

PRESUMED GUILTY: THE STATE OF THE MEXICAN JUSTICE SYSTEM

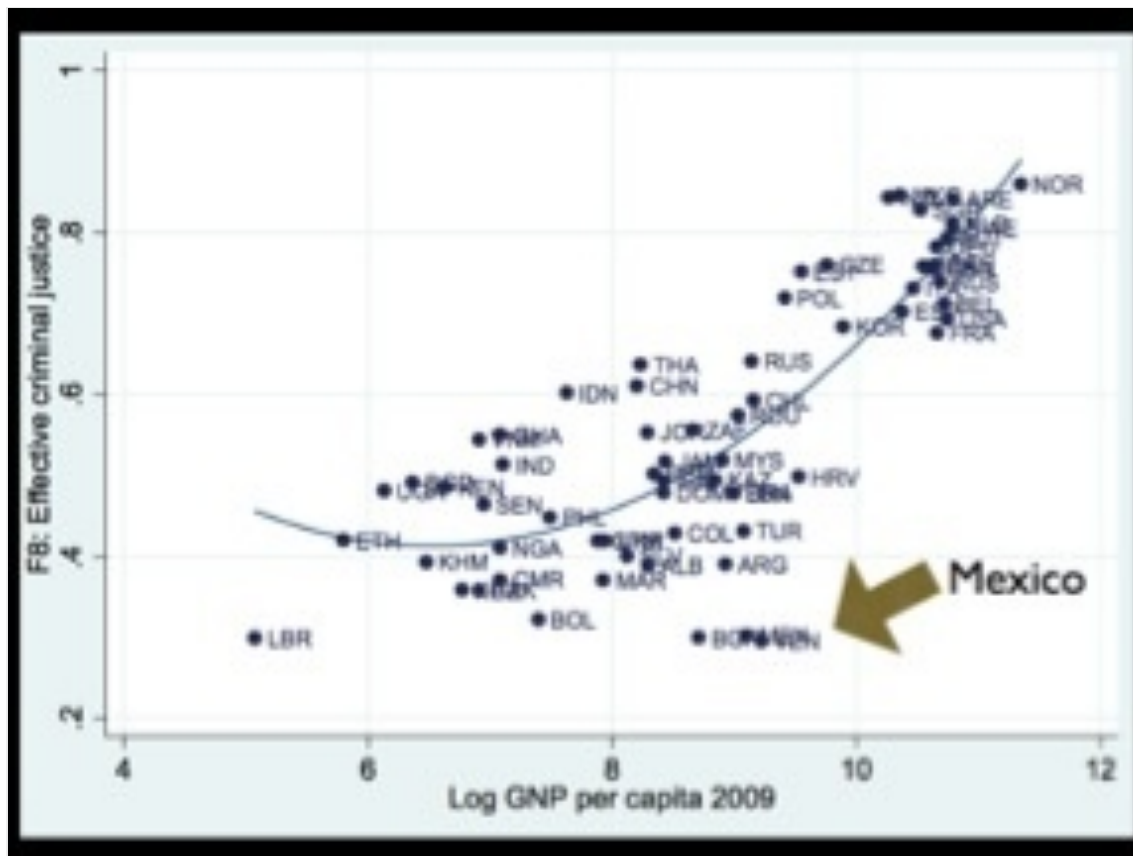
In February of 2011, we debuted *Presumed Guilty* in Mexican theaters. The film narrates the true story of Tono Zuniga, a young man falsely accused of homicide. Perhaps for the topic it tackles, perhaps for the telling of the tale, but most certainly due to a government censorship order, *Presumed Guilty* became the most watched documentary in Mexico's history. Not much piques ratings like trying to stop people from seeing something.

From one day to the next, a million people screened the film in theaters, then a million more watched on DVD and another million tuned in for a single television broadcast. Uploaded versions went viral on the internet and street vendors hawked DVDs yelling "come and get it, the film our government doesn't want you to see." Bootleg copies made it inside Mexican prisons where other falsely accused and hastily convicted inmates witnessed the mechanisms behind the madness that put them behind bars. Critical acclaim married popular appeal as the film racked up film festival prizes, even winning an Emmy for Best Investigative Reporting for the televised version aired in the United States on PBS.

When television commentator Brozo brought us on his morning show, he introduced us by declaring "Someone has stripped the pants off the Mexican judicial system." The notion we'd unearthed a scandal surprised us: As if it weren't already common knowledge that police investigations in Mexico, when conducted, were anemic and lack of evidence no deterrent to a swift arrest and lengthy sentence. As if it were news that presiding judges often don't bother showing up at trials and that prisons pack in inmates like so many sardines in a can.

Public reaction to the film proved Brozo's analogy quite apt. Everyone already knew of the system's almost farcical incompetence but like the little boy in the fable of the Emperor's New Clothes, *Presumed Guilty* brought to light what no one had dared to proclaim. This particular ruler has been naked for quite a long time, we just pointed it out.

Not surprisingly, judicial officials rushed to impugn the film's validity as the depiction of an unrepresentative single case; sadly, the evidence from Mexico render this claim as meritless as the original charges against Tono.



The World Justice Project, an organization that conducts surveys on the provision of justice in 97 countries, captures the state of the Mexican system in a single graph. The figure above shows where various countries reside on a vertical axis representing the efficacy of their criminal justice systems plotted against a horizontal axis of 2009 GDP per capita.

Countries in the upper right corner boast both economic and judicial resources. There we find various European nations like France, Norway and Belgium. We also see the United States in this mix. The lower left corner contains countries with relatively little resources on both fronts, including Liberia, Ethiopia, Uganda, Cameroun and Nigeria. The arrow, far from the standard deviation line toward the center, signals where Mexico sits. We are behind the standards of justice of states like Bolivia, Senegal and Morocco although they struggle with far less wealth per head. As this graphic shows, Mexico falls at the bottom in terms of the efficacy of our judicial system; factoring in our wealth as compared to those with us in this predicament, our delivery of fair and effective justice relative to available resources puts us dead last in this critical endeavor.

Mexico defies the overall norm the data graphed here signal: the greater the resources of a country, the better the provision of criminal justice. This seems a logical, even obvious, correlation. A rich country can offer higher salaries to its law enforcement officials, train them adequately and provide the most effective

technology for investigation and for conducting fair hearings and other processes. But in Mexico, this trend does not hold. The economic resources we have do not translate into criminal justice efficacy.

In the 1950s, when the British airplane Comet crashed in mid-flight, Prime Minister Winston Churchill ordered a full investigation into what caused the accident that continued until every underlying problem was clear and every mechanism to avoid future occurrences made known. If judicial error, most critically, depriving an innocent person their liberty, were studied with the same rigor applied to a plane crash, we would have a better sense of how to intervene to ensure this tragic occurrence does not happen again. For us, the case of Tono Zuniga in Presumed Guilty is just this plane crash, our Comet – a call to dig deep into how things could go so tragically wrong.

Our extensive analysis of this and similar cases show that among an inexcusable litany of errors, the gravest mistakes happen at the very outset of investigations. From conducting arrests to questioning suspects to collecting and using eye witness evidence, authorities fail to live up to their public protection mandate. These three issues in particular – arrest, eye witness evidence and police interrogation – are at the heart of the problems in Mexico. These are the three legs holding up the stool of any effective effort to make viable the criminal justice system.

Two years after our turn as lawyers turned filmmakers and investigative reporters, we are focused again on formulating the means to strengthen provision of justice in our country. We believe we have good news in this endeavor: All of the problems with our criminal justice system are solvable. The weaknesses of the system are not the product of some innate failing or proclivity to corruption among Mexicans. The cause of our problems is a deep flaw in the design and operation of our institutions – a case of badly misaligned incentives that better policy can and must fix.

Given this, altering the way we conduct criminal investigations, creating real standards for how we treat victims and suspects, and generating effective mechanisms for observing and recording law enforcement procedures would mean a very different future for justice in Mexico, and beyond. With great hope, we are ready to throw down the gauntlet. Is it possible to avoid future cases like Tono Zuniga's? Just as England used a thorough assessment of what went wrong with Comet to significantly reduce the peril of airtravel, we believe Presumed Guilty has much to teach us about achieving our own “never again.”