

## **APPRAISAL OF PUBLIC CRIMINAL DEFENCE IN CHILE.**

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**Summary:** 1. Introduction: Characteristics of the legal profession in Chile. 2. The role of public defence: regulating a specialized profession. 3. Evaluation and control of service providers. 3.1. Inspections of public criminal defenders. a. inspection methodology. b. The organs of inspection: zone inspectorates and inspector lawyers. c. Ways of conducting inspections d. inspection results . 3.2. External audits of criminal defence services. a. Concept, regulatory framework and objectives. b. The process for the design of audits. c. Model for the achievement of standards. 4. Results of the audit.

### **1. INTRODUCTION: CHARACTERISTICS OF THE LEGAL PROFESSION IN CHILE.**

In Chile, lawyers enjoy a regime of freedom of practice. Within this regime, many of the self-regulatory characteristics that the profession possesses in other countries, as well as the ability of lawyers' associations to exert ethical control and assure the quality of service provided by its members, lose relevance in a national set-up based on non-mandatory membership of professional associations.

This situation has not always been the same. The transformations that led the Chilean economy in the 70's and 80's towards liberalization also had an impact upon professional services and the organization of these service providers. The old "Colegios Profesionales" (Professional Associations) that acted as regulators of professions under the 1925 Constitution<sup>1</sup>, became "Asociaciones Gremiales"<sup>2</sup> (Trade Associations) that people could join freely, in accordance with the provisions of the 1980 Political Constitution.

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<sup>1</sup>Decree Law (DL) 406, dated March 19, 1925; Law No. 4,409 and its regulation, established the system of licenses to practice the legal profession.

<sup>2</sup>DL No. 3,621 dated 1981, established that "Colegios Profesionales" (Professional Associations) would have to comply with the provisions of DL No. 2,757 dated 1979 regarding "Asociaciones Gremiales" (Trade Associations).

In addition to voluntary membership, the existence of multiple “Colegios Profesionales” (at least one in each region of the country) has contributed to further weaken the regulatory powers of “Colegio de Abogados” (Bar Association), resulting in a system that establishes pre-requirements to award professional certificates, but – at the same time - totally excludes “Colegios Profesionales” from this process and lacks a mechanism to exert direct control over professional practice.

However, for its members, there are still voluntary regulations that rule professional practice: the Statutes and Code of Ethics (CE) of Bar Associations restricting the use of advertising by lawyers; the creation of guiding criteria and indicative tariffs to set fees, as well as some minor restrictions regarding organizational schemes. The sanctions that the association can impose are demonstrative in nature and cannot withdraw authorization for professional practice.

In consequence, the professional activity of lawyers in Chile is free from the supervision of any agency or organization, and ethical control over the action of lawyers is exercised by Bar Associations whenever the case involves one of its members<sup>3</sup>. Likewise, there are no significant entry obstacles or continuous accreditation requirements for lawyers already operating in the market.

It is worth mentioning that the number of lawyers in practice in Chile has increased significantly as a result of the expansion of the higher education system in which 48 law schools presently train over 21 thousand law students. Thus, in 1970, for example, 353 lawyers graduated, whilst in the year 2000 some 1000 students graduated as lawyers, representing an increase of 440%. According to certain estimates, in Chile today we have around 100 lawyers for every one hundred thousand inhabitants; in other words, some 15,000 lawyers<sup>4</sup>, and 40% to 60% of them are enrolled in a “Colegio Profesional”<sup>5</sup>.

In terms of requirements to obtain a professional title, lawyers are conferred their title by the Supreme Court of Justice, following their oath of office to loyally and honestly practice their

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<sup>3</sup> Obviously, it is possible for the client to privately claim the civil and criminal liability of the professional, on the condition that the client is capable of detecting an inappropriate action.

<sup>4</sup> On average, developed countries have 30 for each one hundred thousand inhabitants.

<sup>5</sup> In 2002, there were 6 thousand lawyers registered in the Santiago Bar Association. However, in a recent survey conducted by the National Office for the Defence (DECON. 2004), 64% of professionals that had some connection with criminal matters in the Regions were members of a Bar Association.

profession, once they have fulfilled the following requirements: to be 20 years old; to be Chilean (except for those cases that have international treaties on this matter); to hold a degree in Juridical Sciences legally issued by a University; not to have been sentenced or held for trial for crimes deserving capital punishment, personal restraint or penal servitude, except for crimes against the domestic security of the State; to hold a record of good behaviour; and to have completed a 6-month practical practice period.

## **2. THE ROLE OF PUBLIC DEFENCE: REGULATING A SPECIALIZED PROFESSION.**

One of the fundamental elements of due process is the right to defence. Within the Chilean legal framework, this is reflected at both a constitutional and legal level, and its elements and fundamental characteristics are also outlined. Indeed, the 1980 Political Constitution assures all persons equal protection under the law in the exercise of their rights, prescribing the right to legal defence and prohibiting any restriction or disruption of the intervention of lawyers, whenever their action has been required. Lastly, in order to guarantee this right, the Constitution establishes that the law shall define the means to grant legal advice and defence to those unable to obtain it themselves.

In criminal matters, the Criminal Code of Procedure establishes – among its Basic Principles – that from the very beginning of the procedure undertaken against the defendant, he/she has the right to be defended by a lawyer, and subsequently, regulates aspects such as the right of the defendant to freely choose his/her defence, the possibility of declaring the procedure null and void as a result of the absence of a defender whenever the law clearly demands his/her participation; the extent of rights and faculties of the defence counsel, and likewise the rights and faculties of the defendant; the consequences and obligations derived from the abandonment of defence and the intervention of the office of the public defender in these cases.

The harmonious interpretation of these provisions reveals the basic characteristics or requirements for the defence of a defendant in criminal cases: it is obligatory as from the beginning of criminal proceedings; it must be a professional defence conducted by a lawyer; it

must be free of charge if the defendant is unable to pay lawyers' fees; and lastly, it must be an effective defence.

The implementation of the reform of Chilean criminal procedures, made it necessary to provide a coherent answer to the constitutional and legal demands regarding the right to defence. The Office of the Public Defender was created as a public service to provide criminal defence to defendants without a lawyer.

Public criminal defence is provided by defence lawyers through a mixed system, both public and private. The public system operates with local defenders who are public officials and the private system with defenders that have been selected in a public bid. This last formula is predominant and represents roughly 65% of defenders. They are both public criminal defence lawyers.

The provision of public criminal defence in our system guarantees each one of the previously-mentioned constitutional and legal requirements.

First of all, the need to provide public criminal defence coverage is ensured by means of the establishment of a system of shifts in public defence offices. Thus, lawyers nominated must be available to respond to defence requirements and attend relevant hearings or investigation proceedings.

Secondly, all defence lawyers, both local and those holding this position as a result of the bidding process, must hold a title as a lawyer and have experience and/or qualifications in criminal matters.

Thirdly, public criminal defence provided by the institution is always free of charge, except when defendants are able to pay for their defence. In these cases, and exceptionally, the Public Defenders' Office can charge rates previously established by the Chief Counsel for the Defence.

Finally, as a result of the direct control that guarantee judges can exert regarding the quality of defence and eventually declare its abandonment, public criminal defence must necessarily be effective; in other words, it must be translated into actions that materialize the rights and guarantees of defendants.

In accordance with what has been stated above, the institution demands from its defence counsels compliance with certain parameters in the provision of defence. Thus, the Chief

Counsel for the Defence is clearly mandated by Law to establish the basic standards that public defence lawyers must adhere to in criminal proceedings.

Public Criminal Defence Standards are quality standards that seek to guide the action of defence counsels in order to assure high quality, real and effective criminal defence, within relevant areas such as activities linked to rights and guarantees such as technical defence, freedom, human dignity, to be tried within a reasonable period of time, to present and challenge evidence, to appeal against judicial resolutions, to be informed of charges and the development of the investigation, and lastly, respect for the principles of the accusatory system in criminal proceedings. Its contents are described below:

- ❖ The **Defence Standard** comprises defence activities in a comprehensive manner, demanding - from the defender - the safeguard of the defendants' interests from beginning to end of proceedings levelled against them, providing timely, diligent and adequate criminal technical judicial defence in each case.
- ❖ The **Standard of Defendants' Dignity** seeks to protect the autonomy of the defendant. The defender must respect the will of the defendant when establishing the most appropriate defence strategy, awarding him/her courteous and polite treatment, in accordance with the principles of a democratic system of rights.
- ❖ The **Standard of Information** demands that the defendant be informed by the defender of all aspects of criminal proceedings levelled against him/her and its consequences, from indictment to conclusion of the case, placing special emphasis on precautionary measures that he/she could be subjected to, such as the faculties of the police, of the public defenders' office and of courts. Likewise, the objective is for the defendant to be aware of the investigation conducted by the prosecutor, as well as by his/her own defender.
- ❖ The **Standard of Liberty** intends to make it mandatory for the defender to conduct all necessary activities to ensure that defendants are not subjected to arbitrary or illegal restriction of freedom.
- ❖ The **Standard of Evidence** seeks to ensure that evidence is produced safeguarding the interests, rights and guarantees of the defendant and, thus, defenders have to develop coherent lines of investigation, there has to be strict control of the inquiries they conduct. Likewise, in terms of the presentation of evidence, the idea is to ensure that they are

obtained legitimately and are correctly incorporated in the trial. The general objective is to guarantee the defendant the right to a fair trial.

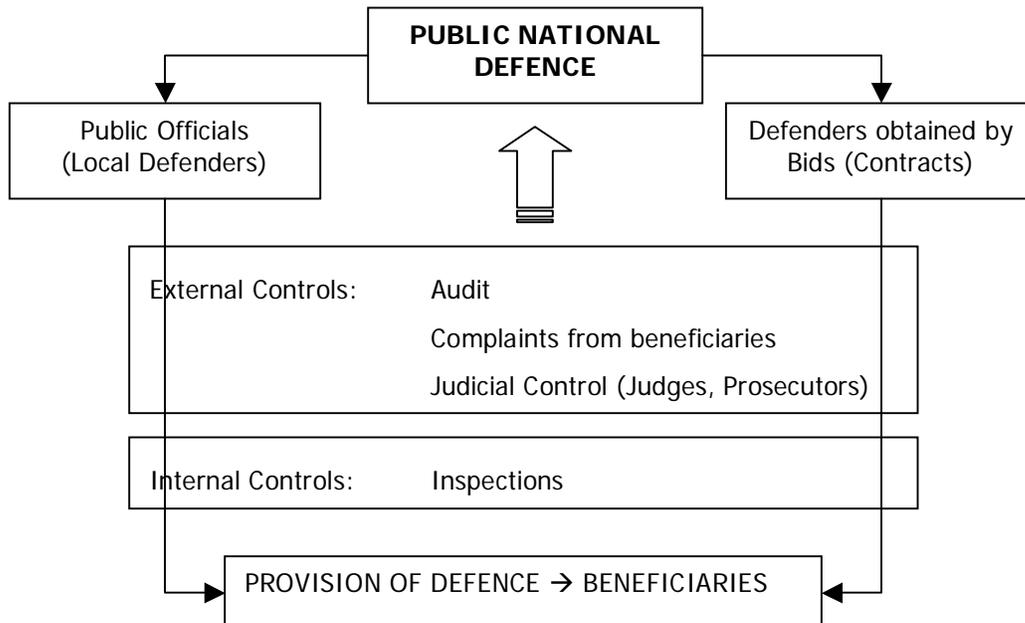
- ❖ The **Standard of Appeals** demands that if the defender decides to appeal resolutions in the criminal process, such action be taken with full respect for the wishes of the defendant, protecting his/her rights, guarantees and interests during the whole proceedings.
- ❖ The **Standard of Reasonable Period of Time for Court Action** tries to ensure that the defendant is not subjected to criminal persecution beyond the period of time that is strictly necessary, thus materializing this right recognized in international treaties. The understanding here is that criminal proceedings themselves have an impact upon his/her rights, normally imply a restriction of freedom and frequently its deprivation.
- ❖ Finally, the **Standard of Principles of the Accusatory System** seeks to guarantee a type of behaviour by defenders that not only shows respect for the principles of the accusatory system by means of their own actions, but also by means of the behaviour of other actors, in terms of materializing the right of the defendant to due criminal process.

### 3. **EVALUATION AND CONTROL OF SERVICE PROVIDERS.**

It has already been mentioned that public criminal defence in Chile operates on the basis of a mixed system where two types of service providers coexist (and compete). Each one is subject to different mechanisms that control the exercise of professional activity, whilst the law especially considers four control mechanisms:

- ❖ Inspections;
- ❖ External Audits;
- ❖ Reports, six-monthly and final; and
- ❖ Complaints from beneficiaries.

Two of those instruments, applicable to both types of service providers, are based on the idea that the specialized task can be observed by the trained eye of a third party, especially educated or trained to perform such evaluations: internal inspections and external audits. The following chart places these two mechanisms within other forms of control:



### 3.1. INSPECTIONS OF PUBLIC CRIMINAL DEFENDERS.

The inspection consists of an exhaustive examination of the actions of defence counsels, conducted by an expert of the same Institution (Inspector Lawyer), in accordance with previously known methodological criteria. It results in an evaluation report on the work of the defence in the cases reviewed, submitted to the respective Regional Counsel for the Defence. Copy of the report is also presented to the defender under inspection and he/she can make any observation deemed relevant.

The result of the inspection does not lead directly to the application of sanctions against the service provider, but it is regarded as a source of information for the authority in charge (in this case the Regional Counsel for the Defence) to begin a penalization procedure, if applicable.

#### a. Inspection Methodology

Inspections are conducted without prior notice at least once per year, in accordance with the methodological criteria set forth in article 49 of the Regulations, as follows:

- ❖ They are conducted trying to avoid interference with the defence work in progress.

- ❖ They are conducted objectively and within a prudent period of time.
- ❖ They are conducted by personnel belonging to the Evaluation, Control and Complaints Department and other staff appointed for this purpose by the National Counsel for Public Defence.
- ❖ They inspect a set of activities representing the provision of public criminal defence.
- ❖ Premises where the defence work is conducted are checked and the real operational implementation is compared to that offered in the bid.
- ❖ The administrative procedures of the service provider are verified, placing special emphasis on the control of follow-up mechanisms used in the provision of defence.
- ❖ Beneficiaries of the service are interviewed, as well the judges that have intervened in their cases.
- ❖ Inspectors observe any proceedings through which the juridical person or lawyer being inspected is providing defence.
- ❖ Case files deemed relevant are checked to get a full impression of the work undertaken. A representative and random sample of the case to be reviewed is selected.
- ❖ In qualified situations, specific cases are reviewed applying the relevant above-mentioned criteria.
- ❖ In general, all background information required to obtain a full and precise impression of defence activities under inspection is collected.

The defender being inspected cannot refuse to provide information requested on aspects that are being verified. In any case, such information shall be treated as confidential. The only exception shall be information protected by professional secret, which shall remain reserved.

Inspections are random in nature. Therefore, a selective and representative sample of cases to be reviewed is drawn up of at least 10% of all new defence cases received by the defender over the previous 12 months.

However, as explained below, randomness is applied once the Institution has determined the characteristics or specificities of cases to be inspected, by means of focussing criteria. This

criteria becomes a tool to save resources, enabling the selection of precisely those cases where there is greater risk of inadequate provision of defence services.

Likewise, reactive inspections are conducted to respond to the need to specifically examine a sensitive area of the criminal defence service (under age defendants, defendants in preventive custody and ways to conclude the provision of defence), and in some cases answering a direct request by the Regional Office of Public Criminal Defence to evaluate the performance of a specific institutional defender or of a defender obtained by means of the bidding system.

### **b. The Organs of Inspection: Zone Inspectorates and Inspector Lawyers**

As from 2003, the design of the inspection system is based on three zone inspectorates in charge of managing inspections conducted in a specific geographic zone, thus assuring adequate control coverage, in accordance with the number of defenders and cases projected for each region and location.

In order to fully comply with the task of evaluating the performance of public criminal defence counsels, inspector lawyers must possess a series of characteristics and meet the requirements outlined below: they must have acted previously as local defenders or have experience in the new criminal procedure; have specific knowledge related to Criminal Defence Standards and their measurement, to performance control systems and legal rules and regulations related to the Schedule of Fees and Bids of the criminal public defence service, and experience in the use of existing IT and management systems, as well as ISO 9001 standards.

### **c. Ways of conducting Inspections**

Zone inspectorates have defined a specific flow of activities that must be followed in a permanent and systematic manner to ensure efficiency, integrity and the correct application of the inspection process. At the beginning of each year, zone inspectorates draw up an inspection program (quarterly, six-monthly or annual), per defender and geographic location.

In accordance with this flow of activities, upon completion of the master plan to focus inspections, inspector lawyers are provided with focus information and the Regional Counsel for the Defence is informed of the defenders that will be inspected, the inspector lawyers that will take part and the days scheduled for the inspection. Likewise, the inspectorate makes sure that the files of cases to be inspected are available during the visit of the inspector lawyer.

The focus criteria used enables the selection of case samples to be inspected, based on the segmentation of defendants according to the following characteristics and attributes:

- ❖ Defendant in preventive custody: where the investigation period has expired, without review of precautionary measures, and where the periodicity of jail visits – demanded by law – has not been complied with.
- ❖ Defendants subject to other precautionary measures (article 155 of the Code of Criminal Procedure): where the investigation period has expired, with no fixed investigation period, and with no review of precautionary measures.
- ❖ Defendants whose cases conclude as a result of the following reasons: alternative freedom, simplified proceedings, abbreviated proceedings and oral trials.

Master focus plans that enable random samples are generated as from the information registered in the Criminal Defence IT Management System (SIGDP), through the design of a system that operates by means of a set of tables and data bases that make it possible for Zone Inspectorates to generate routines and focus processes of cases to be examined, and to possess relevant information in order to conduct multiple analysis of defendants under different segmentation criteria.

The inspector's field visit, during which he/she collects the information required to evaluate the performance of the defender, concludes with the inspector lawyer forwarding a form to the Evaluation, Control and Complaints Department, accounting for the tasks undertaken during the inspection and the problems or difficulties found during the visit. This is subsequently used to draft the inspection report that evaluates in detail each case handled by the defender.

The inspection is conducted in order to verify compliance with specific guidelines that include all defence activities, by establishing evaluation sub-factors, and indirectly evidencing compliance with standards and objectives<sup>6</sup>. The guidelines and sub-factors used were the following:

INSPECTION GUIDELINES	SUB-FACTORS EVALUATED
1. BACKGROUND INFORMATION	<ul style="list-style-type: none"> <li>• Existence of Single Entry File Card and Fee Document</li> </ul>

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<sup>6</sup> Indirect in the sense that they do not specifically report the achievement an objective.

OF THE CASE FILE	<ul style="list-style-type: none"> <li>• Copies of records, judicial resolutions, requests from remaining interveners, audio recordings.</li> <li>• Background information of individual investigation conducted by the defender.</li> <li>• Copy of the prosecutor's investigation.</li> <li>• Jail visit schedule.</li> <li>• Documents transferring the case and delegating actions or hearings.</li> </ul>
2. ARREST CONTROL	<ul style="list-style-type: none"> <li>• Claims of illegal arrest.</li> <li>• Opposition to an expansion of arrest.</li> </ul>
3. PERSONAL PRECAUTIONARY MEASURES	<ul style="list-style-type: none"> <li>• Origin and scope of precautionary measures.</li> </ul>
4. REQUEST FOR TIME FIXED BY THE JUDGE FOR COURT ACTION	<ul style="list-style-type: none"> <li>• Adequate request for time fixed by the judge for court action.</li> </ul>
5. EXPIRATION OF TIME PERIOD	<ul style="list-style-type: none"> <li>• Convenience and timeliness of closure of the investigation.</li> </ul>
6. EXISTENCE OF AN EXTENSION OF TIME FIXED BY THE JUDGE FOR COURT ACTION	<ul style="list-style-type: none"> <li>• Attitude of the defender to the extension</li> </ul>
7. REVIEW OF PRECAUTIONARY MEASURES	<ul style="list-style-type: none"> <li>• Adequate review of precautionary measures imposed</li> </ul>
8. REQUEST FOR JUDICIAL PROCEEDINGS	<ul style="list-style-type: none"> <li>• Relevance, timeliness and follow-up of proceedings requested to the Office of the Public Prosecutor.</li> </ul>
9. REQUEST TO THE DEFENCE FOR EXPERT APPRAISAL	<ul style="list-style-type: none"> <li>• Relevance, timeliness, follow-up and usage of expert appraisals requested from the Office of the Public Defence.</li> </ul>
10. INDIVIDUAL INVESTIGATION BY THE DEFENDER	<ul style="list-style-type: none"> <li>• Relevance, timeliness and follow-up of the defender's individual investigation.</li> </ul>
11. LEVEL OF INFORMATION PROVIDED TO THE DEFENDANT	<ul style="list-style-type: none"> <li>• Knowledge of the prosecutor's investigation.</li> <li>• Knowledge of the defence strategy.</li> <li>• Knowledge of the consequences of criminal prosecution.</li> </ul>
12. CONCERN FOR THE DEFENDANT	<ul style="list-style-type: none"> <li>• Defence of the interests of the defendant</li> <li>• Consideration of the defendant's opinion about the defence strategy.</li> <li>• Catering for the requirements of the defendant.</li> </ul>
13. VISITS TO THE DEFENDANT IN CUSTODY	<ul style="list-style-type: none"> <li>• Fortnightly visit to the defendant in custody.</li> <li>• Monthly visit to convicts serving a prison sentence.</li> </ul>
14. APPEALS	<ul style="list-style-type: none"> <li>• Relevance and justification of appeals filed or wavered.</li> </ul>

15. PERFORMANCE IN HEARINGS	<ul style="list-style-type: none"> <li>• Preparation of the hearing.</li> <li>• Argumentation during the hearing.</li> <li>• Litigation skills.</li> <li>• Complete usage of all defence means.</li> </ul>
16. COMPLIANCE OF INSTRUCTIONS BY THE NATIONAL OFFICE FOR THE DEFENCE	<ul style="list-style-type: none"> <li>• In terms of delegation of hearings and proceedings.</li> <li>• In terms of the transfer of cases.</li> <li>• In terms of interviewing victims and witnesses.</li> </ul>
17. VERIFICATION OF THE CRIMINAL DEFENCE IT MANAGEMENT SYSTEM (SIGDP)	<ul style="list-style-type: none"> <li>• On the status of the case.</li> <li>• Correct entry of proceedings, hearings, time-periods, among others.</li> </ul>
18. FORMULAS FOR CONCLUSION OF THE DEFENCE	<ul style="list-style-type: none"> <li>• Whether the formula applied for conclusion of defence was appropriate to the case history.</li> <li>• Whether there was an alternative conclusion formula more convenient for the defendant.</li> </ul>

#### **d. Inspection Results**

The inspection's system yields results by category and mode of service provided, so if the aggregated data by category of service rendered during the years 2005 and 2006 is considered, it's possible to obtain comparative data for public and for tendered defenders. During 2005, public defenders achieved an accomplishment average of 82% and tendered ones of 80%, while during 2006 both obtained an average of 80%. Any proposal in this area should consider the standardization of services and, to that effect, it seems reasonable to focus improvement policies on those subjects with a larger disparity in modes of service.

#### **3.2. EXTERNAL AUDITS OF CRIMINAL DEFENCE SERVICES.**

The Law that created the National Office for the Defence established an additional tool to evaluate the performance of public criminal defence lawyers through audits that seek to measure the **quality of the service provided**, and quantify the alignment between the behaviour of the defender and the **standards of public criminal defence**.

Despite the fact that the quantitative evaluation process - via the application of indicators - was launched in 2003, initially it was quite exploratory in nature and its full implementation took place in 2004, becoming a fundamental tool to evaluate the management of defence.

### **a. Concept, Regulatory Framework and Objectives.**

Audits are a collection, accumulation and evaluation of evidence on information obtained from a specific universe of cases belonging to each service provider, in order to establish the degree of alignment between that information and the criteria established in the defence standards. It is fundamental that audits be conducted in an independent and rigorous manner, enabling the evaluation of the degree of efficiency and effectiveness of compliance with standards. In addition, audits are a management tool, in the sense that they enable a systematic examination of defence activities and related activities in order to formulate recommendations.

The regulatory framework for this tool – contained in articles 60 and 61 of the Law, and in articles 51 to 53 of the Regulations – establishes that audits shall be conducted by independent companies, with qualified teams, that shall be selected by means of competitive bidding based on the qualification and composition of the professional teams and on their experience in evaluating and auditing public entities or related activities.

In consequence, audits are subjected to the same regulations that apply to the previously-mentioned methodological framework of Inspections.

### **b. The Process for the Design of Audits.**

The application of audits by external companies requires the following preliminary tasks that have to be conducted by the Institution: definition of indicators, design of instruments to collect necessary information; determination of defenders and the universe of cases to be audited.

**Indicators** are a fundamental instrument to measure the performance of the service provider, and have been defined as from the expected defence activities outlined in the goals associated to defence standards. Based on this definition, information **collection** instruments are designed to obtain data from judicial files; audio recordings; case files; interviews with the defendant and the defender; and review of the IT system<sup>7</sup>.

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<sup>7</sup> During the 2004 audit, the collection of information was conducted using the following forms: Case and IT Analysis (107 questions); Interview with Defendants (66 questions); Analysis of Records of Jail Visits (4 questions); Analysis of Audio Recordings (33 questions); Review of the Judicial File (17 questions); Presence in Hearings (8 questions).

The determination of **defenders** to be audited every year is based on the belief that it is only lawyers that have worked continuously for at least six months in a single location that have developed the necessary routine in the provision of defence services which enables the evaluation of their performance<sup>8</sup>. The different universes of cases to be audited are selected from the cases of these defenders.

Unlike the Inspection system, the audit necessarily involves the review of **cases** that are examples of other defence proceedings. Thus, representative sampling is fundamental<sup>9</sup>. The simple stratified sampling system was used, so that the sample size (universe of cases to be audited) would be determined using the first system, whilst the stratified system would be used in the determination of individual proceedings to be audited per defender, with a 95% level of reliability and maximum variance.

Despite that, it is worth noting that bearing in mind the novelty of the system and the lack of experience of auditors in this issue, each external audit of public criminal defence services implies a learning process that leads to the improvement of sampling and information collection methods, triggering a review of existing indicators and new proposals to ostensibly increase methodological rigour in their application.

### **c. Model for the Achievement of Standards.**

In accordance with what has been mentioned previously, achievement of standards is measured via the observation of the behaviour of the defender and its alignment to the behaviour expected by the respective standard. Expected defence activities are developed as from the definition of objectives and goals (expected results) for each one of the public criminal defence service standards, defining weights for each entity in accordance with its relevance, clarity, timeliness, ability to be measured and certainty.

Determination of compliance with a standard is the result of a logical relationship:

Standard → Objective → Goal → Indicators, that are all weighted.

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<sup>8</sup> This idea, present in the definition of the concept "defender year", has been corrected in the 2005 audit process, incorporating the requirement that defenders must have taken on at least 160 defence cases before they can be considered suitable for inspection.

<sup>9</sup> Thus, it is possible – for example – to study the weighting of different aspects that have an impact upon the adequate provision of defence.

Standard	Objective 1	Goal 1	Indicators
		Goal 2	Indicators
	Objective 2	Goal 1	Indicators
		Goal 2	Indicators
		Goal 3	Indicators

Once the value of each standard is obtained, total compliance with standards is ascertained, as illustrated in the following chart:

<b>Standard</b>	<b>Compliance</b>	<b>Pondering</b>	<b>Pondered Standard</b>	<b>Total Compliance</b>
Defence	<b>Valor</b>	<b>25%</b>	<b>Valor</b>	<b>Valor</b>
Of Defendant's Dignity	<b>Valor</b>	<b>10%</b>	<b>Valor</b>	
Of Information	<b>Valor</b>	<b>10%</b>	<b>Valor</b>	
Of Evidence	<b>Valor</b>	<b>15%</b>	<b>Valor</b>	
Of Appeals	<b>Valor</b>	<b>10%</b>	<b>Valor</b>	
Of Reasonable Period for Court Action	<b>Valor</b>	<b>10%</b>	<b>Valor</b>	
Of Freedom	<b>Valor</b>	<b>5%</b>	<b>Valor</b>	
Of the Principles of the Accusatory System	<b>Valor</b>	<b>15%</b>	<b>Valor</b>	

Each one of the standards are multiplied by the respective factor and the total sum of these values results in the percentage of total compliance with the standard per defender, location, Region, group of Regions (Northern, Central, Southern), at a national level and in accordance with the way in which they have been contracted.

#### **4. Results of the Audit**

The DPP has so far conducted three external audits that provide public information as specified in the following chart:

<b>Item</b>	<b>U. Chile 2003</b>	<b>Surlatina 2004</b>	<b>U. Chile 2005</b>	<b>Surlatina 2006</b>
<b>Coverage</b> (Regions)	IV, VII and IX	I to XII.	I to XII.	All 14.
<b>Audited</b>	29 public	68 public and 47	83 public and 103	106 public and 218

<b>defenders</b>	defenders	tendered defenders	tendered defenders	tendered defenders
<b>N° Indicators</b>	83	144	53	54
<b>Value in \$</b>	71.302.660	259.000.000	339.830.000	320.000.000 <sup>10</sup>

The DPP is currently undergoing its fourth audit. As specified in this appendix, the system can also provide achievement data per category of defender, considering defense standards and identifying the areas where quality differences exist. During 2004 (the first time public and tendered defenders were compared), the achievement level of public defenders was of 67% and that of tendered defenders was just above 68%; during 2005, public defenders obtained an 81% level of achievement, while tendered ones got 76%, higher than the previous year but lower than the average for public defenders.

STANDARS	INSTITUTIONAL			BIDDED		
	2003	2004	2005	2003	2004	2005
Defence	26,2%	78,6%	88,5%	S/D	71,6%	84,2%
Of Defendant's Dignity	44,6%	73,1%	77,5%	S/D	72,4%	73,8%
Of Information	32,9%	73,7%	65,7%	S/D	73,7%	62%
Of Evidence	85,7%	73,0%	75,3%	S/D	79,4%	68%
Of Appeals	76,8%	46,6%	77,6%	S/D	57,2%	66,5%
Of Reasonable Period for Court Action	28,2%	60,8%	78,9%	S/D	62,1%	75,7%
Of Freedom	90,2%	75,5%	NA	S/D	73,0%	NA
Of the Principles of the Accusatory System	58,0%	48,0%	85%	S/D	55,8%	81,6%
GENERAL	55,4%	67,0%	81%	S/D	68,4%	76%

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<sup>10</sup> On average, the internal audits system represents approximately 1% of the DPP's budget. The DPP assigns 4% of its total budget to defense evaluation, including inspections, external audits and the funding of the Evaluation and Control Department of the National Public Defense Office. If only the direct costs of hiring public and tendered defenders are considered, the evaluation system represents only 13% of the DPP's total costs.