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# **Recidivism in the Programme of Mediation and Reparation for Minors (EXECUTORY REPORT)**

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# EXECUTORY REPORT

## **Recidivism in the Programme of Mediation and Reparation for Minors**

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# Contents

Introduction.....	6
1. Programme of Mediation and Reparation for Minors (MRM) .....	8
1.1 Key concepts of research.....	8
1.2 General concepts used in the research .....	8
1.3 Concepts referring to the results of the MRM process.....	9
1.4 Concepts referring to other programmes.....	10
2. Research .....	11
2.1 Purpose .....	11
2.1.1 Objectives .....	12
2.1.2 Hypothesis .....	13
2.2 Methodology .....	14
2.3 Variables to choose from.....	15
3. Conclusions and recommendations .....	16
3.1 Conclusions regarding the profile of young offenders and the MRM programme .....	16
3.1.1 Regarding profile of the young offender following a programme of MRM....	16
3.1.2 Regarding the victims.....	17
3.1.3 Regarding the MRM programme .....	17
3.2 Conclusions regarding recidivism.....	18
3.2.1 With regard to the general rate and specific rates .....	18
3.2.2 Comparison with respect to the previous rates of recidivism in MRM .....	20
3.2.3 Comparison between territories.....	21
3.2.4 Time taken to relapse.....	23
3.2.5 Characteristics of relapse.....	24
3.3 The profile of the repeat offender .....	25
3.3.1 General profile of repeat offender.....	25
3.3.2 Differences based on criminal record .....	25
3.3.3 Differences according to educational level .....	26
3.3.4 Differences by gender .....	26
3.3.5 Differences by nationality .....	27
3.3.6 Specific profile of the young offender committing a crime of damages.....	28
3.4 Comparison of MRM programme with other programmes and measures.....	30
3.4.1 Comparison between MRM and the application of Article 27.4.....	30
3.4.2 Comparison between the MRM programme and reprimands.....	30
3.4.3 Comparison between the MRM programme and PBC.....	30
3.4.4 Profiles of young offenders found by analysing all programmes studied.....	30
3.5 Conclusions regarding the initial hypotheses.....	31
3.6 Recommendations .....	34

## Contents

### Introduction

Since the entry into force of Spanish Organic Law 5/2000, of 12th January, regulating Criminal Responsibility of Minors (hereinafter LORPM), the Centre for Legal Studies and Specialised Training (hereinafter CEJFE) has been presenting data regarding the rates of recidivism of young offenders who come into contact with the juvenile justice system in Catalonia. The first report dates from 2005 and analyses the recidivism of the young offenders who had completed any actions or measures in the area of juvenile justice in 2002. These young offenders were monitored for a period of time (until December 2004) to see if they had further contact with the criminal justice system, whether as minors or adults<sup>1</sup>.

Following that study, the Department of Social and Criminological Research and Training of the CEFJE (AIFSC) has been providing annual information on the measures of detention and probation, releasing data regarding the profile and behaviour of the young offenders who have gone through these two measures and their rate of recidivism. These annual studies make up a series that provides important comparative data and interpretations regarding these two measures which are, out of the different responses that can be received by young offenders, those that generate the highest rates of recidivism.

In addition, the Research Plan of the CEJFE for the year 2011 was included in the demand for the SMAT (Mediation and Technical Advice Service), reporting to the Directorate General for Criminal Enforcement in the Community and Juvenile Justice (hereinafter DGEPCJJ) to update the data on the Programme on Mediation and Reparation for Minors (hereinafter MRM) in Catalonia. The study group has focused on young offenders who completed the MRM programme in 2008 and continued until 30th June 2011, to see if they had relapsed, both in the juvenile and adult justice systems.

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<sup>1</sup>Capdevila, M; Ferrer, M.; Luque, E. (2005). *Recidivism in crimes in juvenile justice*. Barcelona: CEJFE. Justice and Society Collection no.26

This study aims to provide empirical data that will give rise to well-founded thought and action, both in the specific area of competence in juvenile justice supported by the Department of Justice and, from a broader perspective, regarding criminal policies aimed at minors. It is important to avoid legislating and acting in response to the social alarm created by serious but isolated cases, or by unproven assumptions of an increase in crime or the danger posed by young people. We trust that this report will provide tools and arguments for all those involved in public policy decisions related to a social function as delicate and sensitive as juvenile criminal policy.

# 1. Programme of Mediation and Reparation for Minors (MRM)

## 1.1 Key Concepts of research

To facilitate the reading of the research, below we present a glossary of the acronyms used throughout the text, as well as defining some key concepts that have been used.

**ATM:** Technical assessment of minors

**BCN:** Barcelona

**DGEPCCJ:** Directorate General for Criminal Enforcement in the Community and Juvenile Justice

**ETM:** Juvenile Technical Team

**JJ:** Juvenile Justice

**JOVO or SIJJ:** Juvenile Justice Information System

**LORPM:** Organic Law on Criminal Responsibility of Minors 5/2000, of 12th January

**MEPC:** Criminal enforcement measures in the community

**MRM:** Mediation and Reparation for Minors

**PBC:** Features in benefit of the community (measure applied to minors)

**SMAT:** Mediation and Technical Advice Service

**SIPC:** Catalan Prison Information System

## 1.2 General concepts used in the research

What we consider ***to be a base cause*** are those prosecution cases in which the young person has completed an MRM programme during our reference period (in 2008).



In the JOVO database, the term **descriptors** is given to those details about the minor gathered by professionals during the execution of the MRM programme, which can be personal, social- and family-related, criminal or related to the implementation of the programme itself. The *descriptors* form part of a document with this name which professionals usually fill in when the intervention with the young offender ends. In this research we have used some descriptors as variables, in particular those related to the education and employment status of the young person, to the commission of the acts, to the victims and to the process and outcome of the MRM process.

For the purposes of the study we have considered **prior offences** to be all those cases opened by the prosecutor, in which the date of the crime committed by the young person is earlier than the end date of the last programme of the *base case*.

On the contrary, we have as **relapses** all those cases opened by the prosecution in which the date of the crime committed by the young offender is later than the end date of the last programme of the *base case*.

### **1.3 Concepts relating to the results of the MRM process**

The MRM programme can have two types of results. It is considered that the process has finished with a **positive result** when the young offender has reconciled with the victim and/or has repaired the damage caused, and/or has satisfied all the agreements regarding civil liability and/or has completed the educational activities proposed by the technical team. When any of these agreements and commitments have not been carried out, it is considered that the MRM process has had a **negative result**. In these cases, the report on the process followed is sent to the Public Prosecutor in order to assess the continuation of the opening of the case. In cases where the victim has refused to participate or where there has eventually not been an agreement between the parties this leads to a **negative result by decision of the mediator**. Moreover, when the young offender does not acknowledge his/her responsibility in the acts or violates the agreements which have been made there is a **negative result due to the attitude of the minor**.

## 1.4 Concepts relating to other programmes

The research included three control groups consisting of young people who, at the request of the prosecutor, had undertaken a programme of ATM and had led to one of the following possibilities:

- **Article 27.4.** This control group is made up of young people to whom Article 27.4 of LO 5/2000 has been applied. The article provides that the technical team to be able to offer the convenience of discontinuing the processing of the report in the interest of the minor, because he/she has received sufficient reproach from the procedures already performed, or because any intervention is considered inadequate for the interest of the minor, given the time that has elapsed since the commission of the acts (Article 27.4 of LORPM 5/2000, of 12th January, which governs the criminal responsibility of minors).
- **Reprimand.** Included in this group are those young offenders to whom the judge has applied the measure of a reprimand in the sentence. This measure consists of a warning to the young offender and is carried out by the juvenile judge. The action is aimed at making him/her understand the seriousness of the acts committed and the consequences that these acts have had or could have had, and to urge him/her not to commit any new offences in the future (Article 7.1 *m*) of LORPM 5/2000, of 12th January, which governs the criminal responsibility of minors).
- **ATM PBC.** This group is made up of the young people on whom it has been proposed in the technical assessment report to apply the measure of PBC, whether this was the final measure or not. PBCs consist in the person subject to this measure (which cannot be imposed without his/her consent) having to carry out unpaid activities assigned to them, which are of social interest or of benefit to people in precarious situations (Article 7.1 *k*) of LORPM 5/2000, of 12th January, which governs the criminal responsibility of minors).

## **2. Research**

Among the research requests made in 2011 to the Centre for Legal Studies and Specialised Training (CEJFE) by the Mediation and Technical Advice Service (hereinafter SMAT) of the Directorate General for Criminal Enforcement in the Community and Juvenile Justice was the proposal to update the juvenile recidivism rate with regard to the Programme of Mediation and Reparation for Minors (hereinafter MRM). The aim was to have updated information with respect to those presented in the 2005 study which analysed the various programmes and measures for juvenile justice and the aim was to compare these data with other programmes or measures.

### **2.1 Purpose**

The purpose of this research is to contribute data to the SMAT on the recidivism of young people to help create awareness as to the impact of their actions in terms of the MRM programme.

The research should also help to know whether the impact of MRM on recidivism is better, equal or worse than other programmes or measures that are applied to similar acts in similar population profiles, in order to further promote the use of one or other response to certain profiles of young offenders (defined in objective 2).

In order to analyse the recidivism rate that is obtained, the study will compare it to the recidivism rates of young people participating in other programmes or measures that often, for various reasons, are alternatives to the MRM process. Specifically, we compared the recidivism rate of the MRM programme with the recidivism rates and profile of young offenders who have received one of the following responses: judicial reprimand, technical advice (when the technical team - ETM - has proposed the application of Article 27.04) and provisions for the benefit of the community - PBC - (when this was a measure proposed by an ETM).

### 2.1.1 Objectives

1. To obtain the 2011 recidivism rate of young people who have followed an MRM programme in the field of juvenile justice and to analyse the influence of different variables in the fact of being recurrent or not (personal, social- or family-related or criminological variables, as well as those related to the characteristics of the MRM programme in which each young person has participated: types of victims, result of the process, etc.).
2. To know whether there are any differences between the recidivism rate of the MRM programme and those from other responses by the system to minors, in order to assess whether there are responses that adapt better than others from the standpoint of recidivism. This objective involves monitoring the incidence profile of young people in the different study groups:
  - 2.1. Comparison of the rate of recidivism of the MRM programme with that of the Technical Advice programme (hereinafter TA) with the proposed application of Article 27.4 as a result of a report prepared by a technical team:
    - To learn the similarities and differences between the profiles of the young offenders who are part of both samples.
    - To analyse the coincidence or difference of the two rates depending on the conclusions reached in the analysis of profiles.
    - To compare the profile of repeat offenders and non-repeat offenders in both samples.
  - 2.2. Comparison of the rate of recidivism of the MRM programme with that of the cases which have ended with a judicial reprimand as a result of a report prepared by a technical team:
    - To learn the similarities and differences between the profiles of the young offenders who are part of both samples.

- To analyse the similarities or differences between the two rates based on the conclusions reached in the analysis of profiles.
- To compare the profile of repeat offenders and non-repeat offenders in both samples.

2.3. Comparison of the rate of recidivism of the MRM programme with that of the measure of PBC as a result of a report prepared by a technical team:

- To ascertain the similarities and differences between the profiles of the young offenders who are part of both samples.
- To analyse the similarities or differences between the two rates based on the conclusions reached in the analysis of profiles.
- To compare the profile of repeat offenders and non-repeat offenders in both samples.

### **2.1.2 Hypothesis**

**A:** *There will be more recidivism in those young people who have participated in a programme of MRM for a violent crime than those who have participated in it as a result of a non-violent offence.*

**B:** *Young people who have started a programme of MRM less than 4 months after the commission of the acts relapse less than those who have initiated a programme of MRM more than 4 months later.*

**C:** *The rate of recidivism of young offenders who have participated in a programme of MRM with the direct participation of the victim is lower than those who have participated in a programme without the victim.*

**D:** *Young offenders who participated in a programme of MRM and have made financial compensation tend to relapse less than those who have not made financial compensation to the victim.*

**E:** *Young people who have expressed an interest in reparation and have also carried out a process without the participation of the victim as well as having carried out an educational activity relapse less than those who have not carried out any educational activity to repair the damage done.*

**F:** *Young offenders who participated in a programme of MRM directly with the victim following a violent crime, if they relapse will do so with non-violent or less violent offences.*

**G:** *Young people for whom a No Intervention proposal has been made (application of Article 27.4 of LORPM 5/2000) will show the same or less recidivism than young offenders who have gone through some of the other interventions studied in this research.*

**H:** *The rate of recidivism of young offenders who have participated in a programme of MRM with the direct participation of the victim is lower than that of young offenders who have undergone the operation of a reprimand or technical assistance with a PBC proposal.*

## **2.2 Methodology**

The data refer to all people who completed a programme of MRM in Catalonia in 2008 and have been monitored until 30th June 2011 to see if they relapsed.

Three control groups have been established, and an analysis was also conducted on the entire population that ended the measure in 2008 in each case and also with monitoring up to 30th June 2011.

Control Group 1: all cases to which Article 27.4 of the LORPM were applied (at the request of a technical team or execution of measures).

Control group 2: all cases reprimanded by the judge, as a judicial measure and without combination with any other measures.

Control Group 3: all cases in which the technical team made a proposal for the measure of PBC in the initial report, regardless of whether the proposal eventually concluded with this measure.

To compare the control groups with the experimental group (MRM), a representative sample has selected from the latter which has a number of subjects similar to those of the control groups. This sample has  $n = 275$  subjects (confidence interval = 95.5%; margin of error  $\pm 5.61$  and  $p=q=50$ ). Moreover, the selection was made ensuring that the percentage was as close as possible to the general profile of the population in the variables of recidivism rate, gender and main crime of the *base case*.

For the rest of the analysis, given that it involves a population and not a sample, there is no sampling error.

## **2.3 Variables gathered**

The data are grouped into 5 blocks:

Block 1: sociodemographic variables

Block 2: criminal data (related to the offence committed)

Block 3: data on victims

Block 4: details of the MRM procedure

Block 5: data on recidivism (where applicable)

### 3. Conclusions and recommendations

This section is structured by firstly presenting the main conclusions from each of the chapters which explain the results of the research. Secondly, the conclusions are presented in comparison to the initial hypotheses raised. Lastly, the third block contains the main recommendations arising from the whole study.

#### 3.1 Conclusions regarding the profile of young offenders and the MRM programme

##### 3.1.1 Regarding the profile of the young offender following a programme of MRM

a) The sociodemographic profile of the young offender is a young male (80.5%), who starts the programme with an average age of 16 years of age, with Spanish nationality (76.4%), who has completed at least primary education and who, mainly (84.3%), has a daily occupation, whether it is working or studying.

b) With respect to the criminological profile, it is observed that the average age as at the commission of the offence was 15.6 years. The young people who have followed a programme of MRM in the *base case* have generally committed one offence only (78.8%), which corresponds to the category of a crime (73.9%) and 73.3% did not have a criminal record. In addition, 57.9% of young people record only one cause in their case files.

The types of crimes they have committed are divided proportionally between: crimes *against people* (36.3%), *against property* (35.8%) and *other* (21.8%). The act is committed, for the most part, with a group of peers (52.8%). 45.0% of criminal acts that go through the MRM programme are violent.

The differences by age in the criminological profile should be pointed out: young people of 14 and 15 years of age have a higher proportion of violent acts (49.0%) with offences *against people* and *sexual assault*. Also, young



people between 16 and 17 years of age commit more crimes *against public health* (drugs) and *against road safety*.

We should also emphasise the differences in their criminal records, which are not shared equally. The following have more: males (28.8% vs 17.8% for females), foreigners (33.8% vs 24.5% for Spaniards), those not enrolled in study (34.0% vs the 21.3% for those enrolled) and those who have not finished primary schooling (43.8% vs 25.7% of those with primary schooling or 19.3% of those with secondary education).

### **3.1.2 Regarding the Victims**

The victims involved in a process of MRM are mostly individual victims (80%), male (61%) and usually known by their assailant (51.9%).

There is no clear profile by age (29.9% are minors, 33.9% are adults and 36.2% are unknown or are legal victims). When the victim is a minor we find he/she has suffered more crimes *against people* (64.4% vs 36.2% who are victims of legal age).

A similar process occurs with gender. Female victims suffer more crimes *against people* (51.7% vs 42.9% suffered by male victims). In crimes *against property*, on the other hand, there is a higher proportion of male victims (37.7% vs 30.9% of female).

In the class of crimes *against people* there is a higher proportion of known victims (64.5% vs 24.6% who are victims unknown to the offender).

33.8% of victims are legal victims, without there being a clear and distinct profile for them.

### **3.1.3 Regarding the MRM programme**

The MRM programme takes an average of 4 months to start and has an average duration of 2.6 months. There is an assessment by the mediators of the result of the MRM as positive in 80.3% of cases and negative in 19.7%.

The negative ratings are over-represented (that is, there is a higher proportion than there should be) in the following subgroups of young people: young people who have not completed primary education; who are not enrolled to study or are unemployed; who are already of legal age at the start of MRM; who have committed an offence *against people* which is a violent crime; who committed the crime alone or with over 18s, who have a criminal record and also in the case of young foreigners (who can fulfil several of the above features).

## 3.2 Conclusions regarding recidivism

### 3.2.1 With regard to the general rate and specific rates

The overall recidivism rate for the MRM programme in 2011 is 26.1%.

The specific rates are presented in the following table:

**Table 1. Specific recidivism rates by variables**

Variable	Category	Recidivism rate (%)
<b>Sociodemographic variables</b>		
Gender	Male	*28.6
	Female	*15.7
Age at commission of the act	14 years	*38.3
	15 years	*31.8
	16 years	*23.2
	17 years	*15.7
Nationality	Spanish	*23.9
	Foreign	*33.3
Geographical area of origin	Spain	*23.9
	European Union	30.8
	Rest of Europe	18.8
	North Africa	*41.7
	Central and South America	*31.8
	Rest of Africa	15.4
	Asia	18.2
Province of residence	Barcelona	*28.2
	Girona	*18.7

<b>Variable</b>	<b>Category</b>	<b>Recidivism rate (%)</b>
	Lleida	22.8
	Tarragona	28.7
Education level attained	Primary not attained	*45.3
	Primary attained	27.1
	ESO (Secondary School Completion Certificate) attained	*14.7
Employment status	Employed	*20.4
	Unemployed	*30.3
<b>Criminal variables</b>		
Type of act	Misdemeanour	25.8
	Crime	27.1
Category of act	Against people	28.2
	Sexual assault	*0.0
	Against property	28.3
	Drugs	23.1
	Traffic	21.1
	Other offences	*20.7
Violence in the act	Non-violent	25.0
	Violent	27.5
People involved in the act	Carried out with minors under 18	24.4
	Carried out with adults over 18	22.4
	Carried out alone	28.5
Prior offences	No prior offences	*20.9
	With a criminal record	*40.4
Number of prior offences on record	No criminal history	*20.9
	1 to 2 prior offences on record	*35.9
	3 to 5 prior offences on record	*57.7
	Over 5 prior offences on record	*92.3
<b>Variables on the procedure</b>		
Juvenile Technical Team (ETM)	ETM Barcelona 1	24.8
	ETM Barcelona 2	*31.6
	ETM Barcelona 3	28.2
	ETM Barcelona 4	28.2
	ETM Girona	*18.7
	ETM Lleida	22.8
	ETM Tarragona	27.4

Variable	Category	Recidivism rate (%)
Time it takes to start the programme	Begun within 4 months	*28.3
	Begun after 4 months	*22.6
	Begun between 4 and 6 months	*21.1
	Begun after 6 months	25.1
Result of the programme	Positive	*24.2
	With participation of the victim	23.8
	Without participation of the victim	26.6
	Negative	*33.8
	Due to decision by mediator	*26.0
	Due to attitude of the minor	*38.8
Type of reconciliation and reparations to the victim	Only reconciliation with the victim	26.2
	Reconciliation with financial compensation	20.8
	Reconciliation with non-financial compensation	20.5
	Reconciliation with reparations to community	24.8
Interest in reparations	Interest in reparations	23.0
	No interest in reparations or unaware of it	27.1
Educational activity	Educational activity	*18.1
	No educational activity	*26.9

\* Values with statistically significant differences;  $p \leq 0.05$

### 3.2.2 Comparison with respect to the previous rates of recidivism in MRM

Rates on which we have data are for the following years: 2004 (12.7%), 2010 (23.6%) and 2011 (26.1%).

It cannot be stated categorically that the increase in the rate is explained by the change in profile of the young people reaching MRM, at least from the variables being monitored in these studies.

While in recent years there has been an increase in the percentage of young offenders linked with increased recidivism (for example, in recent years we find more young offenders who are foreigners or who have a criminal record), there was a decrease in the number of young offenders with other characteristics linked to higher recidivism (for example, fewer young offenders who have committed crimes *against property* or who are males). The following table summarises these changes.

Table 2. Differences in profile between the rates in 2004-2011 for the categories of variables traditionally associated with a higher rate of recidivism

<b>Categories of variables traditionally associated with a higher rate of recidivism</b>	
<b>Percentage difference in profile between 2004 and 2011 rates</b>	
<b>Increased (2004-2011)</b>	<b>Decreased (2004-2011)</b>
	Males (87.2% vs 80.5%).
Young people of 14 years (15.8% vs 19.3%).	
Foreigners (8.1% vs 23.6%).	
	Crimes <i>against property</i> (69.4% vs 35.8%).
Criminal record (21.6% vs 26.7%).	
Negative result of MRM programme (14.0% vs 19.7%).	

Young offenders who have followed a programme of MRM and who relapse, do so mostly when still minors, within the juvenile justice system.

The time it takes to relapse increased (279.8 days in the 2011 rate vs. 242.3 days it takes in the 2004 rate), however the number of repeat offences committed by a single subject have increased (2.4 in 2011 rate vs. 1.9 in the 2004 rate).

### 3.2.3 Comparison between territories

The MRM programme is not distributed evenly throughout the Catalan region in relation to the population. Girona and Lleida provide a larger number of MRM per 100,000 young inhabitants. These areas are also those that have a proportionally lower number of young offenders (18.7% in Girona and 22.8% in Lleida, compared to 28.0% in Barcelona and 28.7% in Tarragona).

Regarding Juvenile Technical Teams, those of Barcelona 2 and Girona are the only ones that show statistically significant differences between them. Barcelona 2 is the one with the highest rate of recidivism (31.6%) and Girona has the lowest (18.7%).

Regarding the cases of Barcelona ETM 2, significant differences can be seen in the profile compared to other teams (see Table 3). At the same time this shows

the weight of that category of variable with respect to recidivism and we compare it to the average (remember that the overall recidivism rate is 26.1%).

**Table 3. Most significant variables in the profile of young people with the BCN2 ETM and the respective rates of recidivism**

<b>Most representative profile of young people with the BCN2 ETM compared to the rest</b>	<b>Recidivism rate of the variable</b>	
North Africa (*50.6% vs 26.3%).	*41.7%	Above average
Primary not attained (*12.4% vs. 5.3%)	*45.3%	Above average
Criminal act <i>against people</i> (*45.6% vs 34.4%).	28.2%	Similar to the average
Violent <i>act</i> (*53.8% vs 43.3%).	27.5%	Similar to the average
Criminal act committed alone (*50.8% vs. 36.7%).	28.5%	Similar to the average
With criminal record (69.0% vs. 74.2%).	*40.4%	Above average
Beginning MRM within 4 months (*75.2% vs. 61.8%).	*28.3%	Above average
Negative result of MRM (24.0% vs. 18.9%)	*33.8%	Above average
Only conciliation with victim (*63.9% vs. 49.2%).	26.2%	Similar to the average

\* Values with statistically significant differences; p≤0.05

The increased difference in the recidivism rate of young offenders in Barcelona 2 ETM could be explained by having a higher proportion of North Africans than the rest, of having more young people who have not attained primary school level, who have started the MRM programme within 4 months and who have had the highest percentage of negative results in this programme. In addition, despite having a similar proportion of young people with a criminal record to the other territories, these young people with a criminal record have shown more recidivism.

Regarding the cases of Girona ETM, there are significant differences in the profile compared to other teams (see Table 4). We also show the weight of the category of variable with respect to recidivism and compare it to the average.

**Table 4. Most significant variables in the profile of young people with ETM Girona and the respective rates of recidivism**

<b>Most representative profile of young offenders with Girona ETM compared to the rest</b>	<b>Recidivism rate of the variable</b>	
Misdemeanour (*36.1% vs 24.2%).	25.8%	Similar to the average
<i>Other offences</i> (*29.3% vs 20.3%).	*20.7%	Below average
Non-violent act (*73.2% vs 51.6%).	25.0%	Similar to the average
Involved: group of minors (*59.0% vs 51.6%).	24.4%	Similar to the average
Without criminal record (*81.3% vs 71.8%).	*20.9%	Below average
Financial compensation (*42.3% vs 22.5%).	20.8%	Similar to the average
Non-financial compensation (*27.4% vs 7.2%).	20.5%	Similar to the average

\* Values with statistically significant differences;  $p \leq 0.05$

The lowest difference in the recidivism rate of young people in the Girona ETM can be explained by the type of offence (damage) and the fact that the young people have no criminal record.

### **3.2.4 Time taken to relapse**

46% of young offenders who relapse do so within 6 months. Within a year, almost three quarters of the young offenders who will relapse have already done so.

Variables that have a significant correlation in the assessment of the time it takes young offenders to relapse are:

Age. Younger offenders take longer to commit a new offence (297.8 days for the 14/15 years age group compared to the 252.4 days it takes the young offenders from the 16/17 years age group). In contrast, the younger offenders relapsed more often (2.8 vs 1.8 times).

Violence in the crime in the *base case*. Young offenders who commit a non-violent crime relapse earlier (258.7 days vs 303.4 days for those committing a violent crime).

Criminal record. Young offenders with a criminal record relapse sooner (232.8 days vs 312.9 days for those with no criminal record).

Compared with the 2004 rate, the time before relapse of young offenders who have followed a programme of MRM has increased, that is, now young offenders who go through MRM take longer to commit a new offence (37.5 days more on average).

The variables that correlated significantly with the change in the time it takes to relapse in the 2004 rate are the same as those we have just explained in the 2011 rate: age at the time of the crime, violence in the crime and a criminal record.

### **3.2.5 Characteristics of relapse**

86.6% of young offenders committed their first relapse while still minors and, therefore, have been dealt with by the juvenile justice system. Almost 80% have not gone to the adult justice system. Of the total number of repeat offenders from the MRM programmes, 11.7% go to prison during the monitoring period, although not necessarily in the first relapse (4.2% of young offenders enter prison due to the first relapse).

Lowering of percentage of young offenders who commit crimes *against people* in their relapse (29.7% vs 36.3% of young offenders who committed this type of crime in the *base case*). By contrast, the percentage of crimes *against property increased* (42.2% vs 35.8% of the *base case*), while the percentage of violent crimes remained steady (around 45%).

The most common response received by young offenders at their first relapse is technical advice (without any other intervention, 25.0%), or probation (22.2%). A new programme of MRM represents the third most-proposed intervention (19.3%) for these young offenders.



The young offenders who after a programme of MRM have a relapse and are detained or admitted to prison have in their profile a higher ratio of: criminal record, negative results in the MRM programme and there is a higher proportion of foreigners.

### **3.3 The profile of the repeat offender**

#### **3.3.1 General profile of repeat offender**

They are more likely to be male, living in Barcelona, without having attained any basic education, who do not work, were younger at the time of the offence, with a criminal record and who have had a negative result in the MRM programme, particularly when the negative result has been because of the attitude of the minor.

#### **3.3.2 Differences based on criminal record**

Despite the fact that having a criminal record is a risk factor, it should be noted that 60% of young people who did have one have not relapsed.

Nevertheless, one should bear in mind that the number of prior offences that the young offender has at the time of applying the MRM programme is important. The more prior offences, the higher the percentage of repeat offenders. 92.3% of those with 5 prior offences have had a relapse, which reflects the ineffectiveness of the intervention, in terms of recidivism, when there is already an extensive criminal record underway.

The same trend is also maintained in the result of the MRM. The more prior offences, the more negative results are obtained.

We have already spoken of gender as a variable related to recidivism, but it is also related to prior offences. Almost all of those with 3 or more prior offences are males (96.5%).

### **3.3.3 Differences according to educational level**

*Not having completed any level of education* is a risk variable when following a successful MRM programme. Just over half (51.7%) have a negative result and therefore, a different measure needs to be applied to them.

All the young offenders *who have attained no education* are males. In the group of foreigners, young people without studies represent just over half the group, and young people coming from North Africa, in which 27.6% of people have no education, are the most over-represented group. Barcelona has 82.8% of the young people with no education and 69.0% of this group is concentrated in the ETM Barcelona 2 teams.

### **3.3.4 Differences by gender**

It should be noted that in the group of young offenders who follow a programme of MRM there is a higher percentage of girls than in the groups receiving other responses from juvenile justice. Regarding the MRM programme, the percentage of girls is 19.5% and the percentage of the general population of juvenile justice is 17.1%. This difference is much higher when compared with the population of females who received open environment measures (13.8%) and who received measures of detention (8.3%).

With regard to sociodemographic characteristics, the girls undergoing MRM are younger on average than the boys. There are no gender differences between Spaniards and foreigners. In the group of foreign girls, those from Central and South America are overrepresented. In proportion, there are also more young females enrolled in the study than young males but, on the contrary, in cases where employment is recorded, the females are more often unemployed.

Regarding criminal variables, girls committed crimes *against people* in a higher percentage than boys and with a higher proportion of violent acts, but also in those acts classified as misdemeanours. The girls have fewer prior offences than the boys.

The victims of the girls to whom MRM was applied were mostly other girls, who were minors and known to them. The boys, however, recorded more heterogeneous victims.

Most MRM processes with girls ended positively: they found themselves face to face the victim and reached a settlement without any other type of reparation in contrast to the boys. When there was no victim involved in MRM, the females carried out an educational activity in a lower proportion than men.

Very few differences were found between young female repeat offenders and non repeat offenders. The most important differences are that female repeat offenders are younger on average than non-repeat offenders and carried out proportionally more MRM without the participation of the victim than the non-repeat offenders.

Regarding the characteristics of the relapse, the girls are more likely to be found in juvenile justice and boys in adult justice. The type of crime committed by girls is similar to that of the *base case*. They commit more crimes *against people* and more violent acts, but also more acts legally defined as misdemeanours.

### **3.3.5 Differences by nationality**

Of the population which in 2008 completed a programme of MRM in Catalonia, foreigners represented 23.6%. This percentage is lower than that of foreigners who have gone to juvenile justice in general (31.5%), well below that of young foreigners who have undergone open environment (31.2%) and also, with a more marked difference, below the proportion of foreigners who have gone through a detention centre (48.3%). In the MRM programme, it was found that 91.7% of foreign boys are North Africans and 66.3% of the foreign girls are Latin Americans.

With regard to the sociodemographic characteristics, the foreigners have attained less education than the Spanish (16.3% secondary attained vs. 23.3%) and fewer are enrolled to study than with Spaniards (10.1% vs 6.2%).

Regarding the criminal variables, foreigners commit more crimes *against people* (42.1%) than Spaniards (34.4%) and also a higher proportion of violent crimes (52.0% vs 42.8% of Spaniards). There is also a higher proportion of young people with prior offences among foreigners (33.8% vs 24.5% of Spaniards).

Regarding the outcome of the MRM programme, foreigners have a higher proportion of MRM with a negative result (27.0% vs 17.5% of Spaniards).

Regarding the differences between young foreign repeat offenders and young foreign non-repeat offender, they are very similar to those already explained in the overall profile of repeat offenders: there are more males, they are younger, less educated and those who can work do not do so, they have a criminal record (almost half of young foreigners are repeat offenders) but there are no differences between profiles in the type of crime, the violence or those involved. Regarding the outcome of the MRM programme, it can be emphasised that repeat offenders have ended with a negative result in a higher proportion (34.6% of repeat offenders vs. 23.3% non-repeat offenders). The most frequent reason for the negative result was the attitude of the minor (70.9%).

Regarding the time that they took to relapse, foreigners take an average of 250.7 days vs. 292.4 by Spaniards. Regarding the number of accumulated repeat offences up until 30th June 2011, foreigners have an average of 2.9 vs. 2.2 by the Spaniards. Nevertheless, these differences are not statistically significant.

In conclusion, we should highlight what we have said repeatedly in all the research on recidivism in both young people and adults: the variable of *foreign origin* alone is not an explanatory variable of recidivism, but that it is linked with many other variables historically associated with the risk variables (sociodemographic and personal) which do explain recidivism.

### **3.3.6 Specific profile of young offender committing a crime of damages**

The crime of damages plays a major role in the application of the MRM programme, while the young offenders who commit this crime are those who relapse the least when compared by groupings of crimes. The fact of being

processed in the justice circuit and following an MRM process was enough for 8 out of 10 young people in this group not to relapse. Its recidivism rate is 18.9% vs 26.1%, which is the average for the programme.

Most of these crimes of damages are damaged buildings or public spaces (broken windows, doors, public furniture, etc.), defacement of property (graffiti on walls or others) or damage to vehicles (scratching of cars, breaking of mirrors, etc.).

In the case of young people to whom the MRM programme was applied for this type of crime, almost all of them are male (95.1%) and Spanish (87.6%). The Girona Technical Team is the team that most often proposes this programme in response to this type of crime (one in four cases).

Mostly the result of the MRM is positive (only 10.2% of MRMs end with a negative result) and, in general, the mediator seeks the involvement of the parents. The young male accepts responsibility and is able to show repent for his actions. From here onwards, the young male is willing to participate in the measures proposed in the MRM process. In most cases, the MRMs are specified in an interview with the victim, if he/she wants to participate directly, or with a written statement, if the victim does not want to do this directly. In general, if breakage has occurred (whether in buildings, furniture or vehicles), the young offender ends up paying for the repair of the damage. If the damage involves graffiti painted on walls, the measure that is adopted is for the young offender or offenders to paint and repair what they have done, and they also tend to impose maintenance or cleaning measures.

As for the victim, if the damage is caused to a private individual this tends to be the person who participates in the process of MRM. If the damage is caused to a business or public entity, the role is taken on by a representative of the company or entity. In the case of an apartment building, the person who participates in the process tends to be the president of the residents' association.

## **3.4 Comparison of MRM programme with other programmes and measures**

### **3.4.1 Comparison between MRM and the application of Article 27.4**

The recidivism rate of young people to whom Article 27.4 has been applied is 15.3% and is lower than that of the MRM programme (26.1%) in a statistically significant manner. We were not able to extract a specific explanation for this difference. However, gender is the variable with the most relevant results. MRM is applied to males in a higher proportion than Article 27.4 and, at the same time, they are more prone to relapse.

The results of the application of Article 27.4 show this measure as the most efficient in terms of recidivism based on the profile of the young offenders to whom it is applied.

### **3.4.2 Comparison between the MRM programme and reprimands**

The recidivism rate of young people to whom a reprimand has been applied as a final measure is 30.5%. Despite being higher than that of MRM (26.1%), it is not statistically significant.

### **3.4.3 Comparison between the MRM programme and PBC**

The recidivism rate of young people for whom the PBC has been proposed a measure to the ATM is 31.6%; although higher than that of MRM (26.1%), this difference is not statistically significant.

### **3.4.4 Profiles of young offenders found by analysing all the programmes studied**

In analysing the 4 groups of young people together, the results allow us to identify two different profiles:

*Profile A*, which we call *occasional offenders* and which represent 50% of all young people. The characteristics that identify them are: pre-trial measures are

applied to them (mostly Article 27.4 at 43% and MRM at 37%); they come from a stable family structure, no problems were found with their peer groups; they have attained at least primary education, they study and/or work; they have no criminal record, there are some who have accepted responsibility for their acts and MRM has been applied to them, or if they have not acknowledged the acts, Article 27.4 is applied, the young person collaborates and becomes involved in the procedure, the family participates and shows concern and people from their environment become involved in resolving the conflict. The percentage of young offenders with this profile who have relapsed is 16.4%. Young offenders who are *occasional repeat offenders* have differentiating elements from those who have not relapsed. The differences bring them closer to the characteristics of the second profile that corresponds to the *habitual offenders*.

*Profile B*, which we call *habitual offenders*, represents 15% of young people. The characteristics that identify them are: they are all boys, they are Spaniards, from the oldest group of young offenders (16-17 years) with behavioural problems observed in professional consultations; flirtation with drugs; school dropouts; expulsions from school; they do not work or study; they have a lack of parental restraint; separation from parents and conflict; they have had episodes of domestic violence; they have a family member in jail; there are problems of drug abuse in the family; they have a precarious economic situation and the involvement of social services; moreover, this group has a high recidivism rate of 47.1%. The characteristics that differentiate the repeat offenders in this group are greater psychological problems; cognitive deficits; drug abuse; we find a higher proportion of young people supervised by the DGAIA; more young people with antisocial friendships, and lastly, a higher failure rate in previous interventions.

### **3.5 Conclusions regarding the initial hypotheses**

**Hypothesis A:** *There will be more recidivism in those young offenders who have participated in a programme of MRM for a violent crime than those who have participated in one for a non-violent offence.*

The hypothesis is not fulfilled in the overall population: the rate of recidivism does not present significant differences depending on whether the young offenders have committed a violent or non-violent crime. However, if we analyse these results according to the gender of the offender, we find that the hypothesis is true for males, who have a higher rate of recidivism when the criminal act was violent (31.8% vs. 26.4% in the case of a non-violent offence).

**Hypothesis B:** *Young offenders who have started a programme of MRM within 4 months after the commission of the acts relapse less than those who have initiated a programme of MRM after 4 months.*

The hypothesis is refuted since the results indicate the opposite. That is, the young males who have started the MRM programme less than 4 months following the commission of the acts have relapsed in a higher proportion than the rest (28.3% vs 22.6% respectively). The period of 4 to 6 months is the one with the lowest rate (21.1%), while with those starting the programme more than 6 months later, the rate rises to 25.1%.

However, we should consider the arbitrary nature of the selection of time periods being analysed. Four months is the average time it takes to start the programme, which does not necessarily make it the most appropriate cut-off period for analysing the hypothesis. This fact, linked to the fact that other variables having an effect may not be controlled in this study, do not allow us to explain the reason for the results nor to find the attendant justifications, for which we would need to embark on a separate and specific research project.

**Hypothesis C:** *The recidivism among young offenders who have participated in a programme of MRM with the direct participation of the victim is less than that of young offenders who have participated in a programme without the victim..*

The hypothesis is not fulfilled in the overall population, since the young offenders do not have a different rate of recidivism depending on whether the victim has directly participated in the MRM or not.



However, this hypothesis is true in some subgroups of the population. There is a statistically lower rate of recidivism when the victim has been involved in the process of MRM among girls (12.4%), Spaniards (21.6%), those not enrolled in study (22.1%), those who neither study nor work (22.6%), young people who have done MRM with the ETM of Tarragona (21.3%), those who committed a misdemeanour (22.3%), and those who committed an act in the category of *other crimes* (17.4%) or a non-violent act (21.4%).

From these results, we cannot draw any conclusions regarding the effect that victim participation in the MRM could have on recidivism among young people or a certain profile of young person.

**Hypothesis D:** *Young offenders who participated in a programme of MRM and have made financial reparations relapse less than those who have not made financial reparations to the victim.*

The hypothesis is not borne out. The young offenders who have been involved in a process of MRM in which there have been financial reparations relapse in the same proportion as those young offenders who have not made reparations. There are no statistically significant differences.

**Hypothesis E:** *Young people who have expressed an interest in reparations and have also carried out a process without the participation of the victim and additionally have performed an educational activity tend to relapse less than those who have not carried out any educational activity to repair the damage done.*

The variable that could explain the results is not sufficiently informed to be able to say anything about this hypothesis. If we consider only those that have performed an educational activity of reparations compared to those who have not, we do find significant differences in terms of recidivism (18.1% with an educational activity of reparations vs. 26.9% without).

**Hypothesis F:** *Young offenders who have participated in a programme of MRM directly with the victim in the case of a violent crime, if they relapse will do so with non-violent or less violent offences..*

The results do not confirm this, since the involvement or not of the victim presents no significant differences in subsequent relapse or with whether the act is violent or not.

We can therefore say that the participation of the victim has no effect on the withholding of the use of violence in subsequent criminal acts.

**Hypothesis G:** *Young people for whom a No Intervention proposal has been made (application of Article 27.4 of LORPM 5/2000) will show the same or less recidivism than young offenders who have gone through some of the other interventions studied in this research.*

The hypothesis is borne out. In the comparison between the MRM sample and the three control groups studied, the young people to whom Article 27.4 is applied are those with a lower rate of recidivism (15.3%).

**Hypothesis H:** *The recidivism of young offenders who have participated in a programme of MRM with the direct participation of the victim is lower than the young offenders who have been given a reprimand or technical assistance with a PBC proposal.*

This hypothesis is not confirmed by statistical analysis. Although the rate of recidivism of young offenders who have been reprimanded and for whom PBC has been proposed in the technical report is higher than that of the MRM programme, this difference is not significant and therefore we cannot conclude that the hypothesis is confirmed.

### **3.6 Recommendations**

*Regarding the rate of recidivism in the MRM programme*

- The increased rate of recidivism in the MRM programme during these years can hardly be explained by a change in the profile of young offenders in the sense that this profile has hardened. In fact, the variables included in the database of the programme cannot explain the changes that have taken place. We recommend that future studies aiming to research the causality of these changes do so from a qualitative and prospective

analysis of a representative sample of the population studied and that they consider variables that can be highly relevant (failures in previous interventions, the involvement and support of the family, the educational style of the parents, etc.).<sup>2</sup>. New proposals should be included in these studies of the impact that legislative changes have been making in LORPM 5/2000 and whether these legislative changes have had an effect on changes in the rate of recidivism (since the first measurement was made in the early years of application of the law, when it had not yet undergone any reform).

*Regarding the effectiveness of the MRM programme (in terms of recidivism)*

- Beyond this ostensible decline, the MRM programme, as it is currently designed, has proved to be an effective response for young first-time offenders and for young offenders with reduced criminal records (1 or 2 prior offences).
- We recommend keeping the programme for the majority of young offenders with a criminal record since it is a response that has been shown to be valid if one takes into account the cumulative number of prior offences. More precautions should be taken, together with more intensive interventions, in the application of the MRM programme to young offenders who have 3 or 4 prior offences. We recommend that this programme, as it is currently designed, should not be applied as the sole form of intervention with young people with 5 or more prior offences since research shows that either the result of MRM in these cases was negative, or the young offender relapsed in a high percentage of cases.

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<sup>2</sup>In this regard, we concur with the two most general recommendations made in the *White Paper on Mediation in Catalonia* (2010:637). Recommendation 16 states that it would be necessary to: *systematise, with agreed criteria, the implementation of research and external evaluations of mediation programmes*. Recommendation 17 states that: *a specific system needs to be designed and implemented for the collection of data on the impact of mediation in the criminal justice system. In this regard, it is important to distinguish between the register intended for management of the service and another which is more appropriate for use in research or evaluation tasks*.

- In order to give an effective answer to multirecidivists from a restorative approach, it would be necessary to modify the MRM Programme and include wider and deeper interventions with a strong community involvement.
- In recent years, more young foreigners have been added to the MRM programme. We recommend that the variable of *foreign origin* should not be considered in isolation as a risk variable but that the proposal of application of the programme should take into account, as in the case of nationals, the variables related to recidivism.
- Special care must be taken in implementing the MRM programme with young people who have not completed any level of studies. Similarly, with the youngest group (14 years). Both variables correspond to very high rates of recidivism. We propose that additional interventions should be studied from the programme itself (the use of reparations, educational activities, etc.) and involve the social network beyond the intervention from the criminal justice system.
- If the result of the MRM programme is negative, and therefore at least a technical assessment of minors is to be applied, and probably some other measure, the professionals responsible for running these new programmes should bear in mind the negative evaluation made in the MRM programme, as it has been shown to be a variable closely related to relapse, especially when the negative assessment in question was due to the attitude of the minor.
- The territories are not homogeneous in implementing the MRM programme and some are applying it more than others (in proportion to their population of young offenders). We should analyse this data to achieve a more balanced performance by the teams.

*Regarding time and recidivism*

- The optimal period for the start of a programme of MRM after committing the offence seems to have been established in this study as being between

4 and 6 months. Young offenders who begin the programme within 4 months were found to be proportionally more likely to relapse. Regarding this surprising result, for which there is no clear explanation, the causes that may be involved should be studied in depth.

- The critical period for relapse is 1 year (three out of every four offenders do so within this period). Apart from the MRM, monitoring and support measures should be ensured in the territory during this critical time. This could be specified through a referral of certain cases in the social network.

*Regarding the comparison with the other measures studied (Article 27.4; reprimand and proposal of PBC in the ATM)*

- For young people who present the characteristics of the *Profile A - Occasional Offenders* we could propose, provided that the law so permits, a response based on minimum intervention. If the proposal is for non-intervention, this proposal should not exclude the benefits that an alternative restorative method may have on the offender, the victim and the community as a whole, so we need to promote this alternative in contexts other than criminal law situations<sup>3</sup>.

In cases presenting variables associated with recidivism, a more careful and individualised evaluation of the case should be made before making one proposal or another. This criterion would be the same one that should apply to young people from *Profile B habitual offenders* who are not recidivists. In any case, MRM should not be ruled out as a support to other responses<sup>4</sup>.

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<sup>3</sup>In this regard, the idea conveyed in Recommendation 7 of Chapter 10 of the White Paper on Mediation in Catalonia (2010:637) is reinforced: The recommendation proposes: *From a broader social perspective, if we consider mediation and conflict resolution as a factor that contributes to dialogue, coexistence and social peace, institutions need to avoid shifting to the criminal justice system those conflicts that should be resolved in other areas: school, community, family, health, etc.*

<sup>4</sup>We would mention, in this case, recommendation 5 from chapter 10 of the aforementioned White Paper on Mediation in Catalonia (2010:637): *In juvenile court, where mediation is fully developed from a dejudicialising perspective for so-called crimes of opportunity and transition,*

- *For young people who are identified with Profile B - habitual offenders and who present a number of variables associated with relapse, it would be advisable to guide them towards some of the other responses covered in the catalogue of measures from the LORPM while the MRM Programme stands as it is at present. Nevertheless, the restorative process should be promoted in any case.*
- *As we said before, in order to give an effective answer to multirecidivists from a restorative approach, it would be necessary to modify the MRM Programme and include wider and deeper interventions with a strong community involvement.*
- *It would be advisable to consider, as just another element in decision making regarding the proposed intervention for the young people, those variables related to recidivism and non-recidivism which we have mentioned in the description of the profiles of young people under which they are regarded as occasional offenders or habitual offenders.*

*Barcelona, January 2012*

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*mediation should also strengthen the whole system in a cross-disciplinary manner and as a complement to other activities in all phases of the judicial process.*