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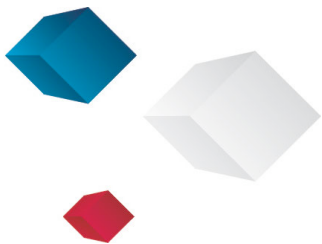


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Measuring the Quality of Defence in Chile

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Background:

- **The Chilean Public Criminal Defense Service has a fixed budget for monitoring and controlling the quality of defense provided by public defenders.**
- **Instruments used for such purpose include:**
 - a. Standards**
 - b. Internal Inspections**
 - c. Annual external auditory**



Problems:

- **Inspection of a small sample of cases has not been based on, nor produced, any objective criteria for measuring defenders' performance. It has not, therefore, generated directives that would improve the quality of the defense services provided.**
- **In most cases lawyers fulfill the criteria established in the Defense Standards creating the impression that high quality public defense is being provided. But these results do not in reality reflect or permit measurement of the quality of the service.**



What is quality defence?

- **A lawyer cannot guarantee the client a positive outcome because this depends on a third person : the judge.**
- **Nevertheless, it is reasonable to require that lawyers do their utmost to secure the best outcome in accordance with the interests of those they represent.**

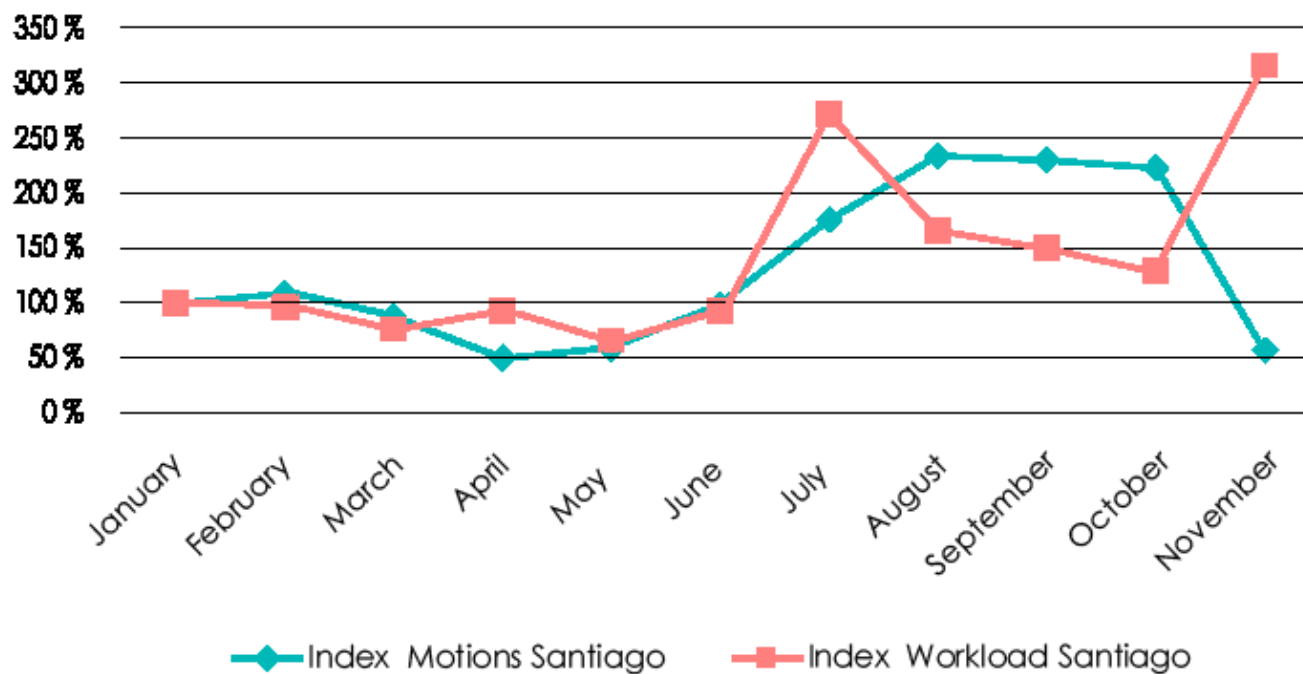


How can defence quality be measured?

- Different defence service providers can be compared as long as the effects of independent variables are controlled for.
- This is possible with public defenders. They perform in front of the same courts(and therefore the same judges) and the same prosecutors, and they tend to handle a similar number of cases.
- For example, if there are 10 lawyers litigating in the same court and facing the same prosecutors, in a given year and once each lawyer has dealt with 700 cases, it should be possible to identify certain trends and establish with professionals are performing best by comparing the results achieved.
- Workload is the principal independent variable that needs to be controlled for. The number of cases handled may vary, as may the amounts and nature of non-litigation work, mainly administrative, tasks carried out

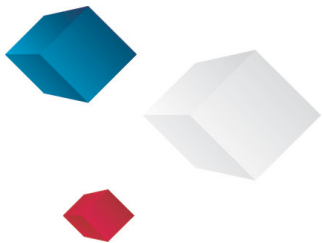


Index of Motions v/s Workload



Basis For Measuring Quality

1. Training and evaluation systems for defenders
2. Computer system
3. The evaluation and training systems must permit comparison between different professional's skills and technical abilities.
4. It must be possible to process all the data relevant to the provision of defense services. The more specialized and complete the system is; the more thoroughly the data provided by it can be analysed.



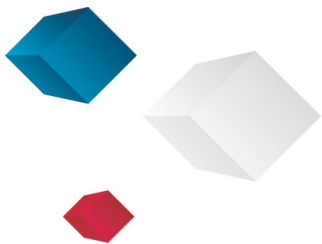
Data Collection and Analysis Indicators

In order to measure, and thereby determine whether a given service is good, it is necessary to identify indicators that can be controlled and/or measured. For present purposes, indicators are objective conceptual measures that represent actions or objectives that form part of a coherent legal defence strategy in a given case. The individual indicators need to be formulated in such a way that high performance over the whole range is automatically indicative of the provision of a high quality defence service.



Administrative Indicators:

- **No. of cases handled**
- **No. of cases finalised**
- **No. of on-going cases**
- **No. of clients in preventative custody**
- **No. of cases where the investigative deadlines has expired**
- **No. of dormant cases**
- **No. of experts requested**



Results indicators:

- Oral trial acquittals
- Oral trial convictions
- Sentences longer than that requested by the prosecution
- Sentences shorter than that requested by the prosecution
- Acquittals in quick trials
- Convictions in quick trials
- Quick trial sentence with 395
- Convictions in abridged trials
- Acquittals in abridged trials

Administrative Indicators:

- **No. of SIAR requests**
- **No. of requests to the research unit:**
 - **Questions relating to jurisprudence**
 - **General questions**
 - **Recourse requests**
 - **Doctrinal questions**
- **Prison visits**
- **Participation in legal clinics**
- **Participation in training courses**
- **Performance in hearings**
- **Disciplinary proceedings**



The Defence Quality Report (administrative and results indicators).

- These contain a large amount of quantitative data on the performance of individual defenders. Data include: the number of open, finalized, and filed cases; number of clients in preventative custody; cases where the investigative deadline has expired and cases where no action has been taken in the last 60 days; number of experts requested and the number of SIAR requests made. Furthermore, data on the number of acquittals achieved in oral trials, quick trails, and abridged trials; the sentences handed down in oral and abridged trails; and sentences shorter than those requested by the prosecution are included. Participation in legal clinics and workshops is also quantified along with data on the number of requests made by the defender for information relating to doctrine, jurisprudence and the resolution of doubts. There is also qualitative data on lawyer's performance in hearings and quantitative data on unscheduled visits to clients in custody. Finally, the reports show if the defender has been subject to disciplinary action.

Some Examples

Table n° 14: Percentage of Acquittals in Oral Trials

Alejandra Lobos ¹	0%
Bernardita Alvarado	8%
Carlos Cordero	11%
Catherine Paolini	0%
Cristián Mardones	53%
Cristián Medina	0%
Francisco Maragaño	22%
Gonzalo García	17%
Gonzalo Rodríguez	10%
Guillermo Aguilera	17%
Jorge Fuentealba	0%
Jorge Moraga	43%
Karina Reyes	4%
Marcela Vargas	19%
Mario Vargas	35%
Pablo Iturrieta	11%
Pablo Rivera	18%
Paula Quinteros	0%
Paulina Aracena	0%
Renato Gonzalez	62%
Rodrigo Molina de la Vega	0%
Rodrigo Molina Rillón	33%
Silverio Fuentes	14%

Number of Acquittals	Total number of trials
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0	5
1	12
1	9
0	3
8	15
0	5
4	18
4	23
1	10
1	6
0	0
3	7
1	23
4	21
6	17
2	18
2	11
0	15
0	1
13	21
0	20
3	9
6	43



Fulfilment of obligation to visit prisoners by Defence offices or chambers

Defence Offices	Fulfilment of obligation in percentages		
	Visits December	Visits in January	Visits February 15
Criminal Defenders (Z3N/08)	78%	85%	76%
Colina	91%	99%	90%
Legal Criminal Defence (Z2N/08)	96%	88%	93%
Lo Prado	58%	80%	97%
Legal Criminal Defence S.A. (Z5N/07)	100%	94%	99%
Baginsky and Rojas Ltd (Z5N/07)	100%	100%	100%
Legal Criminal Defence S.A. (Z1N/07)	100%	100%	100%
Legal Criminal Defence S.A. (Z3N/07)	100%	98%	100%
Legal Criminal Defence S.A. (Z4N/08)	98%	99%	100%
Defence and Justice (Z3N/08)	92%	98%	100%
Legal Defence Ltd (Z1N/08)	100%	100%	100%
Central Station	95%	93%	100%
Nexum Ltd (Z1N/08)	98%	100%	100%
Ñuñoa	99%	98%	100%
Salinero and co. Ltd.	98%	100%	100%
Santiago	96%	93%	100%
Las Condes	100%	95%	-
Sub total	93%	94%	96%

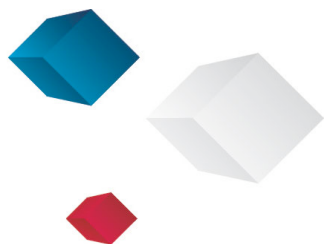


Breakdown for local defenders (Visits February 15, 2009)

Defender	Did not visit	Visited	Total visits programmed	% Fulfilment
Solange Navarro Morales	4	15	19	79%
Cristian Mardones Flores	1	7	8	88%
Gonzalo Rodriguez Herbach	1	8	9	89%
Néstor Mauricio Pérez Aguayo		7	7	100%
María Celeste Jiménez Riveros		4	4	100%
Carlos Garcia Marin		6	6	100%
Claudio Angel Aspe Letelier		2	2	100%
Mario Palma Navarrete		3	3	100%
Andrés Rojas Román		6	6	100%
Carolina Alliende Kravetz		3	3	100%
Elizabeth Susana Hauway Tirado		6	6	100%
Alejandra Lobos Chamorro		5	5	100%
Francisco Javier Maragano Uribe		13	13	100%
Mario Andres Vargas Cocina		7	7	100%
Gabriel Carrion Calderon		15	15	100%
Mario Quezada Vargas		2	2	100%
Pablo Andrés Rubio Meneses		14	14	100%
Octavio Sufán Farias		6	6	100%
Pablo Andrés Sanzana Fernández		15	15	100%
Renato Javier Gonzalez Caro		14	14	100%
Pablo Dario Antonio Munizaga Fernandez		7	7	100%
Helmuth Vargas Rosa		2	2	100%
Ricardo Flores Tapia		8	8	100%
Jorge Sebastian Villalobos Arriaza		6	6	100%
Washington Fernandez Gonzalez		7	7	100%
Lisette Rodriguez Escobar		7	7	100%
Marcela Araya Acuña		5	5	100%
Sub total	6	200	206	97%

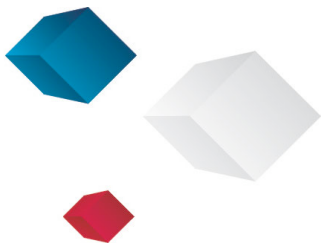
Breakdown for privately contracted lawyers (Visits February 15, 2009)

Defender	Did not visit	Visited	Total visits programmed	% Fulfilment
Felipe Alejandro Moraga Marinovic	14		14	0%
Paz Del Pino Navea	13	9	22	41%
Paola Torres Padilla	6	6	12	50%
Bárbara Patricia Antivero Pinochet	1	8	9	89%
Marcela Valenzuela Calderon	1	17	18	94%
Marisol Corvalán Guerrero		9	9	100%
Others				100%
Sub total	35	743	778	96%



Conclusions

The reports described above provide objective concrete data that, when analysed systematically and efficiently, allow for ongoing control of the level of fulfilment of the performance indicators. In our view, the totality of these indicators constitute a good measure of defender's performance and allow judgment as to whether the service provided is perceived as satisfactory by the client.



Conclusions

The contents of these databases should be dually analysed and corresponding measures adopted by Specialised Technical Help Units that offer defenders the relevant training, legal clinics, jurisprudence and doctrinal consultancy etc... Such a strategy should reduce the competence and ability gaps that exist between different defenders. In this way, it is hoped that all practising defenders can provide a services that corresponds to a uniformly high standard.

