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# Time in juvenile justice

(EXECUTIVE REPORT)

Authors

Social and Criminological Research and  
Training Department

**2013**

(EXECUTIVE REPORT)

# **Time in juvenile justice**

*“Nothing is so much like injustice as a  
tardy justice”*

Seneca

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## Introduction

At the ordinary meeting to approve its annual plan of activities for 2012 the Governing Board of the Centre for Legal Studies and Specialised Training approved, among other training and investigation activities, the research project *Time in juvenile justice*. This research is a response to the interest of different services of the Department of Sentencing in the Community and Juvenile Justice to find out the time taken by the juvenile penal system to give a response to the disruptive behaviour of the young people who are brought before it.

The study of the time that passes between the date of the committing of an offence by a minor until the date of the judicial resolution of the case, or the date of the sentence in the event that a measure is imposed, is one of the indicators that present day democratic societies use for the assessment of the efficient and/or effective functioning of justice. There is a broad consensus in the theoretical framework consulted that the penal procedure must run without unnecessary delays to be considered efficient. In terms of efficacy (i.e., that the penal response really produces the expected preventive and educational effect), there is also a consensus in considering that celerity in the process is positive, especially in the sphere of minors, even though we shall also see that the empirical research does not always corroborate that.

Barcelona, January 2013

## **Acronyms and concepts**

### **Glossary of acronyms**

**ATM:** Technical Advice for Minors

**CGPJ:** General Council of the Judicial Power

**CRAE:** DGAIA Educational Action Residential Centre

**CSMIJ:** Child and Juvenile Mental Health Centre

**DGAIA:** Department of Care for Children and Adolescents

**DGEPCJJ:** Department of Sentencing in the Community and Juvenile Justice

**DGSP:** Department of Penitentiary Services

**GIF:** Database of the Juvenile Public Prosecution Service of Catalonia

**JOVO or SIJJ:** Computer application for managing the files of the Juvenile Justice information system

**LECrim:** Criminal prosecution law

**LORPM:** Law 5/2000, of 12 January, regulating the penal liability of minors

**MEINA:** Unaccompanied Undocumented Foreign Minor

**MRM:** Mediation and Redress of Minors

**SMAT:** Mediation and Technical Advisory Service

### **General concepts of the research**

When the Juvenile Public Prosecution Service has sufficient indications that an offence has been committed, it opens a procedure. In this procedure there may be one or more minors imputed for the same offences.

For the purposes of this research, we will distinguish between the Juvenile Public Prosecution Service procedure and the *basic procedure*. The *basic procedure* is the process followed individually with each of the minors involved in a procedure opened by the Public Prosecution Service in 2008, since each young person may receive different responses at different times. That is to say, a single Juvenile Public Prosecution Service procedure means as many *basic procedures* as there are minors involved.

The *basic procedure* comprises all the actions performed by all those involved, from a minor committing the offence to the first judicial resolution that closes the procedure.

In the research, we have taken **resolution** to be the juvenile judge's first decision, which need not be final, and which may be: stay, acquittal or sentencing.

**Free stay** is the closing of the suit with an outcome equivalent to acquittal and must be pronounced (art. 637 of the LECrim):

- when there are no indications that the offences have been committed;
- when the offence does not amount to a crime;
- when the accused are exempt from penal liability.

According to article 19 of the LORPM, the Prosecution Service may also request the judge to grant a free stay of the cause when conciliation or redress with the victim has taken place.

**Provisional stay** is a temporary closing of the suit; i.e., there is a possibility of reopening legal actions as long as the offences have not prescribed. Provisional stay must be pronounced (art. 641 of the LECrim):

- when it is not clear that the offences have been committed;
- when it is clear that the offences have been committed, but there are not sufficient reasons for accusing particular people.

**Prescription of the offence** is one of the causes of the annulment of criminal liability and is given by the simple passage of time from the committing of the offence. The Penal Code regulates prescription in articles 130 et seq; it determines the different times of prescription according to the seriousness of the offence and the way of gauging it. Article 15 of the LORPM specifies the times of prescription in the case of juvenile justice. The amendment of the Penal Code in 2010 (Law 5/2010, of 22 June) introduced new conditions that affect the way of calculating the time of the prescription but, as they do not affect the year of study (2008), we do not deal with them in this section.

**Prior conviction** is considered to be any other suit that has been filed against the minor before the *basic procedure*.

**Recidivism:** while the *basic procedure* is in progress or after the termination of the judicial resolution, some young offenders commit new offences and new judicial procedures are opened against them. We have only considered these new procedures recidivism for the purposes of this research.

**Table 1. Length of the juvenile penal procedure according to the different studies published in Spain**

| Period of time studied   | Time (in months) | Year | Place     | Study                        |
|--|------------------|------|-----------|------------------------------|
| From the committing of the offence until the beginning of the execution of the measure | 11.7             | 2004 | Girona    | DGEPCJJ Girona (unpublished) |
|  | 14.5             | 2006 | Girona    | DGEPCJJ Girona (unpublished) |
|  | 14.8             | 2009 | Barcelona | Amat <i>et al.</i> (2010)    |
| From the submission of the file to the court until the resolution                      | 8.6              | 2005 | Spain     | CGPJ (estimated)             |
|  | 7.1              | 2008 | Spain     | CGPJ (estimated)             |
| From the committing of the offence until the closing of the file                       | 17.6-19.5        | 2002 | Andalusia | Pérez Jiménez (2006)         |



## **2. The research**

As a result of the process of detection of research needs promoted by the Centre for Legal Studies and Specialised Training (CEJFE) Research Unit, the Educational Centres Service, the SMAT and the Open Custody Department of the DGEPCJJ made a proposal to analyse the total time taken by the juvenile justice system in Catalonia over the definitive resolution of the procedures opened against minors of the age of criminal liability; in other words, the time that passes between the date of the committing of the offence and the date of the definitive judicial resolution of the case (or the date of sentence in the event that a measure is imposed).

### **2.1 Purpose**

The research provides the DGEPCJJ with data about the average time of action taken by each organ that intervenes in the process of resolution of the suits filed against minors. A response close in time to the offence is regarded as of special importance in the case of juvenile justice. The purpose, for the DGEPCJJ, is to be able to analyse time periods and improve the ones within its competence, in the event that it is considered necessary, through the management, organisation and prioritisation of the resources according to those time flows.

#### **2.1.1 Objectives**

- a) To calculate the total time that passes between the date of a minor committing the offence and the date of the definitive judicial resolution of the case (or the date of sentence in the event that a measure is imposed).
- b) To calculate the partial times (of the actions identified as important) into which the action of the different organs intervening in it is divided (Juvenile Public Prosecution Service, juvenile courts and DGEPCJJ).
- c) To determine whether the time periods are different according to the type of judgement (sentence or acquittal) and the free stay resolutions.

- d) To see whether there are other independent variables controlled in the study that are related to a variation in the length of those periods (gender, age, nationality, territory, court).
- e) To find out whether there are differences in the time periods mentioned between the year of study (2008) and another control year (2005).

## **2.2 Methodology**

We must remember that the *basic procedure*, as we have explained in the “Acronyms and Concepts” chapter, is the process followed individually with each of the minors involved in a procedure opened by the Juvenile Public Prosecution Service in 2008. In other words, a single Juvenile Public Prosecution Service procedure has as many *basic procedures* as there are minors involved.

The number of procedures opened by the Public Prosecution Service in 2008 is 5,776. The number of *basic procedures* is 8,059 in total, but we have to separate the MRM cases (which come to 1,726 procedures), so that the figure we work with finally to give results about time in juvenile justice is 6,333 procedures.

The MRM cases are dealt with separately.

The number of *basic procedures* involves 5,523 different young people. In the remaining *basic procedures* from 2008 (2,536, 31.5%), the young people are repeated in another procedure.

We have followed the *basic procedures* opened in 2008 until 31 December 2011 to discover their evolution and the partial times each one has followed through the Public Prosecution Service, the technical team and the juvenile court.

We have also investigated until the same date (31/12/2011) whether in the file of the young person new Public Prosecution Service procedures appear involving new offences committed after the original procedure opened in 2008. If so, we have distinguished between the cases in which the new offence was

committed *during* the *basic procedure* and the cases in which it was committed *afterwards*. Given that the monitoring period is very short, those data cannot be considered a good measure of recidivism, but they can be considered indicators of a tendency.

The decisions we took about the year to select took account of certain considerations. The years before 2008 were discarded so as not to give results that would be too old for the present situation. 2009 was also discarded because it was the year that all the juvenile courts of the province were moved to Barcelona and the Public Prosecution Service to the Ciutat de la Justicia. There was a suspicion that the processes might have been temporarily slowed down by the serious inconveniences of the change of location and thus detracted from a generalisation of the results obtained.

2010 was discarded because it was suspected that many of the procedures were still awaiting completion and would not be able to provide sufficient information. Moreover, 2010 was the year of one of the reforms of the adult Penal Code, Law 5/2010, of 22 June, which affected the time of prescription of offences in the jurisdiction of minors as well. That has given rise to different interpretations in the judicature concerning the time of prescription and the actions which do or do not halt the period of prescription of the offences. However, this study is not affected by that controversy, given that it analyses the procedures opened in 2008 and, as we have said, the amendment of that aspect of the Penal Code was made in 2010 and takes effect especially after 2011.

The research began between November and December 2011, when we carried out a pilot study of the first data supplied through the Planning and Strategic Projects Section, attached to the DGSP. That preliminary process responded to the need to familiarise ourselves with the data, understand the complexity of the judicial procedures and specify the variables that had to be collected.

The definitive extraction of the data from the JOVO was carried out between January and February 2012 and has been useful to us to construct all the

variables related to the procedures to be studied, the offences committed, the young people involved and the actions of the different organs intervening.

In order to be able to compare the data for 2008 with those of an earlier year and see whether changes had occurred in the time periods or whether they had remained stable, we extracted the same information from the JOVO for all the procedures opened in 2005 (N = 7,383). The data for that year have only been used as a control group and no other analysis has been made of them, except the comparison with those for 2008.

During March 2012, we made a second collection of data from the Barcelona Juvenile Public Prosecution Service to obtain the dates of the procedures that do not appear in the JOVO. In the first place, we made a manual extraction of all the suits opened in Barcelona in 2008 through the Juvenile Public Prosecution Service GIF application. Later, they provided us with a computer archive with the data from the other provinces: Girona, Tarragona and Lleida.

Once all the data had been obtained we constructed the variables that reflect all the time periods, specifying the time that passed in days from one date to another.

The time variables constructed are as follows: *global time*, the time that runs from the committing of the offence until the judicial resolution laid down in the sentence (not included if there have been subsequent appeals); *time 1*, which runs from the offence until the filing of the suit by the Public Prosecution Service; *time 2*, the time of management of the PPS judicial procedure which runs from the filing of the suit (or the preparatory steps, if any) by the PPS until the submission to the court. We have subdivided those times into partial times:

Time 2.1 is the one that runs from the preparatory steps to the filing of the suit by the PPS.

Time 2.2 is the one that runs from the bringing of the suit until the writ of allegations or conclusion of the file in the event that a stay is requested. Within this period, there is the time that runs from the application for the technical report for advice and/or conciliation by the PPS until the

submission of that report by the technical teams. To identify it within the study, we have called it time 2.2.1.

Time 2.3 is the time that runs from the writ of allegations to the submission to the court.

Time 3 is the time of management of the judicial procedure of the juvenile court. It runs from the case coming before the court until the final resolution or sentence. We have subdivided this time into partial times (which do not affect the stays, which have a single time from the case coming before the court until the resolution):

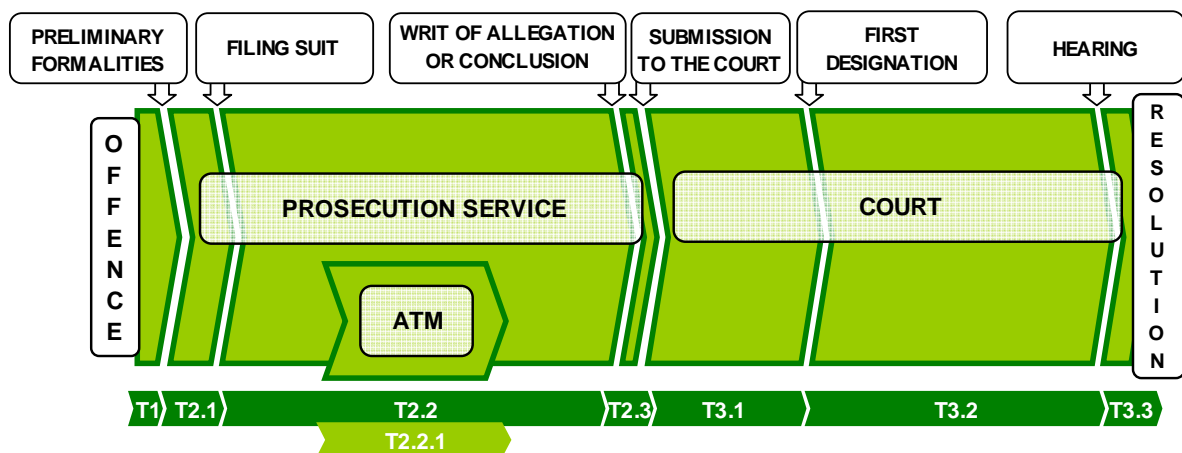
Time 3.1 is the time that runs from the coming of the case before the court until the first designation.

Time 3.2 is the time that runs from the designation until the hearing.

Time 3.3 is the time that runs from the holding of the hearing until the resolution of the sentence.

For some comparative analyses with 2005, the time groupings have been different to allow a comparison with the data available for that year, but in each case the periods compared are specifically indicated.

**Diagram 1. Global and partial distribution of the time of the whole judicial procedure**



## **3. Conclusions**

### **3.1 Interest of the study of time in juvenile justice: influence of celerity on the efficiency and efficacy of the juvenile penal system**

This research proposes a study of the objective time that passes between a minor committing an offence by and the moment when the penal system responds.

In general, we have seen that this objective time is considered an interesting subject for analysis for two quite different reasons:

- In the first place, because the efficiency of the judicial system is associated with the speedy resolution of matters. This is a general aspect, since speed or absence of delay is usually linked to the efficiency of the public services of different sectors: health waiting lists, business creation files, response to complaints.
- In the second place, because of the impact the lapse of time between the offence and the judicial response may have on the efficacy of the sentence or the response the offender may receive. This aspect is especially important in the juvenile penal sphere.

#### **3.1.1 Celerity as a perception of the efficiency of the administration of justice**

Various authors associate judicial efficiency with speed and diligence in the formalities. As we can see in the bibliography concerning this point of the discourse, the speed of the judicial response is directly linked to its efficiency. The greater the speed, the more efficient the system.

According to data from the CGPJ, and in relation to all jurisdictions, in 2008 the most frequent reason for demands or claims made by the citizens was a call for *speedy handling of all the matters that affect them and knowledge of the causes*

*of the delays*, which points to the importance of the management of time as a value and an indicator of quality for the citizens.

And so, although we do not have specific data, we can see that the jurisdiction of minors would also be affected by this conception that the greater the celerity in the resolution of the procedures, the greater the perception of the efficiency of the system of administration of justice.

### **3.1.2 Impact of celerity on the effectiveness of the sentence**

The second point we have highlighted has to do with the concept of the efficacy of the sentence or the judicial response the minor may receive. In the jurisdiction of minors, the celerity of the process takes on special importance for various legal, criminological and psychopedagogic reasons. In the chapter designed to specify the theoretical framework of this research, we have made an analysis of each of those perspectives. By way of conclusion, we may say that they all point to the same intention: the efficacy of the sentence in terms of preventing further criminal behaviour and of contributing to the education/socialisation of the minor.

In the jurisdiction of minors, many national and international rules take note of the importance of the process being rapid so that the response may be effective. That link between speed of response and efficacy of the sentence in terms of prevention has also been analysed from criminology by various authors, who point out that a more rapid response makes the sentence more effective from the point of view of special and general prevention. That affirmation however, is theoretical, axiological since, according to the studies consulted, it has not been sufficiently examined empirically and there are even studies that come up with results that point to the opposite. Lastly, in relation to the efficacy of the sanction as a means of learning social rules, the contributions of psychopedagogy also note the importance of the response being not merely a sanction and, if it is one, for it to be close in time to the offences, although that is only one of the many characteristics an effective punishment should have.

## **3.2 Main contributions of the research**

The results of this research provide descriptive data about the time taken to resolve penal procedures with minors. For exposition and analysis of the results, we can organise them in two broad groups: the first focuses on describing the procedures that are the object of study (the ones corresponding to 2008) and the young people who were involved in them, the offences and the professional organs that intervened; the second deals mostly with the length of the procedures, a subject that has been largely overlooked and one to which this research brings the most original data.

Concerning the presentation of data about the length of the procedures, we can also divide the results into two large blocks: the first supplies data about the total length of the judicial procedures of minors and is also specified by organs, whilst the second systematises the length of the judicial procedures according to certain relevant variables: the type of resolution, the type of offences committed, the territory, the characteristics of the young person, whether or not preventive measures have been taken, whether there have been further offences until the completion of the field study, the most exceptional cases in terms of delays and, lastly, the cases in which an MRM programme has been used.

### **3.2.1 Characteristics of the procedure of Juvenile Justice**

#### **The characteristics of the *basic procedures***

In 2008 the Juvenile Public Prosecution Service filed 5.776 procedures with persons under 18. In 53.1% of them only one person was involved. That percentage has risen 3 points since 2005.

8,059 *basic procedures*<sup>1</sup> were filed in 2008. Of those we have analysed the ones that have included an MRM process with a positive result (1,726)

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<sup>1</sup> The *basic procedure* is the process followed individually with each of the minors involved in a procedure opened by the Public Prosecution Service in 2008.



separately. And so in 2008 there were a total of 6,333 *basic procedures* which did not include a positive MRM process, which means an increase of 10.2% over 2005. And of those 6,333 procedures we will now provide the most significant data:

Of the total of *basic procedures*, 48.4% are young people against whom a jurisdiction of minors procedure was filed for the first time in 2008.

22.3% of the *basic procedures* include multirecidivist young people (with more than two prior convictions). We find those same young people among the 59.2% of the procedures with prior convictions.

For 2005, the rate of procedures opened for every 100,000 young inhabitants has increased in Barcelona and Girona, and diminished in Lleida and Tarragona.

During the process, 33.5% of the *basic procedures* have had new procedures opened for new offences committed by the young offenders.

After the date of judicial resolution of the *basic procedure*, 21.4% of them have new procedures opened for new offences committed.

### **The characteristics of the young people**

The number of young people brought before the court in 2008 is 5,523. If we separate the 1,454 who followed an MRM process with a positive result, in total the population which is the object of study is 4,069 young people.

Most of those young people are men (82.5%).

If we compare the characteristics of the young people of the sample of 2008 with those of the young people in 2005, we find the following differences:

In 2008 the percentage of foreigners increases (38.8% over 32.4%), especially the ones from Latin America and the European Union (owing to

the incorporation of the Romanians).<sup>2</sup> The ones from the Maghreb show a percentage fall in the global total of foreigners.

The percentage of young people with prior convictions also increases (51.6% over 40.1%); so does the proportion of young people aged 14 at the time of the committing of the offence (14.0% over 13.3%); and the proportion of young people over 18 at the time of the resolution of the procedure (42.8% over 38.3%).

### **The offences**

In the majority of *basic procedures* the young person has committed a single offence (68.3%), which has been typified as a crime (77.6%).

Concerning the offences, if we compare 2008 and 2005:

The number of procedures with more than one offence increases (31.7% over 27.8%).

The offences typified as crimes and not as misdemeanours increase (77.6% over 74.9% in 2005).

By type of offence, the ones grouped in the category *against persons* (33.4% over 29.9%) and *road safety* (2.6% over 0.6%) increase, whilst those in the categories *against property* (48.7% over 49.8%) and *other offences* (13.2% over 17.1%) decrease.

The percentage of violent crimes increases (50.9% over 47.1%).

### **The judicial responses**

The number of preventive imprisonments has decreased (3.9% over 4.5%). 58.2% of the preventive measures taken are preventive imprisonments.

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<sup>2</sup> In 2007 Romania and Bulgaria joined the European Union, with the consequence that offenders of those nationalities (registered in 2005 in the category *Rest of Europe*) have been moved into the category *European Union*. The majority of the cases are from Romania.

24.1% of the total of procedures conclude with a positive MRM. A further 8.0% have MRMs with negative results, a percentage that has increased significantly over 2005 (8.0% over 6.3%).

The resolutions most often laid down are:

In the first place, condemnatory sentences (56.2%), which are distributed as follows: open custody (39.7%); imprisonment (11.6%); caution (4.7%); and annulment of penal liability (0.1%).

In the second place, we find the resolutions of stay (33.6% of the total), which are distributed as follows: free stay (16.1%); stay by prescription (13.5%) and provisional stay (3.9%).

Lastly, in third place, we find the acquittals (10.3%).

### **3.2.2 Concerning the time taken to resolve the *basic procedures***

#### **Total length of time of the *basic procedure***

The average total time taken to resolve a procedure in 2008 is 440.5 days or 14.7 months. The total time of the procedures has risen in comparison with 2005, when it was 407.3 days (13.6 months). That average increase of 33 days has not been proportional at all stages of the judicial procedure:

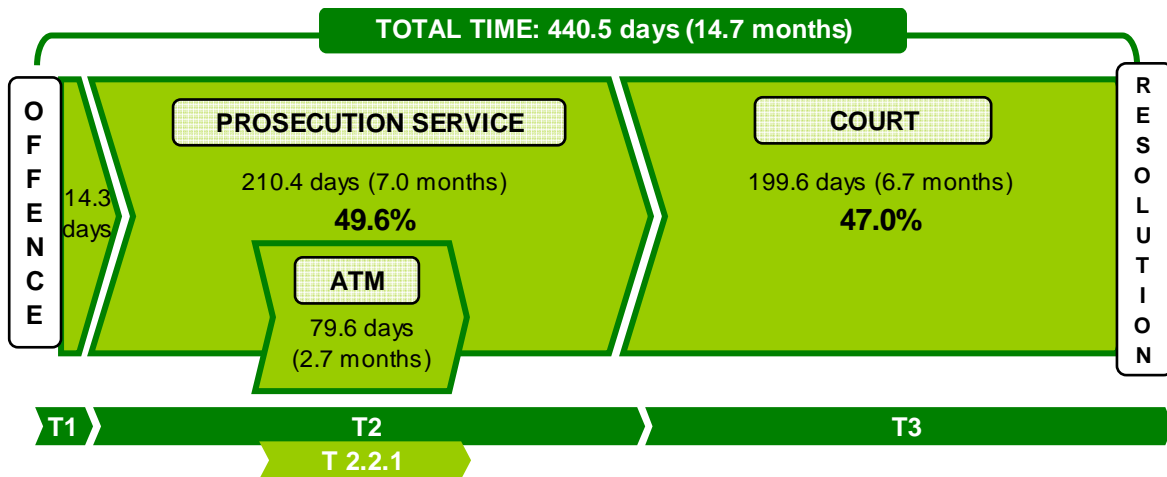
The time from the committing of the offence until it is brought to the notice of the Prosecution Service has remained stable.

The time taken to produce the ATM report has decreased by 22 days on average (the 101.7 days in 2005 fell to 79.6 days in 2008).

On the other hand, the time from the completion of the ATM report until the resolution has increased by about 50 days on average (from 258.9 days to 309.2 days).

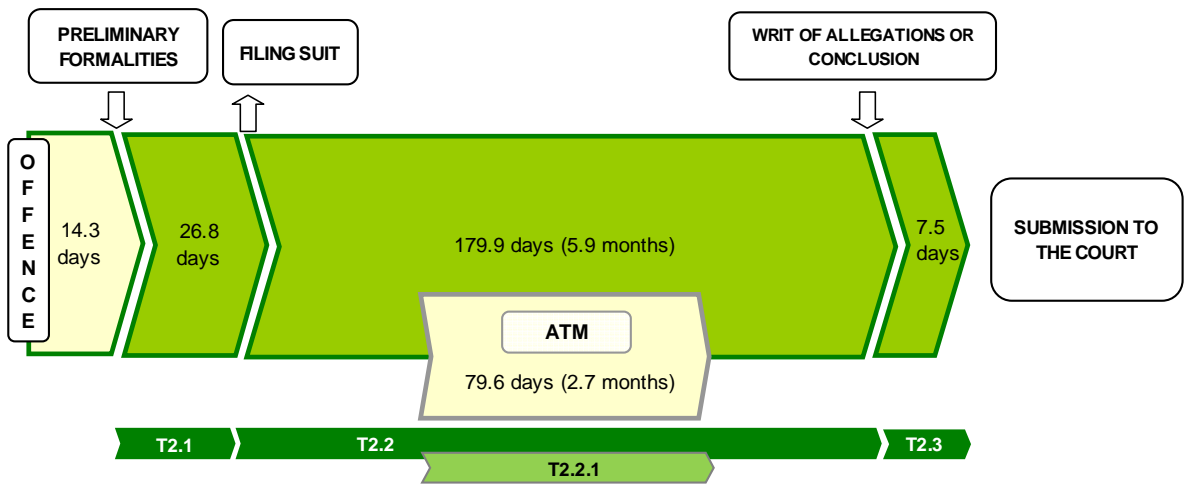
## Length of time of the *basic procedure* according to the organs

The total distribution of the time the procedure has lasted is distributed as follows: 3.4% on the police investigations to report and bring the presumed offence to the knowledge of the Prosecution Service; 49.6% is taken up by the Juvenile Public Prosecution Service (including the time to draft the ATM report); and the remaining 47.0% is taken up by the juvenile court.

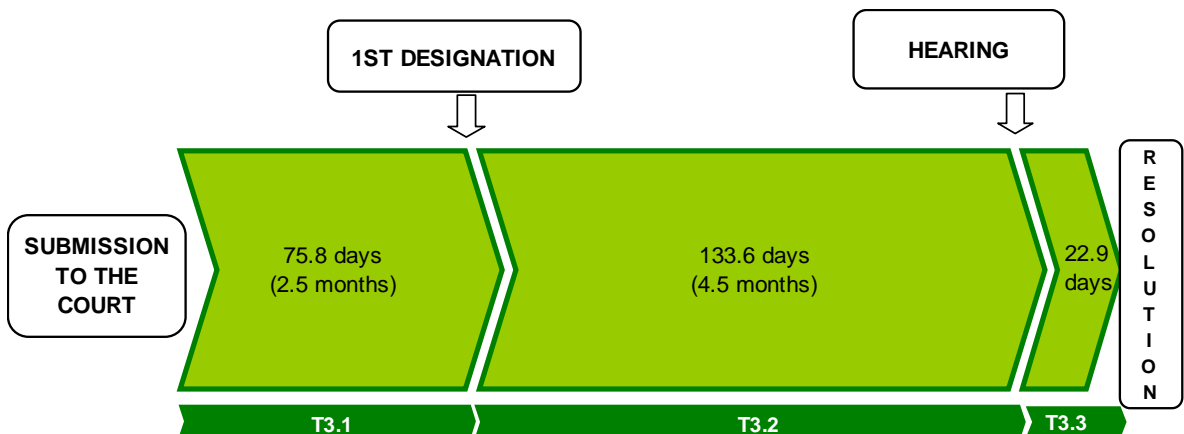


The average time of the Prosecution Service is 210.4 days (7 months). The longest period within that space is the one that runs from the opening of the procedure until the writ of allegations or conclusion of the procedure, at 179.7 days (5.9 months).

The average time taken to complete the necessary preliminary formalities for the drafting of the ATM report and to bring it to a proper conclusion is 79.6 days (2.7 months). If we look at the time taken specifically to do the report, we can say that 86.2% of the reports are completed within a period of 30 days.



The average time of the courts is 199.6 days (6.7 months). There are two long periods in that time we have found reported: the one that runs from the submission of the file until the first designation (75.8 days) and the one from the first designation until the hearing (133.6 days).



The time that runs from the submission of a procedure to the court until the designation of the hearing is an average of 75.8 days (2.5 months). The law establishes different time limits which have to be observed throughout this process, which added together would give a much shorter time.

The time that runs from the end of the hearing until the pronouncement of a sentence or resolution (by law, a maximum of five days) is an average of 22.9 days (even though the legal limit is observed in 70.9% of the cases).

In general, it takes more days to resolve the procedures when there is more than one person involved. Also when a young person with prior convictions is

involved. And when there has been an attempt to carry out a process of mediation which has turned out negative.

### **3.2.3 Length of time according to certain variables**

#### **Length of time of the *basic procedure* according to the type of resolution**

In 2008 one of every three procedures ended in stay (33.6%), the condemnatory sentences accounted for 56.1% and the acquittals 10.3%.

The judicial organs hand down more free stays to young first offenders (52.2% of the total) and the more prior convictions they have, the smaller the proportion. As for stays by prescription, the procedures involving young people with prior convictions occur more frequently in the group of procedures stayed by prescription than would correspond to them on average.

The procedures that take the longest to resolve are the ones that end with an acquittal: 532.3 days on average (17.7 months). The stays take on average 438.8 days (14.6 months). The condemnatory sentences are the ones that take the least time, 421.2 days (14.0 months). It must be borne in mind that the acquittals always come to trial and therefore entail more formalities and time, whilst the condemnatory sentences have a high proportion of *agreements* between the parties before coming to trial, which considerably shortens the formalities and time.

If we compare the times of 2008 with those of 2005, the procedures with stays by prescription are the ones that have most increased in length (from 426.5 days on average in 2005 they rose to 507.8 days on average in 2008, an increase of 81.3 days). On the other hand, the difference in the stays by prescription compared with the remainder is very large: for free stays it takes 401.3 days on average in 2008 and for provisional stays, 355.3 days.

Concerning the procedures that end in a condemnatory sentence, the more serious the measure to be imposed, the less time the organs take to resolve them. And so the fastest is imprisonment (354.2 days), followed by open custody (432.7 days), and the ones that take the longest are the cautions (493.3

days). That shows a clear priority given to the more serious cases by the jurisdictional organs.

It is surprising that the procedures that end with a caution last so long, if we bear in mind that it is the fastest measure to implement. It is also surprising that the periods of time taken by the three organs –Public Prosecution Service, ATM report and court– to resolve these procedures that end with a caution are always longer than those that end with an open custody or imprisonment measure. That certainly has to do with the characteristics of the young person, who in many cases has many prior convictions and with whom other measures may be being imposed.

### **The procedures that prescribe**

The difference in time between the *basic procedures* that prescribe and those that do not is to be found in the time of the Public Prosecution Service. And, within the different periods studied, the most important is the time that runs from the filing of the suit until the writ of allegations (167.4 days on average for the non-prescribed as opposed to 239.6 days for the prescribed, 72.2 days difference).

Although in the general time of the courts we find no differences between prescribed and non-prescribed procedures, we do observe significant delays when it comes to the first designation of appearance or hearing (20.6 days more on average than for the procedures that prescribe) and, especially, when it comes to handing down a resolution (97.7 days more on average than for the procedures that prescribe).

The majority of variables we have examined in this study have no significant relation with a greater or lesser length of the procedures that prescribe. The only variables that influence the length of the procedures that prescribe are the number of offences committed and the category of the offence.

The more offences committed in the procedure being judged, the greater the chance that the procedure will last longer.

The procedures for crimes for *drugs*, *against road safety* and *against persons* are the ones which, within the prescribed procedures, have gone on the longest.

Proportionally, the procedures involving young foreigners last longer than those involving young Spanish people.

### **Length of time of the *basic procedure* according to the type of offence**

The time taken on average to resolve the procedures involving an offence initially qualified as a misdemeanour is 386.8 days (12.9 months) and for the ones involving an offence initially qualified as a crime is 456.4 days (15.2 months).

There are no differences in the time taken to resolve the procedure according to the category of offence committed, except with drug-related crimes, which take longer, almost 100 days more than the others. And it is in the time of the Public Prosecution Service where the procedures for drug-related crimes last the longest and are statistically significant.

If the *basic procedure* includes a single offence it takes less time to resolve than if there is more than one.

If the offence included in the basic procedure is serious (remember that we regard it as serious when the procedure ends in imprisonment), the procedures are handled faster than the rest (about 100 days on average). That priority is common to the Public Prosecution Service, the processing of the ATM and the court.

### **Length of time of the *basic procedure* according to the territory**

It is in the provinces of Girona and Lleida where the procedures opened in 2008 took, on average, the least time on Catalan territory. In Barcelona the cases were resolved in a time similar to the global average and Tarragona is the province where they took the most time. The difference between the territories that mark the longest and shortest time on average is 168.9 days (5.6 months). These differences are clearly marked by the time taken in the juvenile courts



and we do not find them in the time taken up in the prosecutors' offices or the technical teams on the drafting of the ATM report.

The behaviour of the different control variables in the study is not at all similar between the territories and has a different effect on the average length of the procedures. And so the number of people involved causes an increase in the length in Barcelona and Girona, but not in Lleida and Tarragona. Having prior convictions lengthens the time of the procedures in Barcelona and Tarragona, but the opposite happens in Girona and Lleida.

Concerning the time taken to resolve the procedures according to the type of resolution, the variability between provinces is also highly significant.

### **Length of time of the *basic procedure* according to the characteristics of the young person**

With relation to gender, the *basic procedures* of 2008 in which women were involved lasted, on average, 410 days (13.7 months), whilst the ones involving men took significantly more time (446 days; 14.9 months).

Concerning nationality, there are no differences in the total time taken by the procedures whether they involve foreign or Spanish young people. There are shorter procedures when we are dealing with foreign girls.

As for age, neither are there differences in the total time taken by the basic procedures.

### **Length of time of the *basic procedures* according to whether they include preventive measures**

The procedures in 2008 that incorporated a preventive measure represent 6.6% of the total: 3.9% included preventive imprisonment and 2.7% one of the other preventive measures.

The procedures with preventive measures are the ones that are resolved most rapidly (330.7 days for those that include imprisonment and 369.7 days when it

is one of the others, whilst the procedures that do not include any take an average of 447.8 days).

The average time of the preventive measures is 186.3 days for imprisonment and 300.1 days for one of the other preventive measures.

The young people accused of serious crimes spend more time in preventive measures (187.5 days) than the young people with less serious ones (144.9 days).

### **Time according to recidivism**

The most rapid resolutions have been for the *basic procedures* with young people who have not had more new procedures –for new offences– opened during the processing of that *basic procedure*. The difference in time is 1 month and a half more than when there have been new procedures.

Committing new offences when the *basic procedure* has not yet been resolved is a very powerful indicator of later recidivism.

Curiously, the procedures involving young people who have later offended again have been resolved more rapidly than the ones that include young people who have not, with an average time difference of 3 months and a half.

A rapid resolution is no guarantee of efficacy, at least in terms of recidivism. Notwithstanding, we must remember that the procedures resolved most rapidly mostly correspond to the crimes regarded as serious in that report and, therefore, logically, with more risk of reappearing as recidivists.

### **Time in the procedures that include a positive MRM process**

Whilst the time in the other procedures increased in 2008 from 2005, in the MRM procedures the average time taken to resolve them remained similar (296.6 days in 2008 over 300.9 days in 2005).

The MRM with a positive result was applied to 24.1% of the *basic procedures* of 2008.

The procedures that incorporate a positive mediation take a third of the time of the others.

The behaviour of the variables controlled in the study is quite similar in the procedures that include an MRM process and in the other procedures. Therefore, the explanations we have given for the impact of these variables on the length of the procedures can be fully extrapolated to the *basic procedures* that include an MRM programme.

## 4. Recommendations

As we noted in the conclusions section, the impact of time on the effectiveness of the penal justice of minors can be observed from two main perspectives: first, celerity as efficiency; and second, the impact of celerity on the efficacy of the sentence or of the response the offender may receive. The recommendations are also divided into two groups according to those two perspectives.

Concerning the efficiency of the system in the management of penal matters with minors:

1. The time periods of the resolution of the juvenile penal procedures should be reduced. The ultimate objective should be the establishment of standard times that specify for the Catalan environment what, in different words, the studies and the legislation describe as “reasonable time” (the shortest possible time which respects trial guarantees). A first target could be to recover the averages of 2005, since the time of the resolution of the juvenile penal procedures has increased between the two periods studied (2005 and 2008), mainly the time involving the formalities carried out by the courts.
2. Moreover, we have seen that the territories do not show homogenous behaviour and there is great variability. We need to analyse with qualitative studies and in greater depth the reasons and justifications for those imbalances before being able to make suitable proposals for improvement.
3. 22.4% of the *basic procedures* studied have been processed for misdemeanours and have lasted an average length of 12.9 months. Given the slight importance of those crimes in relation to the cost involved in the process, we consider that whenever possible we should aim for an extrajudicial response, perhaps by diversifying the alternatives for cases which cannot be settled by mediation or for which that is not the most appropriate proposal for process. It is also important not to allow the offences to prescribe, since that may give the parties a sense of impunity or lack of response.

Concerning efficacy:

4. We have found no evidence that allows us to affirm that moving more rapidly in the resolution of the procedures is better in terms of the efficacy of the sentence or of the response received by the minor in terms of reform and recidivism. In this sense one logical hypothesis would be to think that a response close to the events is more effective than another more distant in time, but our results do not confirm that *a priori*, or, at least, they generate contradictions and doubts, as we have gathered from some of the international studies we have used in the theoretical framework of this research. That makes us think that more qualitative research must be done to allow a complete analysis of the variables that intervene in the efficacy of the sentences and, among them, to assess the influence of time.
5. We have to establish reasonable time periods which give the best results, combining the efficiency of the system and the efficacy of the sentence.
6. In other investigations that wish to continue this line of study, we would recommend research relating to the *subjective time* perceived by those involved (offenders, victims and agents intervening). Probably that time is more important than the objective time we have analysed in this study.

Although it has nothing to do with the impact of the time factor, in the research we have found that a third of the *basic procedures* have had new procedures opened for new offences committed by the young offenders. We have seen that this variable is very predictive of new and repeated offences. If a young person commits more offences, despite being subject to the control and action of the different legal operators during the basic procedure, the situation has to raise the alarm, since it is a highly important factor in predicting new offences. We must therefore take it into account in the process followed with the young person and the response given.