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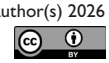
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Organizational Landscapes of Legal Defense: Type of Counsel and Criminal Case Outcomes Across Inquisitorial and Adversarial Systems

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Abstract

Is state-provided legal counsel comparable to private representation? Drawing on organizational sociology and social movements theory, we argue that public defender effectiveness depends on the organizational landscape in which defense operates. Public defenders are more likely to secure favorable outcomes when they have adequate resources, when procedures strengthen defendants' rights, and when prosecutors have flexibility in case disposition. We evaluate this argument using matching methods and case-level data from a Mexican state transitioning from an inquisitorial to an adversarial criminal justice system. We show that public defenders outperform retained counsel in preventing conviction under the adversarial system but perform worse under the inquisitorial system. Differences in convictions are concentrated in cases involving *flagrante delicto* detentions, a procedural area explicitly targeted by the reform. Sentencing differences are weaker and less consistent. These findings show that defense effectiveness varies across institutional contexts, contributing to comparative research on legal representation and criminal courts.

Keywords

public defenders, case outcomes, inquisitorial, adversarial, Mexico

Introduction

Is the legal counsel provided by the state comparable to the representation offered by private attorneys? This question lies at the core of the legitimacy and fairness of criminal justice systems (Duhart Clarke et al., 2024; Hartley et al., 2010). Accordingly, socio-legal scholarship has long sought to address it, particularly following the wave of consequential U.S. Supreme Court decisions that established the constitutional right to counsel in criminal cases (Duhart Clarke et al., 2024; Lefstein & Spangenberg, 2009; Sharma et al., 2022). Yet, despite the central role of defense attorneys, empirical research on their effectiveness remains limited.

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Indeed, a recent meta-analysis spanning more than five decades of research in the United States identified fewer than 25 peer-reviewed studies using quantitative methods to compare case outcomes by type of counsel, only a small number of which were published in the last decade (Duhart Clarke et al., 2024). The scarcity of such research is even more pronounced outside the United States, particularly in Latin America (Ribeiro & Fondevila, 2023). One especially underexamined dimension concerns how defense attorneys perform across different organizational landscapes. By organizational landscapes, we refer to institutional arrangements shaping defense capacity, procedural opportunities for rights enforcement, and coordination among prosecutors, defenders, and courts (Scott, 2008; Ulmer, 2019). These institutional arrangements are expected to enable or constrain public defenders' capacity to provide effective representation, yet few studies have examined these relationships.

As a result, it remains unclear whether—and under what conditions—the type of counsel shapes case disposition and sentencing, especially outside the U.S. context. In this paper, we analyze data from a Mexican jurisdiction during a period in which two organizational landscapes coexisted. Like the rest of Mexico and much of Latin America, this jurisdiction underwent a transition from a predominantly inquisitorial system to an adversarial one, fundamentally transforming criminal procedures and the roles, practices, and resources of criminal justice actors (Fix-Fierro & Suárez Ávila, 2015; Ingram & Shirk, 2010; Shirk, 2010; Suárez Ávila & Fix-Fierro, 2018). The reform expanded procedural protections, increased prosecutorial discretion through alternative and early case-resolution mechanisms, and strengthened effective legal representation, particularly public defense systems.

Drawing on organizational sociology and social movements theory, we argue that this new legal landscape generated a tighter coupling among criminal justice entities (prosecution, public defense, and the judiciary), while simultaneously creating a legal opportunity structure that enhanced public defenders' ability to influence case dispositions in ways previously unavailable.

Literature Review

Criminal Courts as Organizational Environments: Coupling and Legal Opportunity

To situate type-of-counsel influence within the broader organizational literature, we conceptualize criminal courts as organizational environments in which judges, prosecutors, and defense attorneys develop routine practices, shared meanings, and local norms that shape case processing. Classic "court community" accounts emphasize how repeated interaction within local court networks produces stable working arrangements and patterned outcomes (Eisenstein et al., 1988; Eisenstein & Jacob, 1977). Related scholarship on "repeat players" (Galanter, 1974), organizational pressures (Blumberg, 1967), and "inhabited institutions" (Ulmer, 2019) similarly highlights how everyday interactions and local legal culture shape legal decision-making.

Building on this scholarship, we focus on two organizational dimensions that are key in shaping public defenders' capacity to advocate effectively: organizational coupling and legal opportunity structure. Organizational coupling refers to the degree of interdependence among criminal justice actors and agencies. Criminal justice systems are often loosely coupled, with police, prosecutors, defenders, and courts operating semi-autonomously and coordinating imperfectly (Hagan, 1989; Ulmer, 2019; Weick, 1976). In such settings, information flows unevenly across agencies, organizational incentives diverge, and outcomes depend heavily on local routines and discretion. By contrast, tighter coupling emerges when reforms create standardized procedures, shared expectations, and greater institutional integration (Hagan, 1989; Ulmer, 2019).

Legal opportunity structure refers to the extent to which legal systems enable rights activation and claims-making in practice (Andersen, 2005; De Fazio, 2012; Hilson, 2002). In closed opportunity structures, defense intervention may be largely formalistic, with limited opportunities to

challenge evidence, weak remedies for rights violations, and few procedural venues requiring judicial engagement with defense arguments. In more open opportunity structures, procedural design creates leverage points for the defense, including oral hearings with judicial oversight, exclusionary rules that make challenges consequential, and mechanisms for negotiated resolutions (Andersen, 2005; De Fazio, 2012; Hilson, 2002).

Type of Counsel and Case Processing

Socio-legal scholarship identifies two closely related mechanisms through which type of counsel may shape case processing and outcomes: differences in resources and incentives and in the relational dynamics of courtroom workgroups. We conceptualize these mechanisms as complementary and intertwined because resource constraints and incentive structures are often enacted through—and reinforced by—repeat-player interaction, shared expectations, and routinized practices.

The first mechanism emphasizes resources and incentives. Public defender offices are often underfunded relative to prosecutors, resulting in heavy caseloads, limited training, and constrained access to investigators or experts (Alschuler, 1975; Bibas, 2004; Lefstein & Spangenberg, 2009; Wright & Roberts, 2023). These conditions may reduce preparation time, increase burnout, and weaken representation quality (Bibas, 2004; Lefstein & Spangenberg, 2009). Better-resourced defense systems—with higher and more stable funding, manageable caseloads, specialized training, and access to investigators and experts—are more consistently able to investigate and prepare cases, litigate legal issues, negotiate effectively, and maintain client contact (Gottlieb, 2023; Wright & Roberts, 2023).

Incentives may also differ. Public defenders are salaried employees whose compensation does not vary by case outcome, potentially encouraging negotiated dispositions under heavy caseload pressure (Alschuler, 1975; Bibas, 2004). However, whether such streamlining occurs depends on the normative and relational environment. Retained counsel may face incentives favoring more intensive advocacy, although this need not always be the case (Alschuler, 1975).

A second mechanism focuses on courtroom workgroups. As repeat players in a court-community context, public defenders develop ongoing working relationships with judges and prosecutors that can promote cooperation, routinization, and efficiency (Alschuler, 1975; Bibas, 2004; Eisenstein et al., 1988; Stover & Eckart, 1975; Sudnow, 1965). These workgroup dynamics can amplify resource constraints by normalizing plea-based processing and prosecutorial dominance (Eisenstein et al., 1988; Sudnow, 1965), but they may also enable public defenders to leverage familiarity, credibility, and informal knowledge to secure more favorable outcomes than private attorneys (Alschuler, 1975; Bibas, 2004; Cohen, 2014; Hartley et al., 2010; Stover & Eckart, 1975).

Empirical findings on counsel type therefore vary across jurisdictions and procedural regimes. Early studies documented the national institutional landscape of public defense (Harlow, 2000) and compared appointed or public representation with retained counsel across plea bargaining, conviction, and sentencing outcomes (Champion, 1989; Gitelman, 1971; Holmes et al., 1996; Silverstein, 1965; Skolnick, 1966; Swigert & Farrell, 1977), including capital cases (Beck & Shumsky, 1997). More recent studies also report mixed findings. Some identify disadvantages for public defenders, including lower dismissal rates, higher pretrial detention, and harsher sentences (Hoffman et al., 2005; Turner & Johnson, 2003; Williams, 2013, 2017) whereas others find no association or more favorable outcomes (Cohen, 2014; Hartley et al., 2010). Effects also vary across decision points such as bail, plea bargaining, conviction, and sentencing (Kutateladze & Leimberg, 2019; Sharma et al., 2022).

Evidence outside the United States is similarly inconsistent. In Mexico, public defenders are associated with more guilty pleas, whereas retained counsel secure more dismissals (Quintana-Navarrete & Fondevila, 2025), though no differences appear in arrest challenges (Rengifo et al.,

2023). Across Latin America, counsel type often shows limited influence on detention, conviction, or sentence length (Fondevila & Quintana-Navarrete, 2021; Gonçalves et al., 2023; Rengifo & Marmolejo, 2020). However, stronger public defense institutions, characterized by greater organizational autonomy, professionalized career structures, training and supervision, manageable caseloads, and access to investigative and expert services, enhance defenders' ability to secure more favorable case trajectories for clients in Argentina (González-Bertomeu, 2020).

Recent meta-analytic evidence confirms average disadvantages for public defenders in the United States but also highlights substantial geographic and institutional variation (Duhart Clarke et al., 2024; see also Wright & Roberts, 2023). These findings suggest that defense effectiveness may depend heavily on organizational context. Viewed through an organizational lens, resources, incentives, and workgroup dynamics operate as mechanisms through which broader institutional arrangements—organizational coupling and legal opportunity structure—shape defense performance. We apply this framework to Mexico's criminal justice transition.

Organizational Landscapes of Legal Defense in Mexico

The Traditional Criminal Justice System. For decades, Mexico's criminal justice system was widely criticized as inefficient, opaque, corrupt, and dismissive of due process protections (Ingram & Shirk, 2010; Shirk, 2010). Rooted in inquisitorial principles, the system relied heavily on written dossiers and quasi-secret prosecutorial investigations. Judges rarely interacted with defendants, relying primarily on prosecutorial case files (Magaloni Kerpel & Ibarra Olguín, 2008; Shirk, 2010). Prosecutors were legally required to pursue all cases once a suspect had been identified, regardless of evidentiary weakness or practical constraints. Public defense largely functioned as a procedural formality because of limited resources and procedural influence (Fix-Fierro & Suárez Ávila, 2015; Magaloni Kerpel & Ibarra Olguín, 2008; Suárez Ávila & Fix-Fierro, 2018).

These institutional arrangements facilitated widespread abuses. Cases commonly began with arrests in *flagrante delicto*—the detention of a suspect while committing a crime or shortly thereafter—which did not require an arrest warrant. This detention would then be followed by interrogation practices aimed at securing confessions, often serving as the primary basis for conviction, even amid allegations of fabrication or torture (Magaloni & Rodriguez, 2020; Magaloni & Salmón, 2026). Pretrial detention was widespread, and convictions were highly likely once charges were filed, a sign of prosecutorial dominance (Shirk, 2010).

The adversarial criminal justice system. In response to sustained criticism and broader pressures related to public security and the rule of law, Mexico enacted a sweeping constitutional reform in 2008 that replaced the traditional system with an adversarial model inspired in part by the common law tradition (Ingram & Shirk, 2010; Shirk, 2010). The reform introduced oral and public proceedings, strengthened due process and judicial oversight, expanded negotiated resolutions, and invested in public defense through greater funding, training, and institutional support (Fix-Fierro & Suárez Ávila, 2015; Suárez Ávila & Fix-Fierro, 2018). States implemented the reform gradually, generating uneven reform adoption across jurisdictions (Shirk, 2010).

The reform particularly targeted early stages of criminal proceedings. Although arrests in *flagrante delicto* remained common, judges were now required to review arrest legality, oversee pretrial detention decisions—which were generally no longer mechanically tied to charge severity—and enforce exclusionary protections limiting the use of coerced confessions and investigative materials obtained during detention (Magaloni & Rodriguez, 2020; Magaloni & Salmón, 2026; Shirk, 2010). At the same time, prosecutors gained greater discretion to dismiss cases, pursue diversion, and negotiate abbreviated procedures analogous to plea bargaining, positioning them as the system's central gatekeepers (Ingram & Shirk, 2010; Shirk, 2010).

The reform also altered the organizational environment of criminal courts. Expanded prosecutorial discretion reshaped both the composition of cases that proceeded to court and the bargaining environment in which defense attorneys operated, increasing the strategic interdependence of courtroom actors and the routinization of negotiated outcomes (Ingram & Shirk, 2010; Shirk, 2011). Crucially, the adversarial model expanded opportunities for defense intervention and strengthened public defense systems (Fix-Fierro & Suárez Ávila, 2015; Suárez Ávila & Fix-Fierro, 2018).

Type of Counsel Across Organizational Landscapes

Implementation of the reform varied substantially across Mexican states, including in the extent to which public defense systems received additional resources and institutional support (Aguiar-Aguilar, 2021; Fix-Fierro & Suárez Ávila, 2015; Suárez Ávila & Fix-Fierro, 2018). Baja California is especially relevant because prior research identifies it as one of the states with comparatively strong implementation and high levels of defender training under the adversarial model (Suárez Ávila & Fix-Fierro, 2018). At the same time, courtroom actors increasingly converged around the reform's emphasis on efficiency, due process, oral proceedings, and negotiated resolutions, indicating tighter organizational coupling (Cortés et al., 2017).

Together, these reforms created a more open legal opportunity structure and a more tightly coupled organizational environment in which public defenders may have been better positioned to secure favorable outcomes through greater organizational capacity and their embeddedness in courtroom workgroups. Because implementation varied across states, however, these expectations may not generalize uniformly across Mexico (Fix-Fierro & Suárez Ávila, 2015; Suárez Ávila & Fix-Fierro, 2018).

Data

This study uses the *Law Enforcement in Criminal Matters* dataset (*Esquema Homologado de Recolección de Información de Impartición de Justicia*), publicly available through Mexico's National Institute of Statistics and Geography. The dataset contains standardized case-level information collected by state judiciaries between 2014 and 2021 (Instituto Nacional de Estadística y Geografía, n.d., 2020). We focus on the state of Baja California because of its large and complex criminal justice system, comparatively higher data completeness, and reform implementation relative success.

Implementation of the adversarial system in Baja California occurred gradually across judicial districts following the 2008 constitutional reform. Mexicali adopted the new system first (August 2010), followed by Tecate (November 2015), Ensenada (March 2016), and finally Tijuana and Playas de Rosarito (June 2016; Poder Judicial del Estado de Baja California, n.d.). This transition required the creation of infrastructure for oral hearings and extensive training of judges, prosecutors, defenders, and courtroom staff, core dimensions repeatedly highlighted in reform assessments (Centro de Enseñanza Técnica y Superior, 2013; Ingram & Shirk, 2010). The implementation was coordinated through an interinstitutional commission tasked with aligning the activities of key justice agencies (Nuevo Sistema de Justicia Penal—Baja California, n.d.).

Although the adversarial model operated under the same legal framework across Baja California, the pace and organizational capacity with which jurisdictions operationalized reforms varied. Early adopters such as Mexicali had more time to consolidate training, staffing, and logistics, whereas later adopters such as Tijuana and Playas de Rosarito faced steeper transition demands under tighter implementation deadlines (Centro de Enseñanza Técnica y Superior, 2013; Ingram & Shirk, 2010). The shift to oral hearings created new opportunities for defenders to intervene through evidentiary challenges and litigation at early hearings, but effective use of these opportunities required organizational capacity, including time, preparation, and access to

support services. Cases initiated under the traditional system continued to be processed under prior rules until resolution (Código Nacional de Procedimientos Penales [CNPP], 2014, transitory art. 3), producing several years of overlap between procedural models.

The analytical sample includes all cases presented before a judge in Baja California that were resolved between 2015 and 2021 under either system. For the adversarial system, the data include only cases that were initiated and resolved within the same calendar year, reflecting the structure of the original data collection process and potentially excluding longer or more complex cases. We assess sensitivity to this limitation through robustness checks.

Variables

We examine case disposition and sentencing outcomes. *Conviction* is coded as a binary indicator (no; yes). In the adversarial system, non-convictions include dismissals and acquittals at trial. Dismissals fall into two broad categories. The first consists of dismissals resulting from alternative procedures, namely reparative agreements (CNPP, 2014, arts. 184, 186–190) and diversion (CNPP, 2014, arts. 184, 191–200). These procedures are generally available for misdemeanors and other nonserious crimes and require restitution to the victim (CNPP, 2014, arts. 187, 192). The second category includes outright dismissals, such as in the case of the defendant's death, expiration of the statute of limitations, and double jeopardy, among others (CNPP, 2014, arts. 256, 327, 485; Código Penal para el Estado de Baja California [CPEBJ], 1989, art. 97). Prosecutors may also drop nonviolent or involuntary cases punishable by a maximum of 5 years' imprisonment after evaluating the circumstances of each case (CNPP, 2014, art. 256). In the traditional system, the non-conviction category includes outright dismissals and acquittals at trial. Outright dismissals may be declared for reasons similar to those in the adversarial system (Código de Procedimientos Penales para el Estado de Baja California [CPPEBJ], 2007, arts. 263, 304), but prosecutors lack the authority to unilaterally drop cases, and diversion and reparatory agreements do not exist under this framework.

Convictions in the adversarial system occur through two pathways. The first is the abbreviated procedure, a trial-avoiding mechanism analogous to plea bargaining (Langer, 2021). This procedure requires defendants to waive their right to trial, admit responsibility, and consent to a determination of guilt based on the investigation file (CNPP, 2014, arts. 185, 201–207). In exchange, defendants receive substantial sentence reductions ranging from one-third to two-thirds of the minimum sentence, depending on offense severity and criminal history (CNPP, 2014, art. 202). The second pathway to conviction is trial, though trials are uncommon in the adversarial system. Convictions in the traditional system can only be obtained through trial.

For both systems, sentencing outcomes are measured using three variables: (1) *custodial* sentence, a binary indicator of whether a defendant received a prison sentence; noncustodial outcomes include suspended and substituted prison sentences, fines, community service, or other sanctions not involving executed incarceration; (2) *prison length*, measured as an ordered variable with six categories (<1 year; 1 to <2 years; 2 to <3 years; 3 to <4 years; 4 to <5 years; ≥ 5 years); and (3) *fine* amount, measured as an ordered variable with 11 categories up to more than 50,000 Mexican pesos.

The main predictor is type of counsel, coded as a binary indicator (retained/private vs. public). Unlike the United States, legal representation in Mexico is effectively limited to privately retained attorneys and salaried public defenders; assigned counsel and *pro bono* representation are largely absent (Fix-Fierro & Suárez Ávila, 2015; Suárez Ávila & Fix-Fierro, 2018). Under Article 20, Section B, Part VIII of the Mexican Constitution, any defendant may request representation by a public defender regardless of socioeconomic status. Defendants who fail or refuse to designate a private attorney are automatically assigned a public defender. Consequently, local and federal public defense systems function both as providers of indigent defense and as broader systems of

legal representation available to all defendants in each jurisdiction (Suárez Ávila & Fix-Fierro, 2018). A small number of cases in which defendants were recorded as having no legal representation or both private and public counsel are excluded from the analyses.

Regression models and matching procedures include pretreatment covariates plausibly associated with both counsel selection and outcomes. These variables include: gender (woman; man), age (continuous), education (none; elementary; middle school; high school; college or more), criminal record (no; yes), *flagrante delicto* (no; yes), number of crimes charged (continuous), crime type and severity, year of entry (continuous), and jurisdiction (Ensenada; Mexicali; Tecate; Tijuana; Playas de Rosarito). Crime type and severity is categorized based on the typology of the criminal code (CPEBJ, 1989) and includes violent crimes; sex crimes and crimes against freedom (e.g., kidnapping); property crimes; crimes against the family; public safety crimes; other crimes; violent crimes combined with another offense; and other combinations of offenses. Regression models additionally include quarter-of-entry fixed effects (Table 1).

Method

The analysis proceeds in three stages. First, we present descriptive statistics for the traditional and adversarial samples. Second, we estimate multivariate models with standard errors clustered by defendant in each sample. Specifically, we use logistic regression models for *conviction* (traditional: $n = 6{,}501$; adversarial: $n = 6{,}206$) and *custodial sentence* (traditional: $n = 5{,}305$; adversarial: $n = 3{,}390$), and ordered logistic models for *prison length* (traditional: $n = 1{,}006$; adversarial: $n = 1{,}067$) and *fine* (traditional: $n = 5{,}143$; adversarial: $n = 3{,}348$). Type of counsel is the focal predictor, and all models include the controls listed in Table 1. Custodial sentence is analyzed conditional on conviction, whereas prison length and fines are examined conditional on receipt of the respective sanction. This regression-based approach mirrors standard practice in sentencing research, yet it may be susceptible to selection bias because the cases and people represented by public defense typically differ significantly from those represented by retained counsel (Bales & Piquero, 2012).

Third, to mitigate potential selection bias, we implement a two-step adjustment strategy. We first preprocess the data using matching procedures, which improve balance in the joint distribution of pretreatment covariates, reduce dependence on functional form assumptions, and limit extrapolation beyond the region of common support (Ho et al., 2007; Iacus et al., 2012). We rely on a combination of two matching methods. First, we use exact (or precision) matching, the most stringent approach, which pairs treated and control units with identical values on selected pretreatment covariates (Bales & Piquero, 2012; Cochran et al., 2018). In this study, exact matching is applied to the binary covariates: gender, prior conviction, and *flagrante delicto*.

Because exact matching alone can be overly restrictive—particularly when covariates have multiple categories or are continuous—we supplement it with coarsened exact matching (CEM) (Iacus et al., 2009). CEM groups observations into substantively meaningful categories and then performs exact matching on those coarsened variables, thereby increasing the number of viable matches while preserving covariate balance. Specifically, CEM creates strata based on coarsened covariate values, retains strata containing at least one treated and one control observations, and reweights observations to account for unequal numbers of treated and control units within matched strata (Iacus et al., 2009, 2012) We manually coarsen the following variables: education, number of crimes charged, crime type and severity, and jurisdiction. Age is coarsened into 5-year intervals up to approximately age 40, with all older defendants grouped into a single category. We rely on CEM's automated algorithm to match on year of entry (see Supplemental Tables S1 and S2 for more details). Covariate balance is assessed both through comparisons of covariate means and proportions across groups and through the $\mathcal{L}_1$ statistic, which captures multidimensional imbalance and ranges from 0 (*perfect balance*) to 1 (*full imbalance*; Iacus et al., 2012).

Table 1. Descriptive Statistics by Outcome and Type of System.

	Case disposition (conviction)				Custodial sentence			
	Adversarial (n = 6,206)		Traditional (n = 6,501)		Adversarial (n = 3,390)		Traditional (n = 5,305)	
Variables	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*
Dependent variables								
Conviction	54.6%	—	81.6%	—	—	—	—	—
Custodial sentence	—	—	—	—	31.5%	—	19.0%	—
Independent variable								
Public defender	81.8%	—	94.1%	—	80.1%	—	95.6%	—
Control variables								
Age	30.9	9.5	34.0	10.5	29.5	8.8	33.8	10.4
Gender (men)	93.4%	—	94.1%	—	95.0%	—	94.7%	—
Education								
None	5.8%	—	3.3%	—	5.7%	—	3.1%	—
Elementary	14.4%	—	28.4%	—	15.3%	—	28.6%	—
Middle school	28.8%	—	44.2%	—	28.8%	—	44.8%	—
High school	34.2%	—	20.7%	—	35.6%	—	20.9%	—
College or more	16.8%	—	3.4%	—	14.6%	—	2.6%	—
Prior conviction	93.5%	—	28.9%	—	93.7%	—	30.7%	—
Flagrante delicto	76.8%	—	78.3%	—	76.6%	—	83.9%	—
Number of crimes	1.2	0.6	1.1	0.3	1.1	0.5	1.1	0.3
Crime type and severity								
Violent	4.5%	—	4.1%	—	1.9%	—	2.5%	—
Freedom/sex	2.7%	—	2.3%	—	3.9%	—	1.5%	—
Property	68.9%	—	18.8%	—	80.8%	—	16.9%	—
Family	3.8%	—	2.4%	—	0.6%	—	0.8%	—
Public safety	7.3%	—	65.4%	—	5.9%	—	71.6%	—
Other	5.3%	—	2.3%	—	3.5%	—	2.1%	—
Violent and other(s)	4.9%	—	2.2%	—	1.9%	—	1.8%	—
Other combinations	2.6%	—	2.5%	—	1.5%	—	2.8%	—
Year								
<2015	0.0%	—	2.0%	—	0.0%	—	1.9%	—
2015	14.9%	—	55.1%	—	14.4%	—	57.2%	—
2016	15.2%	—	33.1%	—	14.7%	—	34.6%	—
2017	26.2%	—	5.2%	—	27.9%	—	3.4%	—
2018	20.5%	—	1.8%	—	20.6%	—	1.9%	—
2019	11.3%	—	2.1%	—	11.1%	—	0.7%	—
2020	5.2%	—	0.5%	—	4.8%	—	0.2%	—
2021	6.7%	—	0.2%	—	6.5%	—	0.1%	—
Quarter								
First	47.0%	—	42.6%	—	48.2%	—	43.5%	—
Second	32.6%	—	29.7%	—	35.4%	—	30.5%	—
Third	15.5%	—	14.5%	—	14.6%	—	14.0%	—
Fourth	4.9%	—	13.2%	—	1.8%	—	12.0%	—
Jurisdiction								
Ensenada	9.0%	—	17.9%	—	7.7%	—	19.4%	—
Mexicali	62.7%	—	28.8%	—	59.0%	—	33.5%	—
Tecate	5.2%	—	2.2%	—	4.4%	—	1.9%	—
Tijuana	19.7%	—	48.8%	—	26.4%	—	42.5%	—
Playas de Rosarito	3.4%	—	2.3%	—	2.5%	—	2.7%	—

In the second step, we estimate doubly robust models by reapplying the regression specifications from Stage 2 to the matched samples (Ho et al., 2007). This strategy reduces residual bias and yields consistent estimates if either the matching procedure or the outcome model is correctly specified. A limitation of exact and coarsened exact matching is that some treated observations lack adequate matches and must therefore be discarded. This reduces efficiency and shifts the quantity of interest to the local Sample Average Treatment effect for the Treated (local SATT). In the present application, the matched samples are smaller for both the adversarial system (case disposition: $n = 3{,}261$, 734 private, and 2,527 public defense; sentencing: $n = 1{,}776$, 403 private, and 1,373 public defense) and the traditional system (case disposition: $n = 2{,}628$, 262 private, and 2,366 public defense; sentencing: $n = 1{,}679$, 152 private, and 1,527 public defense; see Supplemental Tables S1 and S2). Although matching is increasingly common in criminal justice research (e.g., Bales & Piquero, 2012; Cochran et al., 2018), it has rarely been applied to comparisons of public and private defense effectiveness.

Results

Tables 1 and 2 present descriptive statistics for outcomes across systems. Conviction rates are higher under the traditional system, but custodial sentences are less common, prison terms are shorter, and fines are lower. Public defense is widely used under both systems, although it is more prevalent under the traditional system. Arrests in *flagrante delicto* are common in both systems, reflecting their central role in case initiation. More than 90% of defendants in the adversarial samples have a prior conviction, approximately three times the rate observed in the traditional system. Property crimes are more prevalent in the adversarial system, whereas public safety offenses are more common under the traditional system.

Table 3 reports the main multivariate results. Analyses based on unmatched samples indicate that, under the adversarial system, defendants represented by public defenders are significantly more likely to experience dismissal or diversion and significantly less likely to be convicted than those with retained counsel. The odds of conviction for defendants with retained counsel are 1.5 times those for defendants represented by public defenders. However, once convicted, defendants represented by public defenders have slightly more than twice the odds of receiving a custodial sentence compared with defendants represented by retained counsel. Public defense is also associated with shorter prison terms, though not significantly associated with fines. By contrast, the traditional system exhibits the opposite pattern with respect to case disposition. Defendants with public defenders face significantly higher odds of conviction, approximately 1.7 times those of defendants with retained counsel. Type of counsel is not significantly associated with sentencing outcomes in the traditional system.

A central limitation of the unmatched analyses is the substantial imbalance between defendants represented by public and private counsel, particularly in the traditional system. The $\mathcal{L}_1$ statistic ranges from .77 to .98, indicating limited to virtually nonexistent overlap in pretreatment characteristics. Matching substantially improves covariate balance. Across models, the $\mathcal{L}_1$ statistic is reduced by 28% to 56%, a magnitude generally considered substantial in applied research (Iacus et al., 2012). The matching procedure also reduces the imbalance in each pretreatment covariate, as shown in Supplemental Tables S1 and S2.

In the matched samples, the type of counsel coefficients are statistically significant and slightly larger. Under the adversarial system, the odds of conviction for defendants with retained counsel are approximately 1.7 times those for defendants represented by public defenders. Under the traditional system, defendants represented by public defenders face approximately 2.2 times the odds of conviction of defendants with retained counsel. The association between public defense and custodial sentence in the adversarial system is also confirmed. All remaining results are statistically insignificant except for evidence indicating that public defense is associated with

Table 2. Descriptive Statistics by Outcome and Type of System (cont.).

	Prison length				Fine			
	Adversarial (n = 1,067)		Traditional (n = 1,006)		Adversarial (n = 3,348)		Traditional (n = 5,143)	
Variables	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*
Dependent variables								
Prison length								
<1 year	15.9%	—	54.2%	—	—	—	—	—
1 to <2 years	30.8%	—	20.4%	—	—	—	—	—
2 to <3 years	14.9%	—	7.8%	—	—	—	—	—
3 to <4 years	8.9%	—	1.4%	—	—	—	—	—
4 to <5 years	11.5%	—	1.4%	—	—	—	—	—
5 years or more	18.0%	—	14.8%	—	—	—	—	—
Fine								
$1–$5,000	—	—	—	—	69.3%	—	82.1%	—
$5,001–$10,000	—	—	—	—	8.3%	—	4.5%	—
$10,001–$15,000	—	—	—	—	1.3%	—	0.4%	—
$15,001–$20,000	—	—	—	—	0.8%	—	0.2%	—
$20,001–$25,000	—	—	—	—	1.7%	—	0.1%	—
$25,001–$30,000	—	—	—	—	3.2%	—	0.1%	—
$30,001–$35,000	—	—	—	—	0.8%	—	0.3%	—
$35,001–$40,000	—	—	—	—	0.9%	—	0.4%	—
$40,001–$45,000	—	—	—	—	0.5%	—	0.1%	—
$45,001–$50,000	—	—	—	—	0.1%	—	0.1%	—
>$50,000	—	—	—	—	0.3%	—	0.3%	—
Independent variable								
Public defender	88.2%	—	94.5%	—	80.0%	—	95.7%	—
Control variables								
Age	30.8	8.4	33.4	9.8	29.4	8.8	33.9	10.4
Gender (men)	97.2%	—	94.1%	—	94.9%	—	94.9%	—
Education								
None	6.8%	—	2.8%	—	5.8%	—	3.2%	—
Elementary	13.8%	—	29.0%	—	15.5%	—	28.5%	—
Middle school	30.9%	—	46.8%	—	28.8%	—	44.8%	—
High school	36.0%	—	19.7%	—	35.4%	—	20.9%	—
College or more	12.5%	—	1.7%	—	14.5%	—	2.6%	—
Prior conviction	94.5%	—	38.4%	—	93.6%	—	30.6%	—
Flagrante delicto	69.2%	—	81.4%	—	76.6%	—	84.0%	—
Number of crimes	1.2	0.5	1.0	0.2	1.1	0.5	1.1	0.3
Crime type and severity								
Violent	3.2%	—	5.1%	—	1.7%	—	2.1%	—
Freedom/sex	4.2%	—	5.4%	—	3.8%	—	1.5%	—
Property	74.0%	—	25.6%	—	81.3%	—	17.2%	—
Family	1.0%	—	0.7%	—	0.6%	—	0.7%	—
Public safety	8.1%	—	58.5%	—	6.0%	—	72.1%	—
Other	5.4%	—	1.9%	—	3.3%	—	1.8%	—
Violent and other(s)	2.5%	—	1.5%	—	1.8%	—	1.8%	—
Other combinations	1.6%	—	1.3%	—	1.5%	—	2.8%	—
Year								
<2015	0.0%	—	5.0%	—	0.0%	—	1.6%	—
2015	16.4%	—	47.0%	—	13.7%	—	56.5%	—

(continued)

Table 2. (continued)

	Prison length				Fine			
	Adversarial (n = 1,067)		Traditional (n = 1,006)		Adversarial (n = 3,348)		Traditional (n = 5,143)	
Variables	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*	*M* or %	*SD*
2016	16.8%	—	40.1%	—	14.9%	—	35.6%	—
2017	28.0%	—	4.4%	—	28.1%	—	3.4%	—
2018	20.4%	—	1.4%	—	20.8%	—	1.9%	—
2019	10.9%	—	1.5%	—	11.2%	—	0.7%	—
2020	2.0%	—	0.6%	—	4.8%	—	0.2%	—
2021	5.5%	—	0.0%	—	6.5%	—	0.1%	—
Quarter								
First	52.7%	—	39.9%	—	48.2%	—	43.1%	—
Second	34.6%	—	32.0%	—	35.4%	—	30.8%	—
Third	12.2%	—	13.8%	—	14.6%	—	13.9%	—
Fourth	0.5%	—	14.3%	—	1.8%	—	12.2%	—
Jurisdiction								
Ensenada	3.8%	—	23.0%	—	7.8%	—	19.3%	—
Mexicali	61.7%	—	11.4%	—	58.7%	—	33.3%	—
Tecate	8.2%	—	1.6%	—	4.5%	—	1.9%	—
Tijuana	21.9%	—	62.3%	—	26.5%	—	42.8%	—
Playas de Rosarito	4.4%	—	1.7%	—	2.5%	—	2.7%	—

Note. Outcome *Fine* has 12.8% missing observations for the adversarial system and 11.4% missing for the traditional system.

lower fines. Taken together, these findings provide consistent evidence that counsel type is associated with conviction and custodial sentencing, whereas the results for prison length and fines are comparatively weaker and less stable.

The matched samples predominantly consist of younger male defendants arrested in *flagrante delicto*, closely resembling the modal defendant in Mexico (Fondevila et al., 2016). Most matched cases were presented to a judge between 2015 and 2018, when the two systems coexisted statewide. Within the matched adversarial samples, cases disproportionately involve defendants with prior convictions charged with a single property offense in Mexicali, the first jurisdiction in Baja California to implement the adversarial system. Matches in the traditional system more commonly involve defendants without prior convictions charged with a public safety offense (primarily low-level drug offenses) in Tijuana, a later adopter of the reform. Cases lacking these common characteristics are more frequently excluded because they fall outside the region of common support.

To further probe the mechanisms underlying these findings, we conducted two exploratory analyses. First, we re-estimated the main conviction models including an interaction between counsel type and *flagrante delicto* status. Figure 1 (Panel A) shows that, under the adversarial system, public defenders are significantly more effective than retained counsel in *flagrante delicto* cases, reducing the predicted probability of conviction by approximately 11 percentage points ($p < .001$). Under the traditional system (Panel B), the opposite pattern emerges: Public defenders are approximately 13 percentage points ($p = .028$) less effective than retained counsel in *flagrante delicto* cases. Differences are small and statistically insignificant in non-*flagrante delicto* cases under both systems.

We next pooled observations from both systems, matched on pretreatment covariates and system type, and estimated conviction models including interactions between counsel type and

Table 3. Regression Models With Unmatched and Matched Samples for the Adversarial and Traditional Systems With Case and Sentencing Outcomes.

	Conviction		Custodial		Prison length		Fine	
Variables	Unmatched	Matched	Unmatched	Matched	Unmatched	Matched	Unmatched	Matched
Panel A								
Adversarial system								
Public defender	0.675***	0.605***	2.099***	2.177***	0.663**	0.692	0.780	0.663*
	(0.053)	(0.073)	(0.247)	(0.410)	(0.130)	(0.239)	(0.100)	(0.123)
$\mathcal{L}_1$	.80	.38	.77	.34	.77	.34	.77	.34
Pseudo R^2	.15	.12	.09	.09	.17	.10	.04	.04
N	6,206	3,261	3,390	1,772	1,067	490	2,918	1,632
Panel B								
Traditional system								
Public defender	1.694***	2.219*	1.104	0.936	0.449	2.306	0.662	1.451
	(0.245)	(0.722)	(0.214)	(0.547)	(0.217)	(1.978)	(0.152)	(0.536)
$\mathcal{L}_1$	.93	.67	.98	.71	.98	.71	.98	.71
Pseudo R^2	.22	.17	.11	.09	.32	.24	.17	.15
N	6,501	2,628	5,239	1,635	1,006	258	4,557	1,437

Note. Coefficients are odds ratios with standard errors clustered by defendant in parentheses. *Conviction* and *Custodial* are modeled using logistic regression; *Prison length* and *Fine* are modeled using ordered logistic regression. The $\mathcal{L}_1$ statistic measures the multidimensional differences between treatment and control groups. Models include the controls in Table 1. *$p < .05$. **$p < .01$. ***$p < .001$ (two-tailed test).

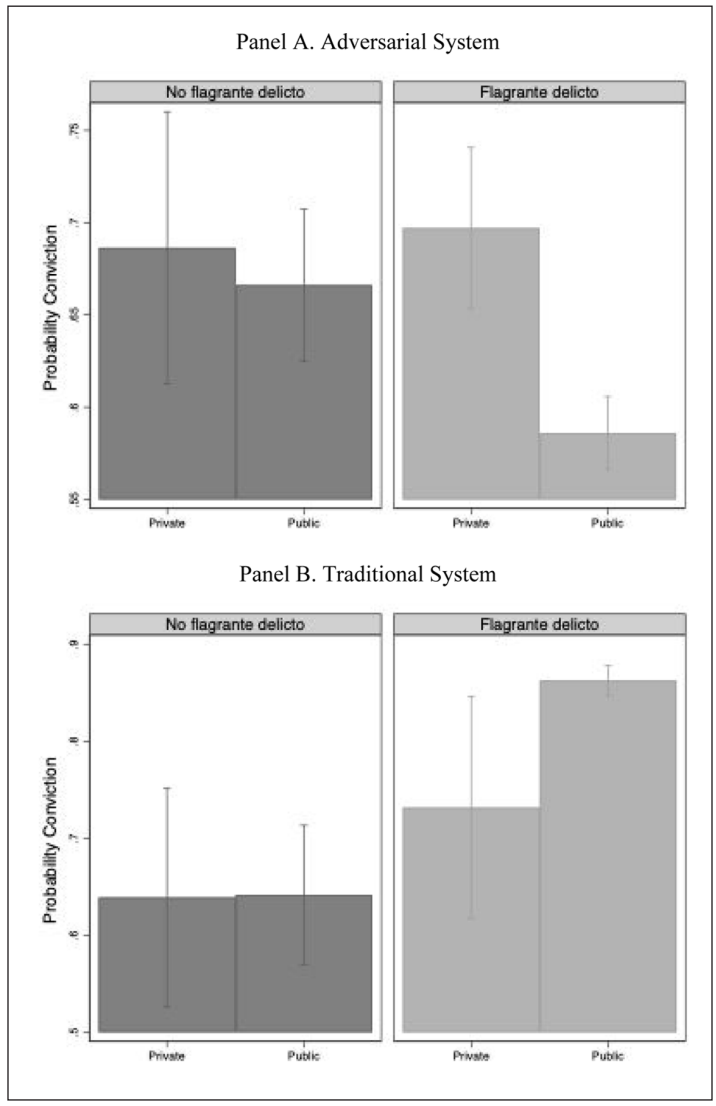

Figure 1. Predicted probabilities of the interaction between public defender and *flagrante delicto* for models with conviction as the outcome: (Panel A) adversarial system and (Panel B) traditional system.
Note. Predicted probabilities and confidence intervals were estimated using Stata's *margins* command. These estimates capture the interaction between counsel type and *flagrante delicto* status for the conviction outcome.

system. Figure 2 reveals that retained counsel perform similarly across systems, whereas public defenders are substantially more effective under the adversarial regime. Defendants represented by public defenders are 28 percentage points ($p < .001$) less likely to be convicted in the adversarial system than in the traditional system, whereas the predicted probabilities for retained counsel differ little across systems.

The main findings are robust across multiple sensitivity analyses. To address potential bias arising from reporting rules in the adversarial system—which exclude cases not resolved within the same calendar year—we restrict the sample to cases initiated in the first half of each year, allowing at least 6 months for resolution. Results are substantively similar (Supplemental Table S3). We also restrict analyses to cases resolved before 2020 to account for potential disruptions

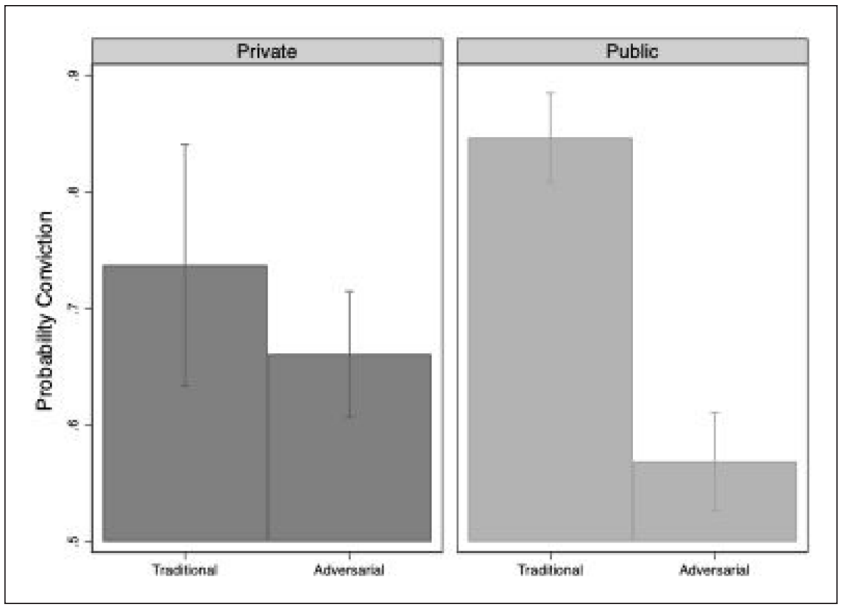

Figure 2. Predicted probabilities of the interaction between public defender and type of system for models with conviction as the outcome.
Note. Predicted probabilities and confidence intervals were estimated using Stata's *margins* command. These estimates capture the interaction between counsel type and system type for the conviction outcome.

associated with the COVID-19 pandemic, again with similar results (Supplemental Table S4). Finally, disaggregating dismissals and diversion further shows that public defenders are more likely to secure both outcomes in the adversarial system (Supplemental Table S5), justifying their aggregation in the main analyses.

Discussion

The effectiveness of public defenders is central to the legitimacy and fairness of criminal justice systems, yet empirical research on the topic remains scarce, particularly outside of the United States and across different organizational landscapes (Duhart Clarke et al., 2024; Ribeiro & Fondevila, 2023). Our study addresses this limitation by comparing outcomes of public defenders and retained counsel across two organizational landscapes in Mexico: a traditional inquisitorial system and a reformed adversarial system.

We show that counsel type shapes case disposition in opposite ways across systems. Under the traditional system, public representation is associated with a higher probability of conviction relative to retained counsel. Under the adversarial system, however, public defense is associated with a lower probability of conviction. These differences are concentrated among *flagrante delicto* cases, a procedural area explicitly targeted by the reform. Importantly, the advantage of public defense under the adversarial system appears to reflect improvements in public defender effectiveness rather than declining performance among retained attorneys.

We also observe notable differences in aggregate case outcomes across systems. Conviction rates are higher under the traditional system, whereas custodial sentences, prison terms, and fines are lower. These patterns are consistent with changes in case composition rather than sentencing severity. Under the adversarial system, greater prosecutorial discretion to divert or dismiss less

serious cases before conviction likely leaves a greater concentration of relatively serious cases to proceed through adjudication.

These findings suggest that the institutional environment shapes defense effectiveness. The adversarial reform expanded prosecutorial discretion and procedural opportunities for defense intervention at the early stages of case processing, where many decisions regarding detention, evidentiary challenges, diversion, and case dismissal are made. Public defenders appear particularly effective at activating these procedural mechanisms. More broadly, the findings indicate that the most consequential influence of counsel type emerges during early case processing rather than sentencing. Greater prosecutorial discretion also altered the composition of cases reaching court, with lower-level offenses more likely to be diverted or screened out before adjudication.

At the same time, defendants represented by public defenders under the adversarial system are more likely to receive custodial sentences once convicted, although there is also weaker evidence that they receive shorter prison terms and lower fines. We do not interpret this as evidence that public defenders cause harsher punishment. Instead, the pattern is consistent with public defenders preventing conviction in weaker cases while continuing to represent defendants exposed to comparatively higher incarceration risks. Although our doubly robust estimation strategy substantially reduces observable selection bias, unobserved differences in defendants or cases may remain. For example, defendants expecting conviction may preferentially choose public representation.

By contrast, the traditional system exhibits no consistent pattern in sentencing outcomes. These analyses include comparatively few defendants represented by retained counsel and exhibit limited overlap in pretreatment variables across counsel types, rendering smaller matched samples and potential estimation instability, an important limitation of the analysis. Nevertheless, the scarcity of retained counsel reflects the institutional marginalization of public defense under the traditional system, where public defenders played a largely ceremonial role and defendants were routinely assigned public representation with little consultation or choice (Fix-Fierro & Suárez Ávila, 2015; Magaloni Kerpel & Ibarra Olguín, 2008; Suárez Ávila & Fix-Fierro, 2018).

The findings are consistent with broader organizational arguments developed throughout the paper. Under the traditional system, public defense operated within an institutional environment characterized by weak procedural protections, limited defense resources, and highly routinized prosecutorial dominance. Under the adversarial system, by contrast, reforms strengthened procedural rights, expanded opportunities for early termination through dismissals and diversion, and increased the public defense's organizational capacity. Critically, it also increased opportunities for legal intervention by shifting evidentiary evaluation to oral hearings, strengthening exclusionary rules, and subjecting arrests to judicial scrutiny (Ingram & Shirk, 2010). At the same time, judges, prosecutors, and defenders increasingly coordinated around shared expectations regarding efficiency and due process. These changes produced tighter organizational coupling (Hagan, 1989; Ulmer, 2019) and a more open legal opportunity structure that public defenders were especially well positioned to activate (Andersen, 2005; De Fazio, 2012; Hilson, 2002).

The results also refine existing debates regarding courtroom workgroups and public defense effectiveness. Some scholarship suggests that routinized cooperation among legal actors primarily favors prosecutorial outcomes (Eisenstein et al., 1988; Sudnow, 1965). Our findings instead align with research showing that public defenders may benefit from repeat-player status and institutional familiarity in some contexts (Alschuler, 1975; Bibas, 2004; Cohen, 2014; Hartley et al., 2010; Stover & Eckart, 1975). Under the adversarial system, repeated interaction appears to facilitate dismissals and diversions rather than convictions. These findings also highlight prosecutors' expanded discretion over charging, diversion, and negotiated resolutions. Because these decisions occur within an interdependent courtroom workgroup, public defenders' advantage in preventing conviction likely reflects both improved organizational capacity and a reconfigured bargaining environment (Ingram & Shirk, 2010; Shirk, 2010).

More broadly, the findings help explain the mixed literature on public defense effectiveness. Prior research has documented worse, equivalent, and occasionally better outcomes for public defenders relative to retained counsel in the United States (Duhart Clarke et al., 2024; Wright & Roberts, 2023) and Latin America (Fondevila, Quintana-Navarrete, 2021; Gonçalves et al., 2023; González-Bertomeu, 2020; Quintana-Navarrete & Fondevila, 2025; Rengifo et al., 2023; Rengifo & Marmolejo, 2020). Our results suggest that these differences depend heavily on organizational context. When procedural rules expand enforceable rights, defender offices possess adequate organizational capacity, and courtroom actors operate within a coordinated institutional environment that emphasizes efficiency and due process, public defense can match or outperform retained counsel in preventing conviction and mitigating punishment.

Our results are unlikely to be driven by mutual influence between the two systems during the transition period. Some institutional spillover is plausible, as courtroom actors may have transferred practices from one procedural model to another. If such spillover substantially influenced public defender effectiveness, however, we would expect differences across systems to narrow or disappear. Instead, public defenders are less effective than retained counsel under the traditional system but more effective under the adversarial system. To the extent that spillover occurred, it likely attenuated rather than exaggerated these differences, rendering our estimates conservative.

The study nevertheless has important limitations. The analyses rely on administrative data from a single Mexican state, and unobserved factors such as evidentiary strength, case complexity, and attorney quality cannot be fully captured. Although matching substantially reduces selection bias, it cannot eliminate it entirely, a limitation that may be especially relevant for the custodial sentencing analyses. Similarly, institutional and organizational mechanisms such as courtroom workgroups, defender resources, and caseloads are not directly observed. Although these limitations are common in quantitative research on type of counsel, they cannot be fully overcome. Moreover, the data structure and the matching procedures likely exclude some more complex cases in which defenders may have had greater opportunities to deploy more intensive litigation strategies. Consequently, the findings are not necessarily generalizable to the entire population of criminal cases processed in Baja California. At the same time, the analyses capture the modal defendants, offenses, and forms of disposition in the Mexican criminal justice system (Fondevila et al., 2016), highlighting the substantive relevance of the results. Finally, although this limitation does not affect the main conviction analyses, some sentencing models may suffer from estimation instability associated with small sample sizes and missing data.

Future research should address some of these limitations through multistate comparisons, qualitative studies of courtroom practice, and longitudinal analyses of defender careers and organizational trajectories. In the Mexican context specifically, future work should also evaluate the impact of subsequent counter-reforms, such as expansions of mandatory pretrial detention and modifications to alternative dispute resolution mechanisms. Despite these limitations, this study shows that defense effectiveness is not an inherent attribute of either public or private representation, but rather the product of procedural design, organizational capacity, and institutional culture. When these elements align, public defense systems can play a meaningful role in constraining punitive power.

Authors' Note

During the preparation of this work, the authors used ChatGPT for research design and to generate and debug sections of the code used to perform the analyses, as well as to improve language and readability. After using this tool, the authors reviewed and edited the content as needed and take full responsibility for the content of the published article.

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Supplemental Material

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