

A map of Mexico with state abbreviations labeled in yellow. The states shown include BCN, BCS, CHH, COA, DUR, SIN, NIN, ZAC, AGS, NAY, JAL, GUA, QUE, HID, DOMEX, TLX, VER, YUC, QUI, CAM, TAB, OAX, and CHIA. The map is light blue with white borders between states.

Criminal Procedure Reform in Mexico: States of Implementation

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Overview

- Major federal reform: June 18, 2008
 - Some states already reformed
 - All states mandated to comply by June 17, 2016
- Revolutionary institutional transformation
- Multiple and varied implications
 - due process in democratic societies
 - legal traditions, legal culture, rule of law
 - sources of institutional change
 - effects of institutional change
- Key: measurement/assessment of these changes!

Road Ahead

- Summary of reform content
- Methods for assessing progress across all 32 states
- State-level implementation
 - Overview all states
 - 12 leading states
 - 3 fully implemented (CHIH, EDOMEX, MOR)
 - 9 partially implemented (BCN, CHIA, DUR, GUA, NLN, OAX, TAB, YUC, ZAC)
 - Close-up of leader: Chihuahua
- Conclusions

Reform Content

Reform Content

General Principles

- Restorative justice
- Alternative justice
- Publicity/transparency
- Orality
- Continuity
- Concentration
- Contradiction
- Immediacy
- Presumption of innocence
- Opportunity

Reform Content

1 police training	enhance investigatory capacity
2 victim rights	make reparation/restitution explicit goal; restorative justice
3 defendant rights	presumption of innocence, access to public defenders, defense attorneys must be lawyers (no more "persona de confianza"), flagrancia redefined, search orders must come from judge, poisonous fruits doctrine (exclusionary rule)
4 preventive or pre-trial detention	limit use to certain enumerated crimes and unusual circumstances
5 prosecutorial discretion	now allowed (oportunidad), e.g., minor cases, informant cases
6 alternative exits	plea bargaining (proceso abreviado); also reparative agreements and ADR: mediation, conciliation

Contents of 2008 Reform

7	alternative sentencing options	suspended process (diversion, probation, suspended sentences)
8	private actions	acción particular; acción privada; acción popular (diffuse or collective rights, e.g., Brasil)
9	due process judge	juez de control/garantías; oversees pre-trial phases; institutionalizes separation between accusing and sentencing judges
10	adversarial process (oral hearings and trial)	in ALL phases, including the public explanation of sentence
11	compliance judge	juez de ejecución de sentencias; oversees enforcement of sentence
12	organized crime	arraigo (40/80); asset forfeiture (extinción de dominio, aplicación de bienes); wiretaps

***** Implement in ALL states by 2016 *****

Methods

Methods

- Two key markers:
 - 1) new Code of Criminal Procedure (CCP)
 - 2) new Sentencing Oversight Law (LES)
- Measures of progress
 - Formal approval
 - Bill, approval, full reform
 - Practical implementation (de facto functioning)
 - Legally effective
 - Age
 - Geographic coverage
 - New cases entering new system (as % of all criminal cases)

Methods

- Archival analysis of state documents
 - Constitutions
 - Legislation
 - CCP, LES
 - Regulatory laws (*Leyes Orgánicas*)
 - Annual court reports (*Informes*)
- Supplemented with SETEC reports
- Cautions:
 - Legal landscape changing quickly
 - Data issues: uneven and incomplete information

States of Implementation

Mapping Approval of New CCP

2002



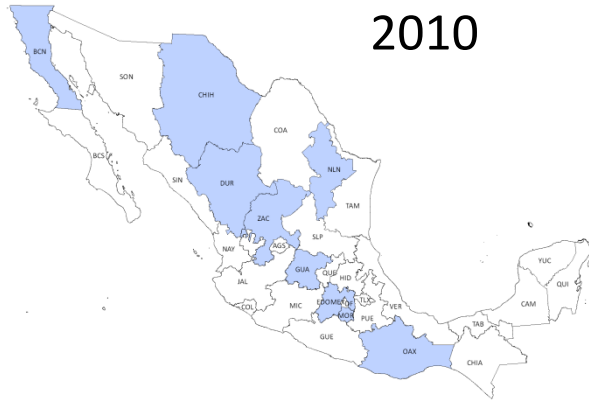
2005



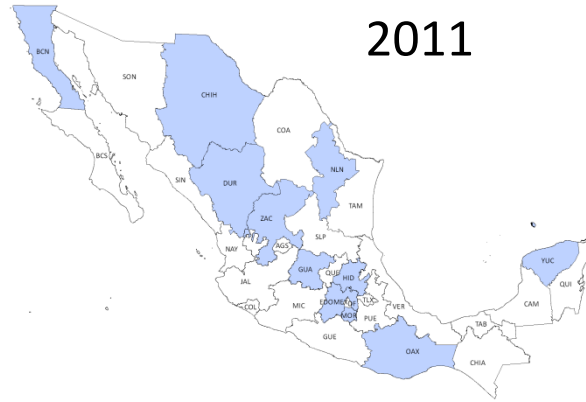
2007



2010



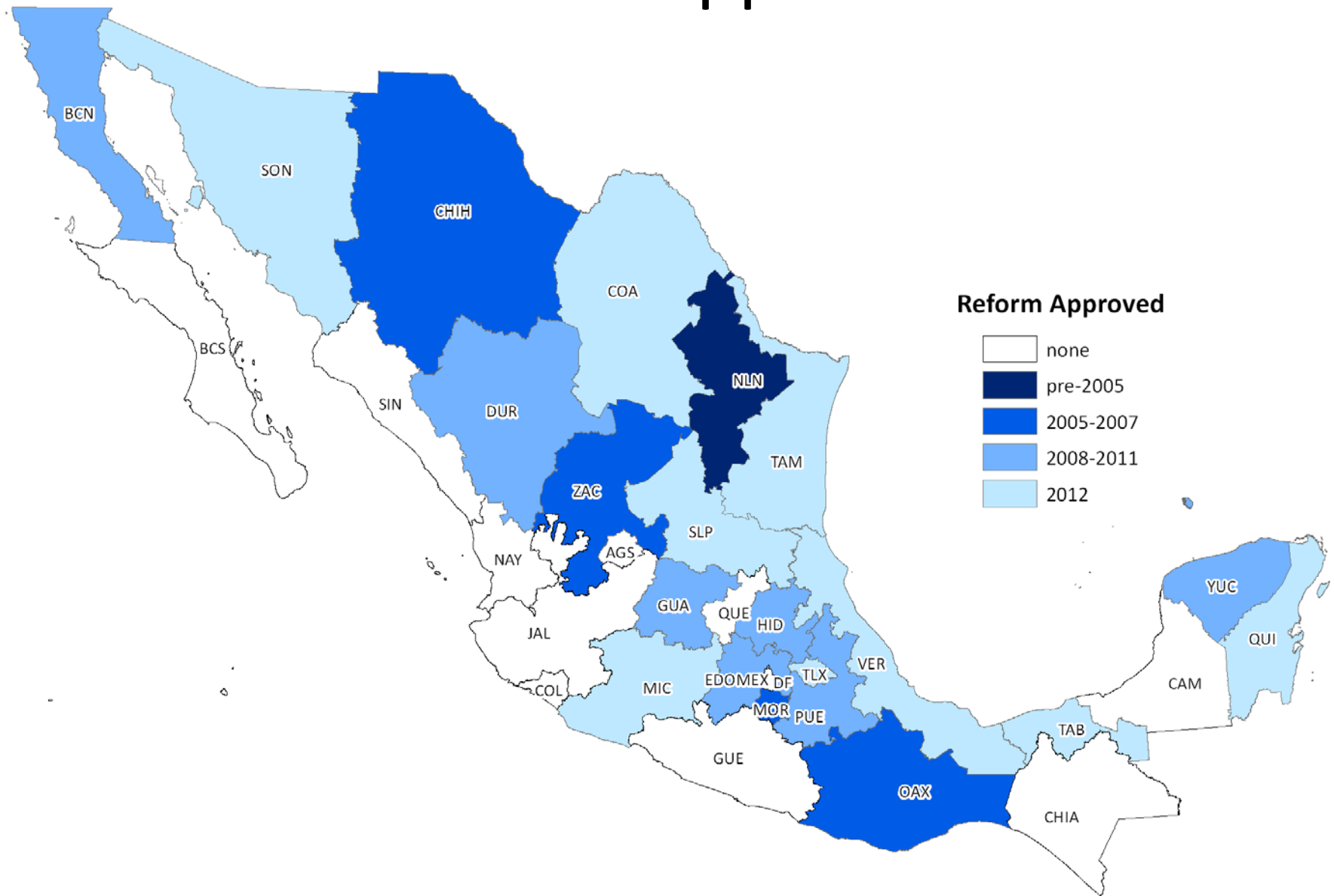
2011



2012



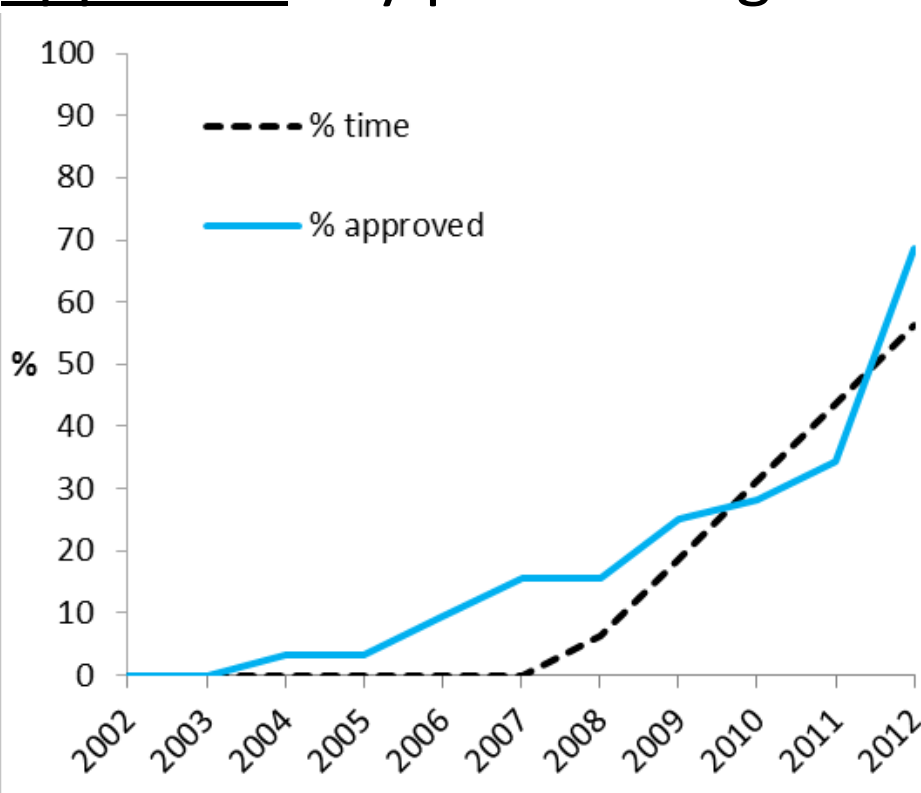
New CCP Approved



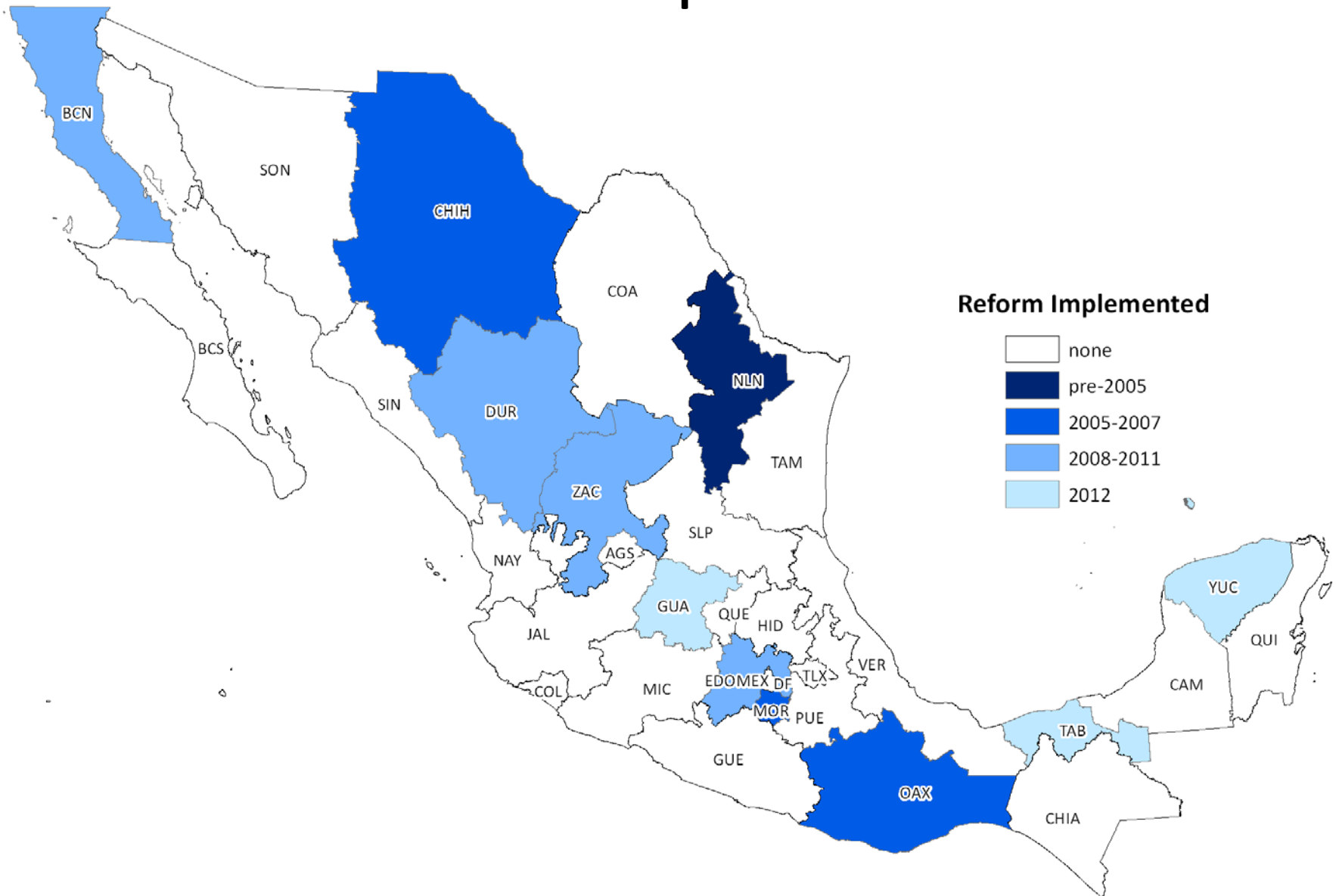
New CPP Approved

At the close of 2012 (4.5 years in):

- 22 states have approved a new CCP
- **56%** of the way from 2008 to 2016, **69%** of states have approved key piece of legislation

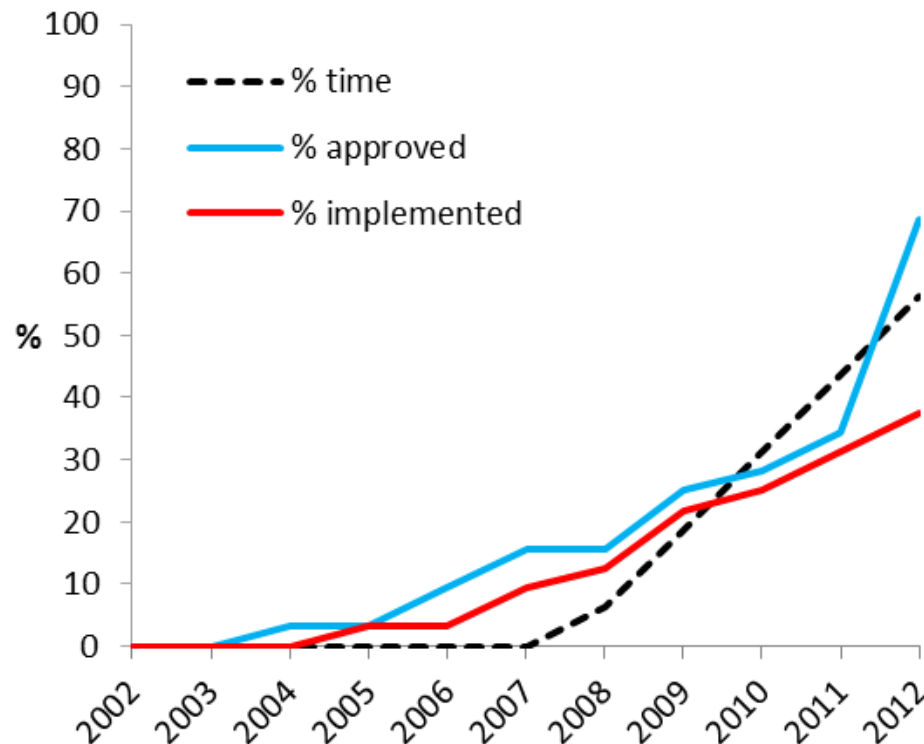


New CCP Implemented



New CCP Implemented

- At the close of 2012 (4.5 years in):
 - 12 states have a new and operational CCP
 - **56%** of the way from 2008 to 2016, **38%** of states have implemented key piece of legislation



Two Reform Indices (2002-2011)

- Sum of:

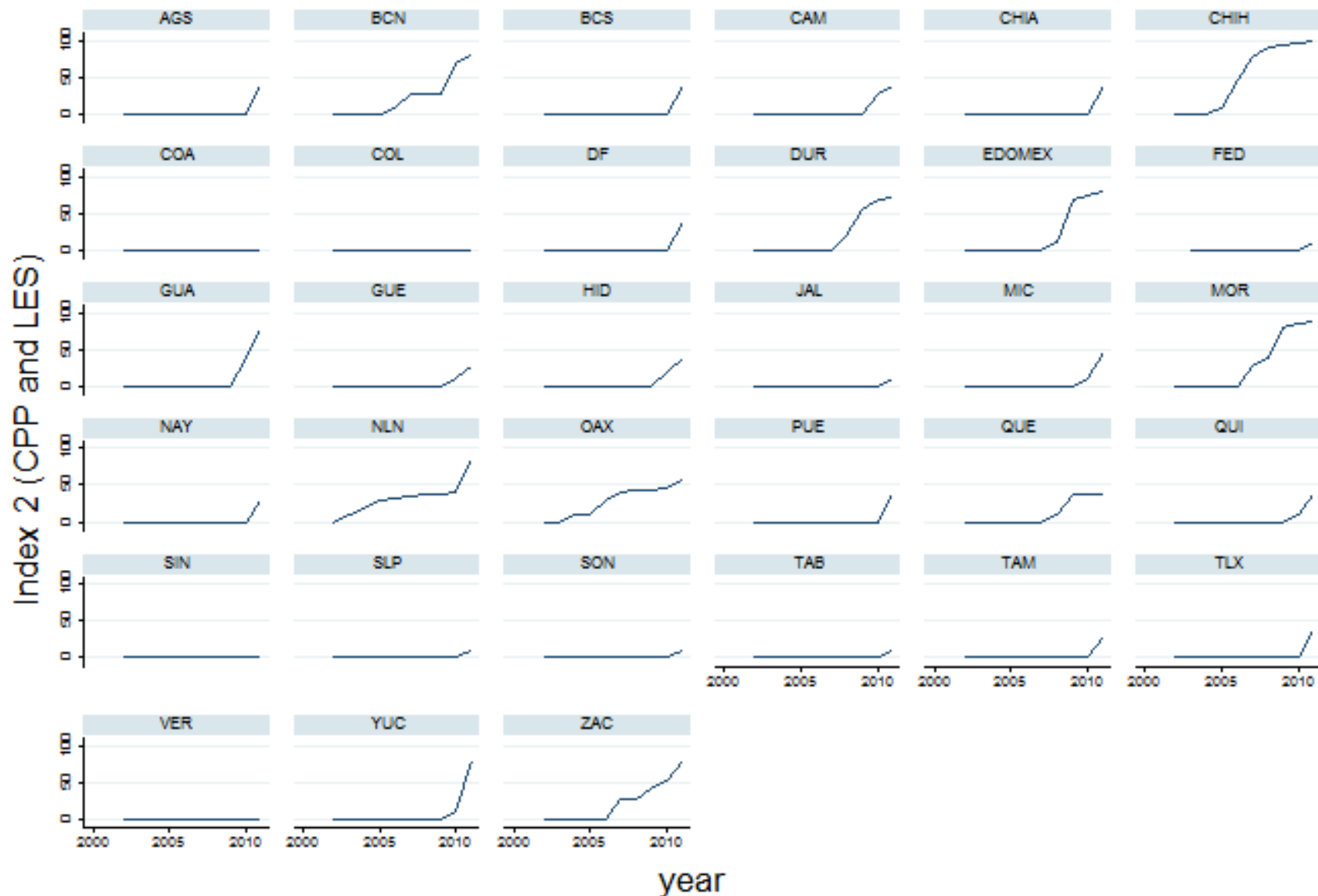
CCP	LES
Initiated	Initiated
Approved	Approved
Full reform	Full reform
Implemented	Implemented
Age (institutionalization)	
Geographic coverage	
Cases entering new system	

- Index 1: CCP only
- Index 2: CCP + LES
 - Could generate any number of variations
- Normalized (0-100; Chihuahua=100)

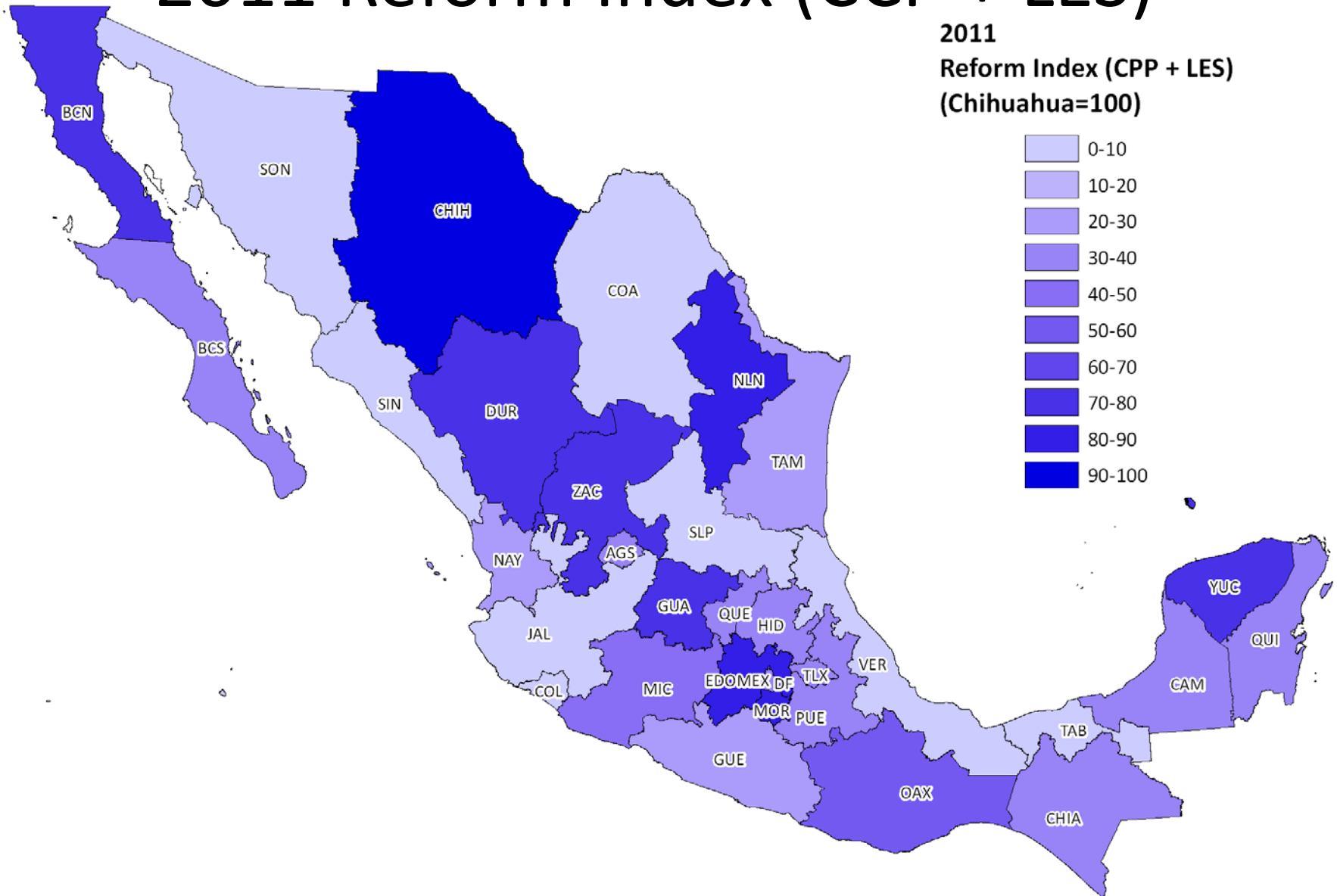
2011 Reform Index 1 (CCP only)



2011 Reform Index 2 (CCP + LES)



2011 Reform Index (CCP + LES)

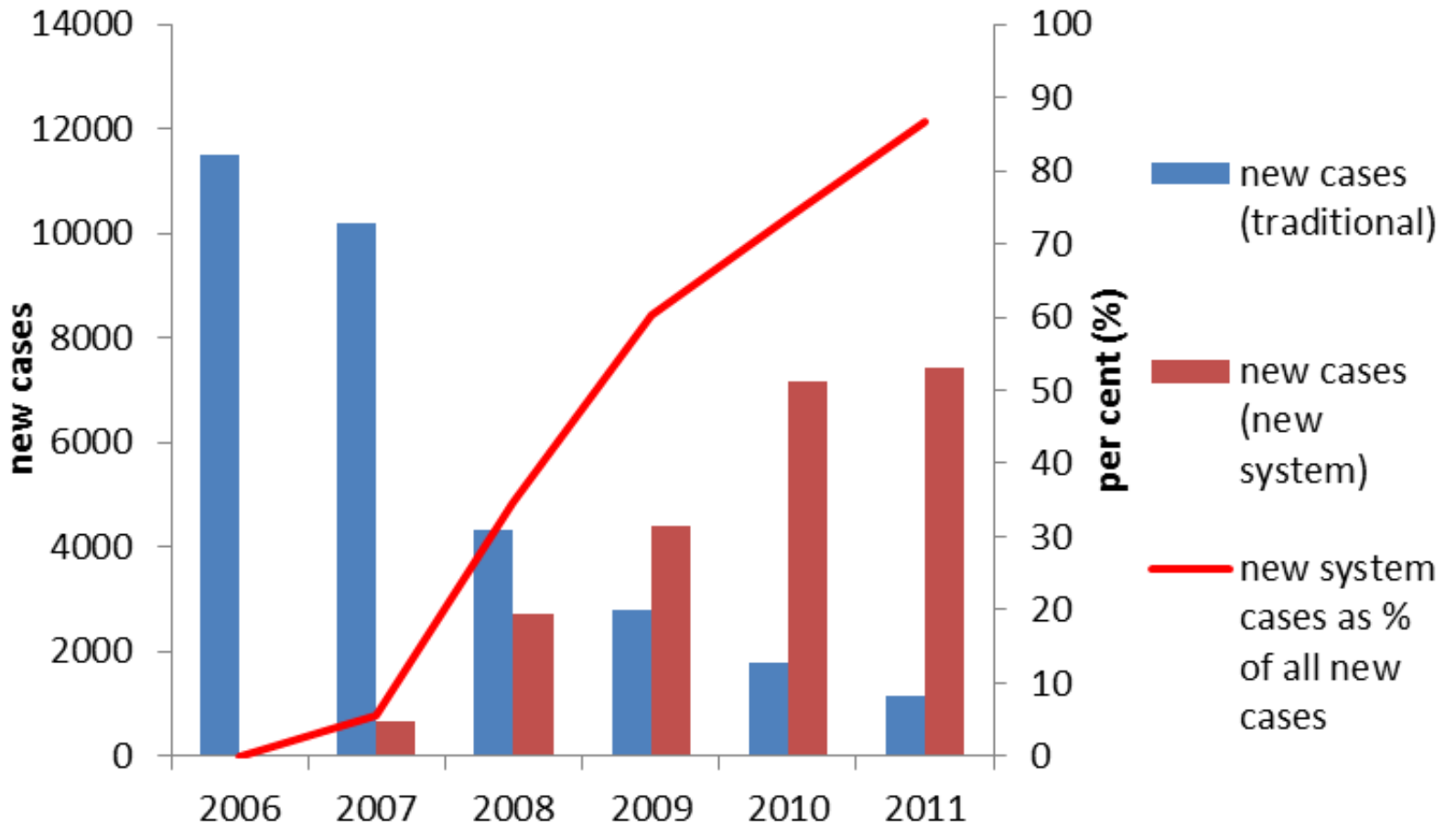


A Closer Look at the States

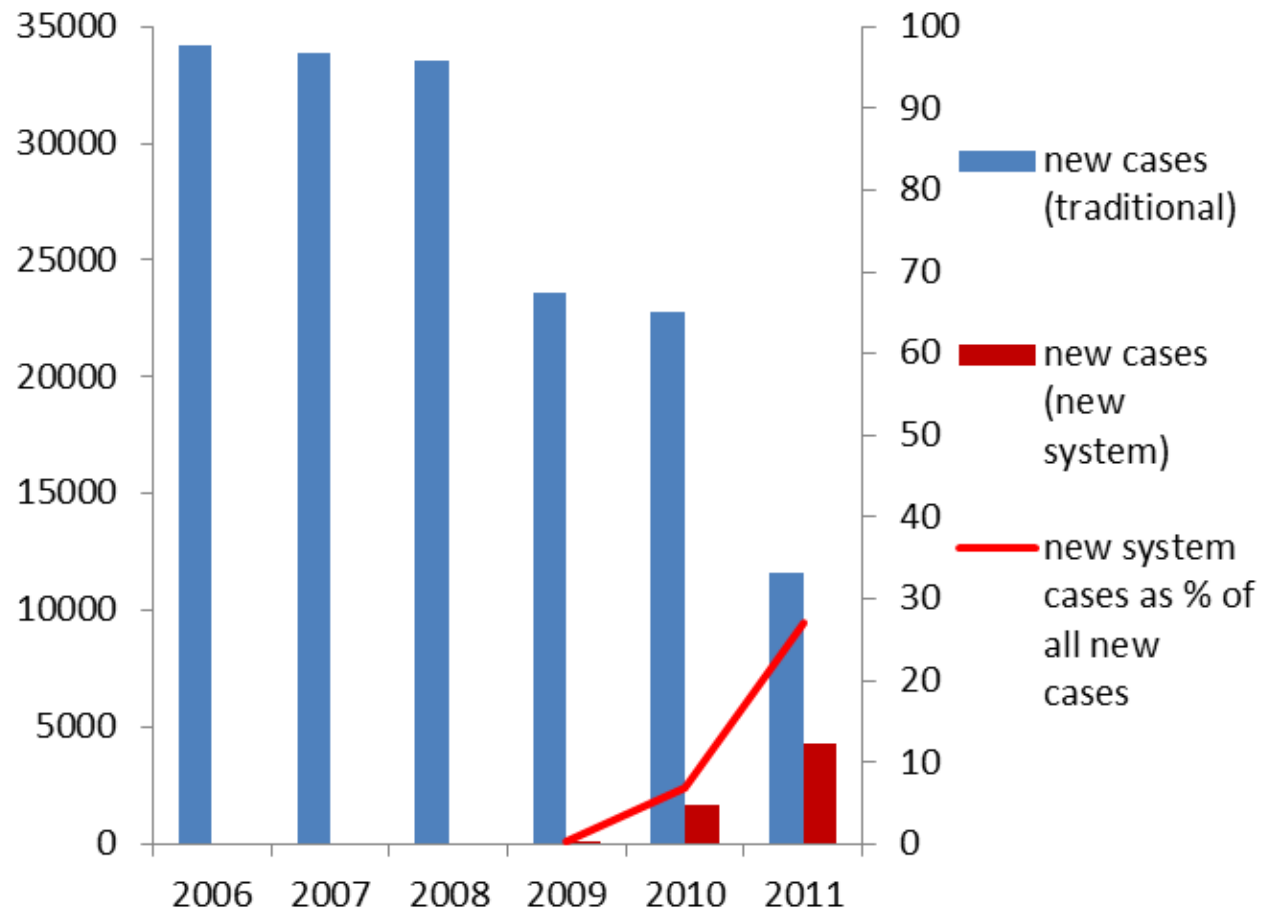
- 12 leading states
 - 3 fully implemented
 - CHIH: throughout state as of July 2008
 - EDOMEX:
 - MOR:
 - 9 partially implemented

BCN (2010)	GUA (2011)	TAB (2012)
CHIA (2012)	NLN (2004)	YUC (2011)
DUR (2009)	OAX (2006)	ZAC (2009)

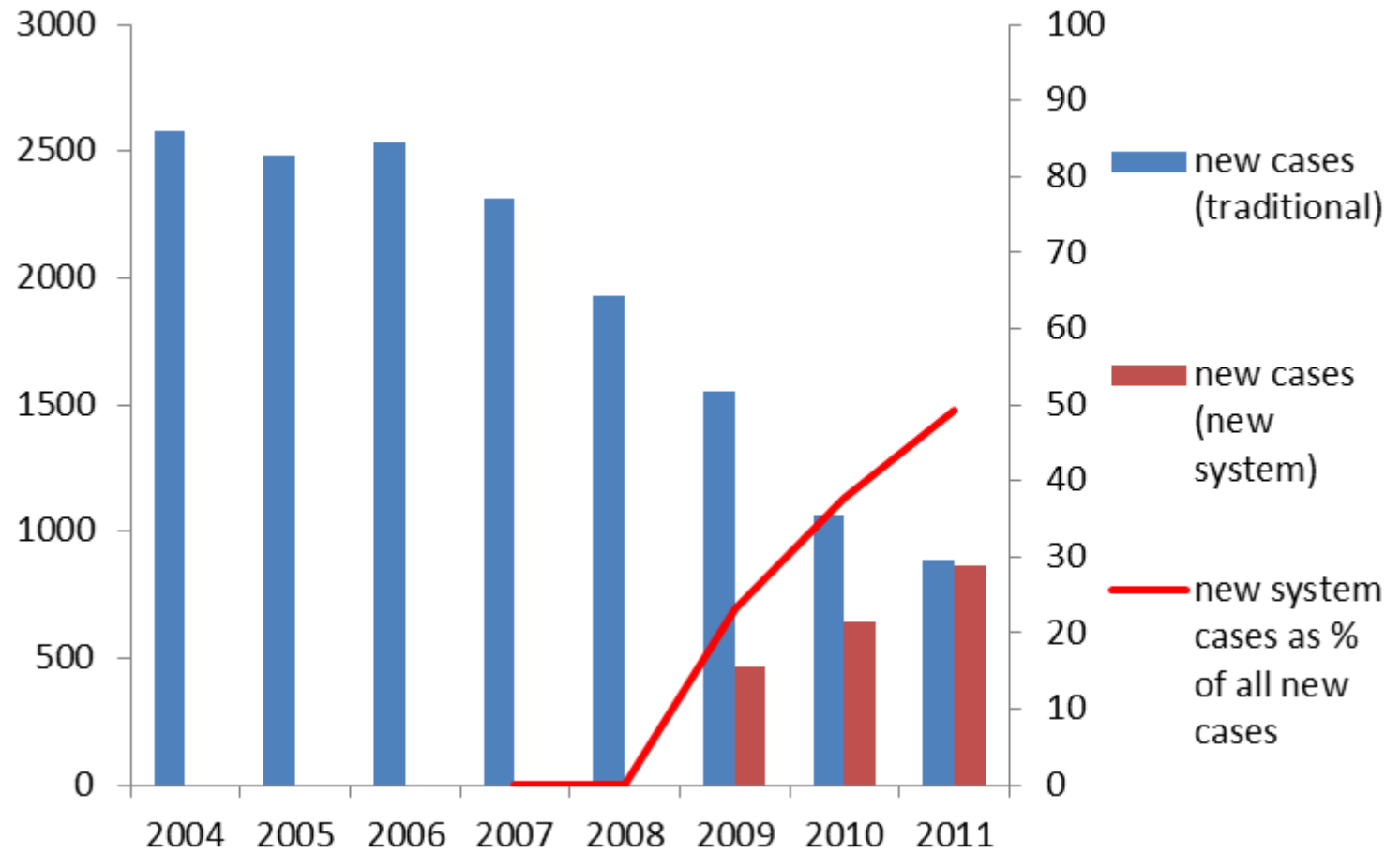
Chihuahua



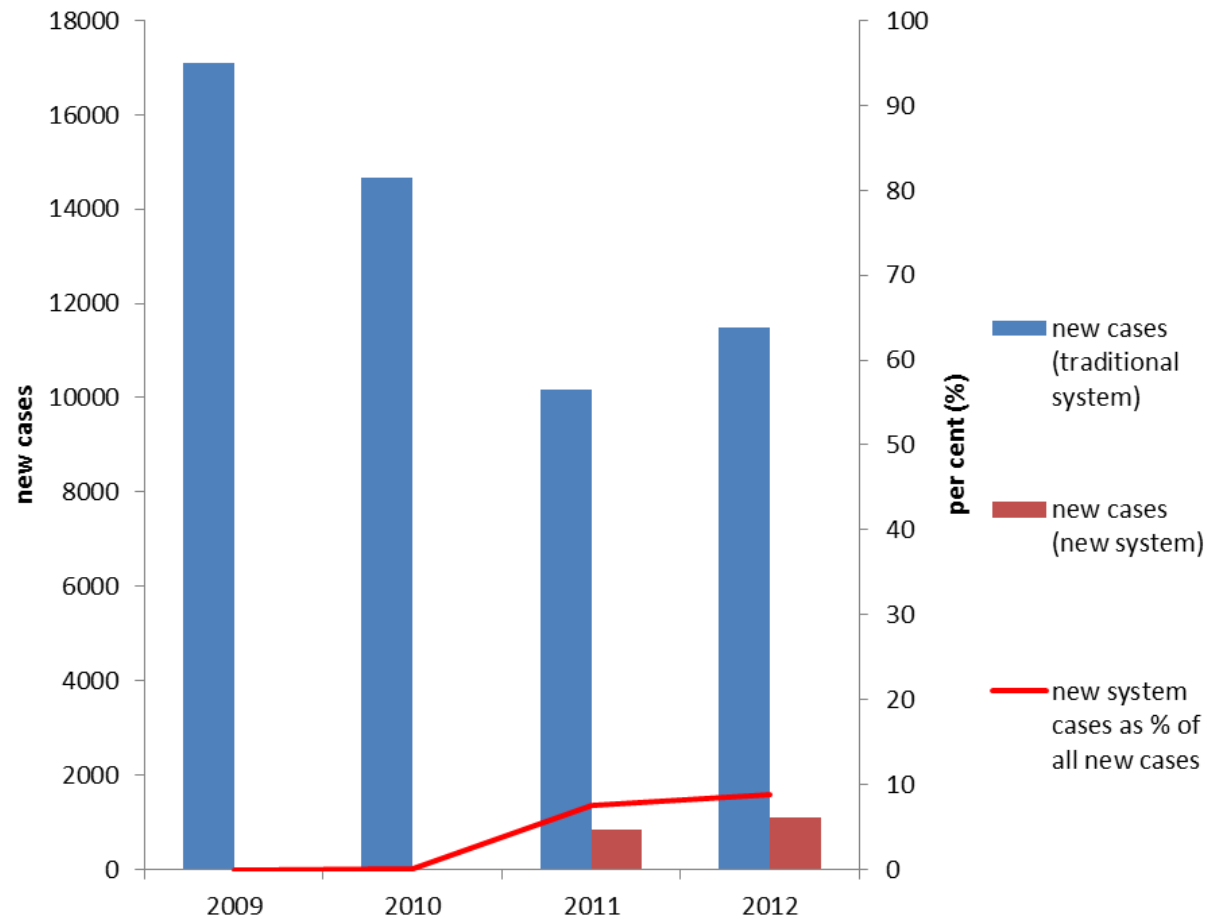
Mexico State



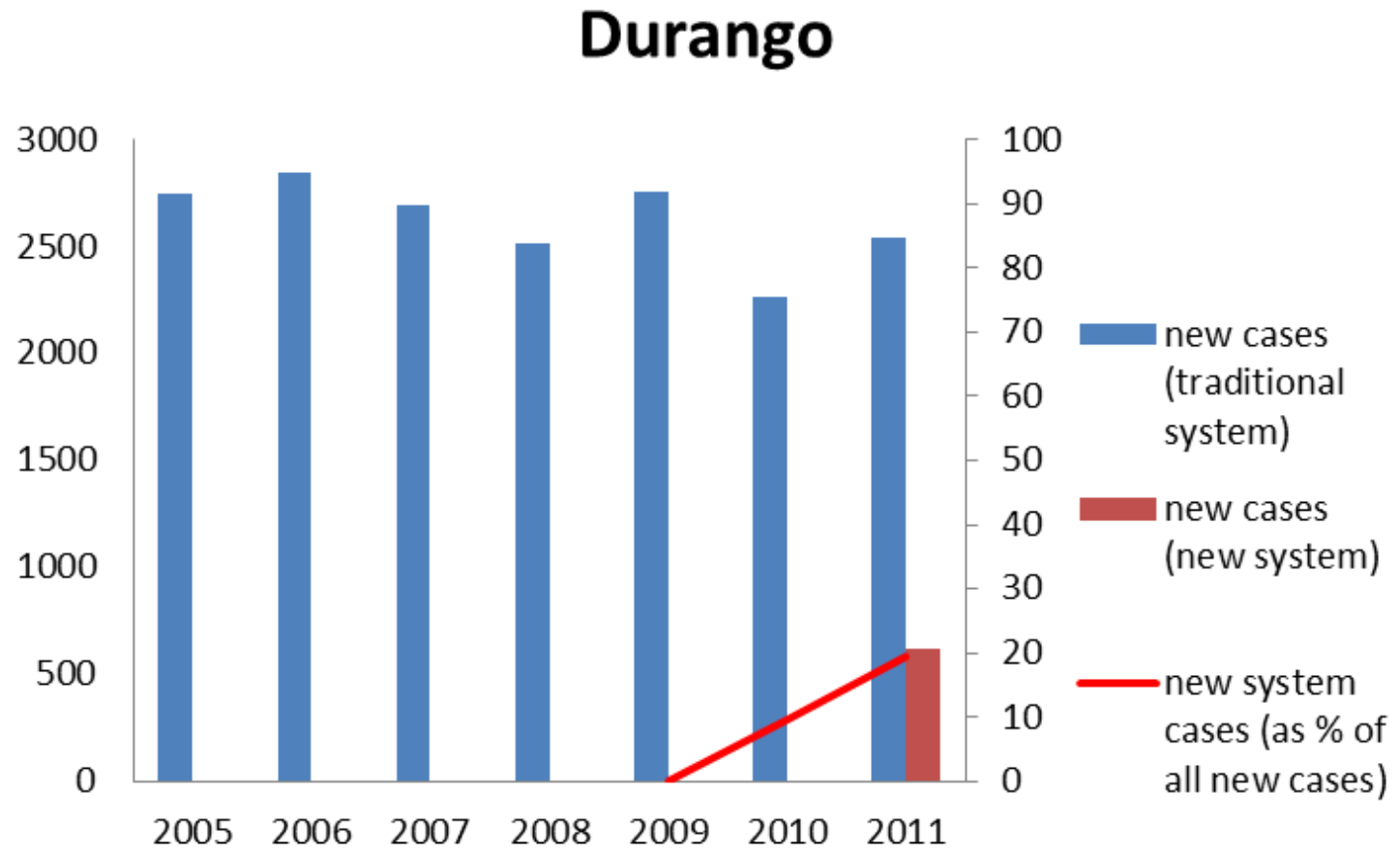
Morelos



Baja California

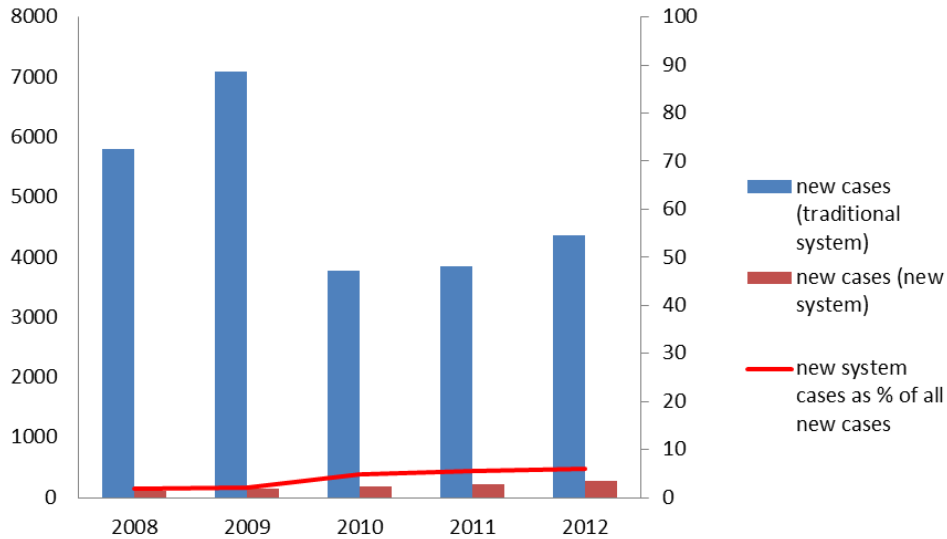


Durango

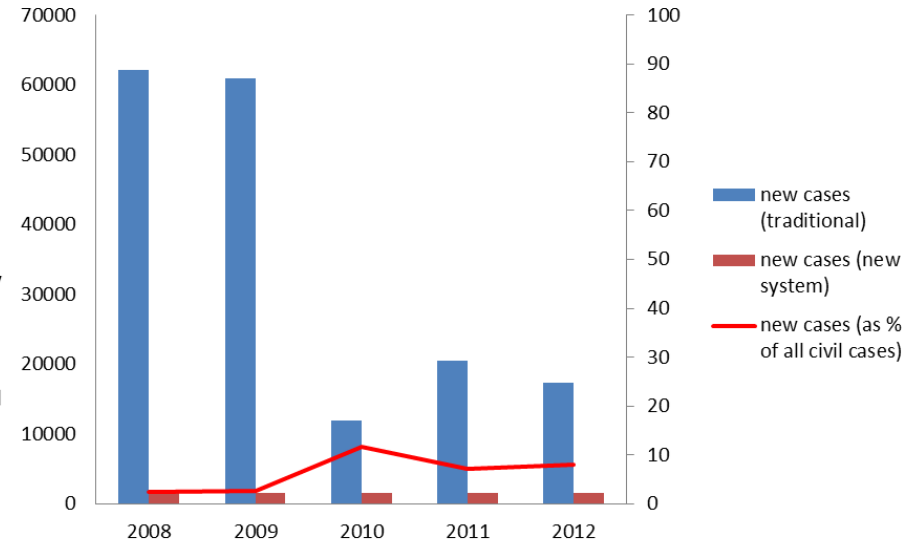


Nuevo Leon

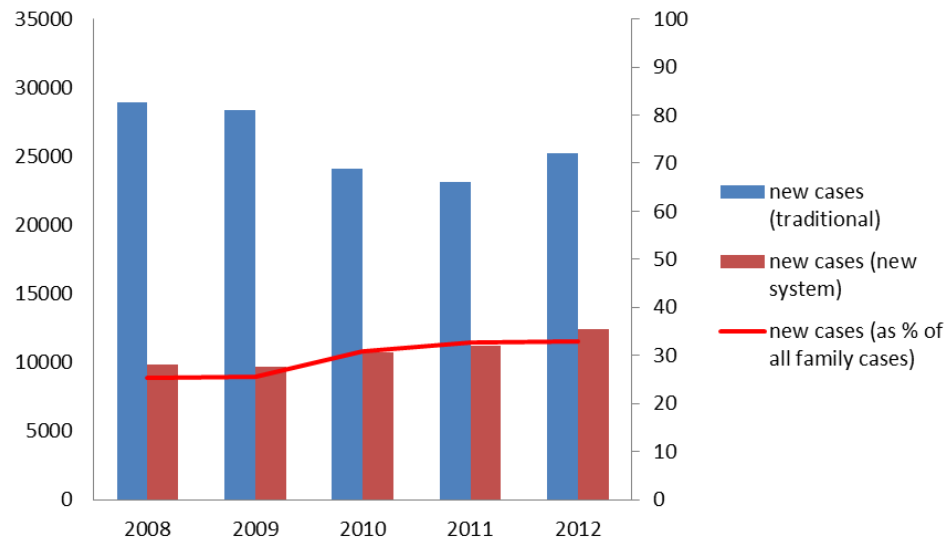
Nuevo Leon (criminal)



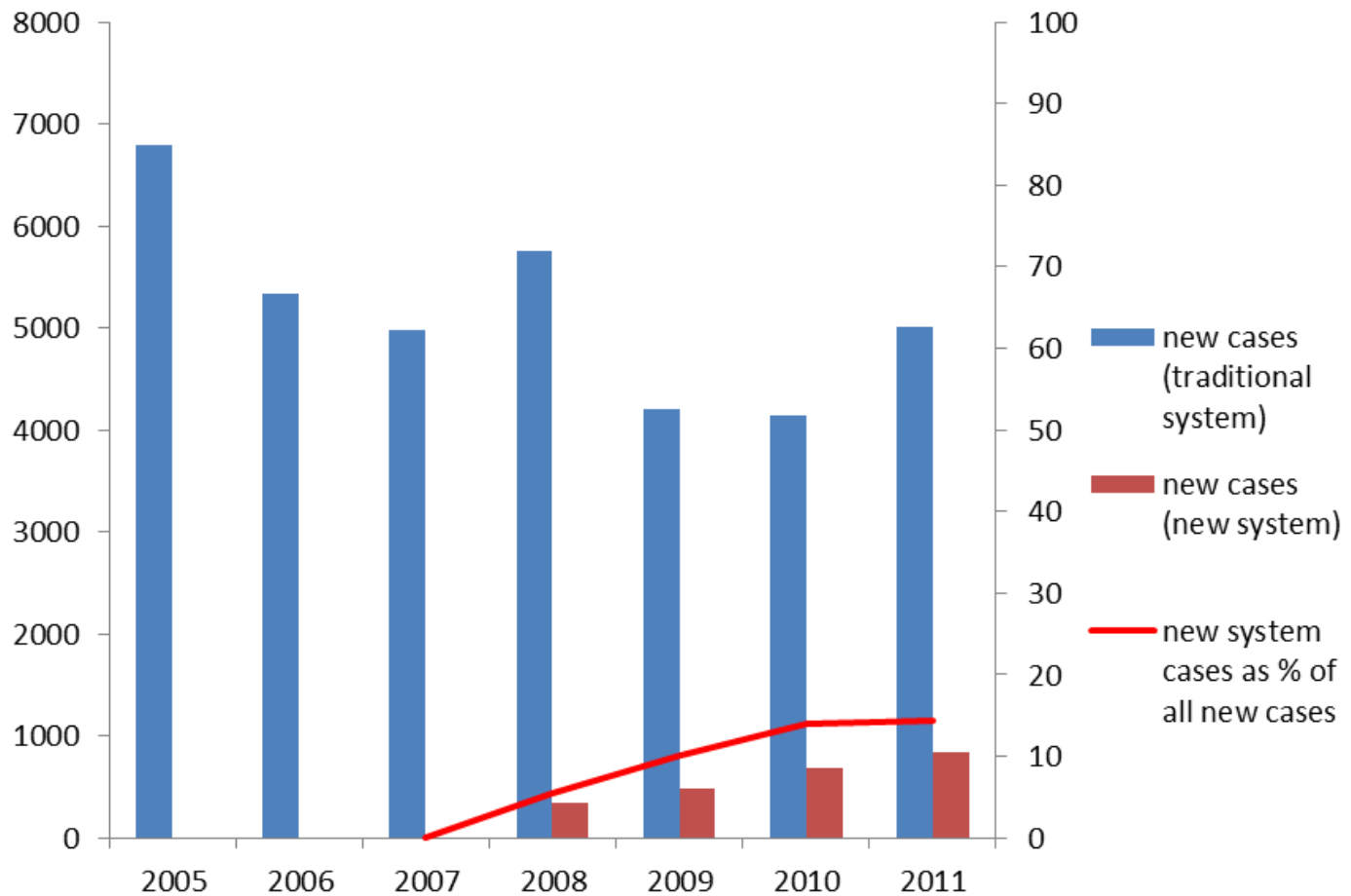
Nuevo Leon (civil)



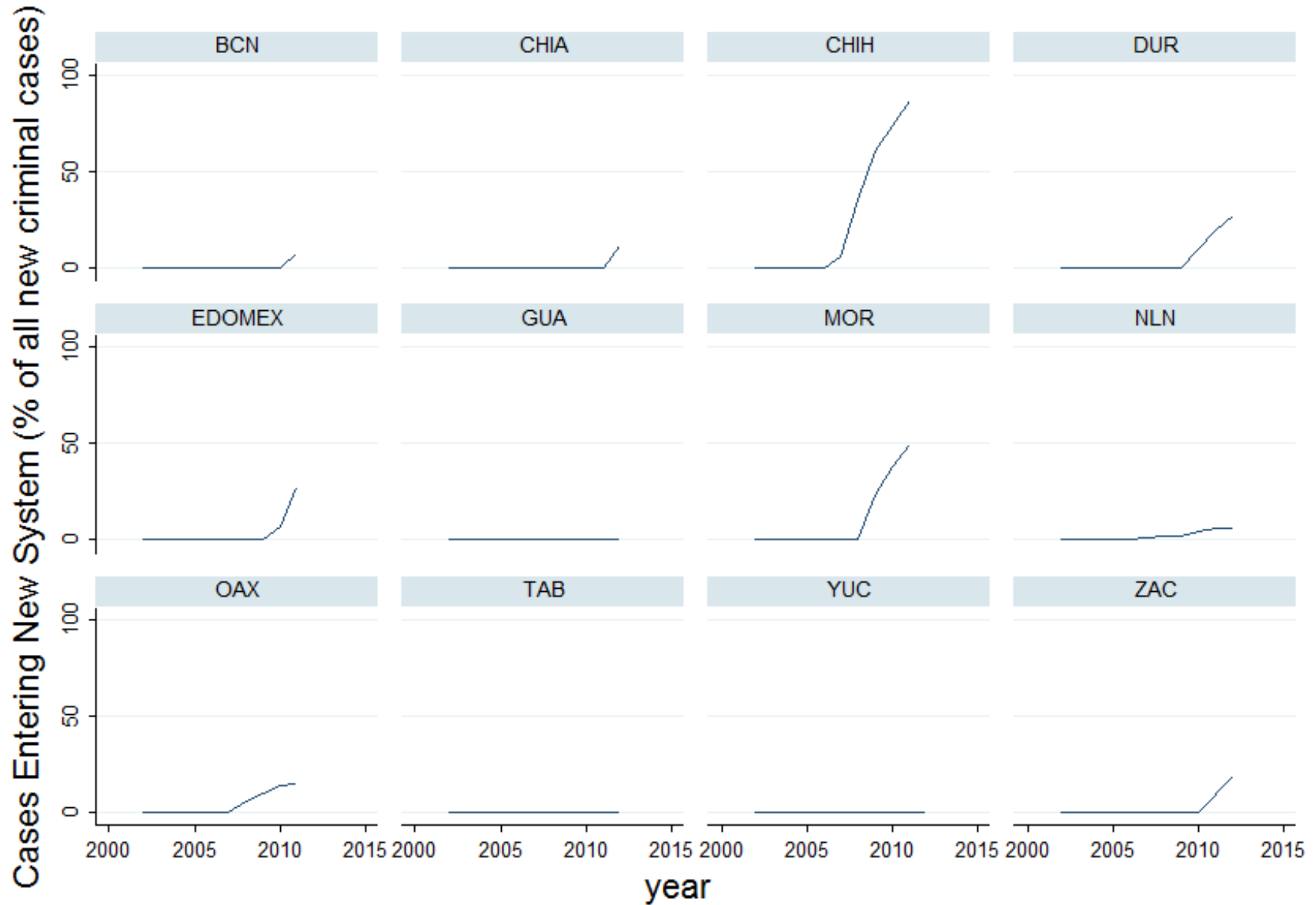
Nuevo Leon (family)



Oaxaca

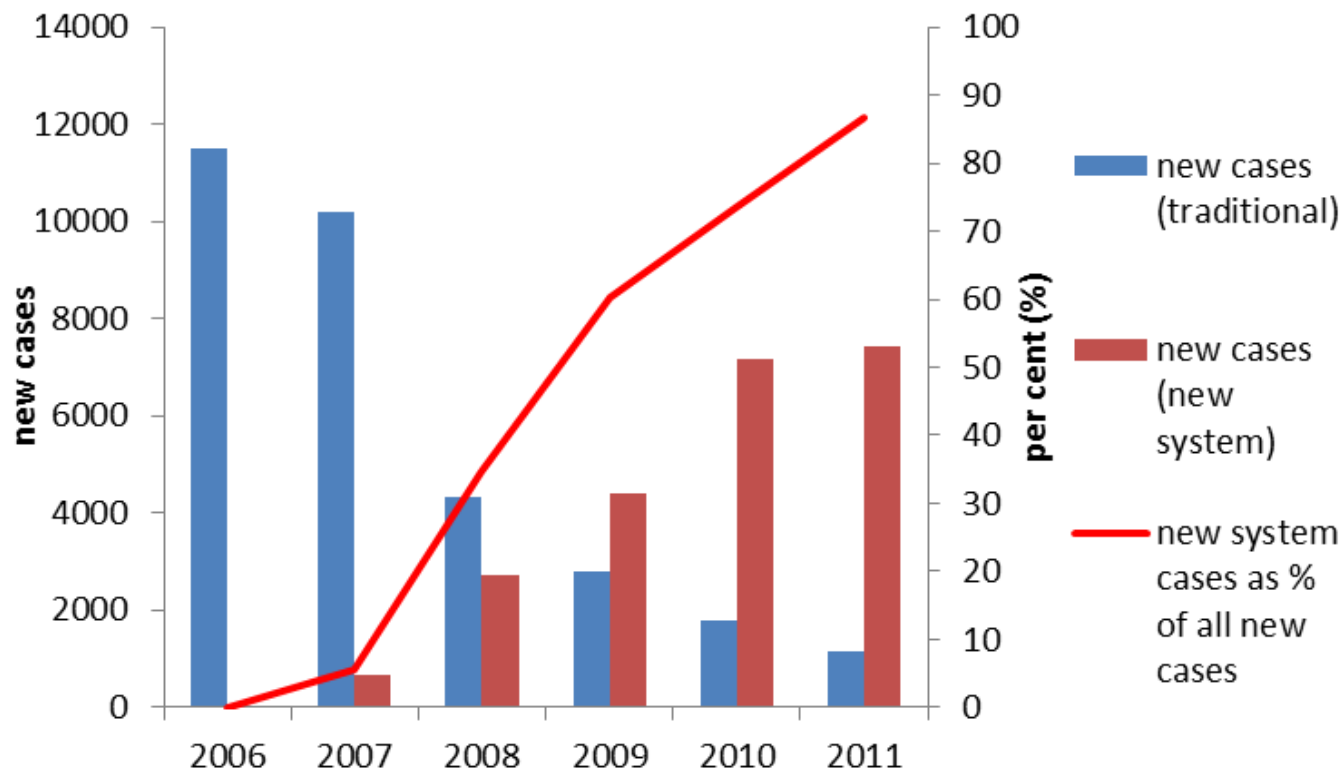


12 Leading States



Graphs by state (2002-2012)

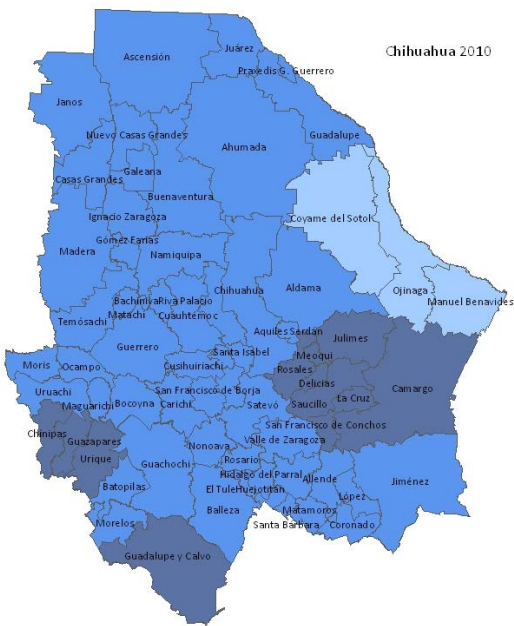
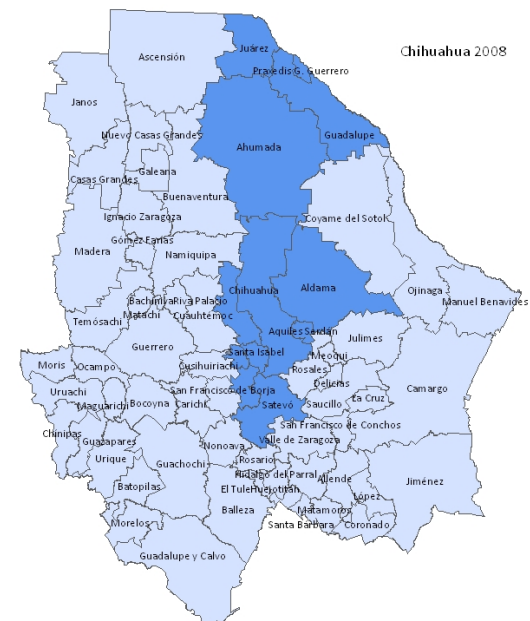
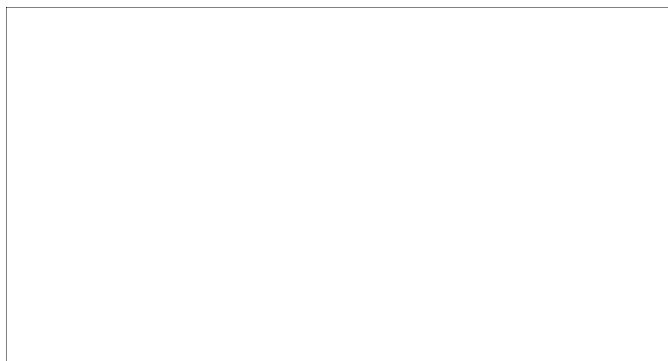
Zooming in on the Leader: Chihuahua, District by District

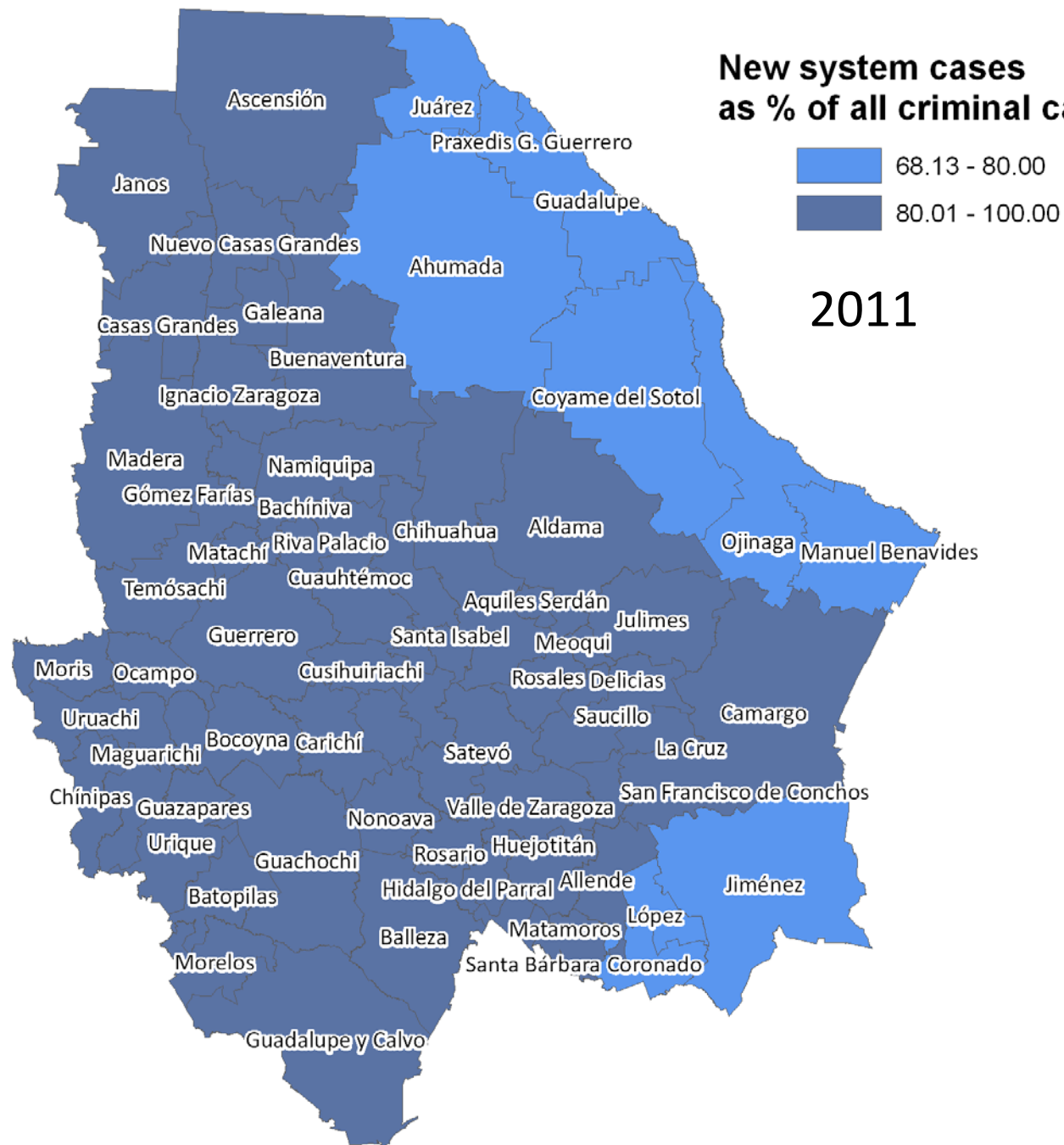


Chihuahua

2006

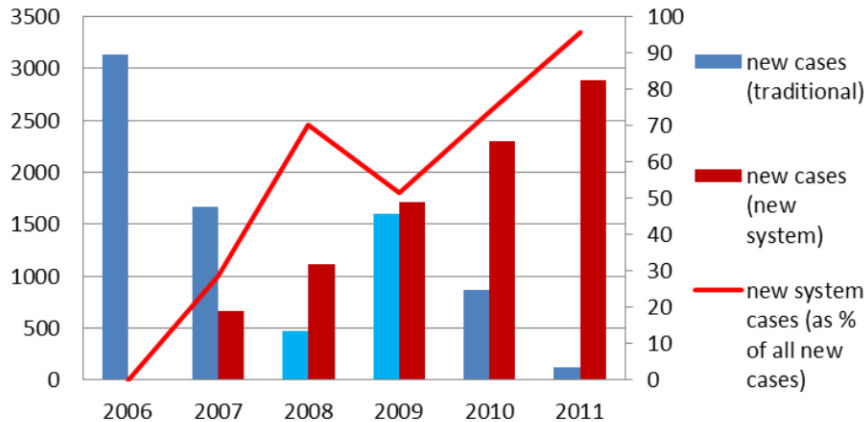




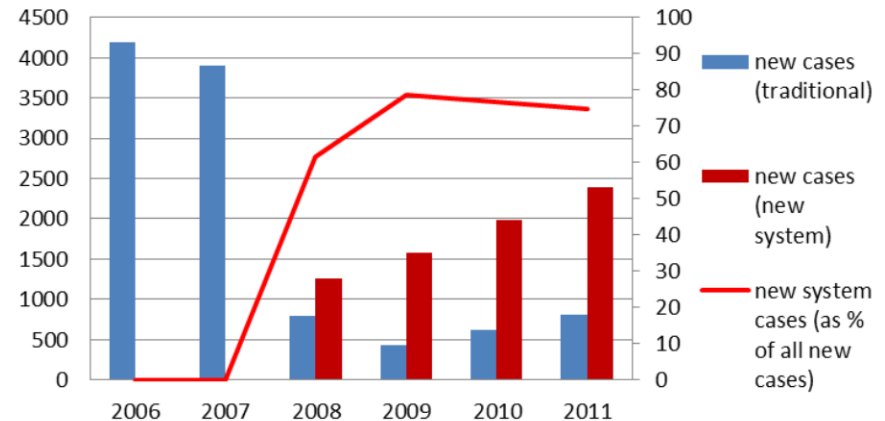


Chihuahua's Judicial Districts: 2006-2011

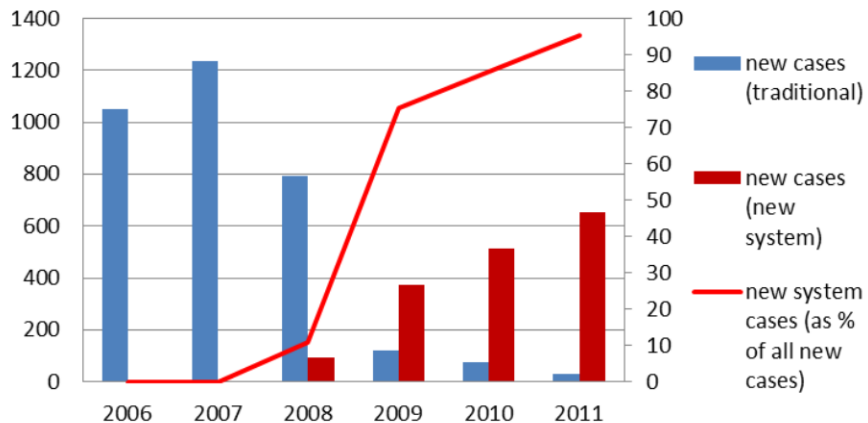
Morelos (Chihuahua City)



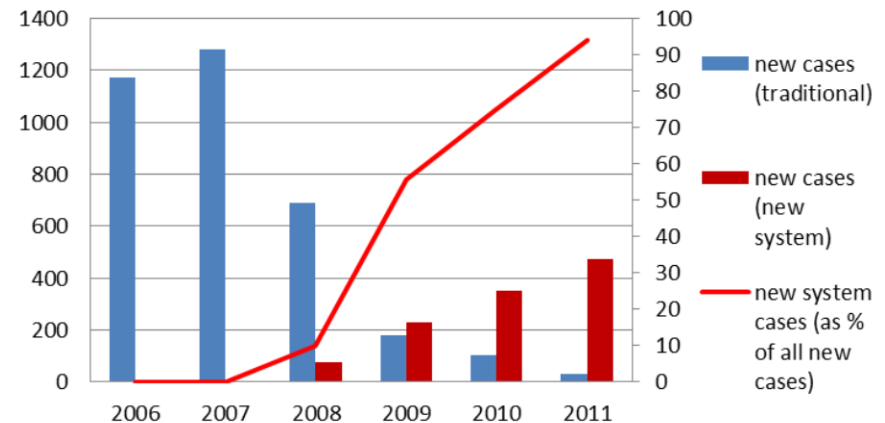
Bravos (Ciudad Juarez)



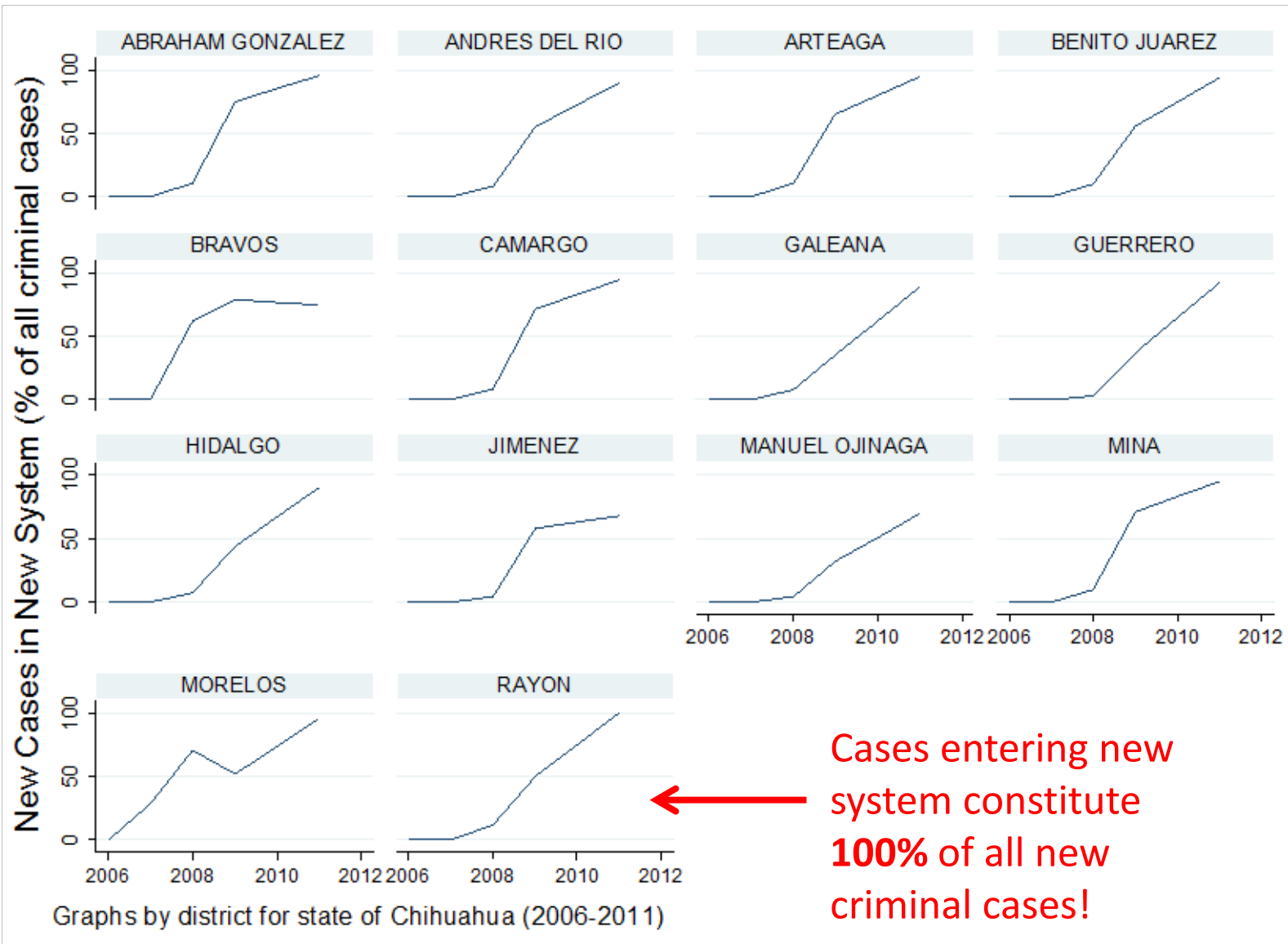
Abraham Gonzalez



Benito Juarez



Chihuahua's Judicial Districts: 2006-2011



Conclusions

- 2012 was good year for reform's progress
 - 69% of states have approved a new CCP
 - Implementation of these codes is lagging behind
 - 38%
 - At least 6 will do so in 2013 (COA, MIC, PUE, QUI, TAM, TLX)
- Chihuahua continues to set the pace
 - Close to 100% of all new criminal cases enter new system
- Federal CCP is a major pending issue (also, DF)
 - Federal bill pending since Sep. 2011

Conclusions

Persistent challenges:

- 1) Public perception of reform being “soft on crime”
- 2) Resistance among legal elites (esp. senior and federal judges)
- 3) Police investigatory capacity and autonomy
- 4) Prevention of crime (thin vs. thick models)
- 5) Measurement!
 - Data availability
 - Data uniformity (temporally and spatially)
 - Data quality

Thank You

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Additional Slides