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## PENAL EXECUTION IN THE PROVINCES

NEWSLETTER DISSEMINATION OF RESEARCH

# INVESBREU

### Presentation

One of the goals of the Centre for Legal Studies and Specialised Training (CEJFE) is to promote and disseminate subjects of current scientific interest in the sphere of justice and criminology, using, amongst other media, the journal *Invesbreu*, which publishes research works. In this number 71 we present two studies which the CEJFE proposed to a research team from Rovira i Virgili University in Tarragona for the purpose of providing a response to requests and concerns expressed by the Tarragona territorial justice services. Those requests and concerns arise from the objective fact that in the Camp de Tarragona district there are differential features in some key aspects of penal execution in juvenile justice and community sanctions and measures (CSM) when compared with the other provinces.

The purpose of the first investigation we are presenting, *Penal execution in juvenile justice in Tarragona. A comparative analysis between Tarragona, Lleida and Girona*, is to find out about the singular features of the province of Tarragona concerning the characteristics of the young people involved, their social, family and demographic environment, the agents intervening, the offences committed, the measures imposed, the rate of reoffending and the extent to which there are differences from Lleida and Girona.

The purpose of the second investigation, *The execution of community sanctions and measures in Tarragona. A comparative analysis between Tarragona, Lleida and Girona*, is also to describe and compare the socio-demographic characteristics of the population, the personal and penal profiles of the people sentenced to CSM and the penal responses they received, among others, while comparing them to the other provinces mentioned.

Both investigations reveal the singular features of the provinces and make proposals for improvement in penal execution which are particularly interesting for that individualising and personalising side sought in the responses given.



## Penal execution in juvenile justice in Tarragona. A comparative analysis between Tarragona, Lleida and Girona

**Authors:** Montserrat Guasch García; María José Domínguez González; Carme García Yeste; David Garreta Muniello; Aitor Gómez González

### Goals

The aim is to describe, define and interpret the differences in the following sets of variables from Tarragona, Lleida and Girona (the three homologous provinces): **a)** social, family and sociodemographic characteristics; **b)** individual characteristics and level of risk of criminal activity by the offenders under the legal age (from 14 to 17, inclusive) dealt with in juvenile justice; **c)** the offences committed by those young people; **d)** the responses of the agents intervening in the penal execution; **e)** reoffending among those young people; **f)** the evolution of the indicators of the penal execution system from 2010 to 2013.

### Methodology

The design of the investigation is descriptive with a mixed approach (quantitative and qualitative). The population which is the object of study consists of all the young people between 14 and 17 (inclusive) who in 2010 had been through criminal proceedings ("basic proceedings"; from now BP) in juvenile justice in the provinces of Tarragona, Lleida and Girona. The number of reoffenders in that same population was measured in 2013.

The population of those young people in 2010 was 1,437, distributed as follows: 615 in Girona, 373 in Lleida and 449 in Tarragona.

The data relating to the personal profile and level of risk of criminal activity, the criminal profile, the measures imposed, reoffending and the evolution data have been supplied by the CEJFE. The information has been statistically processed and complemented with interviews with 14 key informants (juvenile court judges, juvenile court prosecutors, advice and mediation technicians and open custody technicians). Lastly, the socioeconomic data of the provinces come from secondary sources (basically IDESCAT and INE, the Catalan and national statistics institutes).

### Results

#### *Contextual data*

Tarragona is at a disadvantage in comparison with the other provinces: **a)** a lower number of students reaching the 4th year of secondary, according to data for the academic year 2012-2013 (Camp de Tarragona: 65.67%; Girona: 71.89%; Lleida: 72.98%; and Terres del Ebre: 71.01%); **b)** a lower pass rate in the 4th year of secondary, according to data for the academic year 2012-2013 (Camp de Tarragona: 83.67%; Girona: 83.89%; Lleida: 88.23%; Terres del Ebre: 85.35%); **c)** a higher rate of risk of poverty, according to data for 2011 (Tarragona: 49.18%; Lleida: 17.88%; and Girona: 33.43%); **d)** a higher rate of unemployment: Tarragona reached 28% in the first quarter of 2013, whilst Lleida reached 16% and Girona 19%. Tarragona is also the province with the most marked increase over the same period of 2010 (12 percentage points as opposed to 3 points for Lleida and 4 for Girona); **e)** a smaller number of minimum wage subsidies for people with children, according to data from 2014 (in Tarragona there are 2,173 children, who represent 1.4% of the population between 10 and 17 years old, inclusive; in Girona there are 6,081, or 4.13%; and in Lleida, 2,303, or 2.91%).

Lastly, in this section related to the context, if we take the criminality data for the juvenile population (14 to 17 years old inclusive), supplied by the Mossos d'Esquadra (Catalan police force), we observe that Camp de Tarragona is the province with the highest proportion of young people arrested and imputed (1.44% in 2010 and 1.23% in 2013), followed by Girona (1.15% and 0.99%) and Lleida (0.96% and 0.60%). The lowest level is in Terres de l'Ebre (0.84% and 0.44%).

#### *Personal characteristics and level of risk of criminal activity*

Significantly, the young offenders in Tarragona are older (15.85) than the other two provinces (15.68 for Girona and 15.73 for Lleida).

Tarragona has a higher global risk of criminal activity assessment than Lleida and Girona (69.6% of the young people prosecuted in Tarragona in 2010 were between the moderate and high levels of risk; in Lleida 58.6% of the young people were placed at that same level, and in Girona 47.5%). According to the data from SAVRY<sup>1</sup>, among the factors that contribute to determining the young people's level of risk of criminal behaviour, Tarragona stands out for the families' poor skills at bringing up their children, the higher risk of delinquency with peer groups, the greater marginality of the environment and the greater lack of social support. Those aspects are signs that the informal social control mechanisms may be failing. Lastly, Girona is the province that stands out for having less risk in many of the factors measured by SAVRY.

### *Criminal profile*

Tarragona is the province where young people commit the most violent offences (in Tarragona, 46.8% of the main BP offences in 2010 are violent; in Lleida, 37% and in Girona, 42.4%). Specifically, if we look at the offences against persons, in Tarragona and Girona they account for 35% and 34% of all offences, respectively, and in Lleida 25%.

### *Reoffending*

In Tarragona there are more reoffenders (in 2013, 33.2% of the young people who had finished a BP in 2010 had reoffended). In Lleida the figure was 22.8% and in Girona 25.7%. If we look at reoffenders by programmes, Tarragona has the largest number on the advisory technician programme (Tarragona: 40.8% Lleida: 31.6% Girona: 31.9%), in mediations (Tarragona: 30% Lleida: 20.9%, Girona: 23.2%) and in probation (Tarragona: 29.8% Lleida: 21.4%, Girona: 21.6); whilst in imprisonment Tarragona shows the smallest number of reoffenders (Tarragona: 40.7% Lleida: 46.2%, Girona: 61.5%).

### *Penal execution*

Tarragona has the following features: **a)** a larger number of procedures where technical advice is the main programme (Tarragona: 33.9%; Lleida: 20.4%; Girona: 31.1%); **b)** a lower rate of mediation and reparation programmes (Tarragona: 24.5%; Lleida: 41%; Girona: 33%); **c)** a higher rate of imprisonment (Tarragona: 6%; Lleida: 3.5%; Girona: 2.1%) and **d)** a higher rate of suits not filed (Tarragona: 23.83%; Lleida: 11.09%; Girona: 10.23%).

It should be emphasised that Tarragona imposes the widest range of judicial measures.

### *Evolution data over the period 2010-2013*

We have selected the following results: **a)** Tarragona shows a notable increase in violent offences, whilst in Girona they have fallen and in Lleida they have remained almost constant (Tarragona: from 48.3 to 55%; Lleida: from 42.3 to 43.3%; Girona: from 47 to 39.6%); **b)** Tarragona also shows a greater increase in the demand for mediation and reparation than Girona, whilst in Lleida it has fallen (Tarragona: from 23.6 to 31.9%; Lleida: from 39.9 to 35.1%; Girona: from 32.8 to 39.2%); **c)** Tarragona remains the province with the fewest community service sentences and where a wider range of programmes is applied; **d)** Tarragona and Lleida are where the number of young people showing a global risk has increased, whilst in Girona it has fallen (Tarragona: from 22.4 to 32.9%; Lleida: from 17.1 to 28.4%; Girona: from 25.1 to 22.9%).

## **Conclusions**

Tarragona requires special attention to provide a response to a population of young people who are younger when they are arrested (an aspect that could derive from a lesser capacity of the province to detect the conflictive cases early on), who commit more crimes and more complex ones, who reoffend more and have parents with fewer skills at bringing them up in a context of greater socioeconomic and family difficulties.

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<sup>1</sup> SAVRY (*Structured Assessment of Violence Risk in Youth*). This instrument was only applied to 248 young people (17.3% of the population of young people who had been through criminal proceedings with juvenile justice in 2010). We should bear in mind that these are the potentially most conflictive young people and they are subject to a measure or programme consisting of probation or imprisonment in the centre.

## The execution of the community sanctions and measures in Tarragona. A comparative analysis between Tarragona, Lleida and Girona

**Authors:** Montserrat Guasch García; David Garreta Muniello; Aida Gómez Sancho; Josep M. Torres Borrellas

### Goals

The aim is to describe, define and interpret the differences in the following sets of variables from Tarragona, Lleida and Girona (the three homologous provinces): **a)** the socioeconomic characteristics; **b)** the criminal profile of the offenders who are serving a CSM; **c)** their reoffending; **d)** the imposition of the sentences; and **e)** the evolution of the indicators of the CSM from 2010 to 2013.

### Methodology

The design of the investigation is descriptive with a mixed approach (quantitative and qualitative). The population which is the object of study consists of the offenders who in 2010 had been through criminal proceedings (“basic proceedings”; from now BP) with an CSM in the provinces of Tarragona, Lleida and Girona. The number of reoffenders in that same population was measured in 2013.

The population of those offenders was 2,485, distributed as follows: 547 in Girona (they represent 22% of the total number of people prosecuted in the three provinces), 883 in Lleida (35.5% of the total) and 1,055 in Tarragona (42.5% of the total).

The data relating to the personal profile, the criminal profile, the sentences imposed, reoffending and the evolution data have been supplied by the CEJFE. After the statistical analysis of that information questionnaires were given to three groups of professionals, chosen evenly among the three provinces that are the object of the study: 32 jurists, 22 technicians of the provincial justice services and 11 resources professionals who work on the CSM. Lastly interviews were carried out with 10 key informants: 2 judges, 1 prosecutor, 5 Mossos d’Esquadra (Catalan police) and 3 probation officers.

The socioeconomic data of the provinces come from secondary sources (basically IDESCAT and INE, the Catalan and national statistics institutes).

### Results

#### *Contextual data*

Tarragona is at a disadvantage in comparison with Lleida and Girona in different aspects which, in some cases, may act as criminogenic agents and, in others, hamper the tasks of crime prevention: **a)** a higher rate of risk of poverty, according to data for 2011 (Tarragona: 49.18%; Lleida: 17.88%; and Girona: 33.43%); **b)** a higher rate of unemployment: Tarragona reached 28% in the first quarter of 2013, whilst Lleida reached 16% and Girona 19%. Tarragona is also the province with the most marked increase over the same period of 2010 (12 percentage points as opposed to 3 points for Lleida and 4 for Girona); **c)** a weaker social structure, typical of urban societies and areas with a high floating population owing to tourism, for example; **d)** a smaller social capital, inferred from the measurement of one of the main indicators: the number of associations and the number of members of formal entities that promote solidarity and public-spiritedness (taking the ratio of associations to inhabitants in 2010: Tarragona has 7.68 for each 1,000 inhabitants, Lleida 10.43 and Girona 9.36; taking the ratio of foundations for each 10,000 inhabitants, Tarragona has 2.13; Lleida 2.81 and Girona 3; the same items measured in 2013 place Girona as the province where the number of associations (1.27 more for each 1,000 inhabitants) and foundations (0.2 more for each 10,000 inhabitants) is growing most; specifically in foundations Girona is growing 7 times more than Tarragona and at the same rate as Lleida; **e)** a particularly complex province in terms of security (petrochemical industry, nuclear power stations, one of the busiest ports in Southern Europe, the road networks of the AP7 and AP2 motorways, etc.).

#### *Criminal profile*

Tarragona stands out for the large number of crimes related to traffic (in 2010, in Tarragona they represented 72.3% of the main BP offences; in Lleida 60.2% and in Girona 35.5%). Aside from the greater

volume of traffic, one explanation of this phenomenon could be related to the way in which highway controls in the area are organised. Nevertheless, it emerges that this aspect carries little weight when it comes to explaining the differences detected in the imposition of the penalties and in penal execution.

### *Reoffending*

In keeping with the presence of more criminogenic factors in Tarragona, the province was shown to be the highest in reoffending once the factor had been measured in 2013 (in Tarragona, 15.6% of the offenders who had completed a BC in 2010 had reoffended in 2013; in Lleida, 12.6% and in Girona 11.7%). If we look at the spheres of the reoffending, we see that Tarragona is where the largest number of reoffenders have had another CSM imposed (Tarragona, 75.20%; Lleida, 63.10% and Girona, 53.10%), this being one of the factors that would explain the greater saturation of the CSM execution service in Tarragona.

### *Imposition of the penalties*

Tarragona and Lleida stand out for the greatest imposition of community service sentences (in Tarragona 89.9% of the main BP programmes, in 2010, were community service; in Lleida 87.8% and in Girona 51.9%). It is Girona that applies the largest number of training programmes (34.4% of the main BC programmes). Girona is also the province that imposes the widest range of penalties.

Although we have noted that the criminal profile of the province does not explain the differences in the imposition of the penalties, we have found out that there are different factors that may help to do so:

- a) **The *decisional praxis* of the provincial courts and the prosecutor's offices**, insofar as they guide the sentence, directly or indirectly. And so the praxis in Lleida involves a reduction of the number of measures given to the CSM teams, whilst the way of doing things in Tarragona and in Girona, characterised by an attitude which is highly favourable to the CSM and to avoiding prison, brings about an increase. The action in Tarragona (with a clear tendency to substitution) leads to an increase in the number of community service cases, especially ones that last many days. Here we find another factor that could also explain the saturation of execution in Tarragona.
- b) **Knowledge of the CSM by the legal agents**, which means that the most familiar penalty is the one most applied.
- c) **The level and quality of the coordination between the professionals involved in the imposition and in the execution**, which helps achieve a greater diversification of the penalties imposed and a better adaptation to the offender's profile. This aspect has been seen clearly in Girona, where the prosecutor's office acts as a nexus and stimulates the exchange of information that enables the application of the most effective penalty in each case (individualisation of the penalties).
- d) **Perception of the potential of the penalties**. Giving priority to the retributive potential of the penalty to the detriment of the rehabilitation potential could also seem to explain the preference for community service, the measure to which that faculty is most attributed in all the provinces. The fact that Lleida and Tarragona admit to the imposition of community service for its punitive potential as well, together with the fact that Tarragona pays less attention to the offender's profile (according to what emerges from the information provided by the informants), leads us to think that those provinces guide the action of justice preferably towards punishment, setting aside the other faculties to a greater or lesser extent.

The lack of diversification of the penalties in Tarragona (but also in Lleida) implies, in many cases, a failure to adapt the penalty to the offender's characteristics and needs. The individualisation of the penalty has been identified as one of the strongest conditioning factors when it comes to guaranteeing its proper fulfilment. Lastly, an unsuitable penalty has been identified by most of the informants as one of the strongest conditioning factors in reoffending.

- 1 Inmigrantes y criminalidad en Europa. Los ejemplos de Alemania y España. Enero 1995.
- 2 La cárcel pública de Barcelona durante la etapa isabelina / La casa de corrección de Barcelona (1836-1856). Enero 1998.
- 3 El coste de la justicia penal. Privación de libertad y alternativas. Febrero 1998.
- 4 El niño abusado sexualmente como testigo / Los delitos contra la libertad sexual relacionados con menores. Marzo 1998.
- 5 Inteligencia y personalidad en el proceso rehabilitador del delincuente. Mayo 1998.
- 6 Salud y prisión. Octubre 1998.
- 7 La prensa frente a la violencia juvenil y la cárcel. Noviembre 1998.
- 8 El tratamiento de los agresores sexuales. Febrero 1999.
- 9 La victimización en Cataluña en el año 1996. Abril 1999.
- 10 Programas aplicados de psicología comunitaria con personal penitenciario. Junio 1999.
- 11 Justicia juvenil: inserción laboral y medidas en medio abierto. Octubre 1999.
- 12 Reincidencia y delincuencia juvenil. Noviembre 1999.
- 13 Violencia doméstica. Diciembre 1999.
- 14 El estado de la adopción en Cataluña (1998-1999).
- 15 Maltratos infantiles en Cataluña. Junio 2000.
- 16 Prisión y mujeres. La incidencia de los programas motivacionales en la conducta social. Un estudio evolutivo (1988-2000) en la prisión de mujeres de Barcelona. Septiembre 2000.
- 17 Evaluación de un programa de tratamiento para jóvenes violentos. Noviembre 2000.
- 18 Evaluación de la efectividad de los programas de tratamiento con delincuentes en Europa. Enero 2001.
- 19 La victimización en Cataluña en el año 1999. Mayo 2001.
- 20 El arresto de fin de semana en Cataluña (1996-2000).
- 21 Adictos a las drogas y reincidencia en el delito.
- 22 Maltratos físicos graves a bebés y menores de cuatro años ingresados en centros de acogida.
- 23 Intervención institucional. Elementos para el análisis en menores infractores o en riesgo.
- 24 Los menores extranjeros indocumentados no acompañados ( MEINA ).
- 25 La mediación penal
- 26 La reincidencia.
- 27 Familia y conducta antisocial.
- 28 Presentación de dos investigaciones del ámbito penitenciario.
- 29 Intervención en centros de justicia juvenil.
- 30 La clasificación inicial en régimen abierto de los condenados a prisión.
- 31 La reincidencia en las penas alternativas a la prisión en Cataluña.
- 32 La asistencia religiosa y la libertad de culto en las prisiones de Cataluña.
- 33 Bullying - Violencia de género. Elementos para el análisis.
- 34 Violencia de los jóvenes en la familia.
- 35 Infractores y conducta violenta.
- 36 Drogas y tratamiento penitenciario.
- 37 Perfil profesional del juez de primera instancia e instrucción de Cataluña.
- 38 Violencia de género y justicia.
- 39 Delitos sexuales y reincidencia.
- 40 Intervención con infractores juveniles.
- 41 Mediación y resolución de conflictos en entornos penitenciarios.
- 42 Perfil profesional del Secretario Judicial de Cataluña.
- 43 Predicción del riesgo de violencia en contextos institucionales. Los sistemas de control monitorizado aplicado a penados adultos.
- 44 Drogas y prisión . Medidas de seguridad y salud mental.
- 45 Modelos de política criminal y penitenciaria internacional.
- 46 Mujer y violencia de género.
- 47 La formación de los funcionarios de seguridad de los centros penitenciarios en Cataluña y Francia.
- 48 Perfil de los penados por delitos contra la seguridad del tráfico.
- 49 Intervención con agresores de violencia de género.
- 50 Intervención con infractores condenados por delitos de tráfico a programas formativos.
- 51 Abuso sexual infantil: valoración psicosocial desde el ámbito de la justicia.
- 52 Agresores en violencia de pareja.
- 53 Inserción después de la cárcel.
- 54 Extranjeros en centros penitenciarios.
- 55 Victimología y ciberdelito en menores.
- 56 La reincidencia en el programa de mediación y reparación de menores.
- 57 Intervención penal con infractores de tráfico.
- 58 Evaluación de menores infractores: factores protectores y de riesgo..
- 59 El tiempo en la justicia de menores.
- 60 Intervention in the framework of penal measures in the community.
- 61 Community service orders and tasks to educate for life in society in juvenile justice.
- 62 Victimisation of children and adolescents in care and in juvenile justice.
- 63 Conditional release in Catalonia.
- 64 Case management in Catalan prisons.
- 65 Penal measures and drug addictions.
- 66 Assessment of the Limits parenting skills training programme.
- 67 The rate of penitentiary recidivism 2014.
- 68 Comparative study of the quality of life of people with intellectual and developmental disabilities in prisons in Catalonia
- 69 New intervention programmes for offenders in the community
- 70 Managing emotions in penitentiary centres

