



- ▶ Over 40% of the prison population is in pretrial detention.
- ▶ The total prison population has increased by more than one-third since 2001.
- ▶ Overcrowding is high at 125% of official capacity.
- ▶ Mexico spends 5.5 million pesos (400,000 USD) a day incarcerating people awaiting trial.

The Mexican criminal justice system detains over 95,000 people without trial during the course of a year. Over half of these people are exonerated and released – but only after a lengthy period in pretrial detention. Previous policies regulating pretrial detention did not alleviate the problem and resources continue to be drained on a daily basis.

In 2008 Mexico instigated a significant reform of the criminal justice system, changing from an inquisitorial, written system to an adversarial, oral model. As the reforms were implemented it became clear that the institutional structures were insufficient to guarantee respect for the presumption of innocence and allow for a greater use of non-custodial alternatives to pretrial detention. To address this reality the State of Morelos – one of first States to implement the reforms – worked together with the Presumption of Innocence Project and the Open Society Justice Initiative to establish a program to help manage pretrial release.

The pretrial services model comprises two components: evaluation and supervision.

## Evaluation

The evaluation phase seeks to establish whether there is a risk that the defendant will abscond, interfere with proceedings, or represent a risk to the community. It involves:

### An interview with pretrial services staff

- This takes place soon after arrest and prior to the first court hearing.
- It aims to gather information such as community ties, employment, education, criminal record, compliance with any previous judicial decisions and drug and/or alcohol use.

### Compilation of the pretrial services report

- Information is verified with government institutions, friends and relatives and compiled into a report that is sent to the prosecutor and the defence lawyer.
- The report compiles all the information gathered and can include a recommendation as to whether the person should be released pending trial and if so, under what conditions.

The pretrial services report informs the bail hearing leading either to pretrial release under certain conditions, or to pretrial detention.

## Supervision

The supervision phase helps ensure that the defendant has sufficient information, guidance and support to be able to comply with the judge's conditions of release. In Morelos the supervision structure made use of existing non-government organizations as well as schools, hospitals and community organizations.

The pretrial services pilot project started out in Morelos in early 2009 focusing on the juvenile justice system and was institutionalized in 2011.

'The model seeks to balance the presumption of innocence with the state's duty to maintain public safety and ensure the credibility of the criminal justice system.'

## Results and Impact of the Project

The pretrial services model has gained experience and recognition both in Mexico and in the region resulting in:

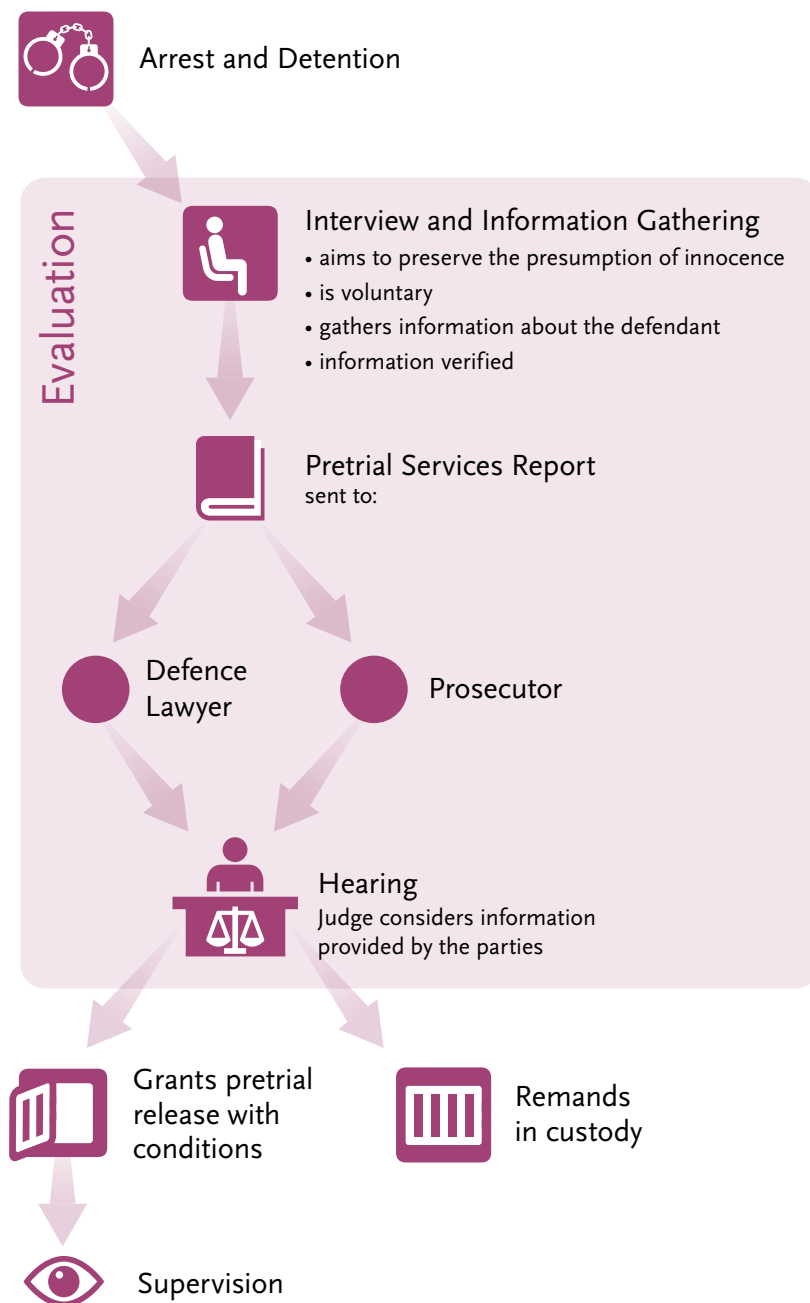
- improved quality and substance of bail hearings;
- increase in the use of alternatives to pretrial detention;
- greater understanding by the public and media of the presumption of innocence.

The State of Morelos has recognized the importance of the pilot, continued its application and expanded it to the adult system. Other states in Mexico followed the lead and are also in the process of implementing a similar model including Baja California, Hidalgo, Michoacán, Puebla, and Yucatán.

In Latin America a number of countries are also working on the development of pretrial service models including Argentina, Chile, Costa Rica, Ecuador and Peru.

The Presumption of Innocence Project has also been acclaimed internationally and in 2012 won three awards: first prize in the category of best practices for the UNICEF Award on the Rights of Children and Adolescents in Mexico, the award for Staff Training given by the International Correctional Services Association and was one of three finalists in the Innovating Justice Awards for successful innovations presented in the Hague in November 2012.

## The Pretrial Services Model



## The Presumption of Innocence Project

The Presumption of Innocence Project is now part of the Mexican Institute for Criminal Proceedings. Following criminal justice reforms in the region it aims to promote the presumption of innocence through the rational use of alternatives to pretrial detention, in accordance with international standards, due process and the rule of law. The project carries out research, advocacy and provides technical assistance.

It forms part of a collaborative effort with the Global Campaign for Pretrial Justice which aims to address the over-reliance on pretrial detention, promote effective

alternatives and ensure greater access to legal assistance. Criminal justice organizations are working to document the scale and consequences of the problem, pilot innovative practices and advocate reform.

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