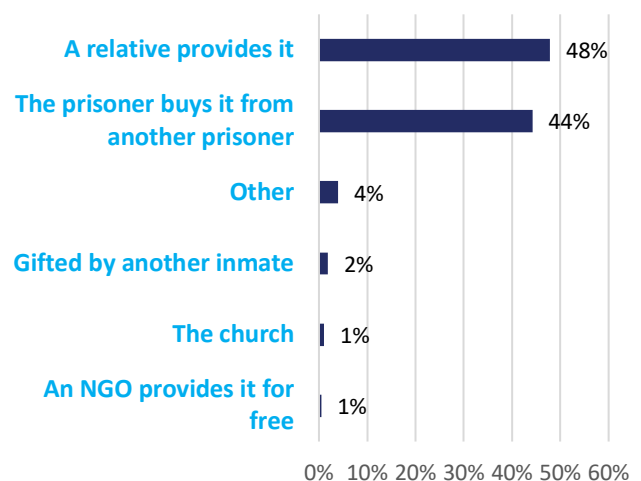
The Bangkok Rules make clear that women should have free access to sanitary supplies. To assess this, respondents were asked about the availability of feminine hygiene pads. Nationally, only 9% of the respondents reported having free access, with 69% of the respondents in Fraijanes I reported free access. As illustrated below, zero women in 8 prisons, including the other three female prisons, reported having access to feminine pads. Among women who receive supplies, 67% reported receiving supplies monthly, with the remaining women reporting more frequent access. When not available from the prison, women largely reported receiving provisions either from a relative (48%) or by purchasing them from other prisoners (44%).



If the prison provides hygiene pads for free, how often are they provided?



If the prison does not provide hygiene pads for free, how do you obtain them?

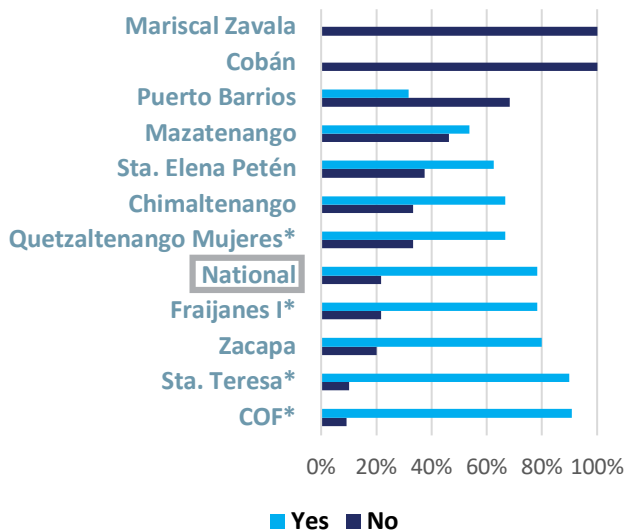


* Women-only prisons.

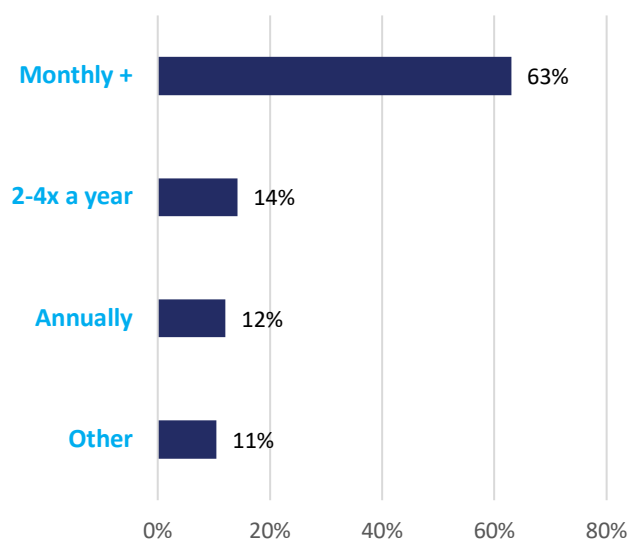
Women: Medical care

In addition to receiving specific hygiene supplies, women should have access to gender-specific health care, including gynecological care. Nationally, 78% of the women reported free gynecological exam are provided. However, this varied greatly with zero women at Mariscal Zavala and Cobán reporting the ability to receive free exams. Among the women who were unaware of free exams, 74% reported they had not had any type of gynecological exam. Of those who indicated exams were provided, 63% reported exams were available at least monthly. Being forced to take any type of contraceptive would be a violation of reproductive health rights. Three percent, or 13, of the female respondents reported they had been forced to utilize some type of contraceptive to prevent pregnancy.

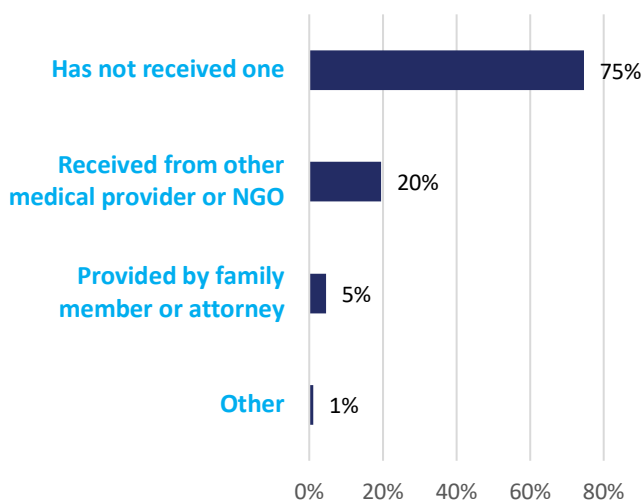
Prisons provide free gynecological consultations (nationally and by prison)



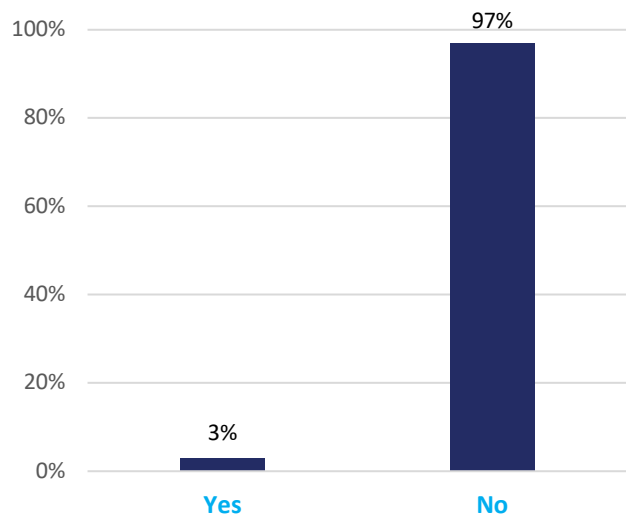
How frequent are there free gynecological consultations?



Women: If current prison does not provide free gynecological consultations, how do you obtain them?



Have you been forced to receive any type of contraceptive to prevent pregnancy?

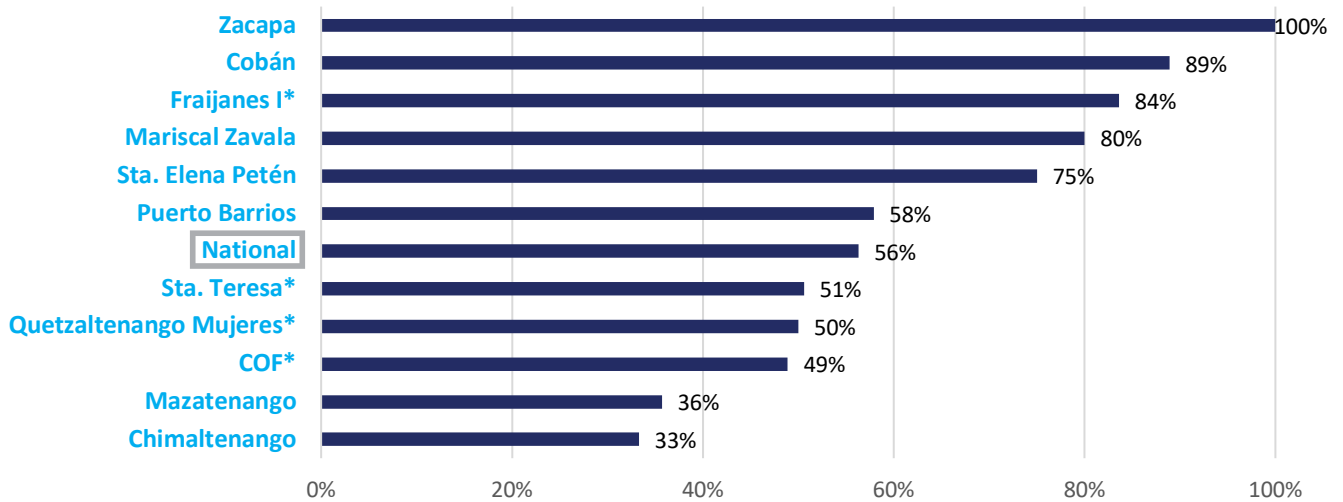


* Women-only prisons.

Women: Safety

Across all survey respondents, 69% reported feeling safe in prison, whereas 56% of the female respondents agreed with the statement that they felt safe in prison. The results varied greatly across the various prisons housing women. However, for instance, more than 80% of the women in Fraijanes I, Cobán, and Zacapa felt safe, while less than a third of women felt safe in Mazatenango and Chimaltenango. In general, living in women-only prisons was not associated with feelings of safety.

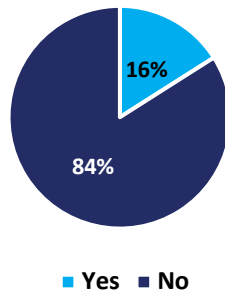
Percent female respondents who agree with the statement “I feel safe in this prison”
(nationally and by prison)



Women and children in prison

As noted, 62 (16%) of the women interviewed indicated they had a child living in prison with them. The majority of the children were born in prison and the mean age was just under two years old. Just over half of the children were boys; 45% were girls. When asked about the quality of the facilities, 34% rated them as good or very good.

Percent of women living with a child in prison (nationally)



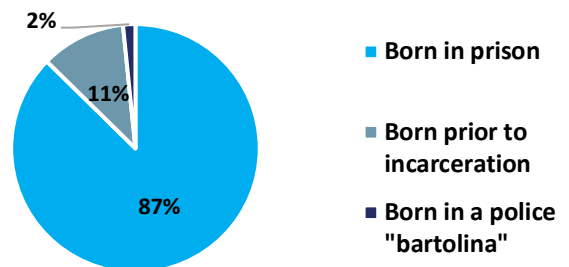
Sex of children living in prison



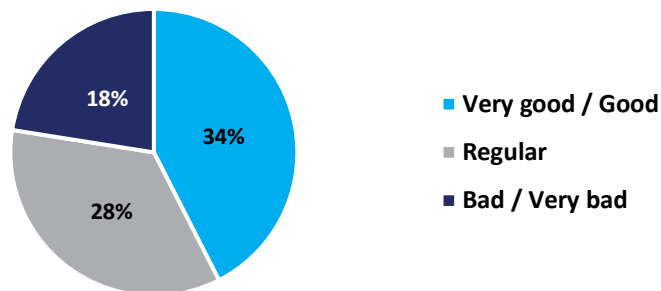
Mean age and range of children living in prison (in months)

Mean: 22 months
Range: 0 – 49 months

Where were the children living in prison born?



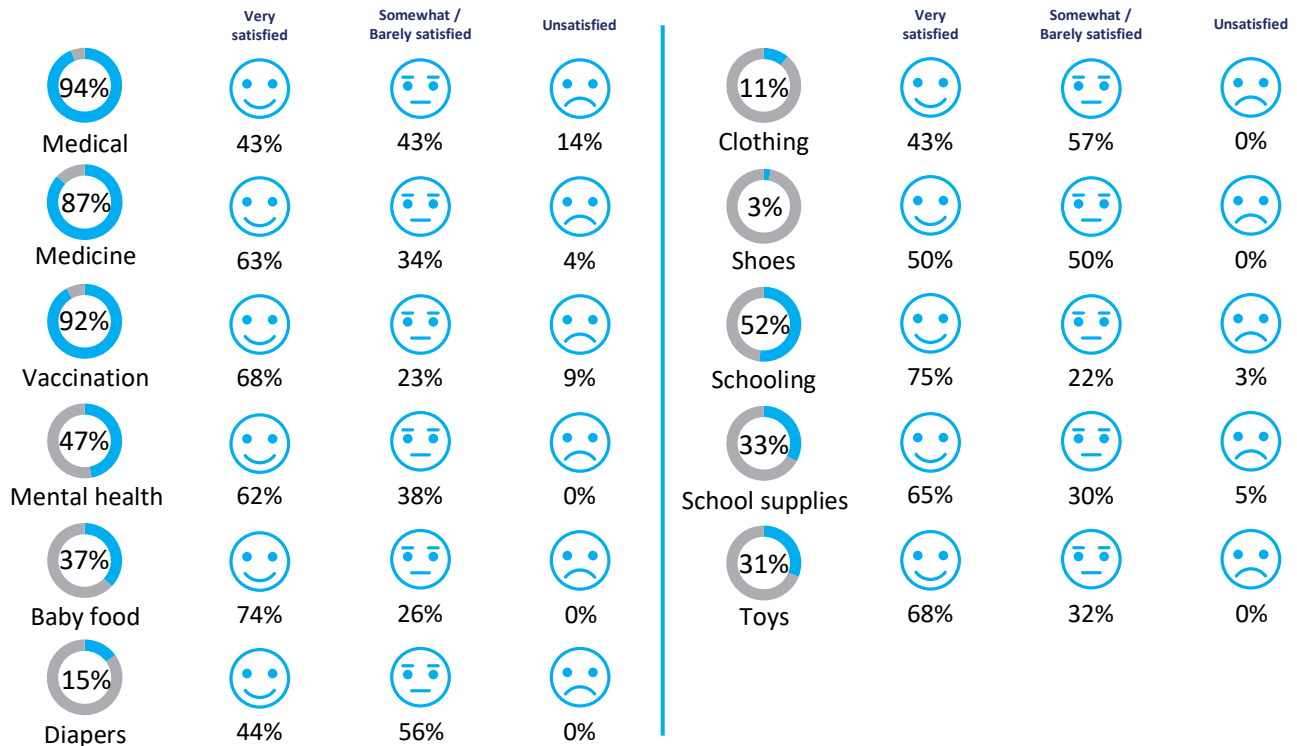
Quality of facilities in which children live (nationally)



Women and children in prison

Women were asked about the types of services provided to their children, their level of satisfaction, and how they received such services if not provided by the authorities. Children generally received free medical care (94%), vaccinations (92%), and medication (87%). Roughly half of the respondents reported free schooling was provided as was psychological care. However, only 37% indicated free baby food was provided and very few women indicated clothing (11%), diapers (15%) or shoes (3%) were provided.

Percent respondents who received free services for children at current prison and perceived quality of service (nationally)



If respondent did not receive free services for children, how did they obtain them? (nationally)

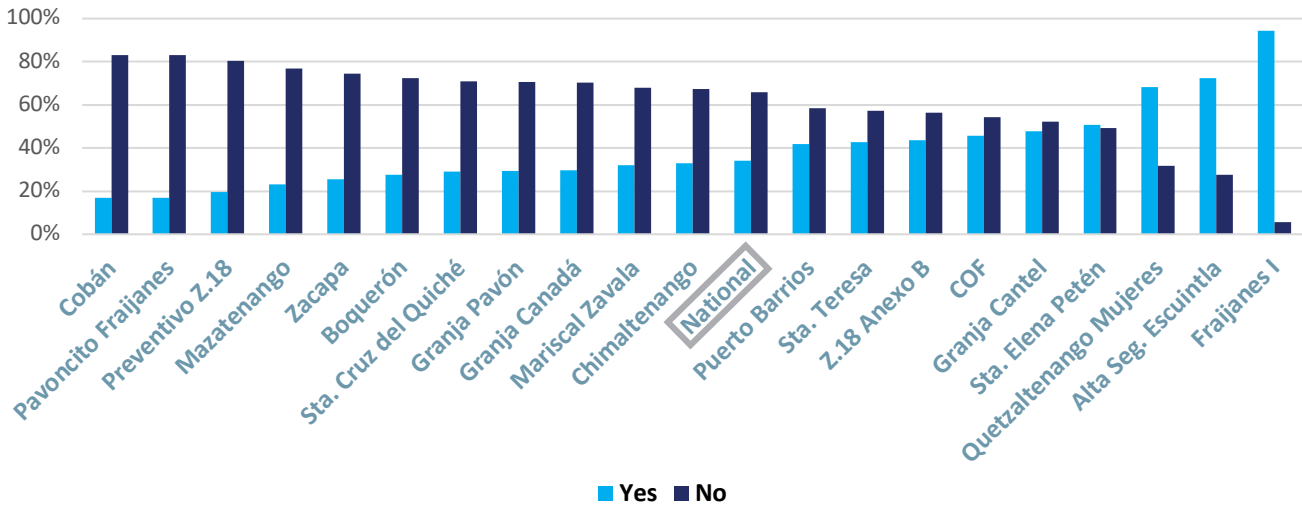
Service	Family member	NGO	Did not get it	Purchased / obtained outside of prison*	Other
Medical attention	50%	0%	50%	0%	0%
Medication	71%	0%	0%	14%	14%
Vaccination	40%	0%	0%	20%	40%
Mental health	0%	10%	80%	0%	10%
Baby food	38%	30%	8%	5%	16%
Diapers	57%	18%	2%	2%	21%
Clothing	58%	7%	0%	6%	29%
Shoes	62%	3%	0%	3%	32%
Schooling	0%	100%	0%	0%	0%
School supplies	17%	83%	0%	0%	0%
Toys	43%	29%	0%	5%	23%

* Includes "purchase outside of prison," "send baby outside of prison," and "donation from individuals outside"

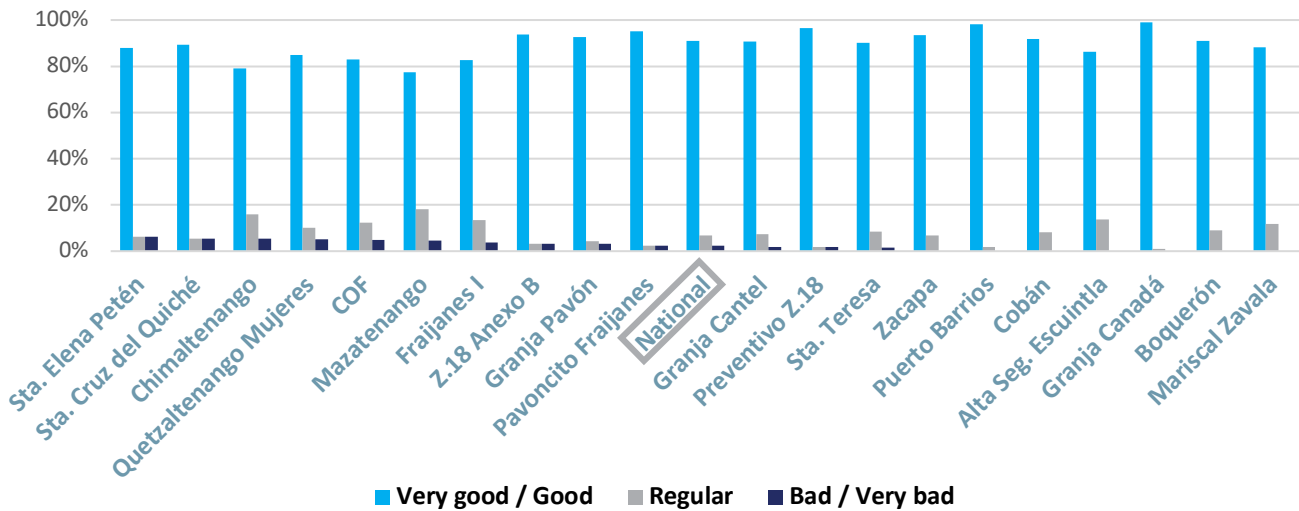
Mental health care

Mental health is an important issue and the Nelson Mandela Rules make clear that prison administrators should protect the mental health of individuals. Those with mental disabilities should be treated equitably, receive access to care, and, where necessary, receive treatment in specialized facilities. In part, this requires proactive care and recognizing signs of mental illness. Nationally, 34% of respondents indicated they had received psychological care while in their current prison. Rates of care were highest in Fraijanes I (95%) followed by Alta Seg. Escuintla (73%) and Quetzaltenango Mujeres (68%). Less than 20% of those in Cobán and Pavoncito Fraijanes reported receiving care. The quality of care, for those that received it, was consistently rated favorably; nationally 91% rated it as good or very good.

Have you received psychological care in this prison? (nationally and by prison)



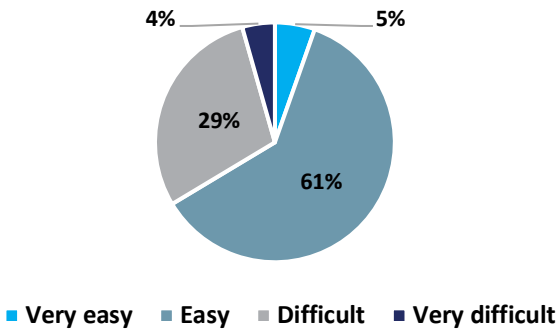
If you received psychological care in your current prison, how would you rate it? (nationally and by prison)



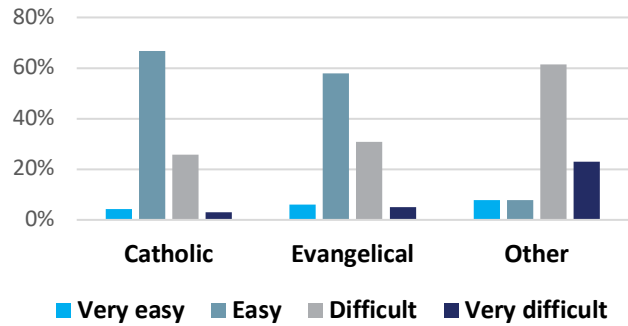
Prisoners permitted to practice their religion

People in prison should be free to practice their religion. The Nelson Mandela Rules indicate that all religious beliefs should be respected and that people in prison should not be discriminated against on the basis of religion. Further when a sufficient number of individuals share a religion, a qualified representative of that religion should be available to prisoners. As previously noted, 50% of the sample reported being Evangelical and nearly a third indicated they were Catholic. Nineteen percent indicated they were not religious. Evangelicals were most likely to report practicing their religion was easy. Overall, 66% of respondents indicated that practicing their religion was easy or very easy. This, however, varied by religion. Eighteen people had reported their religion as “other” and all but three indicated it was difficult or very difficult to practice their religion. The proportion of people reporting difficulties also varied by prison. Less than 20% of individuals in Pavoncito Fraijanes and Mariscal Zavala reported challenges compared to over 50% in Chimaltenango, Zacapa, Quetzaltenango Mujeres, Alta Seg. Escuintla, and Sta. Cruz del Quiché.

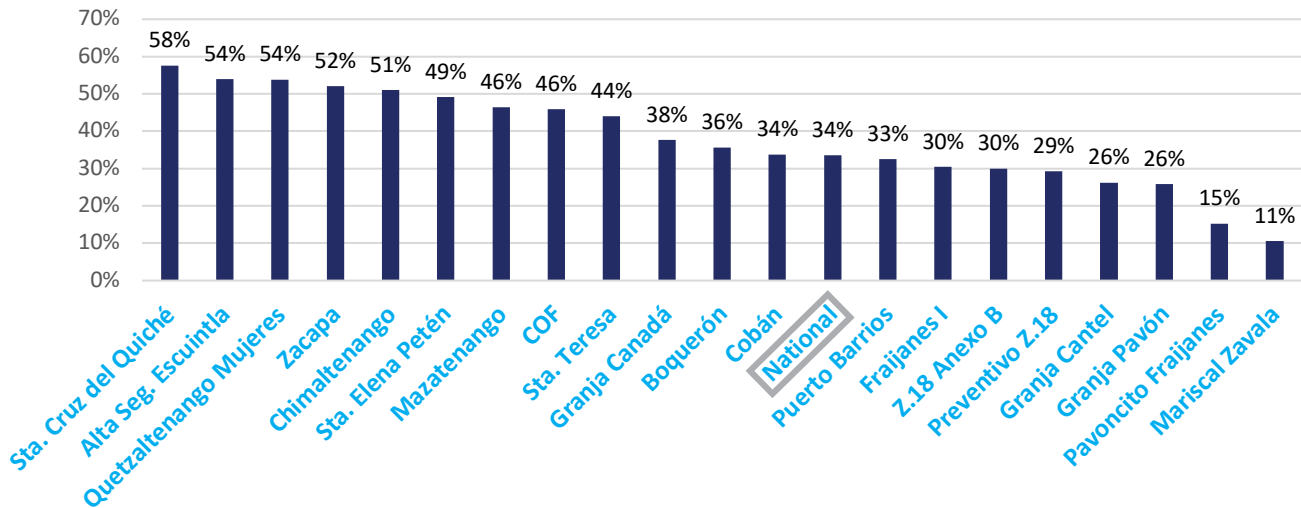
Do you consider that practicing your religion in this prison is: very easy, easy, difficult, or very difficult?



Difficulty practicing religion (by religion)



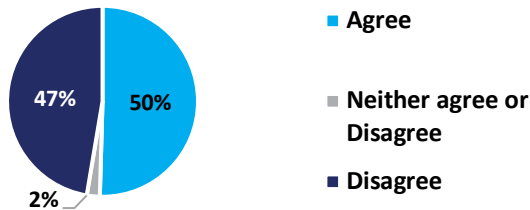
Percent respondents who found it difficult or very difficult to practice their religion (by prison)



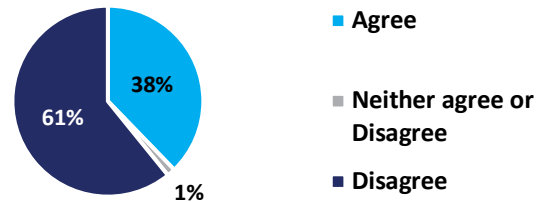
Discrimination

In addition to supporting the freedom to practice religion, the Nelson Mandela Rules also clearly indicate that all individuals deprived of liberty should be treated equally, regardless of race, ethnicity, sex, language, religion, politics, national origin, or other any other status. When asked, 50% of respondents agreed that all persons in prison are treated equally though a smaller number (38%) agreed that some groups are discriminated against, relative to others. This suggests that respondents generally feel people are treated differentially, but not necessarily as a result of group characteristics.

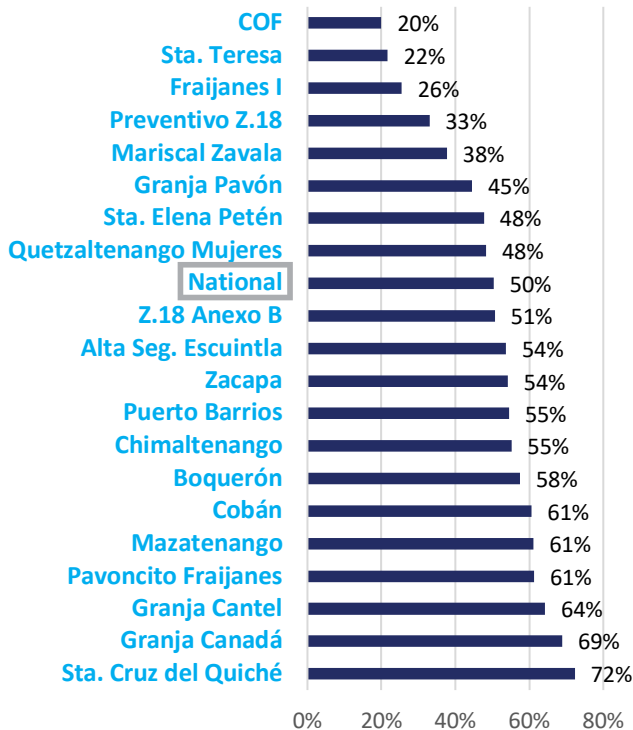
“Prison staff treat all persons deprived of liberty equally.” Do you agree or disagree with this statement?



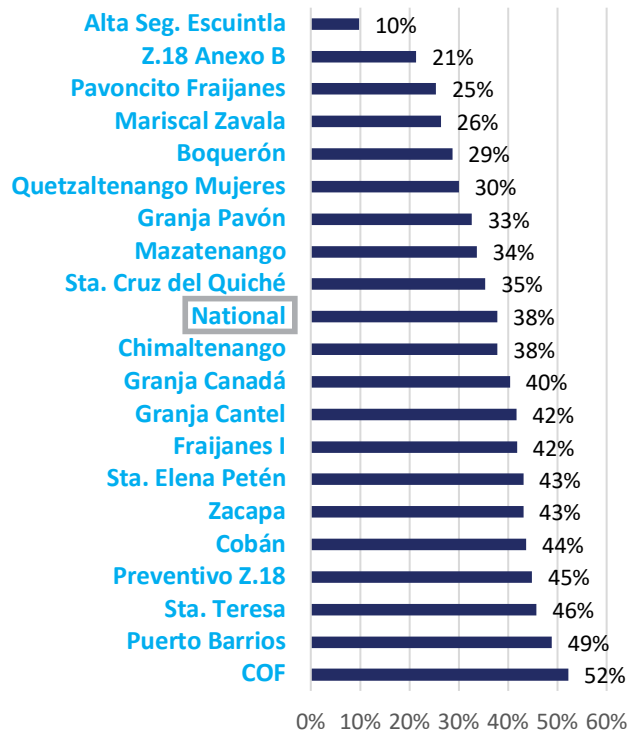
“Prison staff discriminate against some groups of the population deprived of liberty.” Do you agree or disagree with this statement?



Percent respondents who disagree with the statement “prison staff treat all persons deprived of liberty equally” (nationally and by prison)



Percent respondents who agree with the statement “prison staff discriminate against some groups of the population deprived of liberty” (nationally and by prison)



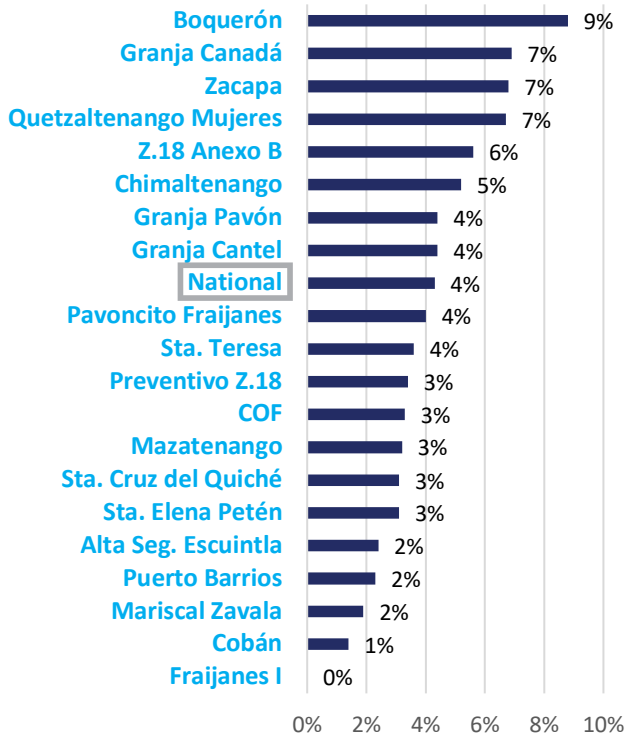
Foreign born

Among the respondents, 4% of the sample were foreign-born. The largest number of foreign-born respondents were in Boquerón (9%) while Cobán only had 1% and Fraijanes I had zero foreign-born respondents. It is not clear if this distribution is a result of the sampling methods or reflects the population as a whole. Foreign-born respondents were significantly more likely to be in prison for person and drug-related charges compared to individuals born in Guatemala.

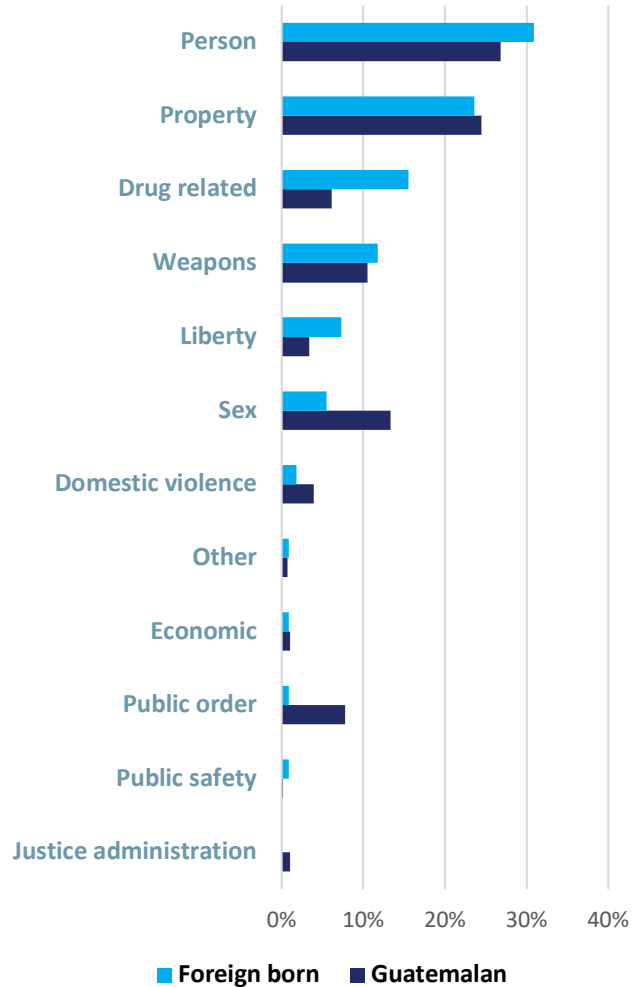
Nationality of respondent



Percent foreign born (nationally and by prison)



Top charge by nationality of respondent

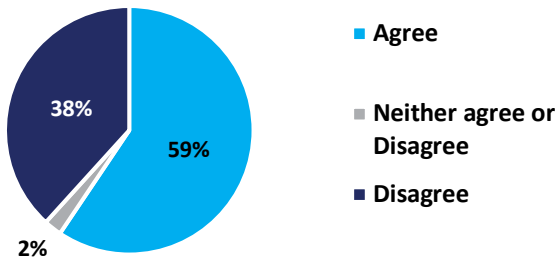


Capacity

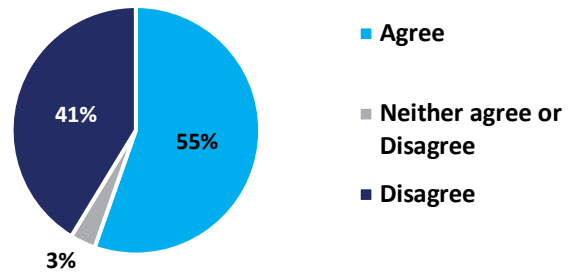
Material and human resources

Adequate staffing and resources are necessary for the smooth functioning of prisons, including keeping people safe, providing necessary access to the courts, and providing programming and services. It appears that the prisons are generally viewed as being understaffed. Nationally 59% of the respondents agreed that the center has few personnel. Access to courts is a crucial indicator of sufficient resources, which was measured via the provision of transportation. As indicated, 55% of the sample agreed there was adequate transportation to hearings. However, there was wide variation with 36% of respondents in Sta. Teresa agreeing there was adequate transportation compared to 93% in Fraijanes I.

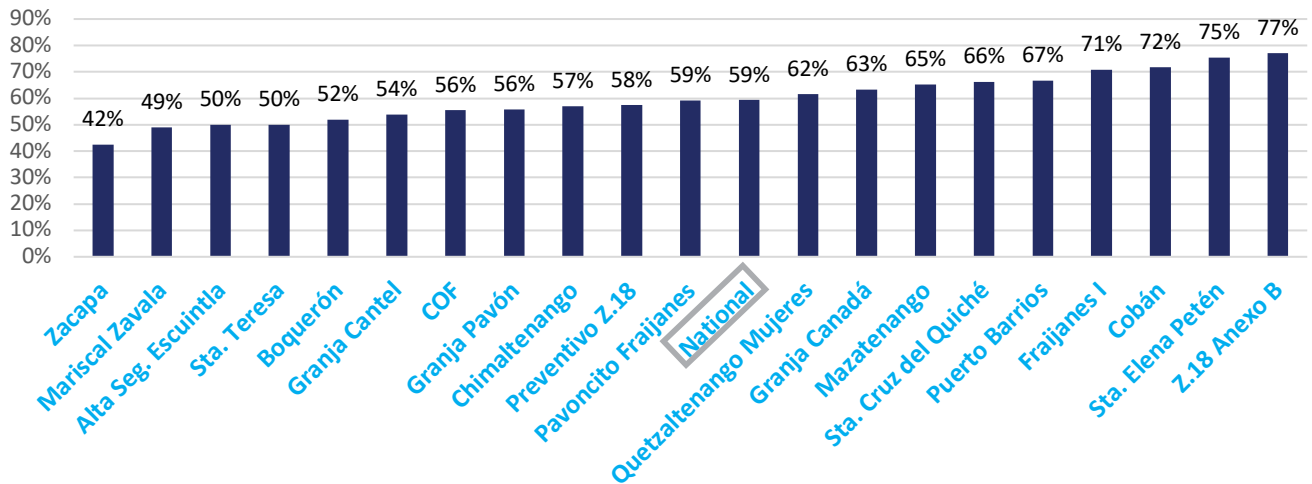
**“This penitentiary center has few personnel in the staff.”
Do you agree or disagree with this statement?**



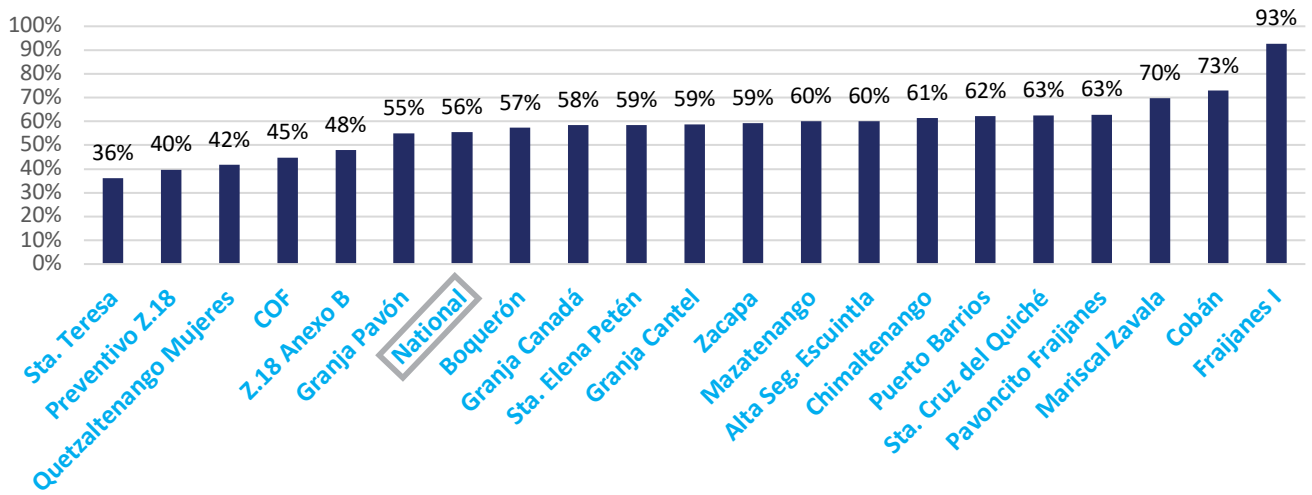
**“This prison provides adequate transportation to hearings.”
Do you agree or disagree with this statement?**



**Percent respondents who agree with the statement “this penitentiary center has few personnel in the staff”
(nationally and by prison)**



**Percent respondents who agree with the statement “this prison provides adequate transportation to hearings”
(nationally and by prison)**

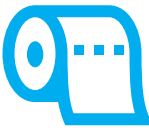
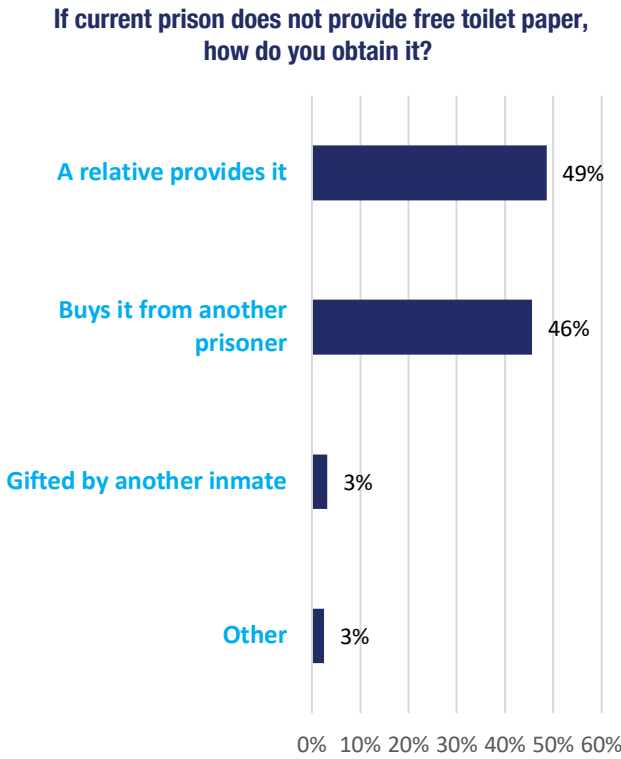
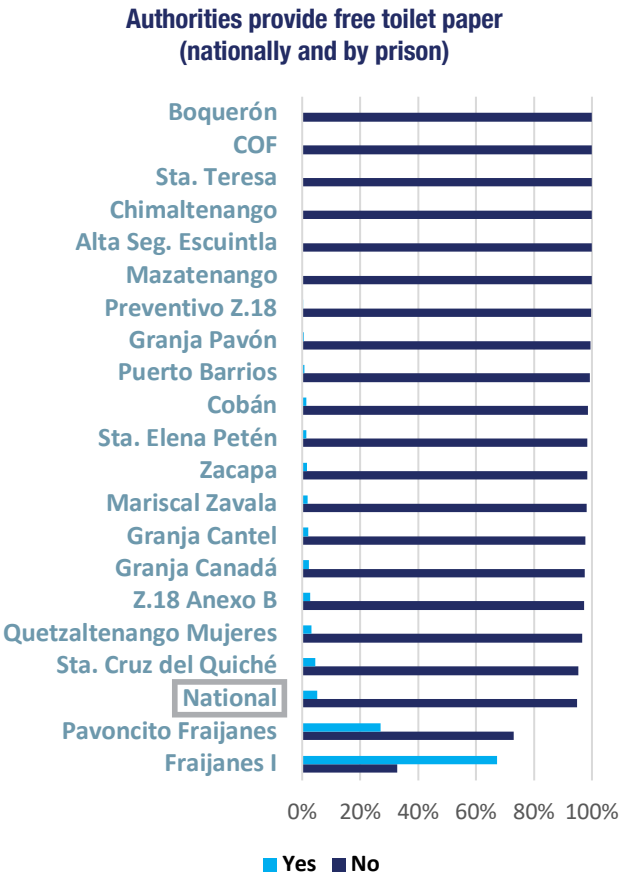


Access to Goods, Services and Personal Needs

Basic needs

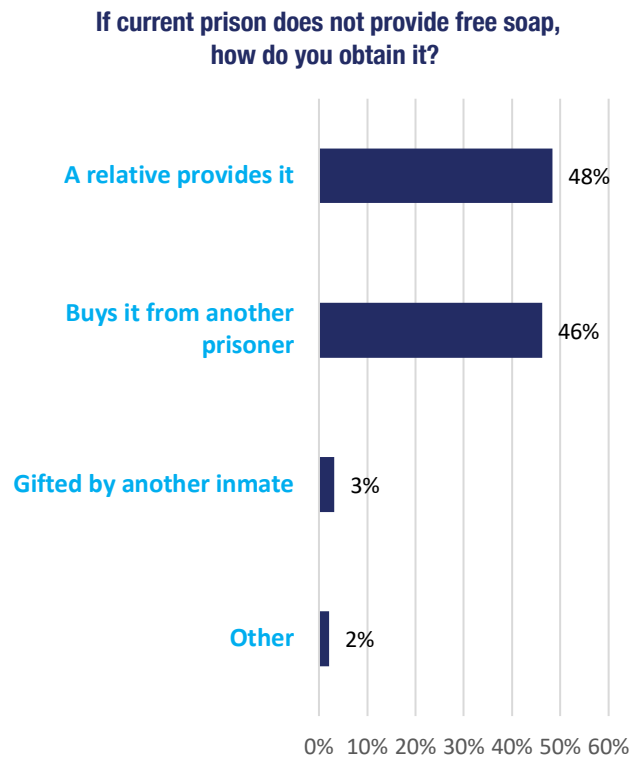
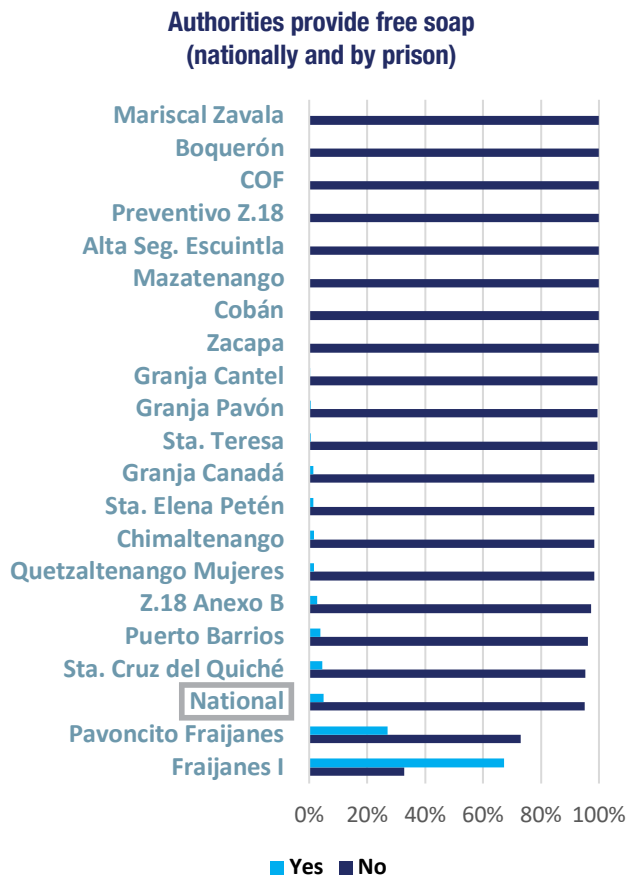
An additional indicator of material resources is the ability to provide basic goods and services that are necessary for a prison to be able to meet its basic functions. To assess this, respondents were asked about the provision of materials designed to meet basic needs. As indicated on the following pages, with the exception of a few prisons, respondents were almost entirely dependent on family members and other resources to receive these resources.

Nationally, only 5% of respondents indicated receiving free toilet paper, while 49% indicated they receive it from a family member and 46% reported having to purchase it from the authorities or another prisoner. Toilet paper was not provided in 7 prisons and less than 5% of respondents reported receiving free toilet paper in 10 of the prisons. In contrast, 27% of respondents in Pavoncito Fraijanes and 67% of those in Fraijanes I indicated they received toilet paper.



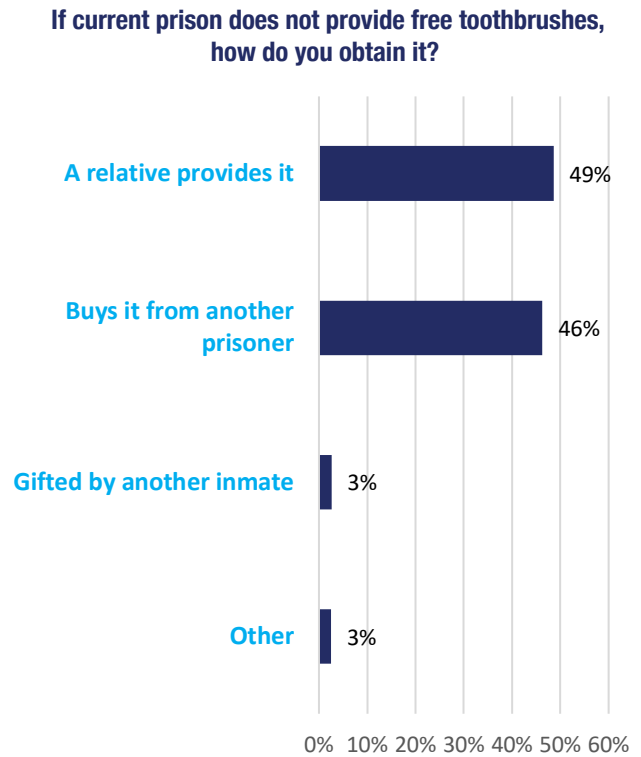
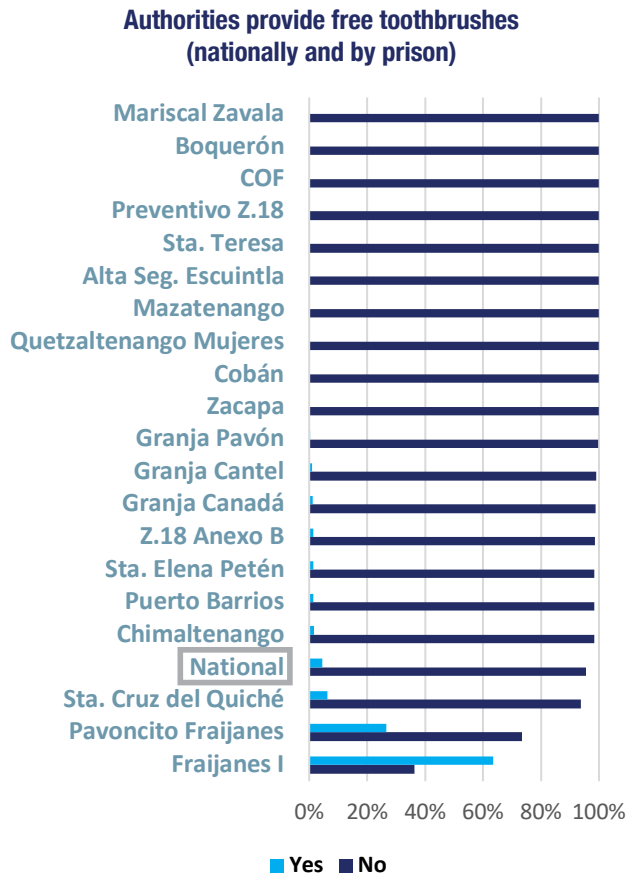
Basic needs

Another basic hygiene need is soap. As with toilet paper, respondents were largely dependent on their family members or purchasing it from other prisoners. Nationally, 5% reported receiving soap for free. Others reported receiving soap from family members (48%) or another prisoner (46%) with 48% indicating they received it from their family and 46% indicating purchasing soap from the authority or another prisoner. The trends were similar to toilet paper, a very small number of respondents in 6 prisons reported receiving free soap and zero respondents in 11 prisons indicated they did not receive any soap from the authorities. Responses among prisoners in Pavoncito Fraijanes and Fraijanes I stand in stark contrast to the other prisons.



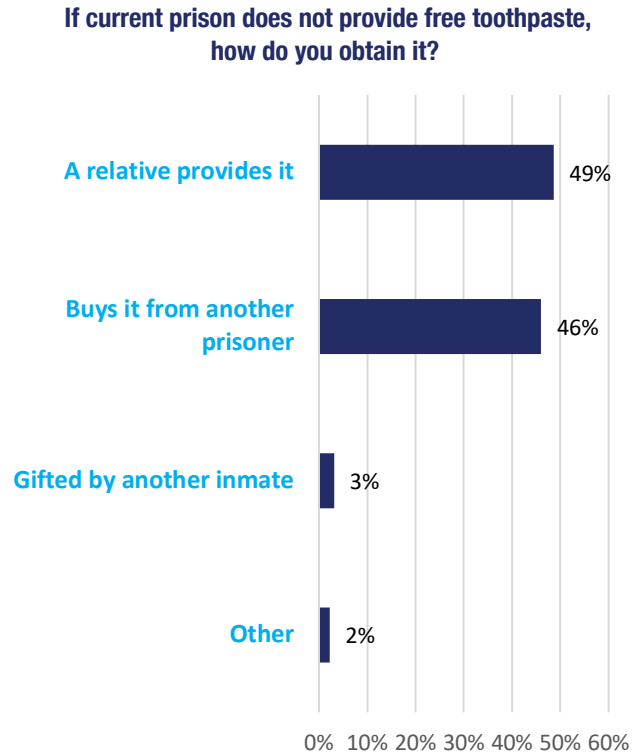
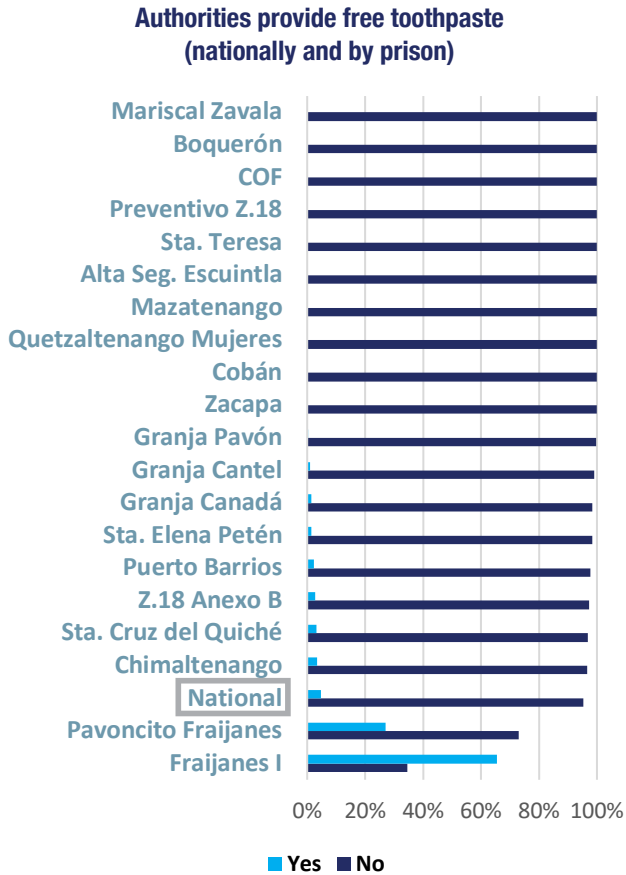
Basic needs

The same pattern emerged with respect to toothbrushes. As with other needs, respondents largely receive toothbrushes from family members (49%) or purchase them from other prisoners (46%). All of the respondents in 11 prisons indicated not receiving toothbrushes from the prison with less than 5% of prisoners in 6 prisons reporting the same. In contrast, respondents in Pavoncito Fraijanes and Fraijanes I were significantly more likely to report receiving toothbrushes.



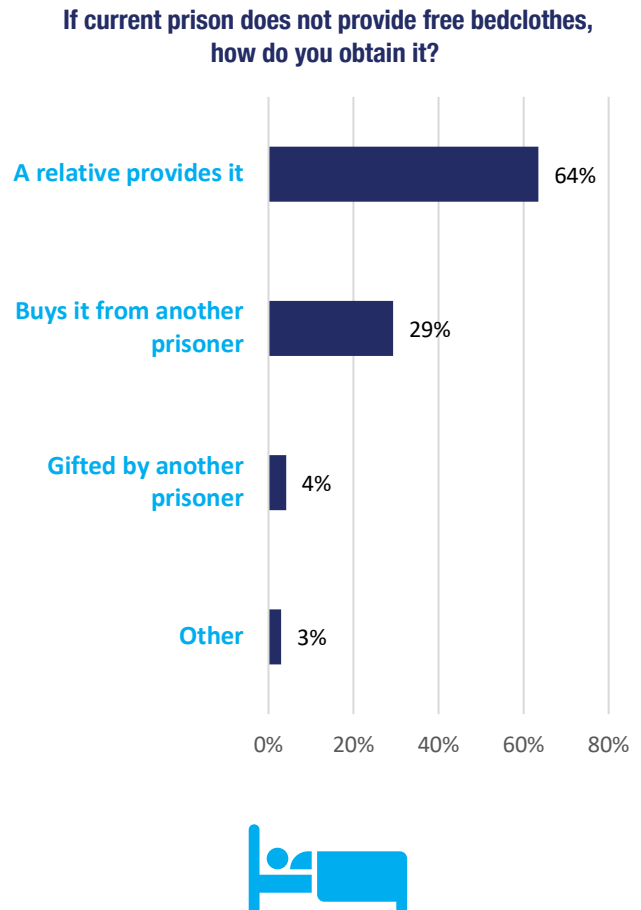
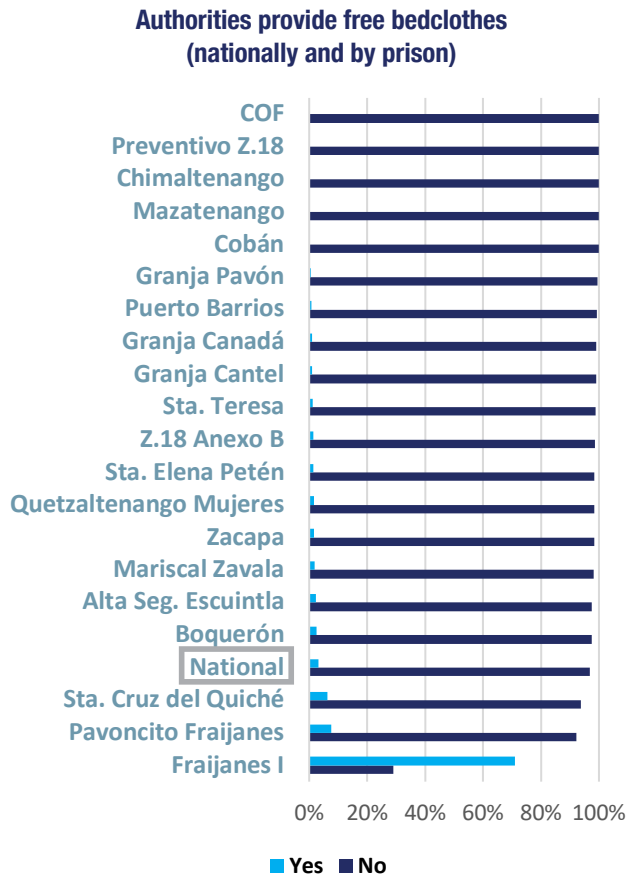
Basic needs

With the exception of those in Pavoncito Fraijanes and Fraijanes I, less than 5% of respondents indicated they received toothpaste. And once again, all of the respondents in 11 of the prisons reported they were not provided with toothpaste. As with other needs, prisoners were largely dependent on relatives (49%) or other prisoners (46%) for the provision of this need.



Basic needs

As with other needs, a very small number of prisoners reported receiving free bedclothes. Nationally, only 3%, or 78 respondents, indicated receiving free bedclothes. This finding was largely driven by the 71% respondents in Fraijanes I who affirmed this. The majority of respondents (64%) instead relied on family members for bedclothes. Twenty-nine percent indicated buying clothes from another prisoner. Finally, less than 2% reported receiving uniforms from the authorities with the vast majority (97%) indicating this was not applicable.



6. THE NEW MODEL

The New Penitentiary Management Model (NMGP) in Guatemala was implemented in Fraijanes I for women in 2017. The “New Model” is an initiative aimed at transforming the traditional prison system into one focused on rehabilitation and reintegration. The model prioritizes security, education and work opportunities, mental and physical health care and family and community reintegration. In 2021, there were 107 women housed in Fraijanes I. Fifty-four women participated in the survey. To assess whether perceptions and experiences varied between the old and new model, we compared responses from women in Fraijanes I to a matched group of women residing in other facilities using propensity score weighting. This chapter provides a description of the subsample and results.

Sub-sample Characteristics: Balance of Covariates

To facilitate a comparison, women in the new and old model were matched on legal status, sentence length, judicial district, and time incarcerated using propensity score matching. As illustrated below, the groups were similar on key characteristics including age, total time incarcerated, legal status, gang membership, and education.

Characteristic	Old model, N = 60 ¹	New model, N = 54 ¹	p-value ²
Total time incarcerated (years)	5.72 (2.66)	5.52 (2.57)	0.7
Convicted: Sentence length (years)	18 (20)	16 (18)	0.4
Age at interview	37 (11)	37 (10)	0.8
District in which proceedings took place			0.2
Other	14 (64%)	8 (36%)	
Metropolitan	46 (50%)	46 (50%)	
Legal status of prisoner			>0.9
Provisional detention	0 (NA%)	0 (NA%)	
Convicted	60 (53%)	54 (47%)	
Preventive detention	0 (NA%)	0 (NA%)	
Currently gang member	0 (NA%)	0 (NA%)	>0.9
Highest grade completed			0.5
8 th grade or less	34 (49%)	36 (51%)	
Some high school	15 (54%)	13 (46%)	
High school diploma	4 (67%)	2 (33%)	
Some college	5 (83%)	1 (17%)	
College+	1 (33%)	2 (67%)	
Religious denomination			0.5
No religion	12 (57%)	9 (43%)	
Catholic	19 (45%)	23 (55%)	
Evangelical	29 (57%)	22 (43%)	
Other	0 (NA%)	0 (NA%)	
Speaks native language	3 (43%)	4 (57%)	0.7

¹ Mean (SD); n (%)

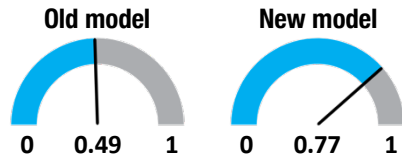
² Wilcoxon rank sum test; Pearson’s Chi-squared test; Fisher’s exact test

Rule of Law Indicators by Model

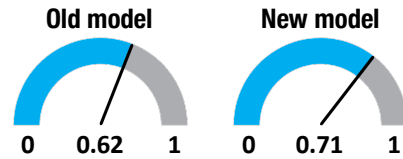
Across the board, the new model was rated more favorably compared to the traditional model. The response of women in Fraijanes I indicated greater adherence to the rule of law across all four dimensions.

Overall indexes

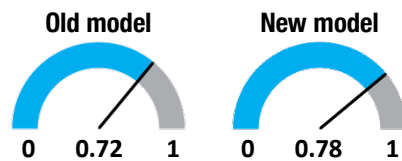
Performance***



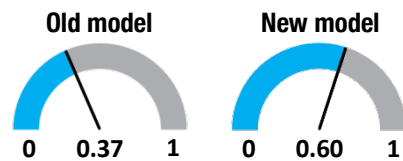
Capacity***



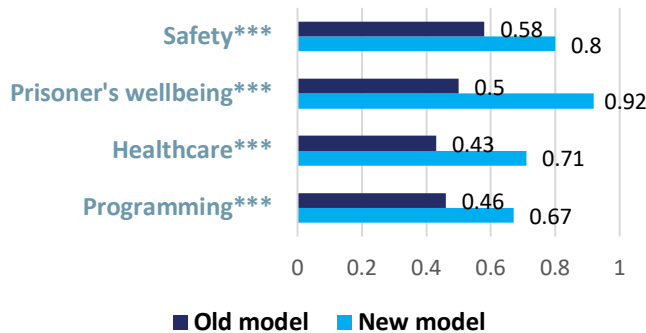
Integrity, Transparency, and Accountability*



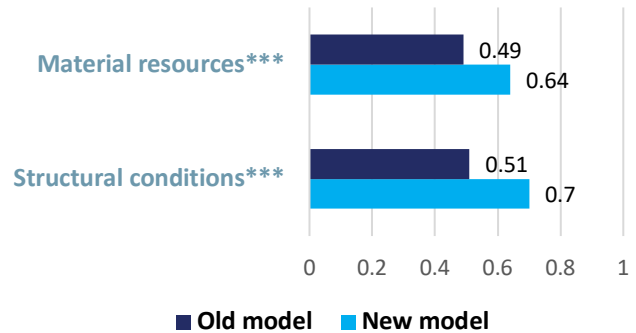
Treatment of Vulnerable Populations***



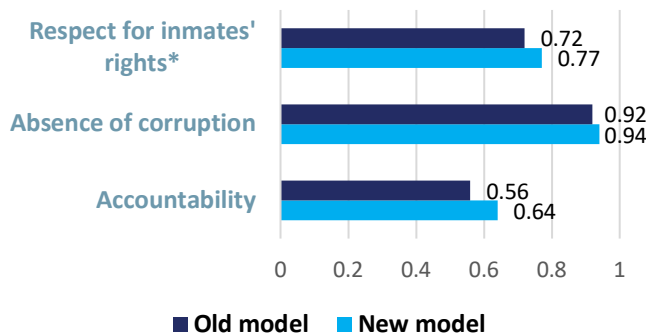
Performance



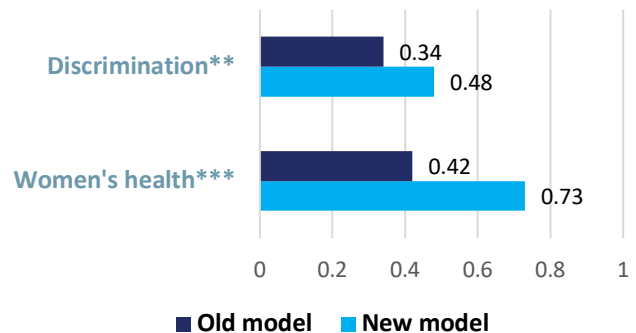
Capacity



Integrity, Transparency, and Accountability



Treatment of Vulnerable Populations

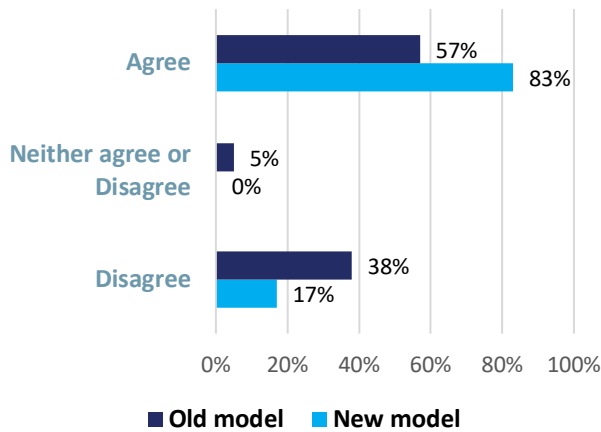


*p < .05; **p < .01; ***p < .001

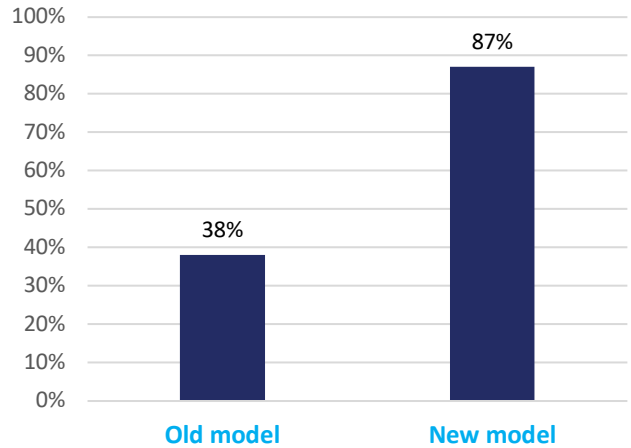
Perceptions by Model

To further assess differences between the models, we compared perceptions of safety and integrity across the two systems. As illustrated below, women in the new model were significantly more likely to agree that they feel safe, that the prison staff protect the rights of incarcerated, and that staff informed them of their rights. The majority of both groups disagreed that prison staff treat everyone equally, although women in the new model were significantly more likely to agree with this statement.

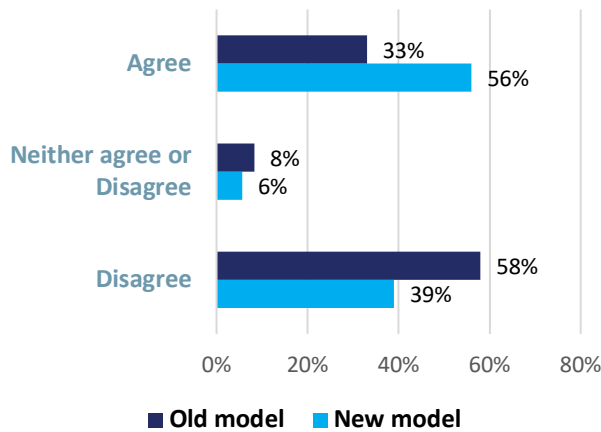
Percent respondents who agree with the statement “I feel safe in this prison” (by model)**



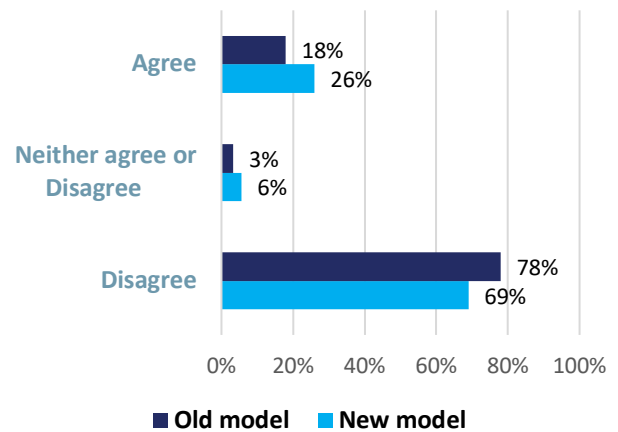
Percent respondents who stated that prison staff informed them of their rights (by model)***



Percent respondents who agree with the statement “prison staff protects the rights of incarcerated” (by model)



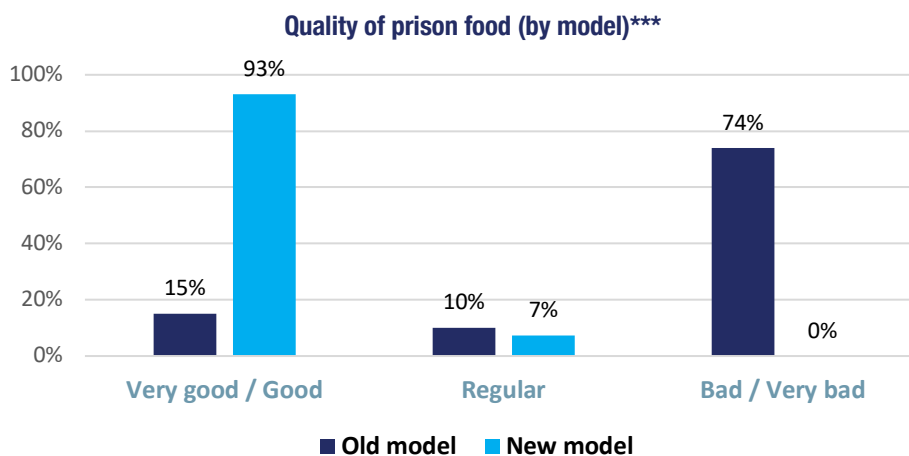
Percent respondents who agree with the statement “prison staff treat everyone equally” (by model)



*p < .05; **p < .01; ***p < .001

Quality of prison food by model

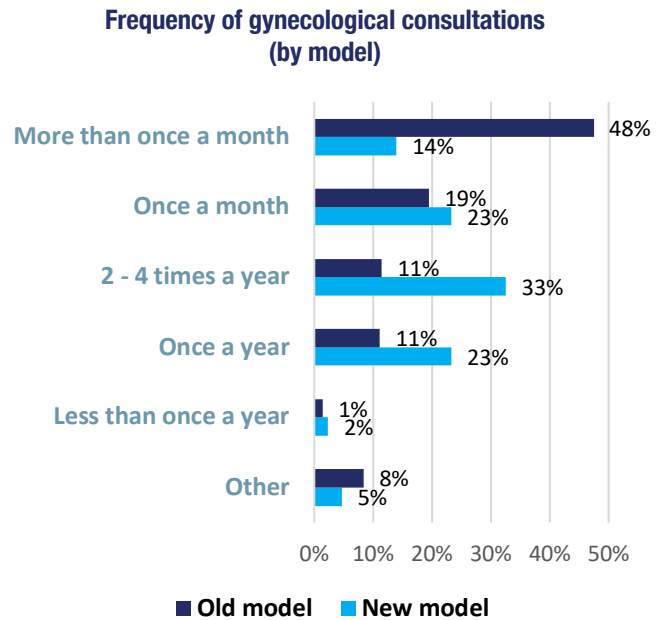
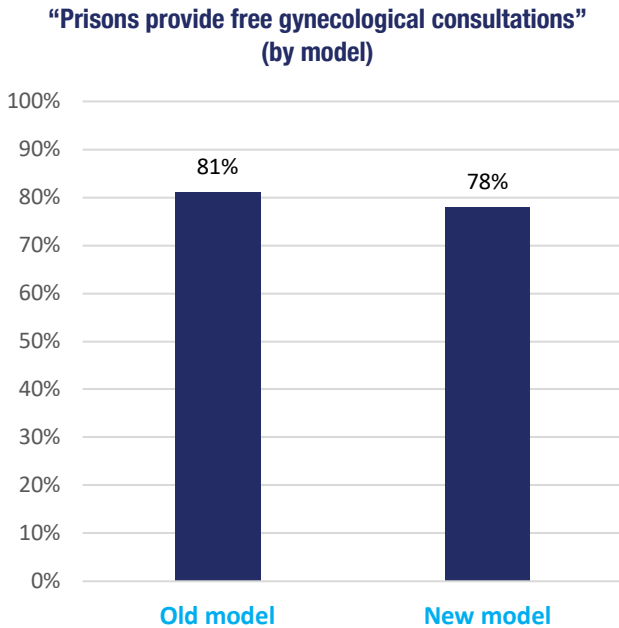
As noted previously, access to food is an important human right. Nationally, all of the respondents reported daily access to food. However, perceptions of the quality of food were quite mixed with 34% rating food as good or very good and 45% reporting it as bad or very bad. To further assess differences associated with the new model, we examined perceptions of the quality of food between the new and old model. As illustrated below, women in the new model were significantly more likely to rate the food as very good or good compared to those in the old model. Specifically, 93% of women in the new model rated the food as good or very good while none of them rated the food poorly. In contrast, 74% of women in the old model indicated the food was bad or very bad and only 15% reported it as good or very good.



*p < .05; **p < .01; ***p < .001

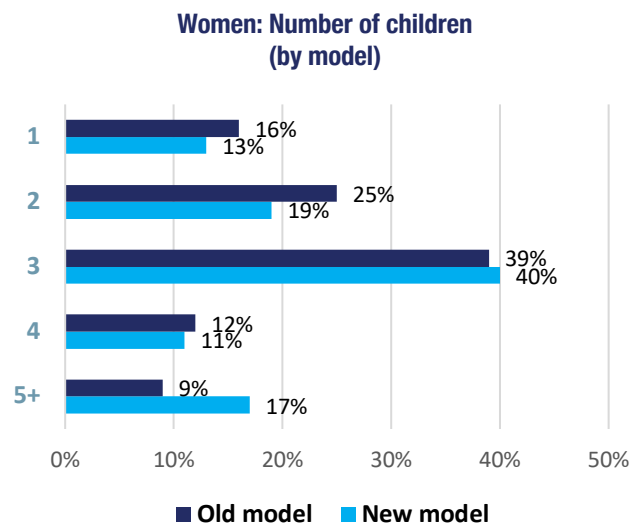
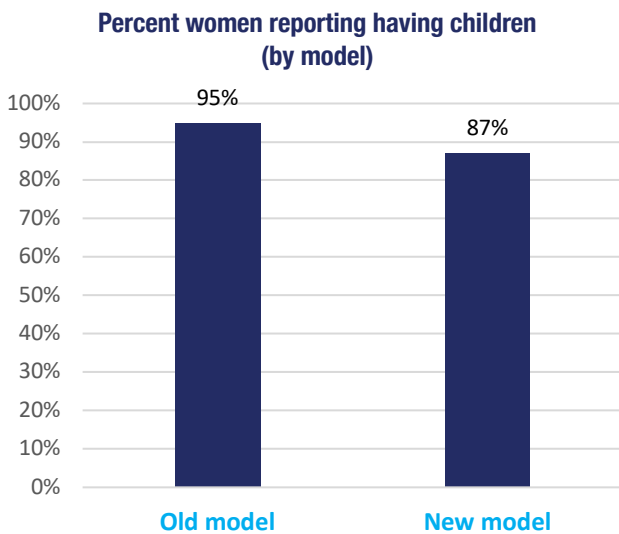
Medical care

To better assess differences regarding medical care across the models, we explored differences in access to gynecological care. Slightly more women in the old model reported access to free gynecological consultations though this difference was not significant. Frequency of gynecological consultations also varied between the models. Women in the new model reported less frequent consultations, though in both groups over 90% of the respondents affirmed at least yearly consultations.

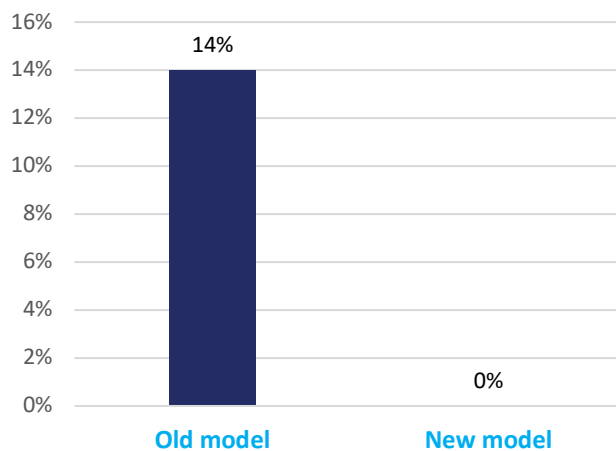


Children

To better understand differences between the two groups, we explored whether the two groups differed in terms of children. Slightly more women in the old model reported having children (95%) compared to women in the new model (87%). On average, women reported having 3 children. None of the women in the new model reported having children live with them while 14% or 8 women in the old model had a child living with them in prison.



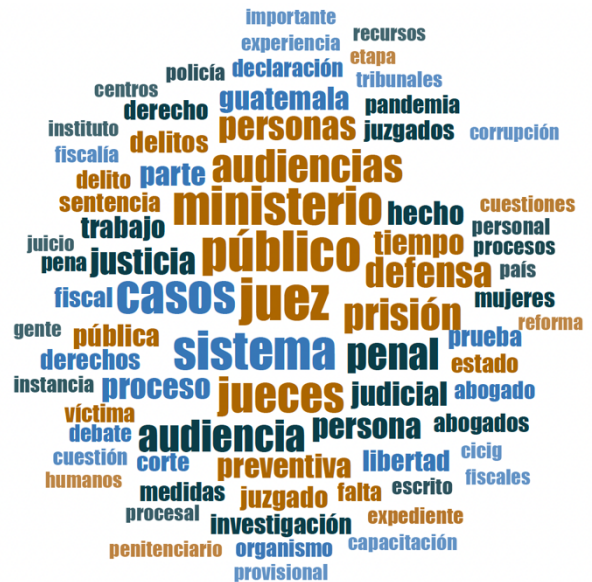
Percent women with children living with them in prison (by model)**



*p < .05; **p < .01; ***p < .001

7. RECOMMENDATIONS

Guatemala was the first country in the region to implement a criminal procedure code that embraced a more accusatorial model of criminal prosecution introducing oral, public trials. The challenges that the judicial system continues to face are substantial, but important improvements have been identified. For instance, there is an agreement that the system that was introduced in 1994 is better than the previous one in protecting due process rights. The recent creation of the Institute for Victims has the potential to improve access to justice for victims of crime, providing them with legal and institutional support to exercise their rights. However, it also appears that the erosion of democratic norms and the politicization of the criminal justice system have created a significant strain on all actors. Like the word cloud on the right side suggests, most discussions with interviewees focused on various challenges that criminal justice operators face, such the lack of resources, the systemic backlog, the urgent need to depoliticize the criminal justice system (in particular the Public Prosecutor’s Office), decrease corruption, and improve judicial independence. In this chapter, we offer several recommendations for continuing to advance in the consolidation of the accusatorial model. A thorough needs-assessment and an impact evaluation are both highly recommended to properly evaluate the capacity and performance of each institution in the system. Meanwhile, based on our visits to prison sites, interviews with stakeholders, official statistical data, and the analysis of survey data, in this chapter we provide various recommendations and highlight areas in need of investment from both the Guatemalan government and foreign aid agencies.



Infrastructure

In interviews, most criminal justice operators highlighted the urgent need of better infrastructure and management that would enable the system to operate as a system, and not as disjointed institutions. A criminal justice system should be housed in buildings that efficiently support and integrate all available capital, technological, and human resources. To achieve this, we recommend the following infrastructural additions:

- Modernize the notification system. Currently there is a lack of a comprehensive information national infrastructure that seamlessly provides phone and electronic notifications to users (victims, defendants) and criminal justice operators (prosecutors, defense attorneys, judges).
- Improve technological and physical infrastructure for virtual hearings, in penitentiary centers, the judiciary and the Public Defender’s Office.
- Develop a “technological platform.” This platform should operate as a system-wide management information system and provide the technological infrastructure to support the digitalization of case files. Creating a digital system, which all parties could access, would allow for all judicial decisions and investigation files to always be available, would reduce opportunities for corruption, and could make

the system more efficient and transparent. The platform would need to have the following characteristics:

- A unique case number should be granted to a case the moment that it enters the Police or the Public Prosecutor's Office, and would remain the same as the case moves across the judicial system, including the penitentiary system.
- A secure electronic platform, that allows all parties (defenders, prosecutors, attorneys, judges) to access the complete case file, and to follow the case as it moves through the system. Such electronic system would help reduce waste and reliance on "paper files."
- A coordinated calendar across institutions, that helps maximize the use of space and of human resources, allowing all parties to schedule/cancel hearings without creating overlapping events and producing undue delays.
- Adequate memory and security. The platform should provide encrypted security to guarantee the safety of case files, and it should be designed as a sustainable platform with servers with sufficient memory that can grow over time.
- Capacity to generate case-level statistics. A platform of this nature should be created with transparency, accountability, and evaluation in mind.

Legal Reforms

In our study we also identified various areas where further normative changes may be advisable to improve the transparency and efficiency of the criminal justice system. We strongly recommend the following normative reforms:

- A constitutional reform that helps enhance (and protect) judicial independence and prosecutorial independence. A concern shared by many interviewees included the need to depoliticize the work of judges and prosecutors, and expressed that such a constitutional reform is necessary in this process.
- A comprehensive judicial career law. The current law only covers judicial career for *Jueces de Paz* and pretrial judges, but does not include magistrates nor Supreme Court justices. The creation of clear rules of appointment and promotion of judges, magistrates, and justices is long overdue. A comprehensive judicial career law is urgently needed to enhance internal and external judicial independence.
- Create internships in the judiciary. The judiciary and various universities should reach agreements to allow law students to do internships in the courts. Currently there are legal limits for the extent in which the students can do so, and a legal reform or some form of inter-institutional agreement that introduces a comprehensive internship program could help both students in their professional development, and judges in their workload.

Training and Professional Development

- All members in the judiciary should receive training that enhances their understanding as guarantors of rights, and protectors of the rule of law. Pretrial judges need to stop the practice of "provisional detention." Abbreviated procedures should not be allowed in trial courts.
- There is an urgent need for all parties to improve their oral skills, as most tend to rely on the written "case file" in hearings. Thus, training and capacitation for judges, prosecutors, public defenders, and attorneys should be provided nationally to help all actors improve their litigation (oral skills).

- Also, in interviews it was noted that all parties should get training in how to best protect the rights of vulnerable groups (such as the indigenous population, women, or children), to guarantee that at every stage, every actor, is aware of how in practice they can properly implement the various existing norms that protect vulnerable groups.

Recommendations Targeted by Institution

In addition to general recommendations, we also offer some recommendations for specific institutions, in particular as they relate to improving the protection of due process and defendants' rights.

- Public Defenders' Office
 - Increase the number of public defenders across the various departments, to reduce their workload.
 - Improve the technological and transportation resources for public defenders to participate in hearings and to communicate with their clients, either if there are virtual or in person.
- Judiciary
 - In general, there is a need for more judges. However, if there must be a priority in hiring it should be for sentencing courts. The judiciary needs to appoint more sentencing judges to help reduce the workload.
 - Sentencing judges should regularly conduct in situ visits to defendants in prisons. These were interrupted in 2020 with the COVID-19 and they had not yet resumed at the time of our research (in 2022).
 - There is a need to hire administrative staff to support judicial administration.
 - The Supreme Court should create and enforce compliance with clear guidelines regarding virtual hearings, if these are going to continue in the future. Such guidelines should be ideally be created in an inter-institutional roundtable, with the Public Prosecutor's Office and the Public Defender's Office.
 - The judiciary also needs to recruit more qualified interpreters across judicial departments to provide adequate service to defendants and victims whose language is not Spanish.
 - The judiciary should promote and implement a Judicial Management Model that standardizes how all courts in the country are organized and administered, ensuring that judges and magistrates can focus only on adjudication and are provided of adequate resources for administrative staff to control the calendar and to oversee the administration of the court.
- Public Prosecutor's Office
 - Design of an integral criminal prosecution policy, that is buttressed in an understanding of crime as a public safety issue, that seeks conflict resolution through various means (not only punishment), and that considers prosecution as a tool for strategic crime prevention. Such integral criminal prosecution policy would provide guidelines to strategically use pretrial detention as a preventive measure, and to reduce the use of dismissals of prosecution in preference of other alternative measures to end a prosecution.
 - In general, interviewees noted the need for prosecutors to get more training in the following areas:
 - Best practices in investigation and prosecution of criminal cases, with specialized training in subject areas (gender-related crimes, organized crime, cybercrimes, extortion, etcetera).

- Litigation skills, with specialized training by procedural stage (pretrial and trial). In particular, prosecutors need to improve their training in gathering the supporting evidence and crafting the legal argumentation to support an indictment, and improve their skills to present their closing arguments.
- Intelligence analysis, special investigation, and covert law enforcement techniques.

Penitentiary System

Drawing on survey results, interviews, and visits to several prisons, we offer several recommendations for the penitentiary system related the processing, management, and treatment of those living in prison. These include the following:

Reducing Pretrial Detention and Overcrowding:

- Expand the use of alternatives to incarcerations at the pretrial stage. The unsentenced population accounts for a significant percentage of the incarcerated population. Increasing the use of bail, electronic monitoring, and house arrest would help to reduce the number of people in prison and increase the ability of defendants to assist in their own defense.
- Expand early and conditional release mechanisms. Few individuals are granted early release, despite the many benefits associated with it. Ensuring that there are sufficient technical teams, resources and programs to move eligible individuals through the progressive system and out on supervised release can help to alleviate the crowded conditions.

Improved Classification and Housing:

- Implement a validated classification system to determine appropriate prison placement for the incarcerated. This would ensure individuals are housed in facilities that best suit their security needs and rehabilitation potential.
- Separating pretrial detainees from the sentenced population is another crucial step. This reduces the risk of violence and ensures a fairer environment for those awaiting trial.
- Furthermore, there is a need to reduce the number of incarcerated individuals housed per dormitory or cell. This would improve safety, sanitation, and allow for the effective delivery of essential services.

Enhancing Healthcare and Rehabilitation:

- Investing in the prison healthcare system is vital. Increased capacity would allow for better preventative and emergency medical care for the incarcerated population.
- Expanding the number of criminological teams and staff would enable a greater focus on rehabilitation activities and programs.
- Implementing a standardized risk assessment tool would provide valuable insights for decisions regarding housing, rehabilitation programs, and early release.

Improved Management and Transparency:

- An electronic management system would ensure easy access to individuals' files, regardless of their location within the prison system.
- Strengthening the complaint and grievance system is crucial to address concerns and ensure fair treatment.

- Developing a comprehensive prisoner handbook and a thorough orientation process would equip incoming prisoners with knowledge about prison rules, their legal rights, and grievance procedures.
- Establish consistent practices across all the prisons to ensure fairness for prisoners, improve staff effectiveness, and promote a more efficient prison system.

Focus on Education and Reintegration:

- Rehabilitation programs should be evidence-based and continuously improved.
- Expanding educational and job training programs equips those incarcerated with valuable skills that can aid in their successful reintegration into society upon release.
- Continue monitoring the benefits of the New Penitentiary Management Model with its focus on rehabilitation and reintegration to determine if there are significant differences in outcomes measures compared to the traditional prison system, including grievance rates, contraband levels, employment placement post-release, and recidivism rates.

Staff Training and Development:

- The DGSP should hire and appoint professionals as prison directors, to improve institutional administration and increase their tenure.
- Providing ongoing education for prison administrators ensures they remain up-to-date on best practices and legal matters.
- Investing in specialized training for line and programming staff to equip them with the skills and knowledge to perform their duties effectively and humanely.

By implementing these recommendations, the DGSP can create a safer and more rehabilitative environment, ultimately reducing recidivism and improving public safety.

Recommendations for Future Research and Evaluation

In the process of conducting this project we identified areas that clearly need more in-depth research to improve our understanding of the current capacity of the system and the needs of the various institutions that compose it. We recommend funding to be allocated to conduct future research on the following topics:

- Future research should try to find ways to assess workload in each institution, to better understand the challenges that criminal justice operators face and identify the best ways to support them in the future. A nation-wide needs-based assessment should be prioritized for the Public Defender's Office and the penal courts of the judiciary.
- Research should be conducted to identify the factors contributing to the pervasive use of provisional detention, to adequately design policies and allocate resources to eliminate this unregulated practice.
- Research should be conducted to identify the factors contributing to the use of abbreviated procedures in trial courts, to adequately design policies to eliminate this practice.
- A pilot project should be implemented working with sentencing judges to evaluate the impact of alternatives to incarceration in rehabilitation and recidivism.

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APPENDICES

Appendix A. Glossary of Legal Terms in English and Spanish

Español/Spanish	Inglés/English
Acusación	Indictment
Archivo provisional	Stay of proceedings
Criterio de oportunidad	Opportunity principle
Prevención policial (o investigación de oficio)	Duty to investigate by own-initiative (<i>ex officio</i>)
Denuncia	Report
Derivación a mediación	Referral to mediation
Desistimiento	Voluntary dismissal
Desestimación	Dismissal of prosecution
Extinción de la acción penal	Extinction of criminal liability
Imputación	Imputation
Plazo	Procedural term
Prescripción de la acción penal	Prescription of criminal action
Procedimiento abreviado	Plea bargain
Procedimiento simplificado	Simplified trial proceeding
Querrela	Criminal complaint by victim
Sobreseimiento	Dismissal with or without prejudice
Suspensión condicional del procedimiento	Adjournment in contemplation of dismissal

Appendix B. Prison Names and Abbreviations

Centro Penitenciario / Penitentiary Center	Abreviación / Abbreviation	Departamentos/ Departments	Regiónes Judiciales /Judicial Regions
1 Centro de Cumplimiento de Condena para Mujeres Fraijanes I	Fraijanes I	Guatemala	Región Metropolitana
2 Centro de Detención Preventiva de Delitos Menores y Faltas Para Hombres de la Zona 18 (Anexo B)	Z.18 Anexo B	Guatemala	Región Metropolitana
3 Centro de Detención Preventiva para hombres de la zona 17, Mariscal Zavala	Mariscal Zavala	Guatemala	Región Metropolitana
4 Centro de Detención Preventiva para Hombres de la zona 18	Preventivo Z.18	Guatemala	Región Metropolitana
5 Centro de Detención Preventiva para Hombres Reinstauración Constitucional, Fraijanes (Pavoncito)	Pavoncito Fraijanes	Guatemala	Región Metropolitana
6 Centro de Detención Preventiva para Mujeres de la zona 18, Santa Teresa	Sta. Teresa	Guatemala	Región Metropolitana
7 Centro de Orientación Femenino (COF), Fraijanes	COF	Guatemala	Región Metropolitana
8 Granja Modelo de Rehabilitación Pavón	Granja Pavón	Guatemala	Región Metropolitana
9 Centro de Detención Preventiva para Hombres y Mujeres de Cobán, Alta Verapaz	Cobán	Alta Verapaz	Región Norte
10 Centro de Detención Preventiva para Hombres y Mujeres de Santa Elena, Petén	Sta. Elena Petén	Peten	Región Petén
11 Centro de Detención Preventiva para Hombres y Mujeres, Puerto Barrios Izabal	Puerto Barrios	Izabal	Región Nororiental
12 Centro Preventivo de Mujeres de Cantel, Quezaltenago	Quezaltenango Mujeres	Quezaltenango	Región Suroccidente
13 Centro de Detención Preventiva para Hombres y Mujeres, Chimaltenango	Chimaltenango	Chimaltenango	Región Central
14 Centro de Detención Preventiva para Hombres, Santa Cruz del Quiché	Sta. Cruz del Quiché	Quiché	Región Noroccidente

15	Granja Modelo de Rehabilitación Cantel, Quetzaltenango	Granja Cantel	Quetzaltenango	Región Suroccidente
16	Centro de Detención Preventiva para Hombres El Boquerón Cuilapa, Santa Rosa	Boquerón	Santa Rosa	Región Suroriente
17	Centro de Detención Preventiva para Hombres y Mujeres Los Jocotes, Zacapa	Zacapa	Zacapa	Región Nororiente
18	Centro de Alta Seguridad de Canadá Escuintla	Alta Seg. Escuintla	Escuintla	Región Central
19	Centro de Detención Preventiva para Hombres y Mujeres, Mazatenango Suchitepéquez	Mazatenango	Suchitepéquez	Región Suroccidente
20	Granja Modelo de Rehabilitación Canadá, Escuintla	Granja Canadá	Escuintla	Región Central

Appendix C. Rule of Law Index

Capacity	0.60
Material Resources	0.51
1. Prisoners sleep in a cell	0.85
2. Prisoners sleep on a bed	0.36
3. Prisoners do not share beds	0.50
4. Perceptions of adequate number of correction officers	0.40
5. Sufficient transportation for hearings	0.44
Structural Conditions	0.59
6. Cells are well ventilated	0.57
7. The temperature in the cell is adequate	0.52
8. Cells are well illuminated	0.67
Performance	0.51
Safety	0.66
9. Prisoners feel safe in prison facilities	0.70
10. Prisoners feel safe in their cells	0.64
11. Prisoners feel safe while sleeping	0.63
12. Prisoners feel safe while using the bathroom	0.68
Well-being	0.57
13. Prisoners are provided three meals a day that meet nutritional needs	0.34
14. Access to sanitation	0.76
15. Access to potable water of satisfactory quality	0.61
Healthcare	0.35
16. Prisoners have access to medical services	0.53
17. Prisoners received a physical examination in the last 12 months	0.34
18. Prisoners received dental care	0.19
Programming	0.46
19. Prisoners have access to free sports programs	0.43
20. Prisoners have access to free educational programs	0.43
21. Prisoners have access to work programs	0.67
22. Prisoners have access to rehabilitative programs	0.30

Integrity, Transparency, and Accountability	0.73
Respect for Prisoners' Rights	0.72
23. Prison personnel protects the rights of incarcerated	0.47
24. Prison staff does not use physical force against prisoners	0.46
25. Prison staff respects prisoners' physical integrity rights	0.99
26. Prison staff respects prisoners' visitation rights	0.96
27. The staff respects prisoners' rights to food and water	0.98
28. Prison staff informs prisoners of rights and obligations	0.48
Absence of Corruption?	0.92
29. Prison staff does not ask for bribes	0.95
30. Staff does not threaten prisoners with making up charges	0.95
31. The staff does not sell free goods and services to prisoners	0.86
Accountability	0.55
32. Prison has a grievance reporting system	0.55
33. Prison staff does not retaliate against prisoners who report grievances	0.57
34. Prisoners' complaints are resolved in a just manner	0.55
35. Staff is accountable for mistreatment of staff	0.52
Treatment of Vulnerable Groups	0.49
Discrimination	0.55
36. Prison personnel treats everyone equally	0.51
37. Prison staff does not discriminate against racial minorities	0.55
38. Prisoners can practice their religion freely	0.60
Women's Health	0.44
39. Prisons provide free feminine hygiene pads	0.09
40. Access to free gynecological consultations	0.78
OVERALL SCORE	0.58