

Affording Legal Aid in Brazil: comparison of costs between salaried staff model and judicare system currently coexisting in the country

Diogo Esteves¹

Cleber Alves²

Nicholas Moura e Silva³

Leandro Antônio Jiomeke⁴

1. INTRODUCTION

The Brazilian Constitution of 1988 adopted the federalist system, ensuring political decentralization. The Brazilian Federal State is composed of the Union (central government), states (regional power), municipalities (local power) and the federal district (capital of the country, bringing together the local and regional attributes). Therefore, besides the typical level of “state governments” and “federal government” (as in the USA), municipalities are also considered part of the federation.

Currently, Brazil has 5,571 municipalities and 26 states (Acre, Alagoas, Amapá, Amazonas, Bahia, Ceará, Espírito Santo, Goiás, Maranhão, Mato Grosso, Mato Grosso do Sul, Minas Gerais, Pará, Paraíba, Paraná, Pernambuco, Piauí, Rio de Janeiro, Rio Grande do Norte, Rio Grande do Sul, Rondônia, Roraima, Santa Catarina, São Paulo, Sergipe and Tocantins). Moreover, Brasilia is the federal capital (Federal District).

Map 1 - Brazilian states and federal district



Source: Prepared by the authors based on IBGE, 2025.

¹ Diogo Esteves is PhD in Law and Sociology (Fluminense Federal University's Program of Sociology and – PPGSD/UFF) and Professor of Legal Aid (Foundation Superior School of Public Defender's Office of Rio de Janeiro – FESUDEPERJ). He is currently Director-General of the Center for Legal Studies of the Public Defender's Office of the State of Rio de Janeiro (CEJUR/DPE-RJ) and Co-Coordinator of the Brazilian Public Defenders' Office National Survey.

² Cleber Francisco Alves is a Professor at Fluminense Federal University (Brazil) and a researcher at its PhD and Master's Program in Sociology and Law (PPGSD/UFF). He served as Dean of the Law Faculty at the Universidade Católica de Petrópolis (1999-2002). He received his PhD in Law (2005) from Pontifícia Universidade Católica do Rio de Janeiro. He was a Visiting Fellow at the University of Baltimore, USA (2003), at the Université de Montpellier, France (2004), and at the Institute of Advanced Legal Studies of the University of London (2014-2015). He is also a Public Defender (since 1994) with the Rio de Janeiro's State Public Defenders.

³ Nicholas Moura e Silva is Master of Business Administration (USP) and Public Defender at the State of Paraná.

⁴ Leandro Antônio Jiomeke is Planning Coordinator at the Public Defender's Office of State of Paraná.

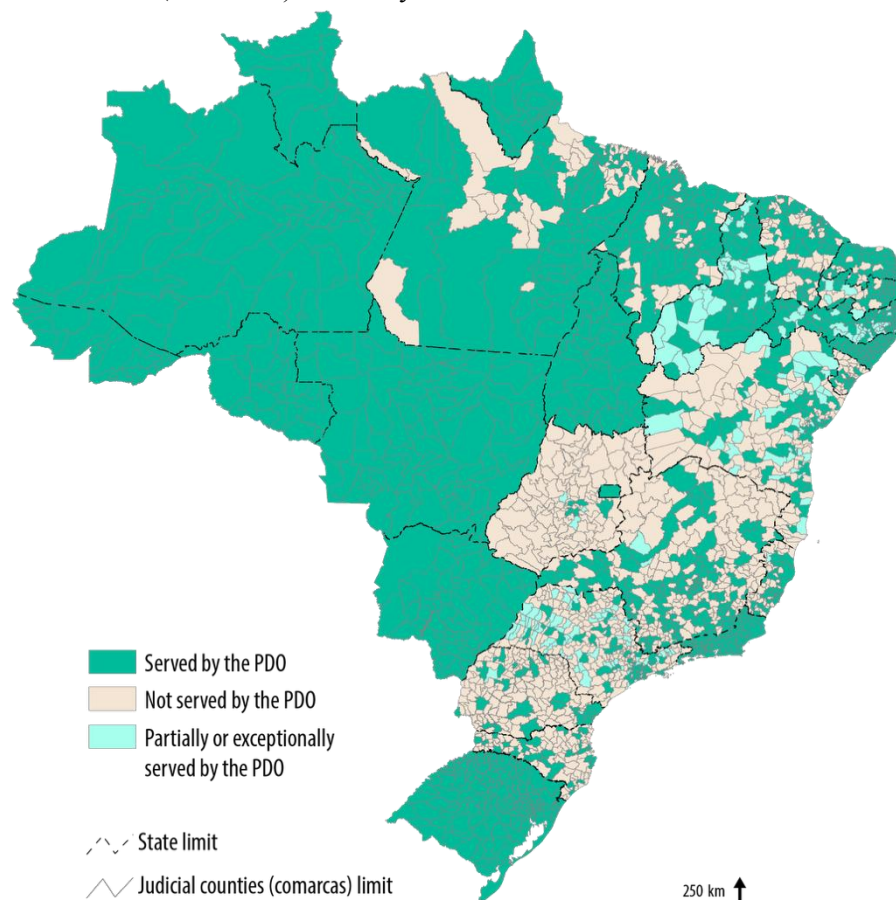
According to the Brazilian Constitution, the legal aid service should be provided by the Public Defenders' Office, following the salaried staff model (Article 134 of Brazilian Constitution). Since Brazil adopts the federalist system, the Union (federal government), each state and the Federal District (Brasília) has its own Public Defender's Office.

The Federal Public Defender's Office (*Defensoria Pública da União*) is responsible for acting before the Federal Courts, the Labor Courts, the Electoral Courts, the Military Courts, the High Courts, and the administrative bodies of the Federal Government. The Public Defender's Office of the Federal District (*Defensoria Pública do Distrito Federal*) acts before the Courts of the Federal District (in all levels of jurisdiction) and the administrative instances of the Federal District. Finally, the Public Defender's Offices of the states (*Defensoria Pública dos Estados*) act before the States Courts (in all the levels of jurisdiction) and the states administrative instances.

Currently, the Brazilian territory has 2,563 judicial counties (*comarcas*). Given the insufficient number of Public Defenders, only 1,334 *comarcas* are regularly served by the Public Defender's Office, representing 52.0% of the total. Due to the institutional effort to guarantee access to justice for all, another 200 *comarcas* are partially or exceptionally served by the Public Defender's Office, representing 7.8% of the total number.

Despite the efforts made by Public Defenders across the country, currently 1,029 *comarcas* are still not served by the Public Defender's Office, representing 40.2% of the total.

Map 2 - Judicial counties (*comarcas*) served by the Public Defender's Office



Source: ESTEVES, Diogo *et al.* Pesquisa Nacional da Defensoria Pública 2025. Brasília: DPU, 2025.

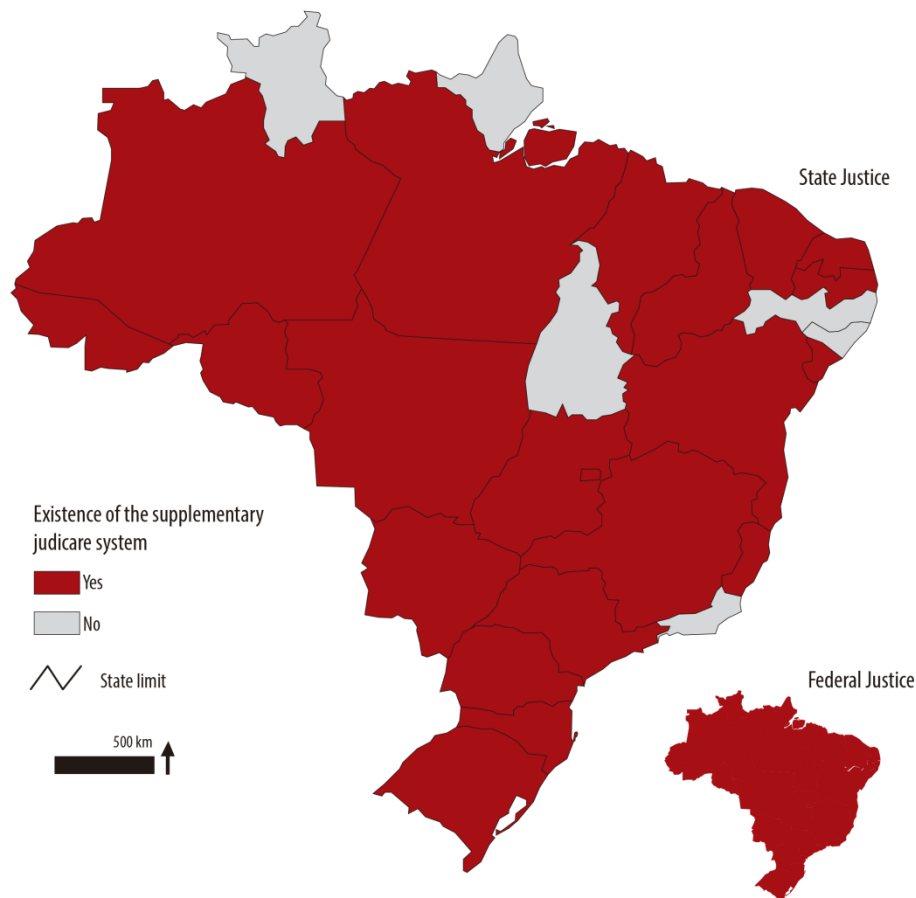
To address this deficit, considering that in Brazil the possibility of "pro se litigation" is only admitted in exceptional situations, in the *comarcas* not served by the PDO, legal aid services are provided on a supplementary basis by court-appointed counsel, in a scheme that informally resembles the traditional judicare system.

This paper presents the findings of the evaluation of the two legal aid models currently coexisting in Brazil, analyzing the costs incurred in establishing and running the service over the period of one year (2023). The research reported was originally commissioned by the CONDEGE (National Council of Chief Public Defenders) in 2022 and completed in 2024.

2. OVERVIEW OF THE BRAZILIAN SUPPLEMENTARY JUDICARE SYSTEM

Due to insufficient budget allocation for the adequate structuring of the Public Defender's Office, currently the Union (Federal Justice system), the Federal District and 20 states (Acre, Amazonas, Bahia, Ceará, Espírito Santo, Goiás, Maranhão, Mato Grosso, Mato Grosso do Sul, Minas Gerais, Pará, Paraíba, Paraná, Piauí, Rio Grande do Norte, Rio Grande do Sul, Rondônia, Santa Catarina, São Paulo and Sergipe) still use the supplementary judicare system. Only 6 states (Alagoas, Amapá, Pernambuco, Roraima, Tocantins and Rio de Janeiro) are able to provide legal aid services to the vulnerable population without the supplementary system of court-appointed counsel.

Map 3 - Existence of the supplementary judicare system

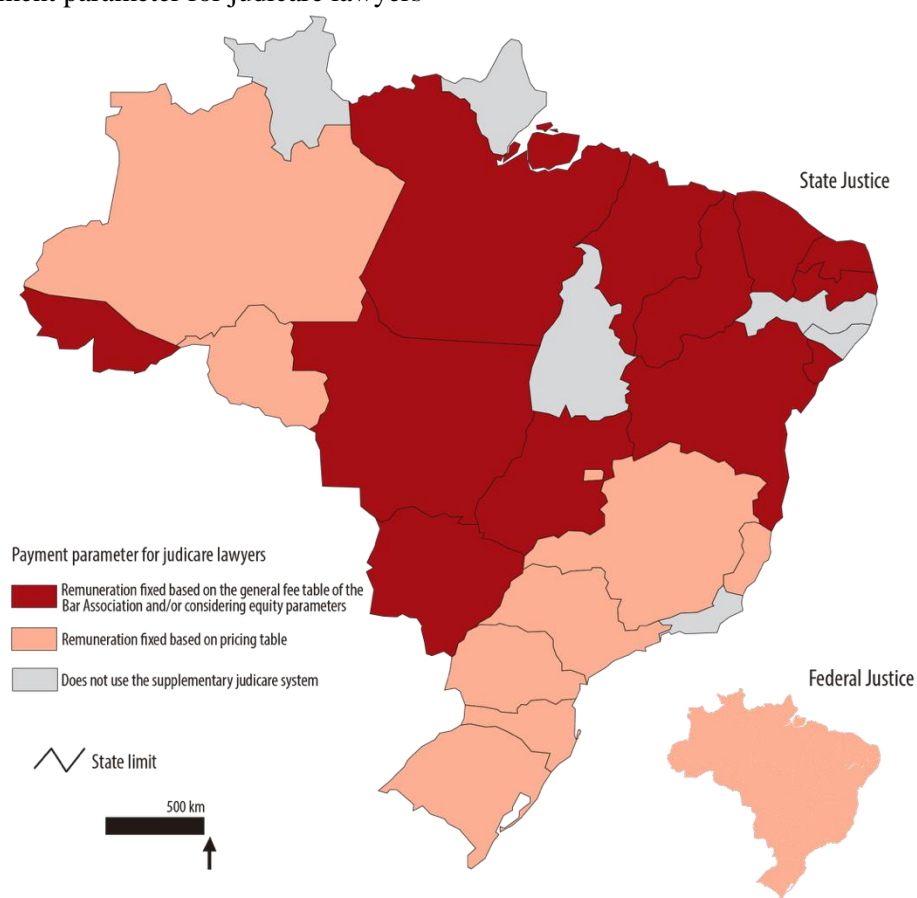


Source: ESTEVES, Diogo *et al.* Pesquisa sobre o Sistema Suplementar de Advocacia Dativa Remunerada 2025. Brasília: DPU, 2025.

In 50.0% of the states that still use the supplementary judicare system, lawyers' remuneration does not follow a pre-established table and is set by the judge based on the general fee table of the Bar Association and/or considering equity parameters, which assess the professional's level of diligence, the place where the service is provided, and the complexity of the case (Acre, Bahia, Ceará, Maranhão, Mato Grosso, Mato Grosso do Sul, Pará, Paraíba, Piauí, Rio Grande do Norte, and Sergipe).

On the other hand, in the other half of the states that still use the supplementary judicare system (50.0%), lawyers' fees are calculated based on pricing table, prepared through negotiation between the Bar Association and the local governments (Amazonas, Espírito Santo, Goiás, Minas Gerais, Paraná, Rio Grande do Sul, Rondônia, Santa Catarina, São Paulo, Distrito Federal, and the Union).

Map 4 - Payment parameter for judicare lawyers



Source: ESTEVES, Diogo *et al.* Pesquisa sobre o Sistema Suplementar de Advocacia Dativa Remunerada 2025. Brasília: DPU, 2025.

The general fee table of the Bar Association indicates the prices charged daily by lawyers. Therefore, in half of the states that still use the supplementary judicare system, the Brazilian government pays lawyers' fees in line with the market. In this scenario, as observed by the Brazilian Superior Court of Justice, during the trial of Resp No. 1,665,033/SC, "the remuneration for one month of services provided by a Public Defender is surpassed by the amount charged for a single criminal defense by a lawyer in a murder case, which not only demeans the function – absolutely similar in terms of the service provided – of the Public

Defender, but also contradicts the principle of reasonableness and economy, notably because it involves public expenditure”⁵.

The pricing tables, on the other hand, usually present values much lower than those indicated in the general fee table of the Bar Association.

In any case, the current scenario of the Brazilian legal aid system offers the opportunity to evaluate the comparative cost of the salaried staff model and the judicare system, both applied on a large scale.

3. COMPARATIVE ANALYSIS OF COST-EFFECTIVENESS BETWEEN THE SALARIED STAFF MODEL AND THE SUPPLEMENTARY JUDICARE SYSTEM

Comparing the salaried staff model and the supplementary judicare system, from the economic perspective of costs, presents some difficulties that arise, primarily, from the absolute difference between the models themselves. While the supplementary judicare system depends on the intermediation of a third party for legal aid to be provided (court or administrative body that makes the appointment), the salaried staff model operates with "open doors", and the population can directly access legal aid and legal advice services through various institutional channels. Furthermore, the supplementary judicare system has an eminently judicial scope, while the PDO model also encompasses legal advice, supervision of the sentence enforcement phase, the protection of human rights and the protection of the collective rights of the vulnerable population.

Recognizing the fundamental difference between the models, the comparative analysis of the cost-effectiveness between the salaried staff model and the supplementary judicare system requires the identification of the points of similarity, for the construction of budgetary parallels. The remuneration of the supplementary judicare system, whether in states that have pricing tables or in those that use the general fee table of the Bar Association, is based on the legal aid service provided by the legal aid lawyer to determine the amount of remuneration. Although in a broader scope, the Public Defender's Office also provides the aforementioned legal aid services on a daily basis, among other functional activities.

Therefore, the construction of the comparative analysis considered only the legal services that can be provided by both judicare lawyers and Public Defenders. Activities that only Public Defenders can perform (e.g. filing collective lawsuits) were not considered.

The comparative analysis of cost-effectiveness proposes the following exercise: if the Public Defender's Office were replaced by the supplementary judicare system, how much would the legal aid services currently provided by the PDO cost?

To answer the question, the number of legal aid services provided by the Public Defender's Office was counted, considering all activities that could be regularly provided by judicare lawyers. After that, the remuneration tables for judicare lawyers were applied, projecting the total cost of these legal aid services if they were provided by the supplementary judicare system.

After calculating the projected cost of the supplementary judicare system, the annual PDO budget was subtracted from the total. The result indicates the difference between the costs of the salaried staff model and the supplementary judicare system; in other words, the result indicates how much more would be spent to provide legal aid in Brazil, if the service were provided by the supplementary judicare system, instead of the salaried staff model.

⁵ STJ. Terceira Seção. Resp nº 1.665.033/SC (Tema 984). Relator Min. Rogério Schietti Cruz. Julgamento 23-10-2019. DJe 04-11-2019.

The following table shows the volume of legal aid services provided by the Public Defender's Office and the budget for each PDO, as well as the projected cost of the same volume of services if they were provided by the supplementary judicare system, using the values for the year 2023 as a reference. The final column indicates the difference between the costs of the salaried staff model and the supplementary judicare system:

Table 1 - Projected cost of supplementary judicare system

PROJECTED COST OF SUPPLEMENTARY JUDICARE SYSTEM				
State	Legal services provided by the PDO	PDO annual budget (USD)	Projected cost of supplemental judicare system (USD)	Difference between the costs of the salaried staff model and the supplementary judicare system (USD)
AC	214.947	\$10.117.533,60	\$120.340.413,50	\$110.222.879,94
AL	736.806	\$15.829.798,57	\$533.468.793,16	\$517.638.994,59
AP	386.159	\$12.920.259,41	\$277.935.632,36	\$265.015.372,95
AM	1.942.871	\$38.031.090,89	\$206.163.156,43	\$168.132.065,54
BA	1.566.414	\$65.261.177,37	\$1.820.887.087,10	\$1.755.625.909,73
CE	2.143.967	\$51.398.392,40	\$4.372.300.616,62	\$4.320.902.224,22
DF	1.718.360	\$55.952.901,96	\$247.675.508,00	\$191.722.606,03
ES	581.075	\$20.410.244,37	\$94.108.141,93	\$73.697.897,56
GO	869.816	\$26.579.453,91	\$74.878.630,60	\$48.299.176,69
MA	734.206	\$48.006.111,35	\$621.173.317,73	\$573.167.206,38
MT	814.974	\$55.578.581,14	\$918.717.391,30	\$863.138.810,16
MS	717.472	\$49.386.114,98	\$687.223.705,65	\$637.837.590,66
MG	11.548.666	\$150.866.210,42	\$2.026.244.638,68	\$1.875.378.428,26
PA	2.326.060	\$43.491.970,72	\$1.474.842.759,00	\$1.431.350.788,28
PB	358.800	\$18.257.550,75	\$242.851.632,40	\$224.594.081,64
PR	598.249	\$29.090.598,62	\$81.592.155,57	\$52.501.556,95
PE	2.212.893	\$39.250.403,27	\$2.002.376.858,08	\$1.963.126.454,81
PI	387.820	\$20.599.117,61	\$338.577.275,68	\$317.978.158,07
RJ	8.085.716	\$194.965.765,71	\$10.230.515.085,68	\$10.035.549.319,97
RN	389.903	\$16.869.898,58	\$292.961.583,54	\$276.091.684,96
RS	4.535.198	\$103.212.425,09	\$236.110.073,38	\$132.897.648,29
RO	586.768	\$21.082.376,19	\$120.857.620,92	\$99.775.244,73
RR	216.920	\$17.349.483,31	\$153.694.612,22	\$136.345.128,91
SC	943.414	\$19.945.613,55	\$99.020.133,39	\$79.074.519,84
SP	4.971.298	\$190.279.044,01	\$481.665.927,43	\$291.386.883,42
SE	242.901	\$15.508.926,19	\$169.004.834,22	\$153.495.908,03
TO	667.845	\$35.296.481,50	\$531.529.031,72	\$496.232.550,22
UN	2.600.134	\$119.634.880,74	\$193.425.326,73	\$73.790.445,99
TOTAL	53.099.652	\$1.485.172.406,22	\$28.650.141.943,04	\$27.164.969.536,82

Source: ESTEVES, Diogo et al. Pesquisa sobre o Sistema Suplementar de Advocacia Dativa Remunerada 2025. Brasília: DPU, 2025.

The data reveals that the projected cost of the supplemental judicare system is significantly higher than the cost of the salaried staff model. Within the comparative analysis, if the legal aid services currently provided by the Public Defender's Offices in Brazil were provided by the supplementary judicare system, the data projects an additional annual cost of **27 billion dollars**.

The results of the comparative analysis indicate the existence of a serious administrative-financial paradox in the management of Brazilian legal aid policy. After all, the government postpones hiring more Public Defenders under the argument of budget shortages and, instead, hires judicare lawyers on a supplementary basis at a much higher cost.

4. QUALITY STANDARDS OF THE PUBLIC DEFENDER SERVICES

In 2017, the Court of Auditors of the State of Paraná (*Tribunal de Contas do Estado do Paraná* - TCE-PR) conducted an audit of the prison system, focusing on strategies and actions to address prisoner overcrowding.

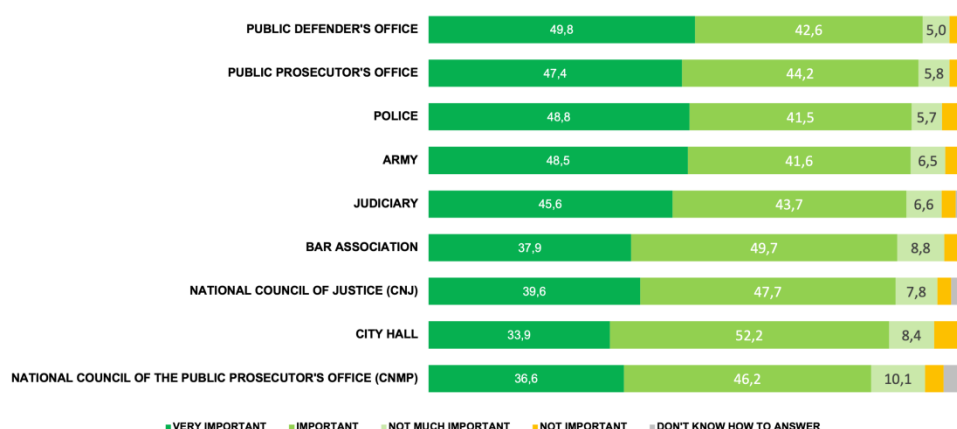
According to data collected by the TCE-PR, the rate of *habeas corpus* (HC) granted to prisoners defended by judicare lawyers is quantitatively lower, in a statistically significant way, than those assisted by the Public Defender's Office. The HC's filed by the Public Defender's Office had a success rate of 1.7%, while the HC's filed by judicare lawyers had only 0.7%.

Similarly, when analyzing requests for progression of prison regime, the TCE-PR found that the performance of judicare lawyers was qualitatively inferior to the performance of the Public Defender's Office. While judicare lawyer had a delay rate in regime progression analyses of 25.9%, the Public Defender's Office had a delay rate of only 6.2%⁶.

Also in 2017, the National Council of the Public Prosecutor's Office (*Conselho Nacional do Ministério Público* - CNMP) conducted a survey to assess society's satisfaction with the work of the CNMP and the Public Prosecutor's Office, as well as the perception of the image of public institutions in relation to knowledge, trust, importance and evaluation.

When assessing the importance of public institutions for Brazilian society, the survey concluded that the Public Defender's Office is considered the most important institution by civil society, followed by the Public Prosecutor's Office and the Police:

Table 2 - Importance of Brazilian public institutions for society

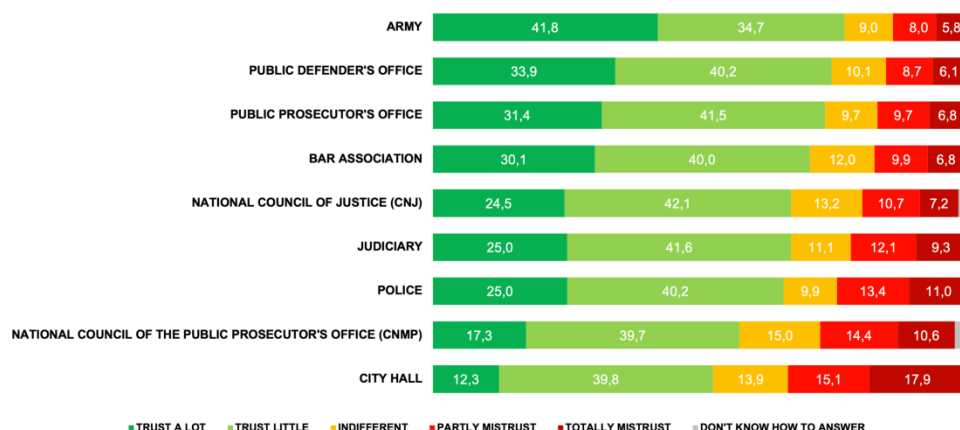


⁶ TRIBUNAL DE CONTAS DO ESTADO DO PARANÁ. PAF 2017 Plano Anual de Fiscalização: Sistema Carcerário, Paraná: TCE-PR, 2018, p. 22.

Source: CONSELHO NACIONAL DO MINISTÉRIO PÚBLICO. Relatório da Pesquisa de Satisfação e Imagem do CNMP e do Ministério Público, 2017, p. 24.

In the following question, the survey assessed the level of trust in Brazilian public institutions. The survey found that “the most trusted institutions are the Army, followed by the Public Defender’s Office and the Public Prosecutor’s Office”. Therefore, among the institutions that make up the Brazilian justice system, the Public Defender’s Office is considered the most trusted by society, surpassing the Public Prosecutor’s Office, the Bar Association and the Judiciary itself:

Table 2 - Society's trust in Brazilian public institutions



Source: CONSELHO NACIONAL DO MINISTÉRIO PÚBLICO. Relatório da Pesquisa de Satisfação e Imagem do CNMP e do Ministério Público, 2017, p. 28.

All the research analyzed demonstrates the quality of legal aid services provided by the Public Defender's Office in Brazil and the trust projected in Brazilian society.

5. CONCLUSION

The comparative analysis of the cost of the salaried staff model and the judicare system, both applied on a large scale, confirms research previously carried out in South Africa, England and Wales.

The cost of the supplementary judicare system, as currently practiced in Brazil, is extremely higher than the Public Defenders system. In a hypothetical scenario, if the legal aid services currently provided by the Public Defender’s Offices in Brazil were replaced by the supplementary judicare system, the data projects an additional annual cost of 27 billion dollars.

Therefore, in the large-scale comparative scenario currently in place in Brazil, the supplementary judicare system is approximately 1,800% more expensive than the salaried staff model.

Furthermore, the quality standards of PDS were considered significantly higher than the court-appointed counsel system, considering overall performance and standards of files, efficiency and timeliness. Not to mention the wide range of activities performed by the PDO (e.g. protection of human rights, protection of the collective rights of the vulnerable population) that are outside the scope of the work of court-appointed counsels.

Based on the comparative analysis between the costs of the salaried staff model and the supplementary judicare system, it is possible to conclude that the current problem of the

Brazilian legal aid system is not the lack of budget, but its improper allocation in the court-appointed counsels supplementary system.