

Chapter 5

Catalonia

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1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

1.1 The start of probation in Catalonia

In Catalonia, as in the rest of Spain, the first laws dealing with the supervision of offenders in the community date from 1908 (conditional sentence) and 1917 (parole). For many years, however, the mechanisms and resources available to implement this legislation, with regard to the serving of sentences within the community, were minimal, and for the most part these aspects were left in the hands of charitable organisations. Furthermore, the long period of military dictatorship was typified by the lack of public policies and of material support from the authorities, which did nothing to conceal their orientation towards a penal response based on the principles of retribution and correction. When democratic freedoms were restored, Catalonia was the first Autonomous Community in Spain to take up devolved powers for the protection and tutelage of minors, in 1981. In 1984, powers regarding penitentiary institutions were transferred from the State to the Generalitat de Catalunya (Government of Catalonia)¹. Thus the Catalan government became solely responsible for the organisation of facilities for serving sentences, making it possible to develop integrated policies in closer touch with the social reality of Catalonia. These transfers of powers made it possible to define a framework for political and administrative action, one of whose basic principles has always been to prioritise actions in the neighbourhood environment, and hence to create services for the enforcement of sentences in the community and to draw up psychosocial reports in the pre-sentence phase.

1.2 Important developments

Over the last 25 years there have been many developments that can explain the changes that have taken place in Catalonia with regard to the serving of sentences and criminal policy. A whole series of actions have been implemented that have configured a truly public system for the serving of sentences in the community, a system in which civil society also plays a decisive role. The two main dates, to which we have already referred, are those of the respective transfers of powers from the State to the Generalitat de Catalunya, powers that have always been assigned to the Department of Justice. The years between 1981 and 1985 saw the creation of specialised professional public services, the negotiation of agreements for interdepartmental coordination and for collaboration with local organisations and citizens' groups with a view to including rehabilitation and the prevention of delinquency within the general framework of the policies for economic and social development which were just beginning to be implemented in Catalonia. Over the period 1985-1990, juvenile justice in Catalonia underwent a transition from a protective model to one based on education and responsibility. Two determining factors were the Organic Law of the Judiciary of 1985, under the provisions of

¹ Catalonia is the only one of Spain's Autonomous Communities to which powers have been transferred with respect to penitentiary institutions

which the former Tutelary Juvenile Courts (Tribunals Tutelars de Menors) once again became part of the structure of the judiciary², and two years later in 1987, the modification of the Civil Code under which the protection of minors became the responsibility of the Administration and the juvenile courts became competent only for the trial of minors for the commission of crimes or offences defined in the Penal Code. In the field of adult criminal justice, the Catalan Department of Justice created, that same year, the Assistance and Social Orientation Services (Serveis d'Assistència i Orientació Social), whose task was to draw up psychological and social reports at the request of judges in the pre-sentence phase.

In 1990 a programme was set up to mediate between offender and victim in juvenile justice in Catalonia. This was the first penal mediation programme to be created in the whole of Spain. In 1992, under Organic Law 4/92, regulating the competence and procedure of the juvenile courts, several articles of the former legislation were changed to restore judicial rights and guarantees to minors, and at the same time a major diversification of the catalogue of measures was introduced, particularly measures within the community.

In 1995 a new Penal Code was approved. This, as well as increasing the age of criminal responsibility from 16 to 18, introduced alternative measures to the serving of short prison sentences, namely conditional suspension and community work. The new text also introduced the possibility for the restitution of damages suffered by the victim before a case comes to trial so that this may be taken into account by the judge as an attenuating circumstance when passing sentence. In consequence of the approval of the Penal Code, in 1996 the Catalan government created the Directorate General for Alternative Penal Measures and Juvenile Justice (Direcció General de Mesures Penals Alternatives i de Justícia Juvenil) with the aim of bringing responsibility for the serving of sentences and community measures together under a single authority. Also set up at the same time were the technical advisory teams to advise the courts, dealing with both adult and juvenile justice. Attached to this structure, the Centres for Victims of Crime were established. The only programme for serving sentences within the community which at that time remained outside this unified probation services structure was that for the monitoring of cases of release on parole, which continued to be the responsibility of the Territorial Committees for Penitentiary Social Care (Comissions Territorials d'Assistència Social Penitenciària) of the Directorate General for Penitentiary Services and Rehabilitation (Direcció General de Serveis Penitenciaris i de Rehabilitació). The year 1998 saw the start of the programme for mediation between offender and victim in the field of adult justice. With the coming into force of the new Penal Code in 1996, the probation officers, who until then had concerned themselves only with juvenile cases, also took charge of the alternatives to prison in the adult jurisdiction. In 1998 the Framework Agreement³ was signed for cooperation between the Department of

² After they were created in 1918 the Tutelary Juvenile Courts operated on the fringe of the formal structure of the judiciary, and consequently were guided by criteria which were not always in accordance with the law.

³ The signatories to the Framework Agreement were the Department of Justice, the Federation of Catalan Municipalities and the Catalan Association of Municipalities and Districts, which together represent the local administrations.

Justice and the municipal authorities in Catalonia for the provision of places for serving sentences of community service or work (for juveniles and adults respectively).

In 2000 the Sectorial Secretariat for Penal Execution (Secretaria Sectorial d'Execució Penal)⁴ was formed, under the wing of what was then the Directorate General for Penitentiary Services and Rehabilitation, and the Directorate General for Alternative Penal Measures and Juvenile Justice. Thus, all matters regarding the enforcement of alternative penal measures were brought together into a single management structure. In order to ensure the proper enforcement of alternatives to prison for adults, in 2000 the Department of Justice signed an agreement with the IRES (Institut de Reinserció Social, or Institute for Rehabilitation) under which this body would take on responsibility for enforcement in certain parts of the territory in coordination with the Justice Department's own staff and services. 2001 saw the coming into force of Organic Law 5/2000, regulating the criminal responsibility of minors⁵. This definitively superseded the Law of Tutelary Juvenile Courts, which dated from 1948. As for the adult penal jurisdiction, as a consequence of multiple reforms of the Penal Code, since 2000 there has been a major increase in the prison population, but also in the number of persons sentenced to alternatives to prison and to community work. At the same time, between 2003 and 2006, the Department of Justice's budget has increased substantially, essentially to implement the Prison Facilities Plan 2004-2010, but also to increase the number of staff working in programmes of expert advice, mediation, the serving of sentences in the community and victim care.

1.3 Probation activities in a nutshell

Taking probation in the broad sense as the set of activities performed within the criminal justice system with the manifest aim of reducing the use of privation of liberty or at least to minimise its negative effects, the main areas of activity which are currently being implemented in Catalonia are:

- Technical advice to the judicial organs, with the aim of informing them of the personal and social circumstances and characteristics of those charged in proceedings for the commission of a crime or misdemeanour⁶. There are specialised advisory teams for each of the jurisdictions, adult and juvenile. While pre-sentence reports are obligatory in the case of juvenile justice, in the adult

⁴ With Decree 284/2002 of 19 November, concerning the structuring and restructuring of certain departments of the Generalitat, the Sectorial Secretariat for Penal Execution became known as the Secretariat for Prison Services, Rehabilitation and Juvenile Justice. After the publication of Decree 12/2007, concerning the restructuring of the Department of Justice, this Secretariat became responsible for the Directorate General for Prison Regime and Resources and the Directorate General for Community Sentences and Juvenile Justice.

⁵ The new law applies to minors between 14 and 18 years of age. This change caused a great impact on the juvenile justice system, partly because of the increase in the segment of the population concerned, and partly because of their profile in terms of age and personal characteristics and the consequent need to adapt resources and intervention methodologies.

⁶ The advisory teams also provide reports on victims at the judges' request.

jurisdiction they are made only in those cases in which they have been expressly requested by the judges. In this jurisdiction it is also possible for the persons before the courts to request, directly or through specialised services, orientation from the technical advisory teams, particularly in the case of those undergoing treatment for managing drug abuse or mental health problems while awaiting trial;

- Victim – offender mediation is being applied in both adult and juvenile justice; in both cases, the mediation teams are made up of professional mediators. In juvenile justice the principle of opportunity means that, in all cases of crimes and misdemeanours not involving personal violence, the judicial process can be halted if the minor has made reparations for the harm suffered by the victim or is willing to do so. In the adult jurisdiction, however, it is not possible to apply the principle of opportunity, but reparations for the harm done to the victim made before the case comes to trial may be considered attenuating circumstances when it comes to passing sentence, hence reducing the penalty as permitted under the law;

- Community sanctions, provided for under criminal law for the adult population, are judicial decisions ordering a sentence of community work, rules for behaviour or obligations to be imposed as a condition for the suspension or substitution of a penalty of privation of liberty⁷. It may also order certain security measures⁸. The enforcement of these measures consists of social and educational supervision by a probation officer to ensure the fulfilment of the obligations or treatments imposed.

All these activities take place in both the juvenile and adult jurisdictions and the authority responsible for them is the Directorate General for Community Sentences and Juvenile Justice (Direcció General D'Execució Penal a la Comunitat i de Justícia Juvenil). This Directorate General forms part of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice (Secretaria de Serveis Penitenciaris, Rehabilitació i Justícia Juvenil) of the Department of Justice and its objective, amongst others, is that of providing, managing and supervising the services and resources needed to physically carry out these actions, whether through in-house services or through cooperation with other bodies.

Also belonging to this administrative structure are the Centres for Victims of Crime. These deal with cases either at the request of the courts or that of the victims themselves. Their two main responsibilities are: to report on the precautionary measures adopted (in the judicial sphere) if any, and to keep the victim permanently informed about the state of proceedings against the alleged offender, or the prison status of the offender, (during the execution of penalties). The Centres for Victims of Crime offer both general care (psycho-social and legal) and specialised care (legal and psychological advice for adults), as well as making referrals to other resources.

⁷ Apart from being applied as a form of suspension of a custodial sentence, community sanctions in juvenile justice are mostly applied as an independent measure. The most frequently-employed measures are probation and community service.

⁸ In the case of individuals incapable of criminal responsibility.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

The legislative basis for the Catalan Government's powers with regard to the serving of sentences in the community and the organisation of probation services is made up of Spanish State legislation and laws passed by the Catalan Parliament, in the exercise of the powers provided for in articles 166a and 168 of the 2006 Statute of Catalan Autonomy. The State legislation concerned consists of Royal Decree 1292/1981, concerning the transfer of services for the protection and tutelage of minors, and Royal Decree 3482/1983, concerning the transfer of prison services. As for the laws made by the Catalan parliament and government the principal texts with regard to services for the serving of sentences in the community are:

- Law 27/2001, concerning juvenile justice, passed by the Catalan parliament and establishing the administrative framework to be employed by the Catalan administration for the execution of the measures adopted by judges or courts in application of Organic Law 5/2000. The law regulates the implementation of programmes to support rehabilitation processes and lays down a regime for the participation of, and collaboration between, public and private bodies in the exercise of these functions.
- Decree 329/2006, approving the regulations for the organisation and functioning of the penal enforcement services in Catalonia that "in accordance with the self-organisational powers over the enforcement of penal and penitentiary legislation establishes an organisational and functional structure for the Catalan Government's penitentiary centres, as well as the organisation and functioning of the remainder of the penal enforcement services that exist in Catalonia". Chapter III of the Regulations deals with the Penal Enforcement Social Services, which are organised by geographical area in units external to the prisons and which act in coordination with the public Catalan Social Services system in accordance with Legislative Decree 17/1994, concerning social assistance and services.

The Social Services system in Catalonia is operationally structured in primary care services and specialised services. The specialised services are responsible for diagnosis, assessment, treatment, care and rehabilitation for persons with social needs. Amongst other duties they work on the prevention and treatment of delinquency; care for prisoners and the rehabilitation of ex-prisoners. The competent bodies of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice of the Department of Justice also issue circulars, instructions and basic rules. Those worth noting here are Circular 2/2004, on the procedure for proposing and monitoring parole; Circular 1/2006, on the organisation and functioning of probation teams; Instruction 7/2005, on the application of the programme for mediation and reparations to victims; and Basic Rules 3/2003, which implement Law 27/2003, concerning protection orders for victims of domestic violence; and those of 10/2006, on the protocol of internal coordination of victim protection measures.

2.2 Mission and mission statement

The mission of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice is to ensure, in Catalan territory, the enforcement of the various measures for penal execution and care for the victims of crime in accordance with applicable laws and taking account of guidelines and undertakings at national and international levels, orienting them towards re-education and social rehabilitation, in the case of penal execution, both for adults and for minors, and towards support and psycho-social orientation in the case of the victims of crime.

2.3 Crime prevention

Through its Prevention of Juvenile Delinquency programme, the Directorate General for Community Sentences and Juvenile Justice offers local authorities, city and district councils, the services of experts in the diagnosis of conflict situations and the design of actions to prevent juvenile delinquency in public places, school and neighbourhood. In this way, actions have been implemented for the prevention of truancy and drug and alcohol abuse, for mediation in the school and in the community and for reforms of municipal bylaws, amongst other things.

2.4 Victim protection

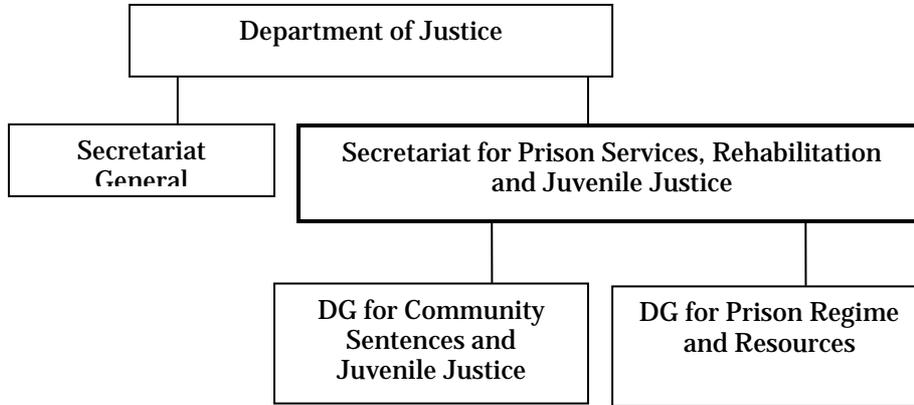
The legislative bases of the programme for victims of crime are the victim's statute in Spanish criminal procedure and the international legislation by the United Nations, the European Union and the Council of Europe. Law 14/94, concerning the protection of witnesses and expert witnesses, Organic Law 5/2000, concerning the criminal responsibility of minors, Law 27/03, concerning protection orders, the Penal Code 1995, Organic Law 1/2004, concerning integrated protection against gender violence, and Law 35/1995, concerning aid and assistance for the victims of violent crimes and crimes against sexual liberty.

The Centres for Victims of Crime are operated by the Directorate General for Community Sentences and Juvenile Justice and are the prime resource for providing support and orientation for all those citizens of Catalonia who feel themselves to be the victim of some crime and who choose to consult them. The aim of the Centres for Victims of Crime is to be the primary point of contact for information, containment and support for victims, and for referral to other services, as well as to ensure that victims have access to all the aid and care which they must receive in the swiftest and simplest way possible, in order to avoid the effects of secondary victimisation. The Centres for Victims of Crime act as a coordination point for protection orders in order to ensure the provision of social assistance and protection measures (financial aid, free legal advice, reception centres, housing, employment, etc.). They channel the victim's requests for aid and assign assistance and protection suited to their needs. As Centres for Victims of Crime they have two chief responsibilities: to provide information about the precautionary measures adopted (judicial sphere) and to keep the victim permanently informed about the legal situation of the indicted person (execution of penalty sphere)

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

Figure 1: The secretariat for prison services, rehabilitation and juvenile justice



The Secretariat for Prison Services, Rehabilitation and Juvenile Justice is the competent Government authority for drawing up proposals for prison and juvenile justice policy, providing strategic orientation for it, implementing it and assessing its effects. The Directorate General for Community Sentences and Juvenile Justice (Direcció General d'Execució Penal a la Comunitat i Justícia Juvenil) is the body responsible for the enforcement of measures in the juvenile jurisdiction and community measures in the adult criminal jurisdiction. Subsidiary to this Directorate General are the technical advisory teams that advise judicial organs, the Centres for Victims of Crime and the Mediation-Reparation programmes. The Directorate General for Prison Regime and Resources (Direcció General de Recursos i Règim Penitenciari) is responsible for all the penitentiary centres and the Social Services Penal Sections, whose functions include those of drawing up individualised plans for third-grade prisoners (semi-liberty regime) as well as for those on parole.

3.2 Internal organization

The Directorate General for Community Sentences and Juvenile Justice has four management units for the fulfilment of its responsibilities: one Subdirector General and three Services. The Human and Financial Resources Service serves the whole of the Directorate General, while the other three sections undertake the management of public services and the supervision of private entities that provide services related to the various phases of the judicial process and the

enforcement of measures in the community in both the adult and juvenile jurisdictions.

The Sub-directorate General for Probation Services and Alternative Sentences (Subdirecció General de Medi Obert i Mesures Penals Alternatives) is responsible for the management, in the field of the ordinary penal jurisdiction, of all the programmes and services for the serving of sentences in the community, as well as the technical advisory teams, the mediation programme and the Centres for Victims of Crime. The physical implementation of mediation programmes and the enforcement of penalties in the community, always under the supervision of this Directorate General, is effected through contracts with the Welfare and Development Association (Associació pel Benestar i el Desenvolupament), for the mediation programme; with the Social Rehabilitation Institute (Institut de Reinserció Social), for the enforcement of alternative measures in Barcelona; and through the Social Services Penal Sections attached to the Territorial Services of the Department of Justice, which are in charge of alternative penal measures in the regions of Lleida, Girona and Tarragona.

All the programmes in the juvenile jurisdiction are managed and implemented by the staff of the Mediation and Technical Advisory Service (Servei de Mediació i Assessorament Tècnic) and the Enforcement of Sentence Service (Servei d'Execució de Mesures). There are twelve technical advisory and mediation teams in total: four for the adult penal jurisdiction (one team for each of the Catalan provinces (Barcelona, Lleida, Girona and Tarragona) and eight teams for the juvenile jurisdiction, of which four are based in Barcelona.

The Welfare and Development Association manage the mediation programme for the adult population under a contract with the Directorate General for Community Sentences and Juvenile Justice. The mediators use the same offices as the technical advisory teams and coordinate with them. In the case of juvenile justice the mediators form an integral part of the technical teams themselves. In the sphere of the serving of sentence in the community there is a total of seventeen teams, eight of them for the adult jurisdiction and nine for juveniles. For the adult jurisdiction there are five teams in the province of Barcelona, managed by the Social Rehabilitation Institute under a contract with the Directorate General for Community Sentences and Juvenile Justice. In Lleida, Girona and Tarragona, the enforcement of penalties in the community for the adult population is the responsibility of the Social Services Penal Sections, attached to the Territorial Services of the Department of Justice.

Figure 2: The directorate general for community sentences and juvenile justice

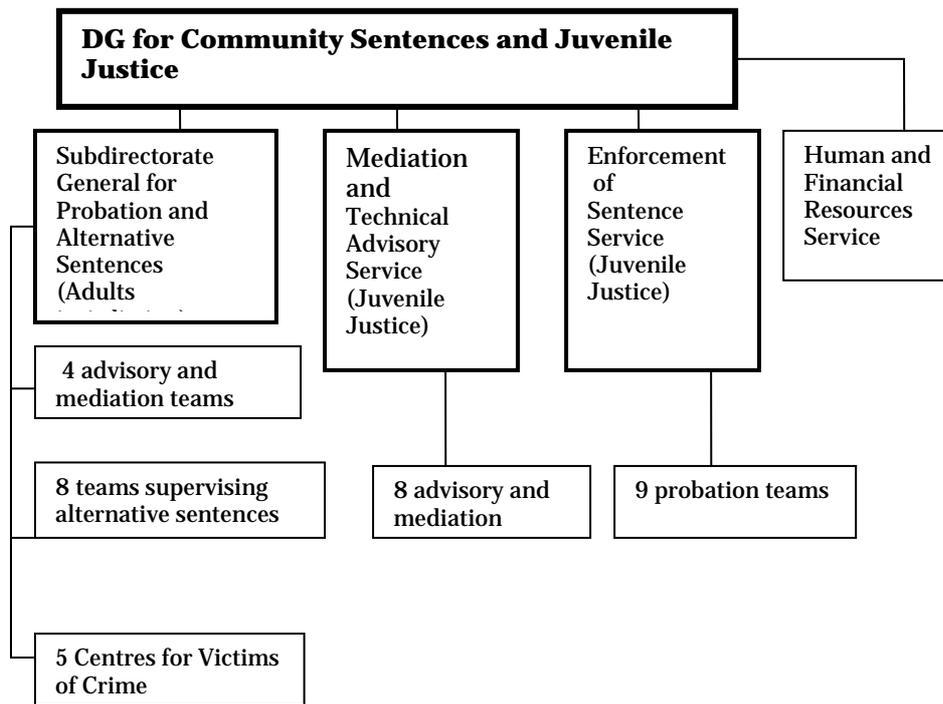
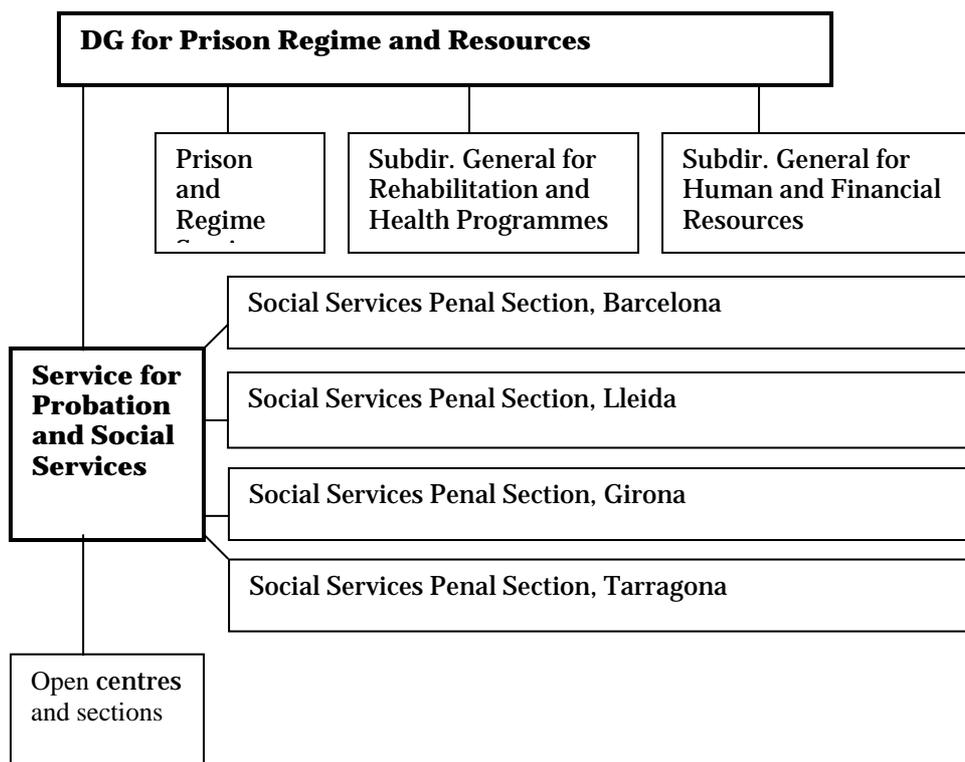


Figure 3: The directorate general for prison regime and resources



For the enforcement of sentences of privation of liberty the Directorate General for Penitentiary Regime and Resources is structured into two Subdirectorates General and two Services. One of these Services is the Probation and Social Services (Servei de Medi Obert i Serveis Socials), to which are functionally attached the Social Services Penal Sections. These sections are organised by district and are made up of social workers, psychologists, jurists, educators and administrative staff, and their purpose is to provide social service coverage to the whole of the population that is serving sentences of privation of liberty, whether in the ordinary regime or through the various types of “third grade” regime (semi-liberty, extra-penitentiary centres, electronic tagging) and while on parole

3.2.1 Probation workers; education, training requirements and opportunities

The qualifications required vary according to the programme on which the candidate is to work. For the enforcement of measures and the victim-offender mediation programme, a diploma in social work or social education is required, although people with first degrees from university in various social sciences (law, psychology, education and others) may also be accepted. For the technical

advisory teams, a diploma in social work or a degree in psychology is required, according to the specific role the person concerned is to play in the team.

Probation officers, social workers and mediators in Catalonia work for the Secretariat for Prison Services, Rehabilitation and Juvenile Justice or for non-profit organisations under agreements with the Department of Justice, while the employees on advisory teams are civil servants. Only in the case of substitutions (due to illness, leave, etc.) are short-term contracts extended. A high level of occupational stability distinguishes these professionals. For the most part, when these professionals join the staff of one specific unit (mediation, probation or advisory teams), they already have several years of experience in the field of justice. Most have acquired this experience working for another unit attached to the penitentiary or the Juvenile Justice services. One of the criteria also considered when selecting new personnel is their education through the courses or post-graduate programmes they have attended in parallel with their professional activities. Initial training may be individualised and practical, allowing the new member of the team to integrate gradually with the support of a colleague from the same team; or in a group, when there are several people who are to join different teams. In the case of initial training for groups, this is organised and programmed by the Centre for Legal Studies and Specialised Training. The Justice Department's staff are entitled to 40 hours per year of training during working hours, which may be used for the in-depth study of the techniques and methodology associated with each of the programmes, or for a flexible training curriculum that enables them to acquire knowledge that will be useful for their professional future. There is also the ever more frequent possibility of studying at university for masters' degrees related with the execution of penalties, legal psychology, criminal law, criminology and mediation, amongst others.

3.2.2 Other organizations involved in probation work

3.2.2.1 CIRSO

A wide range both of public bodies and private organisations perform activities related to the serving of sentences in the community and the social rehabilitation of individuals who have been subject to legal sanctions. Since the penitentiary function has been defined as a social policy that is shared by the various public administrations, institutions and other bodies, and to coordinate policies for education, culture, health, housing, social welfare, women, employment, economic promotion and environmental protection that make effective rehabilitation possible, in 2005 (under Decree 98/2005, concerning the Department of Justice) the Inter-institutional Committee for Social Rehabilitation (CIRSO) was created. This is a collegiate, transversal body that includes the Government of Catalonia, the central Spanish administration, local authorities and social and economic agents. This committee's objective is to plan specific interventions for the rehabilitation of individuals who have been subject to legal sanctions; health services and specialised treatments; victim care; social and community intervention; return to employment; probation services; alternative penal measures and mediation; communication and information technologies and public education about the prison system.

3.2.2.2. CIRE

The Centre for Resettlement Initiatives (CIRE) is a public company attached to the Department of Justice, whose chief mission is social rehabilitation and return to employment for individuals subjected to judicial sanctions, offering them suitable training, professional and occupational training, and encouraging good working habits through the workshops located in prisons or outside them. Although most of CIRE's activities, both training and production, take place inside prisons, it also offers an Employment Resettlement Service to those who are serving a sentence in an open regime or who are on parole. To this end CIRE operates a job exchange which offers jobs arranged with companies, occupation plans, occupational and training workshops and work contracts for the provision of services contracted by the CIRE with the public administration (refurbishment of buildings, furniture and others).

3.2.2.3 Agreements

The Department of Justice, through its Secretariat for Prison Services, Rehabilitation and Juvenile Justice has also signed collaboration agreements with non-profit organisations and local authorities. Notable amongst other actions are those concerning housing and the accompaniment of individuals on probation or on parole, treatment programmes and occupational, training or other workshops for people with problems of drug addiction, mental health or social integration difficulties. There are now approximately 400 entities involved in such activities altogether. As for agreements with local authorities, these cover the provision of places all over Catalonia for the enforcement of community work or service orders, in both juvenile and adult justice, as well as agreements to enable social workers in the field of justice to use offices and office services in municipal premises.

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

The legal requirements for the imposition of sanctions in the community are laid down by the criminal law, primarily in the Penal Code of 1995, which establishes the offences and their consequences (system of sentences and security measures) and under what conditions these measures may be adopted by judges and courts in adult justice; Royal Decree 515/2005, concerning the circumstances for enforcement of sentences of community work, the suspension of prison sentences and security measures; General Penitentiary Organic Law 1/1979 and its regulations in Royal Decree 190/96, regulate the granting of parole and the circumstances of its fulfilment. Catalan Government Decree 329/2006 regulates the organisation and operation of the penal enforcement services in Catalonia. As for juvenile justice, Organic Law 5/2000, concerning the criminal responsibility of minors, regulates both the procedure and the criteria and conditions for the

adoption of the measures provided for by the law, along with the corresponding regulations, approved by Royal Decree 1774/2004. The Catalan Parliament's Law 27/2001, concerning juvenile justice, establishes the administrative basis to be adopted by the Catalan Government administration to enforce the measures adopted by judges or courts in application of Organic Law 5/2000. The Catalan law regulates the implementation of the programmes to support social rehabilitation and establishes the regime for participation and collaboration by public and private bodies in the exercise of these functions.

Table 1: Activities of probation during the different stages of criminal procedure

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Preparing a Social Enquiry report	x	x	
Early help/intervention (during the period of arrest at the police station)	x		
Supervision/assistance to pre-trial detainees	x		
Supervision/assistance etc. to offenders whose cases were conditionally waived	x		
Supervision/assistance to offenders whose pre-trial detention has been conditionally suspended	x		
Mediation	x	x	
Victim support	x	x	x
Pre - sentence report	x	x	
Supervising etc. sanction of probation ⁹		x	
Supervising/organizing etc. community service		x	
Supervising etc. suspended sentence		x	
<i>a. Supervising/organizing training or learning projects</i>		x	
<i>b. Supervising etc. drug/ alcohol treatment programs</i>		x	
<i>c. Supervising etc. the mentally ill or retarded offenders (in-out patient orders)</i>		x	
Supervising etc. other community sanctions, namely:		x	

⁹ The sanction of probation as an autonomous or independent sanction exist only in the juvenile justice jurisdiction and it's called Libertad Vigilada

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
<i>a. Education activities –Day Centre activities</i>		x	
<i>b. Living together with another family or educational group.</i>		x	
Security measures		x	
a. Supervising etc. the mentally ill or retarded offenders (in-out patient orders)		x	
b. Supervising etc. special measures for drugs addicts		x	
c. Supervising / organizing training or learning projects		x	
d. Custody of the family		x	
Supervising etc. semi-liberty		x	
Supervising etc. electronic monitoring		x	
Assistance/support to prisoners in prison		x	
Supervising etc. conditional release/parole			x
Advisory report with respect to amnesty pardon		x	

4.2 Pre-trial phase

4.2.1 General

In this phase, in Catalonia, the Department of Justice makes the technical advisory teams, mediation teams and Centres for Victims of Crime available to both the juvenile and adult jurisdictions:

- mediation–reparation. Juvenile legislation, in article 19 of Organic Law 5/00, provides that for offences not involving serious violence, the judicial proceedings may be stopped if the minor has made good the harm caused to the victim or is prepared to do so. In this jurisdiction the mediators are specialised professionals who form part of the expert advice and mediation teams of the Directorate General for Community Sentences and Juvenile Justice. In adult justice, making good the harm caused to the victim before the trial may be taken into account by the judge as an attenuating circumstance of criminal responsibility (Penal Code 1995, article 21.5). Nonetheless, in cases of ill treatment, Organic Law 1/2004, concerning integrated measures for protection against gender violence, explicitly excludes the option of mediation between aggressor and victim. In this jurisdiction the programme is implemented by specialised mediators under a provision of services contract

- signed with the Welfare and Development Association and the Directorate General for Community Sentences and Juvenile Justice;
- initial attention in the police Juveniles Unit. The Directorate General for Attention in Childhood and Adolescence, which pertains to the Department for Social Action and Citizenship, has a group of specialised educators available to provide immediate attention for minors detained in the police Juveniles Unit. This intervention may provide social and educational orientation that will be helpful for the minor or his or her family;
 - care at the prosecutor's office. To make the contribution of the technical advisory teams more efficient and effective, as soon as the Organic Law regulating the criminal responsibility of minors came into force (on 13 January 2001), a round-the-clock system of rotations for the members of the technical advisory teams was put into operation, in order to meet the needs of the permanent service of the juvenile prosecution offices of Barcelona, Girona, Lleida and Tarragona. The advisory team's reports are important for the public prosecutor to be able to decide whether the judge should be asked to adopt precautionary measures with respect to the arrested juvenile. The technical advisory teams, as well as reporting to the judicial organs, also care for the arrested juveniles and their families, providing them with the information and support they need at any given time;
 - centres for Victims of Crime. These provide support and orientation for any citizen who requests it and who has been a victim of crime. The aim is to attend to the requests of victims of crime, providing them with the information they need as well as the requisite support and emotional backup. Furthermore, the Catalan police force, the Mossos d'Esquadra, has officers who specialise in victim care and who are trained to provide initial backup, support and information.

4.2.2 Pre-trial report

The reports drawn up by the advisory teams on juveniles who have been arrested and interviewed by the prosecutor's office are called technical reports on the adoption of precautionary measures.

4.3 Trial and enforcement phase

4.3.1 General

4.3.1.1 Victim care

In the case of victims of crime to whom a judicial protection order has been applied, the Centres for Victims of Crime monitor judicial actions and provide the victims with access to the social services or other specialised services they consider necessary.

4.3.1.2 Technical advice

The technical advisory teams for both adult and juvenile justice draw up psycho-social reports on the circumstances and characteristics of those charged in judicial proceedings for the commission of an unlawful act, or those who, in the case of adult justice, have been victims of, or witnesses to, the alleged offence being tried. The reports include judicial (number of dossier, kind of offence...) and personal data (age, gender, place of birth, address...), information about family structure and relationships. Reports on the interviews are held with the offender and (if it is a minor) relatives, to know about his social situation and to explain the circumstances of the offence. During this phase the members of the advisory teams also participate in the judicial hearings. In the case of juveniles who, during the course of serving a community sanction, or within three months after having completed such a sentence, are once again taken before the judges for the commission of a further unlawful act, it is the probation officers for juvenile justice who draw up the relevant report. These teams are also responsible for tracking cases in which a precautionary measure of probation has been imposed (article 28, Organic Law 5/00 and article 22 of Royal Decree 1774/04).

4.3.1.3 Serving of sentences in the community

The teams who supervise the serving of sentences in the community, for both juvenile and adult justice, and the Social Services Penal Sections enforce all the community measures provided for under the criminal law.

- minors; in juvenile jurisdiction, in accordance with article seven of the Organic Law 5/00, once the judge has passed sentence, probation officers organise and monitor:
 - probation, up to a maximum of five years with the possibility of imposing certain obligations while it is being served;
 - community service, up to a maximum of 100 or 200 hours depending on the age of the offender and nature of the crime. This measure must have the consent of the minor concerned;
 - outpatient treatment for drug abuse or mental health; in the case of treatment for drug addicts this measure must have the consent of the minor concerned;
 - other measures: performance of social or educational tasks; attendance at a Day Centre; living together with another family or educational group.
- adults; probation officers working in the adult penal jurisdiction together with the Social Services Penal Sections are responsible for supervising the serving of sentences not sanctioned by the privation of liberty in the Penal Code. There are three different kinds of suspension of prison sentence:
 - ordinary suspended sentence, Penal Code 1995 articles 80 ff. and Royal Decree 515/05 articles 16 to 20 may be applied in cases of sentences up to two years for first offenders (not counting crimes of negligence or lapsed criminal records) whenever restitution has been made or there is a declaration of insolvency. The suspension period is from two to five years, or from three to twelve months for light sentences. Apart from avoiding a new sentence during the determined period, the following obligations may be imposed (article 83 of the Penal Code): a prohibition on going to certain places; a prohibition on approaching people; a prohibition on leaving home; an obligation to present

oneself before the administration or attend training programmes in the fields of employment, culture, road safety, sexual education or to receive outpatient therapeutic treatment;

- extraordinary suspended sentence, Penal Code article 87 and Royal Decree 515/05 articles 16 to 20, may be applied for crimes with sentences of up to five years of prison and are intended for those cases in which the crime was committed as a consequence of drug dependence. For the suspension to be applied, a certificate must be produced attesting that the person is no longer addicted or is undergoing treatment for addiction. A forensic report about the treatment is also required before any suspension is applied. The period of suspension is from three to five years. During this period treatment for addiction must be started or continued;

- suspended sentence in application of article 60 of the Penal Code. This is decided by the prison surveillance judge and is applied in cases in which serious and long term mental illness, such that the person sentenced is incapable of understanding the meaning of the sentence, is unexpectedly detected. In such cases medical assistance must be provided and security measures may be custodial or non-custodial measures;

- community work, Penal Code 1995 articles 49, 53, 88 and 89 and articles 3 to 11 of Royal Decree 515/05, may be applied in two ways, always with the consent of the person sentenced. Firstly, as a sentence to substitute prison sentences of up to a year, and in exceptional circumstances, up to two years (when a prison sentence could frustrate the aims of prevention and social rehabilitation). It is intended for people who are not habitual offenders, habitual offenders being understood as those who have committed, and been sentenced for, three or more crimes of the same kind in a period of less than five years. Personal circumstances, the nature of the crime, behaviour and, in particular, efforts made to repair the damage caused, are considered before applying such an alternative sentence. A day's community work is considered to be the equivalent of a day's prison. Furthermore the obligations contemplated in article 83 of the Penal Code may also be imposed. Only community work may substitute prison sentences in cases of domestic violence, and then only on condition that the person sentenced attend re-education and treatment programmes;

- secondly, community work may be applied as the main punishment for certain crimes for which, given that the consent of the person sentenced is always required, other punishments are also contemplated such as prison, fines, or being permanently locatable;

- security measures, Penal Code 1995 articles 95 to 108 and Royal Decree 515/05 articles 21 to 25 may be applied in cases of exemption or diminished criminal responsibility whenever the commission of the offence has been proved and there is likelihood that more offences will be committed. Security measures may be the privation of liberty (internment in a psychiatric hospital, drug addiction centre or special educational centre) or non-custodial sentences which might consist of the prohibition of certain rights (such as permission to carry arms or a ban on driving), obligations and/or prohibitions (concerning the place of residence or communicating with other people) and family custody, submission to outpatient treatment or training programmes in

the field of culture, education, employment and sexual education, amongst others.

4.3.2 Pre-sentence report

4.3.2.1 Assessment reports

Juvenile probation officers must provide a psychosocial report in accordance with the stipulations of article 27 of Organic Law 5/00. This report is prescriptive in all cases, except those that, with the agreement of the prosecution service, initiate mediation–reparation programmes. This report must, by providing information about the young person’s situation, enable judges and prosecutors to make decisions that may affect him or her throughout the legal process (cautionary or definitive measures, referral to the social services, the archiving of the case and so forth). With regard to adults, probation officers provide their reports prior to sentencing in all cases of people prosecuted and/or of victims of crime in which the judge deems such a report necessary in order to have the required information available with which to better consider the facts and the personal and social circumstances of the offender and/or the victim. Reports on those prosecuted may contain various kinds of information: the modification of criminal responsibility due to mental disorder, criminal dangers, the risk of recurrence, and personal circumstances in cases in which a pardon has been requested. Furthermore, they provide evaluative reports concerning the suitability or otherwise of applying the various forms of alternatives to prison (article 53 and article 80 ff. of the Penal Code).

Upon the request of the judicial bodies, the probation officers carry out the Support Programme for judicial investigation aimed at juveniles and witnesses who, due to their personal physical or mental condition, are especially vulnerable and require specialised professional support in order to make a declaration before the judge. In accordance with their respective specialisations, and within an interdisciplinary working framework, probation officers in both juvenile and adult jurisdictions talk to those being prosecuted collect information from other professionals or institutions, draft reports for the courts, provide information to the interested parties and, if necessary, attend the court proceedings.

Within the field of ordinary adult jurisdiction it might be the prosecuted party that, either directly or through the specialised services, requests guidance from probation officers, especially in cases in which people are being treated for drug addiction or mental illness while awaiting trial. In cases in which there are indications of possible mental health problems, the assessment reports might call for an expert report to determine the degree of fitness for trial of the person in question through the relevant psychological studies and tests. It is very often the case, however, that professional staff find themselves in situations in which multiple problems come together (drug addiction, mental health, mental disability, disturbed behaviour, etc.) and this, together with other social or educational difficulties or needs, makes the necessary coordination with community services and specialised resources, whether they are aware of the case or not, more complex. The difficulty, therefore, derives not so much from the

required diagnosis as from the devising, at the same time, of a proposal concerning the most suitable form of treatment.

Nevertheless, there are a number of factors that can be viewed positively, such as the increase in resources for non-custodial treatment, and the broad coordination that exists with the juvenile and adult jurisdiction sentence enforcement service, both when the case is taken up as enforcement of a sentence imposing community service begins, and in any tracking coordination with regard to those persons who, judicially, still have other cases pending. For assessing the risk probation officers are using a tool called **SAVRY** - Structured Assessment of Violence Risk in Youth (Borum, Bartel & Forth, 2002). This tool is used with young offender to:

- determine the risk of recidivism;
- decide the parameters to be monitored to reduce the risk;
- to make decisions on which will be the programs and interventions to be done during the execution of the sanction.

The tool is composed by 24 risk factors distributed in three main areas: History/Social context/Individual and also by 6 protection factors (individual attitudes and social relationships).

4.3.3 Probation procedures and processes

The main aspects of the work of probation officers responsible for the implementation of community service are:

- to ensure that the obligations imposed are met;
- to keep the relevant judicial authorities informed about the serving of the sentence and how it develops;
- to promote the social integration of the person thus sentenced through social and educational tracking;
- to promote social and community resources suited to the needs of the target population;
- to raise the community's awareness about, and to implicate the community in, the processes involved in serving such sentences.

Monitoring the execution of sentence is achieved through regular interviews. Often the court's decision involves the carrying out of an activity such as some work that benefits the community, participation in employment or training programmes, or socio-medical treatment. In all such cases regular coordination is arranged with the staff of the centres where the court's decisions are implemented. An important aspect of the tracking is a compulsory report, at least every three months, for the court authorities concerning both the sentenced person's progress and the execution of the sentence. These reports contain information regarding the progress made by the sentenced person and the execution of the sentence, and they contain details and an evaluation of the situation with regard to the observance of the obligations that have been imposed. The person responsible for the overall evaluation, and for communicating it to the relevant court authority, is the social worker designated in each case. This person is, therefore, not someone who merely passes the information on. On the contrary, this person acts as an interlocutor with the court authorities and in this way can express and channel the various requests,

and propose any changes, which would enable the court's sentence to be better adjusted to the aims of the intervention.

Tracking the observance of the court's decision must be accompanied by socio-educational tracking in order to strengthen aspects of personal responsibility and social integration in accordance with the abilities and possibilities of each individual, and it must always respond to the specific observance of each court decision. The intervention of the officer responsible for tracking should facilitate the observance of the sentence while establishing a helpful and supportive relationship that enables an approach to be made that encompasses all the important aspects of each individual's situation (personal, family, social and judicial) in order to achieve the established aims. The sentence is to be imposed through a clarification and classification of the following technical aspects:

- the kind of tracking it is to be, and how it is to be implemented;
- the responsibilities and/or duties of each party (including the social worker);
- the design of a personalised intervention project that sets out the aims to be achieved in order to enhance the sentenced person's social integration and quality of life.

This implies the fulfilment of the activities or treatments previously decided by the judge or court and, in many cases; it implies a certain undertaking on the part of the sentenced person to participate. In this sense it is possible to speak, quite apart from criminal responsibility, of personal responsibility. The degree of undertaking and acceptance varies from person to person and also depends on their situation at the time. Thus, this can be practically nil in the case of sentences leading to psychiatric internment but can imply a considerable amount of commitment in the case of community service. The variables that determine the possible levels of commitment and which it is possible to work with are:

- the personal characteristics of each person;
- the adaptation of the conditions of the judge's or court's decision to each individual's personal capacity;
- the need to observe the court's ruling.

The possibility that exists, in some cases, to propose modifications to the court's ruling, when this is considered appropriate, is especially important here. On the other hand, it is also necessary to bear in mind that the conclusion of an activity or treatment might not coincide with the term of the sentence. In such cases it needs to be determined whether it is appropriate to continue with the socio-educational tracking and, in such cases, determine the conditions under which it should be conducted. In this regard, it is especially important to maintain optimum coordination between the public network of social and health care services, educational services and employment services on one hand, and the specialised organisations and services that also operate in these areas through social initiatives on the other.

In the mediation-reparation programmes within the juvenile and adult penal jurisdictions the basic tools used by mediators to implement the programme are, on one hand, interviews with the victim and the offender and, on the other hand, meetings between them, as long as these meetings are considered appropriate and are accepted by them. The mediation process can conclude with no possibility for reparation in sight or with specific agreements for reparation to the victim. Such agreements must bear in mind the interests and demands of the victim and the offender's possibilities for

reparation. These agreements are drawn up in a document signed by both parties, and by the mediator who is responsible for supervising its observance. Once the programme for reparation to the victim has concluded, the mediator communicates the results to the prosecutor, court or tribunal charged with the case. **The judge may take the victim's satisfaction regarding the implementation and conclusion of the programme into account for the purposes of reducing the sentence, but this does not imply renouncing the exercise of civil action with respect to damages for which there has as yet not been any reparation.** Nevertheless, at the end of the process the victim may, if he or she considers appropriate, renounce restitution. In such a case, this must be ratified before a judge. In cases in which the reparation programme fails to provide reparation for the victim, the result of the programme must also be communicated to the judge or tribunal in order that they may assess the effort that has been made to achieve reparation. The mediation-reparation programme is also being applied in prisons, mainly with prisoners on remand awaiting trial, as well as with offenders who have been sentenced (to community work or prison sentences) and who have voluntarily expressed their desire to make reparation for the damage caused to the victim.

4.4 Post-release phase

The classification system for people deprived of liberty is defined by the General Penitentiary Organic Law (1979) and its Regulation (1996). It establishes three grades: the first grade determines the application of the closed regime regulations; the second grade determines the application of the ordinary regime regulations, and the third grade determines the application of the open regime in its various forms. Common open regime sentences (article 83) are served in the Open Centres or the Open Sections. Inmates in such institutions perform activities outside the centre during the day but return to sleep. They may be given leave over weekends in accordance with what the Treatment Committee determines is appropriate in each case. Prisoners classified as third degree can also be sent to private or public extra-penitentiary institutions such as Therapeutic Communities or special educational centres (article 182). This, however, depends on the acceptance of the course of drug-dependence treatment or special education on the part of the inmate and it must be communicated to the prison surveillance judge. Similarly, article 165 of the prison regulations establishes the possibility of entering a Dependent Unit. These are architecturally separate residences from prisons and they are located in a community setting and have no external markings to identify their activity. A Dependent Unit could be a regular apartment in a neighbors building. Finally, in application of article 86.4, open regime inmates may, instead of sleeping at the institution, go to sleep at their own homes. This involves electronic tagging or other sufficient control mechanisms and there is no obligation other than to be present at the institution during the period determined in their treatment programme for the purposes of attendance control, activities and meetings with the person responsible for tracking them.

Parole is regulated by articles 90 ff. of the Penal Code. Article 192 of the prison regulations states, "Third grade prisoners who meet the other requirements established to this end by the Penal Code must serve the rest of

their sentence on parole in accordance with the stipulations of said Code and in accordance with the calculation of time established". Eligibility for parole may be achieved having served 3/4 of the sentence (article 192 of the prison regulations), or having served 2/3 of the sentence (article 205). Other forms of eligibility for parole are also contemplated for persons over the age of 70, persons with serious diseases, foreigners without legal residence in Spain, and Spaniards resident abroad. The prison regulations contemplate parole after 2/3 of the sentence has been served, but mentions only "good conduct" and having continuously participated in labour, cultural or employment activities. The implementation of the concept of "good conduct" has been facilitated by the adoption of common criteria by all centres in order to ensure that all cases are dealt with fairly. Parole is authorised by the prison surveillance judge on the recommendation of each establishment's Treatment Committee. Generally, the recommendations made to the prison surveillance judge with regard to parole after 2/3 of the sentence has been served are accepted, and parole is granted. One of the conditions for parole is the prior fulfilment of restitution, a condition that in 80% of cases is met without difficulty. The number of people who have their parole revoked is very small and studies on re-offending indicate that this is much lower than cases in which definitive freedom is obtained without previously having experienced a period of parole.

4.5 Care and after-care outside the criminal justice system

Released prisoners have the right, in some cases, to receive unemployment benefit for a maximum period of 18 months, and people who have never worked before have the right to receive a prisoner's release subsidy for a period of 6 months. In the case of people who find themselves in especially difficult circumstances with regard to becoming rehabilitated in society, the prison service Social Services Sections may agree on a personalised employment plan aimed at mitigating the most urgent needs and at accompanying such a person for a brief period of time during the first phase of the transition to life in liberty. Such people are often without fixed abode, have no kind of social bonds and, in many cases, are of foreign origin.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Finances

All the services described both those that form part of the administrative structure of the Generalitat de Catalunya and those that provide services through collaboration agreements or service contracts are financed through the budget of the Department of Justice of the Catalan government. The budget for social services in the field of justice (social workers and other professionals such as psychologists, teachers, administrative staff, etc.) who perform the tasks of advising judges and courts, mediation, care for victims, and the implementation of the community-based sentences, are shared amongst the budgets of the two directorates general that depend on the Secretariat for Prison Services,

Rehabilitation and Juvenile Justice: the Directorate General for Community Sentences and Juvenile Justice and the Directorate General for Prison Regime and Resources. Part of the budget of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice itself is also earmarked for financing the agreements and contracts with local authorities and the not-for-profit organisations that provide services with regard to the serving of sentence and social rehabilitation. The financing of these NGO's is covered by the Secretariat according to the program (training, treatment, etc) they deliver and the number of clients dealt with. The global 2006 budget for bodies and services grouped together within the structure of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice was €233,947,674, of which approximately 12.5%, according to various estimates made by the Department of Justice's own financial administration services, can be attributed to the actions taken as a whole with regard to the implementation of non-custodial sentences, technical consultation for judges and tribunals, mediation, Centres for Victims of Crime and the social and employment rehabilitation programmes for prisoners and former prisoners.

5.2 Accounting

The financial administration of the economic resources devoted to the various programmes and services applied in the field of the serving of sentences within the community is not differentiated from the rest of public administration services. There are a number of mechanisms for controlling expenditure, and these are applied by the public administration itself through the Department of Justice General Auditor, as well as by external auditing by the Audit Tribunal (Sindicatura de Comptes), whose task is to inspect the public sector's economic and financial administration and then present its reports to the Catalan Parliament.

5.3 Registration systems and evaluation procedures

All the services and programmes employ data collection systems, on one hand for staff activities through activity sheets and clocking systems, and on the other for the target population of the various programmes (legal and administrative nature, such as petitions, court orders, periods for compliance and the submission of reports; as well as personal and social data). Instruments are also in place to systematise the intervention that is carried out during the serving of sentence as well as to evaluate the processes and the results with regard to the aims set in each case.

There are four data bases which are maintained by the two directorates general of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice: juvenile jurisdiction, the serving of sentence within the community, Centres for Victims of Crime, and prisons. The databases are used only as support for the administration of the various programmes and services, the consultation of files and the generation of documentary and statistical support. The databases are also used, as are other appropriate instruments, in the drafting of the annual reports, for evaluating the various programmes and, occasionally, for study and research.

The Strategic Projects and Planning division of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice publishes a weekly statistical bulletin which provides information of a general nature about all the activities taking place, and every six months a bulletin is published which, apart from the activities taking place, also provides information concerning the client population as a whole throughout the various jurisdictions (kind of sentence, crimes, sex, age, nationality, participation in treatment programmes, training and employment programmes, etc.). With regard to the databases, it should be mentioned that Spanish law allows the interested party to exercise their right to access the information, correct it or erase it. The interested parties, or their legal representatives, have access to the administration's public archives with the exception of information that must be excluded on the grounds of security or the protection of third parties' rights to privacy.

5.4 Societal support and clients' views

In 2004 the Social Participation Board was established in the penal and penitentiary field as a working group for consultation, dialogue and consensus between the administration, collaborating bodies and voluntary penitentiary and rehabilitation services. The aim of the Social Participation Board is to study and discuss questions and initiatives of common interest and to improve the coordination between social initiative organisations and the administration in the field of serving sentences. Its functions are defined in the Social Participation Board foundation document of 17 November 2005 and consist of:

- providing information to, and opening participatory process with, the Board's social members with regard to all those strategic aspects of penitentiary activity that are relevant to its work,
- evaluating the functioning of, and making proposals to improve, in general terms, the channels of communication that define the collaboration relationship between the two parties, and
- proposing joint strategies to facilitate the raising of awareness about the social and rehabilitating dimension of prison policy.

The Social Participation Board is made up by the heads of the various divisions of the Secretariat for Prison Services, Rehabilitation and Juvenile Justice, six representatives of the collaborating bodies and four representatives of the volunteer bodies in the field of sentence enforcement. Since the opinion poll carried out by Soria Verde, M. A. and others in 1995 about reactions to alternatives to prison in Catalonia, no further polls have been held to gauge the opinion of citizens and users of alternative penal measures. There have, however, been various studies of the victim-offender mediation programmes by Martin, J. (2000) and Vall A. (2003) in which users were asked to evaluate the satisfaction of the victims, the way both sides were treated, the neutrality of the mediators and the confidentiality of the mediation process. In all the parameters studied these studies have produced highly positive results.

6 PROBATION CLIENTS' RIGHTS

The judicial authorities supervise the enforcement of sentences in the community, and therefore the rights of people subjected to such measures. This usually means supervision by the judge of the juvenile court, by the sentencing court or by the prison surveillance judge, who:

- approves the personalised intervention programme which must, necessarily, be proposed by the person responsible for implementing the measure;
- receives regular information, in accordance with the stipulations laid down by law, about the progress made by people subjected to such judicial measures, and
- may, at any time, request information about any aspect concerning the implementation of the measure;
- a second level of supervision of people's rights is provided by the administration's self-evaluation:
- firstly, the supervision of the administrators themselves; the various Services carry out constant observation and evaluation. Should enforcement be the responsibility of a private entity, the Collaboration Agreement expressly establishes the creation of a tracking committee to supervise the performance of the agreement;
- secondly, there is, within this second level of self-evaluation, an Inspection Service.

The Inspection Service is an organ attached to the Secretariat for Prison Services, Rehabilitation and Juvenile Justice and is therefore independent of the various administrative units that might be the object of inspection.

In the field of juvenile justice both Organic Law 5/2000 on minors' penal responsibility, together with its Regulation, and the Catalan Autonomous Law on Juvenile Justice, Law 27/2001, carefully regulate the existence and functions of the Inspection Service. In the field of adult jurisdiction the Inspection Service is also contemplated in the General Penitentiary Organic Law, although traditionally the area to which it has devoted special attention has, until now, been the observance of custodial measures in ordinary or closed regimes. Nevertheless there have been regular inspections or evaluations, either for fact-finding or to guide administrative proceedings on ways of enforcing sentence in semi-liberty or in the open regime. With regard to serving alternative sentences, in 2007 the Inspection Service commenced an in-depth evaluation of juvenile justice decisions, mainly with regard to the procedures for enforcement and observance of the law and the guarantees for young people subjected to such measures. There is a formal complaining procedure established for those who are executing prison sentences (including those who benefits from an open regime), but not for those who are sentenced to community sanctions. In these cases they can complaint directly in front of the administrative bodies or the judiciary. The Ombudsman has also special competencies for security and prison complaints (including probation).

7 NEW DEVELOPMENTS

The Penal Enforcement Plan (Pla d'Execució Penal) 2007/2010 establishes the core strategies, aims and actions of the various organs that make up the

Secretariat for Prison Services, Rehabilitation and Juvenile Justice. Notable amongst them are:

- to strengthen the generalisation, diversification, specialisation, individualisation and grading of the intervention programmes in order to facilitate the social and employment rehabilitation of sentenced persons and to equate the health and education services they receive with those provided for the rest of the population, within a framework of respect for cultural, religious, ideological and personal diversity;
- to stimulate the development of the various means of serving sentence in the open regime and to promote alternative sentences, mediation and reparation processes and victim care, within the framework of a programme that seeks to improve its administration and widen its network of internal and external resources in order to implement the programme within the community, and thereby enhance the process of rehabilitation;
- to strengthen human resources development policies and their commitment to the mission, values, principles and aims of sentence enforcement;
- to promote the mechanisms that enable greater institutional and social collaboration and participation through policies and actions in concert with the public authorities and the social fabric, to promote social and employment rehabilitation;
- to strengthen the quality and evaluation of on-going administrative improvement plans and to implement the programming, planning and tracking methodology laid down in the Government Plan;
- to promote such regulatory and legal proposals as may be required to adapt methods of serving sentence to the realities of the situation in our country.

With these core strategies, the Penal Enforcement Plan focuses on the aims and actions that are needed to develop a new model for the administration and enforcement of sentences in the community, and for victim care. In large measure this will be based on the creation of the Catalan agency for the serving of sentences in the community. This Agency, (a publicly owned company) is intended to be the Department of Justice's own service, equipped with the juridical and financial instruments, and the human resources and materials, needed for enforcing sentences in the community and with the capacity to coordinate the various public and private operators in pursuit of this mission.

Amongst other actions foreseen for this period in the field of serving sentences in the community, the following deserve mention: promoting the development of parole programmes; strengthening the network of public and private bodies and organisations that support alternatives to prison; participation in the drafting of a new Organic Law regulating the enforcement of alternative sentences; promoting evaluative research; strengthening human resources in all areas of administration and intervention; raising the public's awareness about the serving of sentences in the community and victim-offender mediation; improving the educational programme and the establishment of knowledge administration groups; and the improvement of data control tools.

8 IMPORTANT PUBLICATIONS

R.M. Pérez Pablo, *Probation and Probation Services, a European Perspective, Spain*, chapter 18, pp 495/520, in A.M. van Kalmthout and J. Derks, *Probation and Probation Services, a European Perspective*, 2000, WLP, Amsterdam

This is a chapter from the previous edition of *Probation and Probation Services* in which the author describes the Spanish legal framework and the model for serving sentences in Catalonia.

J. Cid Moliné, E. Larrauri Pijoan (eds.) *Jueces penales y penas en España: aplicación de las penas alternativas a la privación de libertad en los juzgados de lo penal*, Tirant lo Blanch, Los Delitos collection, 2002, Valencia

J. Cid Moliné, *Reincidència comparativa entre penes: són les penes alternatives més efectives que la presó en l'evitació de la reincidència?* CEJFE, 2007, Barcelona

J. Marin Barberan, *La aplicación de sanciones y medidas en la comunidad en Catalunya, Europa y Estados Unidos*, Rev. del Poder Judicial, No. 58, pp. 213/260, CGPJ, 2000, Madrid

In this chapter the author analyses the development of the enforcing of penal sanctions in Catalonia since the coming into force of the Spanish Penal Code in 1995. Mention is made of the need promote public policies to enable the application of the new range of sanctions in Catalonia, and also to the experience gained in the field of victim-offender mediation. The article includes a brief description of the laws and practice of various European countries and the USA.

J. Marin Barberan, *Juvenile penal mediation in Spain: the experience of Catalonia*, pp. 347-371 in A. Mestitz and S. Ghetti, *Victim-Offender Mediation with Youth Offenders in Europe*, Ed. Springer, 2002, Dordrecht

In this chapter the author presents the legal and material possibilities for applying juvenile mediation in Spain and describes the elements that characterise the juvenile mediation model in Catalonia. The author describes the context that made juvenile mediation possible in 1989 and the way it developed until it became one of the main mechanisms of social reaction to crime and one of the characteristics of the juvenile justice system in Catalonia.

C. Villacampa Estiarte, N. Torres Rosel, M.E. Luque Reina, *La Reincidència en les penes alternatives a la presó a Catalunya*; CEJFE, 2005, Barcelona

N. Torres Rosell, *La pena de trabajos en beneficio de la comunidad: opinión de los sujetos implicados en su aplicación y ejecución*, "Revista general de derecho penal", No. 4, 2005

There is also a wide range of research published by the Centre d'Estudis Jurídics i Formació Especialitzada - CEJFE (Juridical and Specialised Training Study Centre) in all areas of Law and the enforcement of sentences in the community as well as about experiences in victim-offender mediation, the cost of criminal

justice, re-offending, victimisation surveys and so forth. The results of this research are published regularly in the statistical journal Justidata and in the research survey bulletin, Invesbreu.

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ANNEX 1

Criminal Statistics

1 Input offender statistics

Table 1.1 The number of offenders sentenced to different sanctions, custodial and non-custodial

	2004	2005	2006
Adults jurisdiction			
Presentence programs			
Technical Advising reports to the Judiciary	1638	1778	2008
Victim-Offender Mediation	201	413	452
Measures			
Community Service Orders	443	1443	3134
Suspended sentences	683	1124	2073
Treatment programs (Security measures)	642	717	787
Custodial sentences			
Conditional release	1128	1206	1250
Open Regime	3012	3042	3196
Ordinary regime	10451	10725	11376
Minors jurisdiction			
Presentence programs			
Technical Advising reports to the Judiciary	5812	5825	6161
Victim-Offender Mediation	1824	2285	2487
Measures			
Community Service Orders			
Supervision (probation)			
Educational activities	3931	4195	4404
Treatment programs			
Custodial measures	940	1038	1007

2 Average offender population statistics

Table 2.1

31 December of every year	2004	2005	2006
Adults jurisdiction			
Presentence programs			
Technical Advising reports to the Judiciary	125	135	105
Victim-Offender Mediation	27	64	45
Measures			
Community Service Orders	189	858	1728
Suspended sentences (Obligations for treatment or training programs)	462	724	1212
Treatment programs (Security measures)	412	445	459
Custodial sentences			
Conditional release	629	676	698
Open Regime	1596	1588	1721
Ordinary regime	6498	6717	7249
Minors jurisdiction			
Presentence programs			
Technical Advising reports to the Judiciary	239	253	204
Victim-Offender Mediation	315	461	543
Measures			
Community Service Orders	328	322	305
Supervision (probation)	853	1011	942
Educational activities	75	81	74
Treatment programs	55	82	70
Custodial measures	233	238	249

3 Staffing statistics

Table 3.1 Numbers of staff engaged in probation work

	Staff ¹⁰	No. of cases	Average caseload
Adults jurisdiction			
Deputy Direction General of Alternative Measures	14		
4 Teams of Technical assessment and victim offender mediation	44	2460	56
8 Teams of Execution of alternative measures	89	5994	67
5 Victim Support Offices	25	5562	226
Service of Open regime and social work	9		
Sections of social services	62	4446	26
Centres and Open Sections	111		
Minors jurisdiction			
Service of Technical assessment and victim offender mediation	13		
8 Teams of Technical assessment and victim offender mediation	79	8648	109
Service of execution of measures	10		
9 Teams of execution of measures in the community	84	4404	49

¹⁰ This figures includes all the personnel involved (chiefs, coordinators, professionals and administrative staff). To consider only the average caseload of the professionals it's necessary to increase around 20 % the figures of the column "average caseload"

