

Research 1**Regression to 2nd degree: causes and consequences**

Authors: Josep Cid Moliné and Beatriz Tébar Vilches, with the collaboration of Aina Ibáñez i Roig

1. Introduction

This research examines the practice of regression from 3rd degree to 2nd degree in Catalan prisons. 3rd degree classification is a necessary precondition to complete a sentence via one of the two mechanisms for phased and supervised return into the community in our prison system: open system and conditional release. Research suggests that completing a sentence with a mechanism for transition to community life encourages reintegration. However, this phased return is not the usual way of finishing a prison sentence. As shown in Table 1, data from Catalonia for the period 1996-2010 show that approximately three out of every five prisoners are released with no gradual transition and, therefore, unsupervised.

Table 1. Method of finishing a sentence: 1st degree, 2nd degree, 3rd degree or conditional release. Catalonia (1996-2010)

Year	N	N 1st and 2nd degree	% 1st and 2nd degree	N 3rd degree	% 3rd degree	N conditional release	% conditional release	% 3rd degree + conditional release
1996	4,433	3,174	71.6	370	8.3	889	20.1	28.4
1997	4,014	2,693	67.1	431	10.7	890	22.2	32.9
1998	3,464	2,276	65.7	439	12.7	749	21.6	34.3
1999	2,710	1,722	63.5	333	12.3	655	24.2	36.5
2000	2,573	1,636	63.6	307	11.9	630	24.5	36.4
2001	2,441	1,538	63.0	317	13.0	586	24.0	37.0
2002	2,218	1,543	69.6	187	8.4	488	22.0	30.4
2003	2,194	1,507	68.7	212	9.7	475	21.6	31.3
2004	2,230	1,497	67.1	281	12.6	452	20.3	32.9
2005	2,248	1,455	64.7	300	13.3	493	21.9	35.3
2006	2,360	1,481	62.8	354	15.0	525	22.2	37.2
2007	2,574	1,688	65.6	353	13.7	533	20.7	34.4
2008	2,201	1,283	58.3	396	18.0	522	23.7	41.7
2009	3,201	2,057	64.3	559	17.5	585	18.3	35.7
2010	3,570	2,258	63.2	701	19.6	611	17.1	36.8
1996- 2010			65.3		13.1		21.6	34.7

Source: Directorate General of Correctional Services and Rehabilitation (Department of Justice, Government of Catalonia). Unpublished information provided to the authors.



The rate of 3rd degrees that were revoked in Catalonia was approximately 29% in the period 2006-2012.¹ People who have been regressed are more likely to finish their sentence without any mechanism for phased transition into the community. Hence regression to 2nd degree is a factor that explains why only a minority of prisoners end their sentences with a gradual and supervised release into the community. Table 2 shows the impact of regressions to 2nd degree on phased release rates, based on what would be the percentage of people who finish their sentence in 3rd degree or on conditional release if they had not been regressed. The conclusion is that this rate would rise by 14 percentage points and would include almost half of the prison population.

Table 2. Impact of regression to 2nd degree on rates of people released with transition into the community. Catalonia (2006-2010)

YEAR	N releases	N 3rd degree + conditional release	% 3rd degree + conditional release	N revokes ending in 1st or 2nd degree	% 3rd degree or conditional release if revokes had not been made
2006	2,360	879	37.2	403	54.3
2007	2,574	866	34.4	393	48.9
2008	2,201	917	41.7	362	58.1
2009	3,201	1,114	35.7	349	45.7
2010	3,370	1,312	36.8	341	49.0
2006-2010			37.2		51.2

2. Aims

The main objective of this research is to describe and evaluate the practice of regression in order to make recommendations to reduce both the number and also the impact of regression during the reintegration process. The research focuses on two specific aims that yield different questions.

The first specific aim concerns the causes of regression and investigates whether the use of regression complies with a public interest rehabilitating model through the following questions:

- 1) What are the offences that result in regression?
- 2) Could the offence resulting in regression have been prevented?
- 3) Has regression been used as a last resort and has the person been able to defend themselves against the charge?
- 4) Has regression been used for rehabilitation?

The second aim focuses on the consequences of regression. It examines whether people regressed do not finish their sentence in 3rd degree or on conditional release and looks at the factors leading to this outcome. This has involved analysis of the following questions:

- 1) Does regression reduce the motivation to change?
- 2) Does regression increase conflict?
- 3) Does regression reduce inmates' perception of the legitimacy of the prison system?
- 4) Does regression prevent recovery of *release on temporary licence* (ROTL)?
- 5) How do people who have been regressed finish their sentences and what factors explain it?

1. This figure is the result of computing the number of regressions as a percentage of the average number of people who are in 3rd degree during a given year. Since we did not have the average, we used the data for people in 3rd degree at December 31 each year as an indicator. See: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/9_pob.html.

3. Methodology

To conduct the research we used a reference population of people who were regressed to 2nd degree in Catalonia in 2011 and ended their sentence between July 1 and December 31, 2012 (52 people). We studied the prison records of these 52 subjects and interviewed them in 75% of cases.

4. Main results and proposals

The results for the first research aim, which was to evaluate regression in Catalonia based on a normative model inspired by the protection of personal freedom and rehabilitation, are as follows:

- 1) The principle of preventing offences that lead to regression is adequately met.
- 2) Regression is used properly as a *last resort* in cases where the offence leading to it is drug use. No measures have been taken in other cases (*charged with a criminal offence, breach of supervision conditions, not making liability payments and not returning*) to channel the behaviour of the person prior to regressing them.
- 3) There are insufficient guarantees of defence prior to regression. Regression is carried out without any prior adversarial proceedings in which the person could defend themselves against the accusation and argue that regression is not necessary before an impartial authority. The perception of most people who have been regressed about the injustice of the regression is consistent with this result.
- 4) Regression is properly used in terms of rehabilitation in some cases where the aim is to redirect the person's offence by other means and only used when thought useful to deal with their criminogenic needs. However, this best practice is primarily limited to cases where the offence is related to drug use.

The findings on the second research aim, which was to discover why people who have been regressed are mostly released without a phased release plan, are as follows:

- 1) The most important variable in explaining why 61.5% of people who had been regressed did not recover 3rd degree or conditional release was not obtaining ROTLs after regression. As shown in Table 3, the majority of people who had been regressed recovered ROTLs, although it took an average of 214 days (7 months) to do so.

Table 3. Obtaining ROTL after regression

ROTL	Frequency	Percentage	Average days in obtaining ROTL*
Yes	31	59.6	214
No	21	40.4	-
Total	52	100	

* Interval: from 45 days (minimum) to 535 days (maximum).

- 2) Regression adversely affects the prospects of a person's desistance. This factor in turn makes it harder to get ROTLs and therefore 3rd degree status and conditional release, as shown in Table 4.

Table 4. Factors associated with obtaining ROTL's after regression

Factor	Stat. sig.	Cramer's V
Negative impact of regression on desistance	.018	0.37

- 3) The individual factors analysed in the research do not sufficiently explain why a large number of people who had been regressed did not obtain ROTLs after this regression. Equally they cannot account for the fact that a large part of those who got ROTLs did not recover 3rd degree or conditional release.
- 4) It seems that there are structural reasons that help to explain this significant impact of regression on how the sentence ends and they may depend on the time established by the technical teams in prisons for returning to the reintegration process.

On the basis of the proportional and rehabilitating model derived from our constitutional framework, the following proposals are put forward to reduce the number of regressions and minimise their impact:

- 1) It is important to establish written conditions to be met by the person during the open system. These conditions must be linked to each person's specific rehabilitation goals and should be tailored according to the inmate's progress. Conditions whose breach may lead to regression should be dynamic just like the personalised rehabilitation plan. This measure could be used to prevent infringements and identify the basis for discussing whether there has been a breach.
- 2) The regression procedure needs basic procedural safeguards. The fundamental issue is that regression should only be used after a hearing in which the evidence provided by the government and the inmate is examined. From that point on an impartial authority, who might be an administrative authority or prison supervision judge, would preside over the proceedings and decide if there has been a breach of the supervision conditions and whether regression is required, or alternatively if there are less serious measures that could be taken in response to the breach. The aim of this proposal is to minimise the cases in which regression is adopted in response to conduct that may not require such a severe response.
- 3) The decision about regression should be guided by the *last resort* principle. Once it has been established that there has been an unjustified breach of 3rd degree conditions using the procedure described above, a decision has to be made about whether there are other less severe measures that can cater for their criminogenic needs from the standpoint of the person's rehabilitation. Following existing best practice in cases of regression due to drug use, the measures to be assessed prior to regression are: 1) establish new treatment guidelines for identified needs or improve the rehabilitation supervisory level without resort to breach of supervision proceedings; 2) formally warn the person before starting a revocation procedure; 3) use less severe sanctions, such as reductions in the RTOL system; 4) use the restricted open system as a containment period to prevent regression to 2nd degree. The proposed practice is consistent with international penology thinking about the need for measures to prevent technical breaches of supervision becoming a major source of imprisonment.
- 4) New guidelines need to be put in place to prevent breaches caused by failure to meet liability payments arising from the offence. Thus in the absence of a realistic payment plan, which means a compensation plan based on what the person can afford, the sentencing court should be required to draw one up. The government should monitor the person's efforts to pay compensation and if breaches are identified it should then assess the need to review the payment plan or warn the person of the consequences of the breach. Finally, when a prison supervision judge is dealing with a regression procedure begun in response to a breach, they should consider setting a payment plan as a condition for retaining 3rd degree status.
- 5) As proposed by the Directorate General of Correctional Services in Circular 2/2012 on managing, implementing and monitoring conditional release, if a person is regressed to 2nd degree status it is highly advisable to establish a written plan for recovering 3rd degree status and tell the person concerned about it. This plan should set out what the person has to do to get new RTOLs and 3rd degree status. It is thus necessary to reconsider the current system whereby not only do some people who are regressed fail to recover RTOLs but also those who do recover them take an average of seven months to do so.

Research 2

Risk factors for in-prison violent behaviour by inmates

Authors: Karin Arbach Lucioni and Marian Martínez García

1. Introduction

There has been extensive research into the behaviour of inmates in prison over the last two decades in research literature in English (Sorensen and Cunningham, 2007). Its findings about the prevalence of this behaviour and the variables most closely associated with it helps to guide the level of service required and identify intervention needs when taking professional decisions (Andrews and Bonta, 1995). The statistics of the Correctional Services of Catalonia systematically report on the behaviour of inmates based on the incidents that occur within prisons and quantify the serious and minor assaults on prison officers and other inmates. Although this coding is useful locally, it does not allow for comparison with the studies published in international literature and it is therefore not possible to know to what extent the situation of Catalan prisons resembles or differs from that of other socio-cultural, legislative, economic or political environments.

The importance of this study lies not only in the description of a reality that has been little studied in Spain in general, and in Catalonia in particular, but also in the new inputs that may come out of an understanding of the risk factors present in the occurrence of this unwanted and adverse behaviour in prisons.

2. Aims

The main aim of this study is to learn which individual factors traditionally associated with in-prison conduct are most effective in predicting violent behaviour by inmates in the Catalan prison system. We also seek to discover the prevalence of this type of conduct and whether the offence for which a person is serving a sentence is a factor that influences the risk of them behaving violently in prison.

3. Methodology

To achieve these aims we examined a number of risk factors, particularly those in the screening used by the RisCanvi system for multiple risk assessment in the Catalan prison system (Andrés-Pueyo, Arbach and Redondo-Illescas 2010), in a sample of 7,517 prison inmates of both sexes evaluated using the RisCanvi Screening scale.

The outcome variables used were the disciplinary offences recorded in the Catalan prison computer system (SIPC) under codes 108, 109 and 110 of the Prison Regulations. They were grouped into the following three categories depending on the severity of the violence associated with each kind of behaviour: violent (VO), potentially violent (PVO) and non-violent (NVO) offences. Offences were registered during the period between July 2009 and July 2011, controlling in all cases that the occurrence of the offences was subsequent to the risk assessment.

4. Main results

In terms of the rate of in-prison offences we found that 11.8% of inmates presented at least one instance of violent behaviour, 10% had instances of potentially violent behaviour and 1.4% were involved in non-violent offences. This distribution is exactly the reverse of what we expected, which was a descending ratio from non-violent to violent offences as the greatest amount of violent behaviour tends to be concentrated in a small proportion of subjects. A possible explanation for the fact that there are more violent than non-violent offences may be that not all non-violent offences are systematically recorded in the SIPC.

Overall, about 40% of those involved in non-violent and potentially violent offences also presented more serious instances of behaviour classified as violent offences. Specifically, the presence of non-violent offences was significantly associated with the occurrence of violent offences, and the risk of presenting them increased by 5.2 times. Equally, the presence of potentially violent behaviour multiplied the probability of violent behaviour by 11 (Table 1).

Table 1. Influence on the risk for different types of offences in prison

	VO
NVO	
Yes	38,5 %
No	10.7 %
OR (95% CI)	5.2 (4.1-6.7)
PVO	
Yes	40.6 %
No	5.9 %
OR (95% CI)	10.8 (9.3-12.6)

OR: odds ratio which is a measure of the size of the effect; a value greater than 1 indicates increased risk for the group with the condition. VO: violent offence. PVO: potentially violent offence. NVO: non-violent offence.

The results of the bivariate analysis indicate that, with the exception of nationality, the other factors were significantly associated with violent offences. There were no significant relationships with nationality or gender for potentially violent offences. Non-violent offences were associated with all predictors except nationality, escape and violations, history of violent behaviour and limited response to treatment and social and family resources.

The results of the multivariate analysis concerning risk factors and offences show that the prediction model for violent offences had a good fit and correctly classified 72% of the sample. *Prior prison behavioural problems* at any time during the inmate's time in prison are the best predictor variable of violent offences during follow-up, followed by three dynamic variables: *pro-criminal attitudes*, *lack of family and social support* and *alcohol or drug use issues* in the previous year.

Being a convicted male is associated with a decrease of between 44% and 55% in the risk of violent offences. By contrast, being a female on remand increases the risk in this sample. The risk also decreases with age by 0.4% for each unit increase in this variable.

In the case of potentially violent offences, the predictive model's fit was acceptable and it correctly classified 72.1% of the sample. As in the case of violent offences, a *history of prison behaviour problems* was also the variable most closely associated with the outcome and increased the risk of its appearance by 2.6 times. It was followed by *recent problems with alcohol or drugs* and *lack of a partner*, which increased the risk by between 1.5 and 1.7 times. Procedural situation as convicted and age were the two variables that were negatively associated with the criterion, i.e. with a reduction in the risk.

As for non-violent offences, the model's fit was adequate and it correctly classified 67.4% of the sample. Once again *prior prison behavioural problems* was the variable most closely associated with the outcome, increasing the risk 1.6 times. *Pro-criminal attitudes*, *lack of stable partner relationships*, *a violent crime* and *alcohol or drug problems* increased this risk between 1.3 and 1.5 times, while being male, status of prisoner and age significantly decreased the risk.

Table 2 shows the model's predictive efficiency statistics. The AUC (area under the ROC curve) was between 72 and 77 indicating an acceptable predictive validity.

Table 2. Prediction model statistics for each criterion

	VO	PVO	NVO
PPV	69.1%	33.2%	65.9%
CI 95%	65.9%-72.2%	31.3%-35.1%	60.0%-71.5%
NPV	72.4%	90.8%	67.5%
CI 95%	71.3%-73.5%	90.0%-91.6%	66.4%-68.6%
AUC	.77	.76	.72
CI 95%	.75 - .79	.75- .78	.69- .75

VO: violent offence. PVO: potentially violent offence. NVO: non-violent offence. PPV: positive predictive value. NPV: negative predictive value. CI: confidence interval. AUC: area under the curve. s.e. = standard error of the AUC. *p > .001.

5. Conclusions and discussion

In conclusion, although this study focuses primarily on individual variables, it is powerful in sample design and size and a useful contribution to cross-cultural research on institutional violence while it also endorses using RisCanvi Screening when assessing violent behaviour in prison. However, we propose as a future line of research exploring the predictive ability of the overall assessment with RisCanvi Screening with the new cut-offs implemented in July 2011 which are designed to improve the predictive ability that the tool has shown in previous research. Furthermore, this study provides a scientific basis about a problem that has not been addressed from this standpoint in Catalonia or in the rest of Spain, and it explores the effects of individual variables and their relationship to subsequent institutional misconduct in a truly predictive fashion. These results show that being younger, on remand in the case of women, presenting prior violent or antisocial behaviour both in the community and in the prison environment, poor response to recent treatments or having problems with alcohol or drugs, and pro-criminal attitudes have a robust positive effect on predicting disciplinary offences. The findings of this study, which can be viewed in greater detail in the full report posted in the CEJFE research catalogue, have theoretical, practical and research applications.

Invesbreu published newsletters

- 1 Immigrants i criminalitat a Europa. Els exemples d'Alemanya i Espanya. Gener 1995
- 2 La preso pública de Barcelona durant l'etapa isabelina / La casa de correcció de Barcelona (1836-1856). Gener 1998.
- 3 El cost de la justícia penal. Privació de llibertat i alternatives. Febrer 1998.
- 4 El nen abusat sexualment com a testimoni / Els delictes contra la llibertat sexual relacionats amb menors. Març 1998.
- 5 Intel·ligència i personalitat en el procés rehabilitador del delinqüent. Maig 1998.
- 6 Salut i presó. Octubre 1998.
- 7 La premsa envers la violència juvenil i la presó. Novembre 1998.
- 8 El tractament dels agressors sexuals. Febrer 1999.
- 9 La victimització a Catalunya l'any 1996. Abril 1999.
- 10 Programes aplicats de psicologia comunitària amb personal penitenciari. Juny 1999.
- 11 Justícia juvenil: inserció laboral i mesures en medi obert. Octubre 1999.
- 12 Reincidència i delinqüència juvenil. Novembre 1999.
- 13 Violència domèstica. Desembre 1999.
- 14 L'estat de l'adopció a Catalunya (1998-1999).
- 15 Maltractaments infantils a Catalunya. Juny 2000
- 16 Presó i dones. La incidència dels programes motivacionals en la conducta social. Un estudi evolutiu (1988-2000) a la presó de dones de Barcelona. Setembre 2000
- 17 Avaluació d'un programa de tractament per a joves violents. Novembre 2000
- 18 Avaluació de l'efectivitat dels programes de tractament amb delinqüents a Europa. Gener 2001
- 19 La victimització a Catalunya l'any 1999. Maig 2001
- 20 L'arrest de cap de setmana a Catalunya (1996-2000)
- 21 Addictes a les drogues i reincidència en el delicte
- 22 Maltractaments físics greus a nadons i menors de quatre anys ingressats en centres d'acolliment
- 23 Intervenció institucional. Elements per a l'anàlisi en menors infractors o en risc
- 24 Els menors estrangers indocumentats no acompanyats (MEINA)
- 25 La mediació penal
- 26 La reincidència
- 27 Família i conducta antisocial
- 28 Presentació de dues recerques de l'àmbit penitenciari
- 29 Intervenció en centres de justícia juvenil
- 30 La classificació inicial en règim obert dels condemnats a presó
- 31 La reincidència en les penes alternatives a la presó a Catalunya
- 32 L'assistència religiosa i la llibertat de culte a les presons de Catalunya
- 33 Bullying - Violència de gènere. Elements per a l'anàlisi
- 34 Violència dels joves a la família
- 35 Infractors i conducta violenta
- 36 Drogues i tractament penitenciari
- 37 Perfil professional del jutge de primera instància i instrucció de Catalunya
- 38 Violència de gènere i justícia
- 39 Delictes sexuals i reincidència
- 40 Intervenció amb infractors juvenils
- 41 Mediació i resolució de conflictes en entorns penitenciaris
- 42 Perfil professional del Secretari Judicial de Catalunya
- 43 Predicció del risc de violència en contextos institucionals. Els sistemes de control monitorat aplicat a penats adults
- 44 Drogues i presó. Mesures de seguretat i salut mental
- 45 Models de política criminal i penitenciària internacional
- 46 Dona i violència de gènere
- 47 La formació dels funcionaris de seguretat dels centres penitenciaris a Catalunya i a França
- 48 Perfil dels penats per delictes contra la seguretat del trànsit
- 49 Intervenció amb agressors de violència de gènere
- 50 Intervenció amb infractors condemnats per delictes de trànsit a programes formatius
- 51 Abús sexual infantil: valoració psicosocial des de l'àmbit de la justícia
- 52 Agressors en violència de parella
- 53 Inserció després de la presó
- 54 Estrangers en centres penitenciaris
- 55 Victimologia i ciberdelicte en menors
- 56 La reincidència en el programa de mediació i reparació de menors
- 57 Intervenció penal amb infractors de trànsit
- 58 Avaluació de menors infractors: factors protectors i de risc
- 59 El temps en la justícia de menors
- 60 Intervention in the framework of penal measures community
- 61 Community service orders and tasks to educate for life in society in juvenile justice
- 62 Victimization of children and youth at risk
- 63 Conditional release in Catalonia