



# ALTERNATIVES TO CUSTODY FOR YOUNG OFFENDERS

NATIONAL REPORT ON JUVENILE JUSTICE TRENDS

Sweden



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## A. Juvenile Justice

Since the beginning of the 20th century, Sweden has had a praxis of treating young offenders differently from older ones. The system has been fairly stable over time and rests, to a large extent, on the principle of rehabilitation. Even if rehabilitation is emphasized, as in the other Scandinavian countries, sentencing is intended to reflect the values of both justice and welfare (Junger-Tas, 2006). All of the Scandinavian countries embrace a long-standing welfare principle. However, contrary to most Anglo-Saxon countries, in Scandinavia juvenile offenders are tried and, if found guilty, convicted by the same courts as adults. The age of criminal responsibility is fifteen years of age. In keeping with the welfare principle, special policies apply to young offenders, including waivers against prosecution, restrictions on prison sentences, and handing over offenders to the local social services (Hollander & Tärnfalk, 2007). In Sweden, the social services also play an important part in the court procedure for young offenders as they can be requested to describe the child's situation during the trial of a juvenile offender and to specify the child's needs in a written statement to the prosecutor of the criminal court. If the young offender is assessed as being in need of receiving some form of care the statement should also include a clear description of what kind of measures he or she will receive if, after conviction, he or she will be referred to the social services (Tärnfalk, 2007). Over the years questions have been raised regarding the appropriateness of the social services' being responsible for measures targeting convicted young offenders and it has frequently been argued that this responsibility should be removed and given instead to the courts. The government has still not acted on these requests (Junger-Tas, 2006). In addition, even if there has been a clear change in a more punitive direction, the rehabilitative focus is still strong (Hollander & Tärnfalk, 2007). The criminality of young offenders is regarded primarily as a social welfare problem (Sarnecki & Estrada, 2006).

However, the strong emphasis on treatment in the Swedish justice system has been criticized, both for its lack of scientific evidence that the treatments provided are effective and for the lack of legal transparency and its questionable fairness (Sarnecki & Estrada, 2006). Even if research over the last two decades has produced growing evidence that the treatment of young offenders actually may work, there is still no evidence that efficient

measures are administrated by the Swedish social services. In Sweden, as in many other countries, there is an ongoing debate about the existence of better ways to deal with young offenders. The most recent change took place in 2007, when community-based rehabilitation (“ungdomsvård”) became more clearly reserved for those in presumably well-documented and undisputable need of rehabilitation (Swedish Government Official Reports, 2004). This change was based on the assumption that there was a group of young offenders who were referred to the social services for rehabilitative measures without having any particular rehabilitative needs (before 2007, the term for this measure was “överlämnande till vård inom socialtjänsten”). With the changes in 2007, the measure that was restricted to providing solely rehabilitative interventions became reserved for those who have more apparent needs.

During 2005 and 2006, 2,624 and 2,775 young offenders respectively were referred to the social services for care, according to the criminal records from the National Council for Crime Prevention. After the introduction of the new law in 2007, there were 1,589 court referrals, and in 2008 the number was reduced to 1,447 young offenders referred to the social services following court procedures. As criminality is registered by the National Council for Crime Prevention and the register for the social services is organised by the National Board of Health and Welfare, it takes a certain amount of detective’s work to track down the ‘measures’ that have been assigned to a given young offender. From earlier studies of Swedish court orders, however, it can be stated that the most common measures for convicted young offenders are counselling, mentoring, different kinds of rehabilitative programmes and various forms of out-of-home placement (Brå, 2002, 2005). In 2004, the single most common measure was found to be attending rehabilitative programmes (Brå, 2005).

## **A.1. Please describe the legal framework and the main characteristics of the juvenile justice system of your country.**

### **A.1.1. Is there a special law or code regarding juvenile justice?**

In Sweden the responsibility for handling young people is shared by the social authorities and the judicial system. In the Swedish language there is no equivalent concept for “juvenile delinquent”. Instead they speak of juvenile criminality. The system does not formally recognise status offences. Such behaviours are dealt with through social welfare measures. All juvenile crime falls under the special law (1964:167). The idea of the law is, on one hand, to protect the juveniles from interfering with criminals and facing harsh prison conditions, and, on the other hand, to promote them to a decent future life free from criminality.

By law, juveniles receive special consideration when found committing a crime. Social authorities, rather than the police, handle youth under the age of 15. Criminal responsibility begins at age 15. Over 80% of all juvenile crimes do not end in prosecution

but instead are dealt with informally, such as by cautioning. However, its use varies considerably throughout the country. Nearly 50% are resolved through the use of day fines without a trial procedure being used. Fewer than 10% of young delinquents are placed on probation. The Swedish model is more treatment-oriented than most Western countries.

### **A.1.2. Which courts and other special authorities are responsible for the reactions of juvenile offending (criminal courts, specialised juvenile criminal courts, family courts, special prosecutors, police etc.)?**

In Sweden the responsibility for responding to crimes committed by young people is shared by the social services and the judicial system (Sarnecki 1991; SOU 1993). The extent to which the judicial authorities and the social services share responsibility for the response to crimes committed by young people is mainly dependent on the age of the offender.

- For those below the age of fifteen, the main responsibility for the response to crime lies with the social services.
- For those aged between fifteen and seventeen (and in certain cases up to the age of twenty), the responsibility is divided between the social services and the judicial authorities.
- From the age of eighteen to twenty, the responsibility lies mainly with the judicial authorities.

#### **1) The Police**

The Swedish justice system functions on the basis of the legality principle, which means that the police and other agencies within the justice system are obliged to intervene where the legal criteria that serve to define a criminal act are fulfilled. At the same time, however, the system allows for a large number of exceptions to this rule. In practice, therefore, as is the case in many other countries, the Swedish police have a large amount of discretionary power. When the police discover that a minor offence is being committed, their efforts are often limited to an order to cease and desist. If this is sufficient to stop the improper behaviour, the police do not report the matter. According to the legislation, the police have the right in certain cases to direct young offenders to repair the damage caused by their criminal acts. If the offender complies, the offence is not reported. In 1990, however, certain restrictions were introduced in relation to the police's right to exercise discretion in relation to the reporting of offences (RPS FS 1990:3).

According to Swedish law the police shall prevent, discover and investigate crimes. If a crime has been reported, the official task of the police is to investigate who committed the crime. As in most western countries, the police in Sweden have a low success rate (approximately 20 percent) when it comes to clearing up traditional crimes. This is true both for crimes committed by juveniles and those committed by adults. Nevertheless

the police, and in particular those police who work with juvenile crimes, are familiar with most of the highly criminally active juveniles within a police district. The criminal activities of these young people are so extensive that even given the low risk of discovery, they will become the subject of a police investigation at some time or other. Furthermore, the police obtain substantial knowledge about the more active juvenile offenders through contacts with and interrogations of other juveniles, neighbourhood police work and other police activities.

In normal cases, the police is expected to investigate crimes committed by young people over the age of twelve, but such investigations are supposed to be carried out in collaboration with the social services. The principal objective of an investigation of this kind is to investigate the need for social measures. By law the police have the right to investigate crimes committed by younger children only in special cases. In addition, the last decade has witnessed a certain shift in praxis, such that schools, for example, have become more inclined to report offences committed by relatively young pupils to the police (see Table 1 above). The social services, however, still have the right to request that specific criminal investigations be suspended when they relate to persons under the age of fifteen.

Most investigations of juvenile crimes are relatively simple since the crimes committed by young people are usually not of a particularly serious nature. By law, the police are required to show great respect and care in their interrogations of juveniles. Parents and/or representatives of the social authorities should in most cases be present during an interrogation.

In different parts of Sweden the juvenile crime investigation issue has been resolved organisationally in variety of ways. In some areas, special units have been established which specialise in crimes committed by juveniles, or in some instances even certain types of juvenile crime, such as mugging. In other areas, the less serious offences committed by juveniles are investigated by local community police officers whilst investigations into more serious offences are transferred to the central criminal investigation departments at the police district level. Irrespective of the way in which the police organise investigations of juvenile crime internally, this work always takes place in collaboration with the local social services.

If a suspect is under the age of 15, the police turn over the results of their investigation to the local social services. If the suspect is older than 15 the results of the investigation are turned over to the prosecutor. However, if the suspect is under 18, the social services are usually informed.

## **2) The Prosecutor**

According to current legislation, the police are to have a prosecutor assigned to an investigation if the offence is not of a “straightforward nature” and where there is a suspected offender aged fifteen or older involved. In certain cases the prosecutor is the head of the formal investigation. The prosecutor is also responsible for deciding whether

the suspect should be arrested and whether an application should be made to a court for a detention order. However, neither arrests nor detention orders are utilized very often in relation to offences committed by juveniles. For an individual aged fifteen to seventeen to be detained during an ongoing investigation, the law requires “exceptional cause”. One of the prosecutor’s important tasks is that of deciding which measures should be taken regarding the suspect once the police investigation is finished:

- Should the preliminary investigation be discontinued?
- Should the prosecutor issue a prosecution waiver?
- Should he issue a summary sanction order?
- Should he prosecute the suspect in court?

A preliminary investigation may be discontinued, for example, if it turns out that the act committed by the individual did not constitute a crime. The prosecutor may also find that the evidence is insufficient to warrant prosecution.

A waiver of prosecution still constitutes a relatively common form of decision taken by prosecutors in Sweden although its use has decreased substantially since the mid-1980s. This waiver means that the guilty party will not be subjected to any further measures by the legal apparatus (on the condition that they do not commit any further offences) as a result of the act. However, the act will be considered a crime and will be recorded as such in the register of convicted persons. The prosecutor may issue a prosecution waiver in regard to less serious crimes but only if the suspect has admitted to the offence. In the absence of an admission of guilt, the matter must be tried by a court.

The Swedish Young Offenders Act (LUL) gives prosecutors broad powers regarding the issuance of prosecution waivers when a suspect is below the age of 18, and in certain cases up to the age of 20. The rules are much more generous in relation to young people than older people. But the prosecutor may revoke a prosecution waiver if the young person returns to crime. In the legislation from 1988 on young offenders, the prosecutor’s power to revoke such decisions was extended. The provisions regarding prosecution waivers were also made more formal and were to some extent given the form of a formal caution issued by the prosecutor to the juvenile and his parents. A further legislative change in 1994 (SFS 1994:1760) produced a situation whereby waivers of prosecution may in principle no longer be used for youths who have previously been registered in connection with offences.

Before a prosecutor issues a waiver of prosecution to a person under the age of eighteen, he often obtains an opinion from the social services if the offence is of a serious nature. When such a decision is issued it is often combined with the condition that suitable measures are to be undertaken by the social services. Prosecution waivers are issued only in extremely rare cases in relation to violent crimes or vandalism.

Another option available to a prosecutor is to determine the sanction for a crime himself. The conditions for the prosecutor to be able to issue a summary sanction order are similar to those for a prosecution waiver: the crime must be relatively minor and the suspect must have confessed. In addition, the suspect must have accepted the size of the sanction. Summary sanction orders may be issued only in the form of day-fines, where the number of days is determined by the seriousness of the crime while the size of each day-fine is determined by the guilty party's economic circumstances. Approximately 33% of all the entries into the police register involve summary sanction orders. Among the youngest youths (i.e. those aged fifteen to seventeen), the proportion is somewhat higher, at 37 per cent.

Finally, as was mentioned above, the prosecutor may decide to prosecute. Of the fifteen to seventeen year olds who were convicted of offences in 2001, 61 per cent received these convictions in the form of a prosecutor's decision, whilst 39 per cent were convicted by a public court, having been indicted by the prosecutor. The corresponding proportions for eighteen to twenty year olds were 51 per cent and 49 per cent respectively. Thus the majority of the younger youths and approximately half of the older ones are convicted by means of a prosecutor's decision. By contrast, fifteen years ago a significantly larger proportion (83 per cent) of fifteen to seventeen year olds were convicted by means of a prosecutor's decision, as were 61 per cent of the older group. Thus a considerably larger proportion and number of youths are today indicted for their crimes in a public court, whilst at the same time, the proportion and number of young people being convicted by means of a prosecutor's decision has fallen substantially.

### **3) The Swedish Court**

When a prosecutor decides to prosecute an individual, his guilt and any possible sanction will be determined by the court. Of the approximately 4,600 juveniles aged fifteen to seventeen convicted annually by the courts in Sweden, 47 percent are sentenced to day-fines (the same type as can be decided upon by a prosecutor). A similarly common court-imposed sanction regarding juveniles involves being delivered into care in accordance with the Social Services Act. The proportion of sentences of this kind has doubled since the mid-1980s (see also Granath 2002); the number of juveniles given a sentence of this kind has increased almost fourfold. This sentence means that the court transfers the responsibility of finding a suitable measure for the guilty party to the local social services board.

Approximately eleven per cent of all registered offenders in Sweden are sentenced to prison. Prison sentences are employed very rarely in Sweden for persons who have not yet reached the age of 18. Up until 1999, approximately 60 individuals per year aged under eighteen at the time of their offences were sentenced to a prison term, whilst a further 25 or so were sentenced to a special form of probation that begins with a short stay in prison. Since the introduction of the new youth sanction 'secure youth care' in 1999, only very few persons under the age of eighteen (to date no more than four per year) have been sentenced to prison. Individuals in this age group are today in principle only sentenced to a prison term if they are of an age such that the length of a sentence to

secure youth care would extend beyond the date on which they turned 21 years of age.

The fact that so few young persons are sentenced to prison shows that the intention of the new Act, i.e. to minimise the number of youths sitting in prison, has been achieved. The new sanction does in fact involve young people being sentenced to a fixed term sanction (which, according to the intentions of the Act, should be of approximately the same length as the prison term for which one would be sentenced as a young offender, usually approximately half the length of the sanction that an adult would have received for the same offence) but is served in an institution established for the care of young people (here referred to as a youth care facility). These are the same institutions where youths are placed in compulsory care by the social services (see below). These institutions are focused on the treatment of young people and have a staff to 'inmate' ratio approximately three times that of prisons (approximately three staff members per youth in care). Over the course of 2000 and 2001, approximately 100 youths have been sentenced to the new sanction each year (of which approximately 85 per cent were aged between fifteen and seventeen at the time of the offence, whilst the remainder were over the age of eighteen). This constitutes a slightly higher number than those who were sentenced to prison (including probation with a prison term) prior to the new Act coming into force. In addition, the introduction of the secure youth care sanction has led to longer custodial sentences. Youths sentenced to prison prior to 1999 served an average sentence of approximately 5.4 months. Youths sentenced to the new sanction, on the other hand, spend an average of 9.5 months in custodial care (Brå et al 2002; Kuhlhorn 2002).

The other sanctions which a court can use in sentencing minors are:

- Suspended sentences (approx. 1% of convicted persons aged 15 to 17, and 13 % of those aged 18 to 20, were given this sanction in 2001) and,
- Probation (without prison) (approx. 1 % of convicted persons aged 15 to 17, and 11 % of those aged 18 to 20, were sanctioned in this way in 2001).

Certain of the sanctions presented above may be combined with each other or with other forms of sanction. Thus probation may for example be combined with contractual care or community service. Combinations of this type are rare, however, for young persons under the age of eighteen. On the other hand, surrender into the care of the social services may be combined with the sanction youth service, which comprises community service specifically adapted to younger people. For approximately twenty per cent of the fifteen to seventeen year olds sentenced to care within the social services, the sanction is combined with youth service in this way. In rare instances, youth service is also applied in combination with probation for young people over the age of eighteen. Fines may also be awarded in combination with other sanctions. Finally, young people are in rare cases sentenced to psychiatric care. This sanction is however extremely rarely used in relation to the youngest age group.

#### **4) The Social Services**

The social services do not have the task of punishing young people for their crimes. Therefore, when the social services make a decision regarding a measure suitable as a response to a criminal act, the decision should be based solely on the young person's social situation (if an individual has a serious history of criminality, that is naturally included in the overall picture of his social situation). Swedish law places the entire responsibility for responding to crimes committed by individuals under the age of 15 on the social services. Thus the criminality of this group is regarded as a social welfare problem.

Accordingly the measures of the social services aim to help the young offender out of the social situation that is causing him/her to commit crimes. The measures vary substantially, depending on which factors are deemed to be causing the individual's delinquency. Several years ago there was a heated debate in Sweden about whether or not the social services should have the right to undertake coercive measures with regard to their clients. The opponents of coercion thought that if the purpose of the social services was to help an individual, then it could hardly be done against the individual's will. It was also feared that the social services' right to use coercion would make the development of confidential contacts between social workers and clients impossible. The supporters of coercive measures felt that in certain cases, e.g. extensive drug abuse or substantial antisocial behaviour by young people, coercive measures were necessary, at least at the beginning of the treatment process.

The compromise that was finally reached came to mean that the use of coercive measures was limited greatly in the social legislation. In the Social Services Act (SoL) there are no coercive measures at all. This Act, which in most cases is also applicable to young offenders, states that those measures which have the aim of removing the causes of an individual's criminality are to be undertaken in terms of cooperation between the individual himself, his parents and the social services. Regarding individuals with minor criminal histories, these measures are usually limited to one or a series of talks with the young offender and his parents. If it becomes apparent through these talks that there are serious problems in the home (economic problems, internal conflicts, etc.), an attempt will be made to resolve these problems. The family then is then given certain opportunities to receive economic support, therapy, a contact person and other forms of support. In certain cases the family may get a social worker who can meet with them at home over a longer period in order to help the family members resolve various problems (e.g. the family's economic planning, their leisure time problems, and conflicts in relations).

In cases of extensive antisocial behaviour that constitutes a threat to a young person's ongoing development, a law containing coercive measures known as the Act with Special Provisions on the Care of Young People (LVU) may be utilised. Another law containing coercive measures which can be used by the social services is the Act on the Care of Drug Abusers in Certain Cases (LVM). The rules governing when an individual may be forcibly taken into custody for the purposes of social services care are very restrictive. According to the Social Services Act (1982) the local social welfare boards have the right to decide about taking a child or young person into custody for social care. These boards,

which are made up of local politicians and reflect the political party breakdown at the local government level, have been established by law in every Swedish municipality. In the larger municipalities, additional local boards have been set up. All decisions on custody for social services care made by these boards must be approved by a county administrative court. These courts have an organisation which is completely separate from that of the criminal courts. Decisions arrived at in the county administrative courts may be appealed to higher courts.

In approximately 2000 cases per year, the social services arrive at a decision to place a young person outside of the family home. In the majority of these cases (approximately 80%, see Table 3), the decision relates to voluntary care in accordance with SoL. The young person is usually placed in a family home or a so-called home for residence and care (HVB). HVB placements are also used relatively often in relation to compulsory (LVU) placements. (In 33% of compulsory care orders, the young person is placed in a HVB home). The most common form of placement used in connection with compulsory care orders is placement in a youth care facility. Unlike the other institutions, these facilities have the right to use compulsion to keep the youth in place, and they often have secure units. In addition to placements in accordance with LVU, and in rare cases SoL, youths sentenced to secure youth care are also placed in these institutions (see above). Thus both youths placed in care in accordance with LVU and those sentenced to secure youth care are given compulsory care at these institutions. The difference is that youths in the LVU group are placed in these institutions by the social services (once the care order has been confirmed by the county administrative court) and are discharged in accordance with a decision reached by the social services which must however be re-examined every six months, and which may in this context be appealed in the county administrative court, whilst those sentenced to secure youth care are placed in these institutions by means of a court sentence and stay throughout the term of this sentence.

It is common that young people who have been placed in youth care facilities by the social services or by the courts are there for the same reason – i.e. involvement in crime. The social services may however also take a decision to issue care orders and place youths in institutions (although not usually youth care facilities of this kind) as a result of other problems experienced by the young person, such as the parents' inability to look after the young person and different forms of behavior which are self-destructive but not criminalized.

## **5) Other institutions**

In Sweden, just as in other countries, there is a strong correlation between behavior in school and criminality as well as other forms of deviant behavior, both in the teenage years and in adulthood (Sarnecki, 1986, 1987; Ring 1999). Swedish teachers recognize very well the symptoms related to a heightened risk for persistent criminality, alcohol and drug abuse, etc., even if not all teachers are conscious of how important these observations may be.

Schools usually have their own organisation for dealing with student problems. Many

schools have a school psychologist, a social worker (school curator) and medical personnel (doctor, nurse) attached to them. These personnel, along with those heading the administration of the school and certain teachers, constitute a student care team which, among other things, has the task of deciding how to react when students show symptoms of deviant behavior. Most schools also have teachers who are specially trained to take care of students with school problems, behavioral difficulties, etc. Initially schools try to resolve problems that arise by means of talking with the student and his parents. Another possibility open to schools is that of taking students out of normal classes and placing them in special education groups, where they may receive more support and be subject to more control. In certain difficult cases the students can be placed in special separate schools run by local school boards. The goal, however, is to separate students with adjustment problems as little as possible from other students and to make sure that they are kept in their ordinary classes to as great an extent as possible. In addition, according to current law, schools within the compulsory school system cannot completely exclude students from the educational system. Instead, students with serious problems among the older age groups are given the option of taking a part-time class schedule and working the rest of the time (without pay) at some workplace nearby. In such cases, the school is responsible for providing the student with suitable guidance.

In general, the school staff will initially try to resolve a student's behavioral problems themselves. The social services are usually not contacted until the measures put in place by school staff have been seen not to produce the desired results. Even though school personnel see their students' behavioral problems at an early stage, schools make relatively few reports to the social services. In Sweden, the level of cooperation between the social services and schools varies from municipality to municipality.

The social services and the schools are also supposed to cooperate with the mental health care authorities responsible for children and juveniles, which have an independent status in Sweden. Parents, especially parents of younger students with behavior problems, are often given a recommendation to make contact with this institution which offers various forms of individual, family and group therapy. However, contacts with the mental health care authorities are in principle voluntary and in most places they do not accept clients who are not clearly motivated regarding treatment. Sometimes the social services also utilise psychiatric experts to analyze young people with more serious behavioral disturbances. Certain young people with substantial criminality in their backgrounds can also be taken in for observation and in rare cases even for treatment in the county's psychiatric clinics for children and juveniles.

In the context of the debate on juvenile delinquency, the issue of leisure time is usually ascribed major importance. Sometimes juvenile criminality is simply defined as a leisure-time phenomenon. A significant portion of the leisure-time activities available to young people in Sweden are either financed or directly organized by public sector agencies. The financing of leisure activities for young people is provided through payments to an extensive number of organisations. It is estimated that at least half of the young people in Sweden are members of one or more organisations, most often sporting associations. In

many places, especially in some of the country's smaller cities, the degree of association membership is significantly higher. However, associational activity seems to a large extent to be characteristic for young people from socially well-functioning families and, accordingly, for young people among whom the risk of developing serious antisocial behavior is relatively low. The number of organisations that successfully recruit young people in the risk zone for criminality, and that may serve as an effective alternative to their antisocial network, is relatively small (Sarnecki, 1983, 1986).

As was mentioned earlier, the economic problems affecting Sweden at the beginning of the 1990s resulted in certain cutbacks within the public sector. The local authorities, which are responsible for schools, the social services and the leisure sector, have been forced to make savings and have done so primarily in areas of activity that are less well regulated in law than the social services. Amongst other things, substantial savings have been made in the area of leisure provision for young people and student care within schools. During the second half of the 1990s, as the economy has improved, more resources have once again been devoted to these sectors, but one has to work on the assumption that preventive efforts, not least within schools, are less comprehensive than they were previously. At the same time as the resources available to schools for social measures have been reduced, schools have turned to an increasing extent to the police for support in connection with criminality among pupils (Estrada 2001). Several local authorities have made policy decisions that all crime in schools is to be reported to the police.

**A.1.3. What is the scope (only criminal or also antisocial behaviour) of juvenile justice? How is the age of criminal responsibility regulated (please refer to the different age groups and include the legal definitions on “child”, “youth” and “young person”)?**

Over the entire 20th century, it was clear in Sweden that measures against juvenile delinquents should be separated from measures against adult offenders. As early as in 1902, several laws were passed which followed this line of thinking. Instead of prison, “forced care” was introduced for criminal youths between the age of 15 and 17. In 1935, the Act on Child Care was expanded to include young people between the age of 18 and 21. At the same time, youth prisons were established for young people who could not be treated within the social youth welfare system. Treatment in youth prisons was for an unspecified period of time, so that the time in prison was not set beforehand and was based on the needs of the young person and not on the act he or she committed.

After World War II, forced care was abolished and replaced by protective foster care in community homes. Prison sentences were limited even further for young people under 18. They were instead to be taken care of in the system for child care, not in the prison system. This change was connected to a growing realisation of the negative repercussions on young people living in institutions. Youth welfare was increasingly aimed at preventive

and supportive measures. Placing young people in institutions was reserved as a final measure. In the definition of “young offenders” in Sweden are offenders who have reached the age of 15 but have not yet turned 21. The age of criminal liability is 15, and 21 was previously the year in which one came of age. Today the age has been lowered to 18, but special circumstances still apply to offenders aged between 18 and 20.

When a person reaches the age of 15, he or she becomes criminally responsible. There are special regulations for young offenders, such as how the police, prosecutors and courts must handle the case. Youths can, for example, be served fines and prison sentences, but persons under the age of 21 are rarely given a prison sentence. The most common consequences are fines and discharge from prosecution when the case is closed. Those who have committed serious crimes and are under the age of 18 are almost exclusively sentenced to closed institutional youth care rather than prison.

In the 1950s, a rather optimistic view prevailed of the chances of treating juvenile delinquents. There was a shift to thinking in terms of treatment rather than punishment.

In 1965, a new penal code was introduced which gave great support to the way of thinking that favored treatment. Intervention against young people would be based on their personal circumstances. This meant that a more highly differentiated system of responses was developed. Youth prisons remained for young people who committed a crime for which the penalty prescribed was prison. Perpetrators also had to be between the ages of 18 and 20; only in exceptional cases were they under 18 or between 21 and 23. The time spent in youth prison continued to be unspecified. For young people between the age of 15 and 17, the goal was to keep them away from the criminal care system and instead take care of them through the child care system. Responses that tended to involve treatment were now grouped under a penalty named “commitment to special care”.

The treatment ideology underlying the penal code was criticised strongly from the very beginning. The debate focused on the lack of proportionality between the crime and its consequences. Given that the consequences were focused on the individual and not the crime, this opened the door for inhumane and unjust decisions according to some critics. It was further pointed out with growing frequency that treatment was ineffective. For an individual, it is humiliating to be locked in an institution no matter what name is given to this involuntary deprivation of freedom.

Thus by the end of the 1960s, the need for force and locking people up came under question. Positive effects could only be expected if the person receiving care was motivated by the treatment. Motivation was considered to improve if young people could be treated outside an institution. In the 1970s, there was thus a desire to avoid placing people in institutions and in forced care as much as possible. After a long debate, youth prisons were abolished in 1980. According to the new Social Services Act that entered into force in 1982, youth welfare would be based on voluntary commitment and mutual understanding. Forced care measures were allowed by the Act with Special Provisions on the Care of Young People (LVU). These forced care measures, however, should follow the

intent of the Social Services Act and also be based on what is best for the young person. Intervention should not be based on any interest to protect society or any similar aim.

Responsibility for community homes was now transferred from the state to the county council, and their name was changed from community homes to Special Approved Youth Homes. The reasoning behind the rearrangement was that care should be provided nearer to home so that contact with family and friends could be maintained and so that continuity in treatment would be easier.

In the second half of the 1980s several revisions were made in LVU with the aim of making the response from society faster and clearer. Demands for greater consequences, that is, increased consideration for the seriousness of the act, began to be made. A clear sign of the change in attitudes toward the role of the system of responses was given by the Commission on Prison Sentencing in 1989. The intervention of society is no longer justified based on the youth's need for care; rather, it is the seriousness of the criminal act that is the starting point in determining the consequences. Equality before the law and proportionality replaced voluntary commitment and mutual understanding as guiding principles.

In 1993, the Commission on Juvenile Crime (SOU 1993) presented its proposals for society's response to juvenile crime, which were essentially that there should be fixed, clear responses and that they should guarantee the citizen's protection under the law. The rules concerning the commitment of juvenile delinquents to social care were given a new form "so that punitively motivated requirements for predictability, consequence and proportionality are given more space". Criticism aimed at youth homes administered by the county councils resulted in the establishment of National Board for Institutional Care (SiS) in 1993. The following year, the state assumed responsibility for youth welfare in the special approved youth homes.

Today, SiS has responsibility for young people under 18 who have been sentenced to the new institutional care. The length of time for institutional care of young people is determined by the seriousness of the crime and is for no less than fourteen days and no more than four years. Punishment is intended to be for a limited time. The proposal means that institutional youth care will in principle replace prison sentences for juvenile delinquents under 18. Special circumstances are still required for young people between the age of 18 and 21 to be given a prison sentence as the consequence of their actions.

## **A.2. Please describe the sanctioning system regarding juvenile justice in your country.**

The main sanctions in the Swedish penal system include fines (issued by the prosecutor or by the court), probation, suspended sentence and imprisonment (or alternatively intensive supervision with electronic monitoring). These sanctions may be imposed in combination and may also be subject to special conditions, e.g. probation in combination

with community service or an order on undertaking to follow a treatment. Further sanctions include waiver of prosecution, psychiatric care and treatment according to the Act on Treatment of Drug Misusers.

Young offenders can be sentenced to special sanctions for young people, but also to other sanctions. The special sanctions youth care and youth service are based more on the best interests of the child and on the young person's social situation than on the penal value of the crime. Closed youth detention is, on the other hand, intended as an alternative to prison in the case of especially serious crimes, and is determined entirely on the basis of the penal value of the offence. In 2008, the total number of sentenced persons aged between 15 and 20 was 28,820, of whom 15,175 were between the ages of 15 and 17 and 13,645 between the ages of 18 and 20.

### **Youth care**

Youth care involves the handing over to the social services of young people deemed to be in need of care or other measures. The aim of the social services' measures should be to contribute to a positive development of the individual and to counteract the risk of further offences. When deciding what measures to take, the social services are to make an assessment of the young person's overall social situation and not only look at the crime. The most common measures today include talks, contact persons, placements in a family home or an institution, drug tests and measures in the family.

### **Youth service**

Youth service involves carrying out unpaid work for 20 to 150 hours under the auspices of the social services. The sanction, which was introduced as an independent sanction in 2007, is intended as an alternative to fines and deprivation of liberty for less than one year, primarily for young people between the ages of 15 and 17, and who are not in need of care under the Social Services Act. Young people aged between 18 and 20 can also be sentenced to youth service if there are special reasons for this. Youth care and youth service can be applied for offences at both fine and imprisonment level. The most common categories of crime receiving such sanctions in 2008 were assault and theft. Youth care and youth service require the consent of the young person concerned; youth care can, however, be enforced without consent in certain circumstances under the Act with Special Provisions on the Care of Young People.

### **Closed youth detention**

At the beginning of 1999, changes were introduced to the sentencing system for young offenders. A new feature was closed youth detention. Young persons who have committed serious crimes can be sentenced to closed youth detention at a special youth detention centre instead of prison. The aim is to reduce the detrimental effects of time spent in prison. The length of the sentence is determined on the basis of the penal value of the crime and can vary from fourteen days to four years, ten months being the average. There is no conditional release. In 2008, 93 persons were sentenced to closed youth detention. The most common offences were robbery/gross robbery and assault/gross assault.

Special sanctions for young offenders are used, in particular, in the cases of 15 to 17 year olds. Young offenders between the ages of 18 and 20 are primarily sentenced to sanctions coming under the ordinary system of penalties. Offenders in the younger age group are rarely sentenced to imprisonment, suspended sentences or probation. On the other hand, a far greater proportion of young people between the ages of 15 and 17 are given sentences of waiver of prosecution than 18 to 20 year olds. The offences involved here are primarily shoplifting and minor narcotic drugs crimes. A further distinction is that waiver of prosecution for the older young offenders is normally ruled on account of sentences for other crimes, while for 15 to 17 year olds it normally involves exemption from prosecution (Axelsson 2010).

## B. Restorative approach within juvenile justice

**B.1. Where do you see a restorative approach within the juvenile justice system (this questionnaire follows a process based definition of restorative justice)?**

**B.2. What are the types of restorative justice measures provided for juveniles (e.g. victim-offender mediation, family conferencing, circles)? Please also refer to their legal basis.**

**B.3. Do these restorative measures play a role in juvenile justice (sentencing) practice?**

**B.4. What are the main actors involved in delivering restorative justice measures (public institutions, NGOs...). Who bears for the costs of restorative justice measures?**

In Sweden, as elsewhere, restorative justice as a crime prevention measure has emerged and is gaining wide recognition among those working in the area of crime prevention. The main form of restorative justice applied to young persons is victim-offender mediation. It seeks to bring the victim and offender together to 'heal the wounds' that resulted from the criminal act. Lab (2004:278) notes that the shift in restorative justice is to make the victim a key actor in addressing the criminal act: "An underlying assumption that the offender can benefit or be 'repaired' by participating in the restorative process". An example of the restorative justice approach is victim-offender mediation. "Victim-offender mediation in Sweden is regulated by the Mediation Act (Medlingslagen 2002:445), which came into effect on July 1st 2002. The Act, which focuses primarily on young offenders, constitutes a piece of framework legislation and covers mediation organized by the state or by local authorities.

According to the Act, the offence must first have been reported to the police, and the offender must have acknowledged his or her guilt before mediation can be initiated. Participation in mediation is always voluntary for both parties. This is a necessary condition for a successful mediation meeting. Mediation does not constitute a penal sanction or an alternative to the regular justice system, but rather plays a complementary role. It is however possible for the prosecutor to take the fact that mediation has taken place into consideration in relation to the prosecution of young offenders" (Wahlin 2006).

The restorative justice process sees crime as harm done to persons; it violates interpersonal

relationships and justice must seek to restore the broken relationships. In Sweden, there is no restorative justice intervention in the young offenders' institutions (YOI's). Research has been conducted into the suitability of restorative justice approaches in YOI's.

Mediation with crime is a way of bringing perpetrators together with their victims in the presence of an impartial mediator. The theoretical point of departure for mediation is that perpetrators shall be given an opportunity to understand and take responsibility for the consequences of their offences. In addition, the opportunity shall be given for victims to work through the experience of being a victim, and for the immediate community to reinforce social control. The first Swedish project with mediation was started in 1987 in the town of Hudiksvall. There, a policeman seized the opportunity to bring young persons who had committed an offence together with their victims. In the same year, a voluntary mediation project was started in the Solna/Sundbyberg suburb of Stockholm. By the beginning of the 1900s a handful of mediation projects had been started in a number of municipalities.

In 1994, the government requested the Prosecutor-General to make a survey of the experience gained on carrying out mediation. The Prosecutor-General was also asked to work out one or more models for carrying out mediation with youthful offenders. The subsequent report stated that mediation can be developed as an alternative or supplementary sanction to be used primarily with youthful offenders. A model for such work was put forward together with a number of proposals on changes in legislation. Starting a nation-wide trial, which should be the subject of a scientific evaluation, was recommended. This should take place before political decisions were taken on the final framework for mediatorial activities, for instance legislation. The National Council for Crime Prevention has evaluated the trial with mediation projects for youthful offenders in different parts of the country. The trial has been in operation for slightly more than one year, a period that is too short for rigorous evaluation. The trial is composed of thirty-two different projects, each with its own conditions. These concerned, for instance, whether mediators worked full or part-time, mediation methods and initial knowledge. More than 400 mediation cases have been dealt with during the year of the trial. Four of the projects account for more than 70% of mediation cases. Twelve projects carried out five or fewer mediations during the same period and three projects carried out none.

More than half of the offences dealt with during the year of the trial relate to shoplifting or the infliction of damage to an enterprise. In the latter case, it was usually the owner or shopkeeper who took part in the mediation. Rather more than one in ten of the mediations concerned violent offences involving private persons. One third of the mediations were carried out with youthful offenders under 15, the age of criminal responsibility. In slightly more than 50 percent of cases, the perpetrator was over 15 and up to 17 years of age. This is the age group that, in the government's directive, was to be the primary target group.

The majority of the projects were organized by the municipal social welfare services, either as separate distinct projects or in parallel with regular activities. One project was arranged by the police and one other by a voluntary association. Projects organized by

voluntary organizations met with difficulties in securing access to cases, usually because of the provisions on confidentiality. Projects organized in parallel with some other activity were often compelled to refrain from the task of mediation because priority had to be given to the more pressing nature of the other activity.

A well-functioning collaboration with other administrations and organizations was essential for mediatorial work. In the day-to-day work the projects have mainly collaborated with the police (notably the policeman investigating the offence), with the social welfare service (notably the youth section) and with prosecutors. This collaboration was necessary from several points of view, but especially in order to obtain referral of cases that are susceptible of mediation.

The projects have been run in close contact with the police. With several of the projects a mediator or some other responsible person has sojourned at the main police station or had a room there. Some projects, however, found it difficult in the beginning to start up a functional collaboration. This difficulty would seem to have diminished in importance during the year of the trial; it has occurred chiefly because of an absence of official instructions on the matter.

The police were the body that referred most cases for mediation, followed by the social welfare services. Collaboration with the social welfare service functioned without any major problem. Where problems have occurred, they have been because the service concerned failed to become sufficiently involved in, or to give priority to, the development of the mediation project. As few as three cases were referred by prosecutors. They do not perceive existing provisions – for example in the legislation on youthful offenders – as sufficiently binding with regard to seeing that mediation has occurred or taking the initiative to see that a mediation is carried out. Some prosecutors were resistant to the idea of mediation until after the formal judicial procedure had been concluded. The projects were also run in collaboration with victim support organizations, the courts and religious bodies.

Two qualitative studies of victims and perpetrators respectively have been carried out with the aim of providing a description of the subjective experience of mediation. These studies show inter alia that the victims in cases of property offences against enterprises often perceived mediation as being for the benefit of the perpetrator. With this kind of mediation there was less possibility to achieve an emotionally grounded knowledge on the part of the perpetrator of the consequences of the offence. The conditions for doing so were more favorable when the offence concerned a private person. Thus, mediation with such offences provided better possibilities for insight into the consequences of the offence – an insight which is expected to lead to a reduction in relapses into crime. Private persons who had been victims and subsequently interviewed stated that they have experienced a sense of relief and an end to feelings associated with the offence event following mediation. They also thought that it was positive that the perpetrator was no longer anonymous but had, so to speak, been provided “with a face”. It should, however, be said that the two studies are based on limited samples and that the conclusions drawn

cannot be taken as generalizations applicable to all those who took part in the trial with mediation.

The evaluation shows tendencies to use two approaches in Swedish mediation work. One was based on the idea of putting an early stop to criminal activity and was used primarily with property crime and younger perpetrators who were often under the age of criminal responsibility. The mediation was frequently of short duration and the content was mainly informative, chiefly emphasizing the material consequences of the offence. The other approach was focused more on conflict resolution and what emerged in the dialogue between the participants. These mediations were used mainly with offences against private persons and often with somewhat older perpetrators. They took a longer time to carry out and were often preceded by a prior meeting with the victim. The majority of the projects, especially those that were newly started, did not make use of one of these approaches to the exclusion of the other but pursued instead a middle course (BRÅ 2010).

## C. Foster care within the juvenile justice system

**C.1. Does foster care play any role in your juvenile justice system?**

**C.2. Under which conditions can foster care be imposed within the juvenile justice system (at pre- or post-sentencing level or in case of diversion)? Can foster care be imposed as an alternative to custody or pre-trial/police detention? If so please describe the regulations for foster care (length, rights of the children/the foster carers etc.) If there are possibilities in law, how are they used in practice?**

**C.3. Does your system know any other alternatives to custody like alternative care in case of pre trial detention (e.g. in closed juvenile welfare institutions instead of prisons) or in case of juveniles sentenced to youth prison or comparable forms of custody? If there are possibilities in law, how are they used in practice?**

Children and young people may be placed in foster homes or homes for care or residence. Children and young people may be forcibly taken into care following a decision by an administrative court pursuant to the Care of Young Persons Act (special provisions).

If the parents of someone under the age of 18 cannot, for some reason, provide the young person with the support he or she needs, or if the young person her or himself lives a destructive life involving, for instance, substance abuse or criminality, it is possible for such a young person to be cared for according to the Care of Young Persons (Special Provisions) Act (LVU). It is necessary that such social problems involve a high risk of the young person's health or development being harmed, and that the care that is necessary cannot be provided on a voluntary basis. Care, under LVU, may come into question when voluntary solutions are not sufficient, and results in the parents' right to make decisions about the child being restricted. There are two main cases where care under LVU can come into question:

- 1.** When deficiencies in care or some other circumstance at home involve a manifest risk that the young person's health or development will be harmed (known as 'environmental cases').
- 2.** When the young person exposes her or himself to manifest risks through substance abuse, criminal activity or some other socially destructive behavior.

Persons under the age of 18 can receive care under LVU. A person who has reached the age of 18 but is not yet 20 can receive care under LVU in the so-called behavior cases if this is more appropriate than other care.

The municipal social welfare committee will submit an application to the administrative court when it considers that a young person should be taken into care under LVU. The administrative court will then consider the case and decide whether the young person is to be taken into care. In emergency situations, the chair of the social welfare committee can decide on an immediate taking into care, but this must then be confirmed by the administrative court within one week from the date when the decision was made.

The court calls all parties affected to a verbal hearing. There will usually be one legally qualified judge and three lay judges to adjudicate. The majority of hearings at courts in Sweden are public, but in cases concerning compulsory care, it is common for the court to decide on so-called 'closed doors' (in camera). This means that the public and others who are not directly personally affected may not be present in the courtroom.

Public counsel: If a question of compulsory taking into care of a young person arises, the young person may be allocated so-called 'public counsel'. The court grants public counsel, who will protect the young person's interests in the case. Read more under the menu 'Legal assistance' or contact the court if you want to find out more.

What form does the care take? The municipal social welfare committee decides how the care should be arranged and where the young person should live during the period of care. Care is always commenced outside the young person's own home. The young person may, for example, be allowed to live at a family home or at a municipal or private institution.

The social welfare committee can also request that the young person should be allocated a place at one of the National Board of Institutional Care's (SiS) special youth homes. There, the staff will review, together with the young person, his or her problems and background, and prepare an individual treatment plan. One clear difference between SiS's special youth homes and other kinds of institution is the high staff density within SiS and the access to lockable rooms.

A decision by the administrative court on taking a young person into care can be appealed against to the administrative court of appeal. No leave to appeal (permission) is required for the administrative court of appeal to deal with such an appeal. The decision of the administrative court will state within what time and to which administrative court of appeal you may appeal. You should state in the appeal why you are dissatisfied with the administrative court's judgment and the way in which you want it to be changed. You should always send the appeal to the administrative court that issued the judgment.

### **LSU – secure youth care instead of prison:**

Young people who commit serious criminal offences between the ages of 15 and 17 can be sentenced to secure youth care rather than imprisonment. Such sentences, which range from fourteen days to four years, are served in special units of SiS's special residential homes for young people. Every year around a hundred young people are sentenced to secure youth care, most of them boys. The majority have committed serious violent crimes: robbery, aggravated assault, rape, manslaughter or murder. During their time, these young people receive treatment with a focus on their criminal behaviour.

The young person is first admitted to a secure reception unit. Here, psychologists, educationalists and treatment providers determine his or her needs in terms of care and treatment, carry out a risk and needs assessment, and, together with the young person, draw up an individual sentence plan.

Individually tailored care: young people sentenced to secure youth care have similar problems to those looked after under LVU. This means that, alongside work on their criminal behaviour, many of them need treatment for substance misuse and to address relationship and educational issues. These interventions are tailored to the risk level, needs and learning style of each individual. The young people in our care also have the opportunity to receive school education. To prevent absconding, security is high. Initially, young people are cared for in a secure unit, but eventually, as they progress in their treatment, they are able to move to more open units.

Transition planning: the aim of the time young people spend with SiS is to facilitate their return into the community after serving their sentence. We seek to offer a coherent chain of care consisting of assessment, treatment and transition from the home. We plan the transition in collaboration with social services in the young person's home municipality. Aftercare, the care a young person may need after he or she is released, is the responsibility of social services. Many of these young people need support for a long time to reduce the risk of reoffending.

### **C.3. Other alternatives to custody**

In Sweden there is also the possibility for social services, police, court, etc. to work together with the civil society. One example is Tidig insats, "Early Action", a project run by Unga KRIS. The goal is for there to be a real cooperation with the authorities, representatives of which get in contact with persons from Unga KRIS so that the young person gets, as soon as possible, a "mentor/contact man" that will motivate him/her in order to prevent a continuation of criminal activities and/or misuse of drugs/alcohol. The social services or social welfare committee cover the expenses for participation in those programs.

Unga KRIS started as a project within its mother organisation KRIS. The work of Young KRIS (Unga KRIS) during this project has been studied and evaluated (Jess, 2010). According to the socio-economical evaluation realised in 2010, each young adult (male

or female) helped by Unga KRIS creates an average socioeconomic profit for the society of 3,673,000 SEK. If the person also finds a job and continue living a drug-free and honest life, the profit will be 5,647,000 SEK per person. Analysed in regard to the contribution of the Swedish Fund for Inheritance, and considering that the project has helped 595 persons between 2007 and 2009, we can say that for each SEK invested by the fund the project gave back 85 SEK to the society ( $2,185,435,000 / 25,775,000$  SEK). Moreover, it is important to mention that most of the youth in Unga KRIS express that their wellbeing is much better since they started in the organisation.

Another socio-economical evaluation of the work of Young KRIS (Unga KRIS) within the project Early Action is expected to be released in spring 2014.

# Conclusions

Sweden is a pluralistic welfare society with a highly developed public sector. Until the middle of the 1970s Sweden experienced a substantial increase in levels of criminality and other social problems among juveniles. From that point onwards the trends seem to have stabilized, and there are even signs that levels of juvenile crime may have diminished.

The ideas of welfare and pluralism also contribute to the relatively large amount of tolerance and humanity shown in Sweden towards persons who deviate from the norm. These ideas are considered to be important in the formulation of the measures to be used in relation to young offenders. Relatively substantial and longterm criminality is required before the authorities are allowed to undertake more far-reaching measures. The emphasis on treatment instead of punishment is also considered to be more humane, even though the ideas behind it have been questioned (Brå 1977, SOU 1993:35). The criticisms directed at the strong treatment focus within the Swedish justice system, and primarily within that part of the justice system focused on young people, have comprised two elements: the one related to the lack of scientific evidence that treatment was an effective method, the other to the perception that the system was unfair. In the light of more recent research, the first of these arguments against employing treatment as a means of responding to crime has been shown to overstate the case (e.g. Lipsey 1992, 1995; Loeber & Farrington 1998 and Brå 2001b). The treatment of young offenders has shown itself capable of producing positive effects, even if these effects are rarely all that strong (Brå et al 2002). The criticism of the system's unfairness, on the other hand, is still relevant. In this context, a hypothetical case is usually referred to whereby two youths who have committed the same offence are responded to in quite different ways. The one comes from a well-functioning social background and is merely given a caution, whilst the other comes from much more difficult conditions and is therefore taken into care and placed in an institution.

In general, one can argue that in Sweden, the 1980s and 1990s have been characterised by increasing levels of concern for juvenile violence which has been perceived both within the media and among the public as undergoing a substantial increase. Discussions of the trends in violent crime of the kind presented above seldom reach the public and tend to be contrasted in the press with descriptions of tragic and particularly bloody cases of violence. The general perception among the public at large may be assumed to be that the country has suffered a dramatic increase in the levels of violent crime committed by young people and other forms of serious youth crime. In the context of this climate of opinion, there is a general questioning of methods used to treat young offenders that are perceived to be too lenient. Certain treatment measures, such as taking youths with a long criminal record on sailing trips have been presented in the media as both ineffective and at odds with the public's general sense of justice. This atmosphere has led politicians to perceive a need to show that they take juvenile crime seriously, and in particular violent crime (Estrada 2001, 2004). Many of the reforms of legislation and praxis relating to young offenders appear to have the objective of accentuating the idea

that this is a problem that cannot be taken lightly.

The substantial reduction in the number of young persons convicted of crime has therefore been followed by a substantial tightening of both the law and its application in relation to young offenders. This has led, for example, to a dramatic reduction in the number of young people being awarded waivers of prosecution and to a larger number of youths being sentenced by the courts. This and a long list of other measures suggest that there are efforts afoot to limit the measures of the social services, which are perceived as rather diffuse by many, and instead to emphasize the more transparent means of dealing with young offenders that is manifested by the justice system. These efforts, however, have not been allowed to go so far as to sentence young people to prison. On the contrary, Swedish legislators have made it clear that they do not regard prison as a suitable sanction for youths. Placing juveniles in prison is regarded as inhumane and as running contrary to the UN's Convention on the Rights of the Child. Parallel with the general increase in the severity of the response to juvenile crime, then, the prison sanction has in effect been abolished for the youngest individuals who have reached the age of criminal responsibility. Instead of a prison term, the sanction of secure youth care has been introduced, which takes the form of a treatment measure but which is imposed by a public court and in accordance with the proportionality principle. In this way, the "lenient" influence of the social services is removed from this sanction. Given the current social climate, however, the introduction of secure youth care has in fact had a "net-widening" effect, if not with regard to the number of youths being given custodial sentences then at least with regard to the length of the custodial sentences being imposed. Despite the fact that it was not the intention of the legislators, the courts appear to feel that they may sentence youths to a longer stay in a youth care institution than they could when the youths in question were instead being sent to prisons.

It is nonetheless highly doubtful that the influence of the social services on measures relating to young offenders has declined in any general way as a result of the neo-classicist trend witnessed within the Swedish justice system. It is true that the social services do not exert an influence over the length of stay in youth care institutions, but the treatment provided is nonetheless of a social nature and is provided in a collaboration between the National Board of Institutional Care, which falls under the Ministry of Health and Social Affairs, and the local social welfare authorities. Further, the fact that a larger number of young people are being indicted and sentenced in public courts has resulted in more youths being delivered into the care of the social services. In connection with this sanction, the measures are formulated by the local social services even if the court has a certain influence over the way they are formulated.

The general conclusion of the above presentation is thus somewhat surprisingly that the combination of a general critique of the treatment ideology, a neo-classicist focus within the judicial system and a stiffening of sanctions against young offenders, has led to a situation where the influence of the treatment ideology and the social services has in fact become more powerful in relation to the way society responds to the crimes of young offenders. The fundamentally humanist view of youth crime and of measures for

young offenders that has been dominant in Sweden over recent decades appears at least for the moment to remain intact, although the authorities have become more inclined to intervene against young offenders. However, the pressure from various quarters to change this system and to make it “more effective”, or even simply “tougher”, remains. The Swedish Government recently appointed a new inquiry with the task of reviewing the way Swedish society responds to crimes committed by young persons. The Government’s directive to the inquiry states amongst other things that “the measures taken are to be dedicated to preventing the youth from reoffending. The commission’s objective, whilst maintaining the penal law principles of proportionality, predictability and consistency, is to make progress with the work to develop a sanctioning system for young persons whose content is both clear and instructional, and to create improved conditions, on the basis of the young person’s needs, for a return to a life characterised by good social function, thus producing positive change” (Ju 2002:14). By means of these formulations, the Government appears to be opening the way for both a more powerful element of neo-classicist thinking but also a continued treatment focus within the new legislation. The future will tell which of these directions the inquiry and the future legislation will take and what the consequences of coming reforms will be for the system’s humanist focus.

# References

- Andreasson, T. (2003): Institutionsbehandling av ungdomar. Vad säger forskningen? (Institutional treatment of young people. What does the research have to say?). Stockholm: Förlagshuset Gothia.
- Axelsson Erik (2010): Young offenders and Juvenile Justice in Sweden, research Paper <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CkQFjAA&url=http%3A%2F%2Fwww.parliament.uk%2Fbriefing-papers%2Fsn05278.pdf&ei=3gPyUrKnK-GfyQOsn4H4Dw&usg=AFQjCNHKEwEyEb1Y6fLj41Z-bu3CHBgPiFA&sig2=hf8HASgybxcWb7RNhUgGmg&bvm=bv.60799247,d.bGQ>
- BRÅ (1977): Nytt straffsystem (The New Penal System), Stockholm: National Council for Crime Prevention
- BRÅ (2000): Victim offender mediation, Stockholm: National Council for Crime Prevention
- Brå (2001b): Kriminell utveckling: tidiga riskfaktorer och förebyggande insatser. (Criminal development: early risk factors and preventive measures) Stockholm: National Council for Crime Prevention Sweden.
- BRÅ et al (2002): Sluten Ungdomsvård - en uppföljning (Institutional Care of Youth - follow up) Stockholm: National Council for Crime Prevention, National Board of Health and National Board for Institutional Care. (Rapport 2002:19)
- Brå (2005): Vård för unga lagöverträdare. Socialtjänstens insatser (Remand to the care of the social services). (Rapport 2005:13). Stockholm: Fritzes.
- Estrada, F. (2004): The transformation of the politics of crime in high crime societies. Trends, media attention and societal response, *European Journal of criminology*, 1(4):419-444
- Estrada, F. (2001): Juvenile Violence as a Social Problem. Trends, media attention and societal response”, *British Journal of Criminology*, 41, 639-55.
- Granath, S. (2002): Påföljdssystemet för unga lagöverträdare 1980 – 2000. Förändrade reaktioner, förändrat samhälle eller förändrade brottslingar. (The Juvenile Justice system 1980-2000. Changed reaction, changed society or different criminals). Stockholm: Stockholm University, Department of Criminology.
- Jess, K. (April 2010) Värdet of Unga KRIS - en samhällsekonomisk utvärdering (The value of Young KRIS; a socio-economical evaluation)

- [http://www.arvsfonden.se/upload/utvarderingar/unga\\_kris\\_ekonomisk\\_utvardering.pdf](http://www.arvsfonden.se/upload/utvarderingar/unga_kris_ekonomisk_utvardering.pdf)
- Ju 2002:14 Utredningen om översyn av det allmännas ingripanden vid ungdomsbrott (Commission of inquiry on revision of intervention in case of youth crime)
- <http://www.riksdagen.se/debatt/dir/index.asp>
- Junger-Tas, J. (2006). Trends in International Juvenile Justice: What conclusion can be drawn? In J. Junger-Tas, & S.H. Decker (Eds.). *International Handbook of Juvenile Justice*, Dordrecht: Springer, pp. 505-532.
- Hollander, A., & Tärnfalk, M. (2007). Juvenile Crime and the Justice System in Sweden. In: M. Hill, A. Lockyear, & F. Stone (Eds.). *Youth Justice and Child Protection*, London: Jessica Kingsley Publishers, pp. 90-103.
- Kühlhorn, E. (2002): Sluten ungdomsvård. Rättsliga reaktioner på de ungas brott före och efter införandet 1999. [Institutional Care of Youths. Juridical reaction on youth crime before and after introduction 1999] Stockholm, Statens institutionsstyrelse.
- Loeber, R. and Farrington, DP. (1998): *Serious & Violent Juvenile Offenders: Risk Factors and Successful Interventions*. London: Sage Publications.
- Lipsey, MW. (1995): "What do we Learn from 400 Research Studies on the Effectiveness of Treatment with Juvenile Delinquents?", In J McGuire, (ed.), *What Works? Reducing Reoffending: Guidelines from Research and Practice*. Chichester: Wiley.
- Lipsey, MW. (1992): "Juvenile Delinquency Treatment: A Meta-analytic Inquiry into the Variability of Effects", In T D Cook, D S Cooper, D S Cordray, H Hartmann, L V Hedges, R J Light, T A Louis, and F Mosteller, (eds.), *Meta-analysis for Explanation: A Casebook*. New York: Russell Sage Foundation.
- Ring, J (1999): *Hem och skola, kamrater och brott*. [Home and school, peers and crime] Stockholm: Stockholm University, Department of Criminology.
- RPS FS 1990:3: *Polislagen med kommentarer (The Police Act with comments)* [http://www.polisen.se/inter/mediacache/4347/4734/2671/polislagen\\_pdf.pdf](http://www.polisen.se/inter/mediacache/4347/4734/2671/polislagen_pdf.pdf) (2004-09-12)
- Sarnecki, J (1983): *Fritid och brottslighet [Leisure and criminality]*, Stockholm: National Council for Crime Prevention.
- Sarnecki, J (1986): *Delinquent Networks*. Stockholm: National Council for Crime Prevention Report.
- Sarnecki, Jerzy. (1987). *Skolan och Brottsligheten*. Stockholm: Carlsson Bokförlag.

- Sarnecki, J. (1991): "Reaction to Crimes Committed by Young People", in A. Snare (ed.), *Youth, Crime and Justice*. Oslo: Universitetsforlaget.
  
- Sarnecki, J. & Estrada, F. (2006). Keeping the Balance Between Humanism and Penal Punitivism: Recent Trends in Juvenile Delinquency and Juvenile Justice in Sweden. In J. Junger-Tas, & S.H. Decker (Eds.). *International Handbook of Juvenile Justice*, Dordrecht: Springer, pp. 407-504.
  
- SFS 1994: 1760: Lag (1994:1760) om ändring i lagen (1964:167) med särskilda bestämmelser om unga lagöverträdare.
  
- SOU 1993:35, Reaktion mot ungdomsbrott (Reaktion to juvenile delinquency), Stockholm: Ungdomsbrottskommitten. B Statens offentliga utredningar.
  
- Tärnfalk, M (2007) Barn och brott. En studie om socialtjänstens yttranden i straffprocessen för unga lagöverträdare. Akademisk avhandling. Stockholms universitet, institutionen för socialt arbete. Stockholm: US-AB print center.









**European Project ‘Alternatives  
to Custody for Young Offenders -  
Developing Intensive and Remand  
Fostering Programmes’**

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