



Offences committed by children

An evaluation of amendments to the Young Offenders (Special Provisions) Act

Offences committed by children

English summary of Brå report 2014:20

**The Swedish National Council for Crime Prevention (Brå) –
centre for knowledge about crime and crime prevention measures**

The Swedish National Council for Crime Prevention (Brå)
works to reduce crime and improve levels of safety in society
by producing data and disseminating knowledge on crime
and crime prevention work.

This report is a summary of the Swedish report Brott begånga
av barn, report no 2014:20. The Swedish report can be ordered
from Brottsförebyggande rådet, info@bra.se

Production:

The Swedish National Council for Crime Prevention (Brå)
Box 1386, SE-111 93 Stockholm, Sweden
Tel: +46 (0)8 527 584 00, fax: +46 (0)8 411 90 75
E-mail: info@bra.se
Brå on the internet: www.bra.se

© Brottsförebyggande rådet 2014
URN:NBN:SE:BRA-581

Summary

In Sweden, individuals under the age of 15 are not criminally responsible and cannot therefore be convicted of criminal offences. In certain cases however, the police can investigate offences where the suspect is under the age of 15. The reasons that permit the initiation of this type of police investigation – commonly referred to as a Section 31 investigation – are regulated in Section 31 of the Swedish Young Offenders (Special Provisions) Act (1964:167). The main aim of a Section 31 investigation is to clarify the child's need for measures from the social services. The social services are always informed when a child is suspected of a criminal offence and they are the agency responsible for any actions taken on the part of society. In this report, the term “child” refers to individuals under the age of 15.

In July 2010, a number of amendments were made to the Young Offenders Act, the overall aim being for the police to investigate a greater proportion of criminal offences committed by children, and to do so more efficiently. The bill¹ proposing the new act argues that a greater number of police investigations would improve the likelihood of social services acquiring all the information they need in order to make their assessments. In very serious offences, there is also a more general interest in acquiring more detailed knowledge regarding how the offence was committed.

The Swedish National Council for Crime Prevention has been instructed by the Swedish Government to evaluate these amendments to the law in order to ensure that they have achieved their stated aim.

This evaluation is based on police reports and Section 31 investigations involving children suspected of criminal offences, register data from National Council for Crime Prevention's register of persons suspected of offences and from the Swedish Crime Victim Compensation and Support Authority, as well as questionnaires and interviews with people who work with children suspected of criminal offences. The data have also been compared with two

¹ Govt. Bill 2009/10:105.

previous National Council for Crime Prevention studies concerning children who commit criminal offences.²

Amendments to the Young Offenders Act

In one of National Council for Crime Prevention's previous studies³ it emerged that police investigations of children did not always work as well as they might. In the light of factors such as this, a number of changes to the Young Offenders Act were introduced in July 2010, the most important of which are presented below.

- Clearer assignment of responsibilities: The social services are now responsible for requesting that the police initiate a Section 31 investigation if this is to form the basis of a decision on whether social services measures are required.
- A new requirement that, as a general rule, the police should always initiate a Section 31 investigation for particularly serious offences for which the sanctioning scale includes a custodial sentence of at least one year; known as the presumption rule.
- More clearly defined opportunities for the police to initiate an investigation; enabling them to effectively carry out crime prevention work and improving the injured party's chances of gaining personal and financial redress.
- New opportunities for the police to conduct drug tests on children under the age of 15.
- The introduction of a three-month time limit for police investigations.
- Stricter requirements for the social services to assist in police interrogations.

Reduction in the number of offences committed by children that are reported to the police

The official crime statistics show that the number of offences registered as technically cleared up, with the reason for this given as "suspect under the age of 15" has decreased from around 14,400 in 2005 to 10,600 in 2012 (a reduction of 25 per cent). The number of children aged 11–14 in the population at large, however, has decreased by 20 percent⁴ over the course of this period. The reduction in crime is in line with the trend reported in National Council for Crime Prevention's recurrent school survey on crime.⁵

² National Council for Crime Prevention 2007:16, 2008:11.

³ National Council for Crime Prevention 2007:16.

⁴ Statistics Sweden 2014.

⁵ National Council for Crime Prevention 2013:3.

The number of cases investigated has not changed notably ...

Following a review of police reports and Section 31 investigations from 2005 and 2012 in which children are suspected of criminal offences, it is evident that the proportion of these reports investigated by the police has only increased marginally, from 19 per cent in 2005 to 21 per cent in 2012. It is still the case in 2012, as it was in 2005, that the police rarely formally register decisions concerning Section 31 investigations.

... but a greater number of serious offences are investigated

In terms of numbers, it is primarily petty thefts and assaults that are investigated. But in percentage terms, most of the offences that are investigated are more serious crimes such as robbery, rape, aggravated assault and arson.

Compared with 2005, the percentage of cases investigated has increased for serious offences, whilst it has decreased for less serious offences. This suggests that the change in the law has had an effect as far as investigating a greater number of serious crimes is concerned. However, just over a quarter of the most serious offences have not been investigated, which is not in keeping with the new law. Errors and ignorance are thought to be the main reasons why these cases have not been investigated in accordance with Section 31 of the Young Offenders Act.

The proportion of investigations conducted based on social services' needs has halved.

In 2005 around half of the Section 31 investigations were initiated with reference to the request of social services. In 2012 this proportion has fallen to one quarter. This reduction is probably due to the fact that previously these investigations were often initiated by the police, who made the assessment that social services would be able to make use of them. Following the changes to the law, it is now down to social services to initiate such investigations, and it is thought that they are less likely than the police to consider a police investigation necessary. This applies, for example, to repeated less-serious offences. Another interpretation is that the more serious offences, which were previously investigated on the basis of social services' needs, are instead now investigated on the basis of the presumption rule. The proportion of Section 31 investigations that are initiated for other reasons remains relatively unchanged.

Drug tests are rare

The police have rarely made use of their new powers to conduct drug tests on children under the age of 15. Drug tests have only been conducted in two per cent of the total number of cases. Calculated over the whole year, this means that slightly more than 200 children were tested for drugs by the police in 2012. However, both the police and social services believe that an adequate number of drug tests have been conducted.

The assistance of social services in police interrogations has increased

The child suspect has been interrogated in 95 per cent of the cases investigated by the police, which is a slight increase since the 2005 study. It has also become somewhat more common for the injured party and witnesses to be interviewed. However, the proportion of children who admit offences has fallen somewhat, from 66 per cent in 2005 to 59 per cent in 2012.

In seven out of ten cases, the suspect's legal guardian has been present during the interrogation. This is more or less the same percentage as in the previous study. On the other hand, the presence of the social services has increased – from 30 per cent in 2005 to 48 per cent in 2012. In cases initiated as a result of particularly serious offences, or at the request of the social welfare board, social services assisted in 70 per cent of the interrogations conducted in 2012. This increase may suggest that the changes to the law have had an effect on the social services' level of involvement in interrogations. Nevertheless, one in ten interrogations are still conducted without the presence of either the child's legal guardian or the social services.

Police officers have been well informed about the changes to the law – but social workers have not

The police officers who were interviewed state that they have received sufficient information regarding the change to the law and that they have had the opportunity to discuss the implications of these changes and the practical work resulting from them.

On the other hand, social workers, on the whole, have not received sufficient information about the changes to the law and the resulting consequences for their work with children suspected of criminal offences. This is evident in the questionnaires answered by the social workers. No specific information has been issued to the social services by, for example, the Swedish National Board of Health and Welfare or the Swedish Association of Local Authorities and Regions (SALAR). Instead, it has been down to individual

managers at the social services to ensure that they are updated on changes to the law and to pass this information on to their colleagues.

Police officers are generally positive about the changes

On the whole, the police officers interviewed were positive about the changes to the law and the effects that they have had on their work with children suspected of offences. In particular they note that it is now clearer that it is the social services who are responsible for requesting an investigation in order to assess whether their input is required. Furthermore, they feel that their new power to test children for drugs has improved their chances of being able to identify children with drug problems at an early stage, even if this power has not been exercised to any great extent.

The police officers interviewed believe that the law provides sufficient scope for the investigation of children suspected of criminal offences. On the other hand, they feel that the social services do not utilise their opportunity to initiate investigations as often as they should. They feel that the social services have too little knowledge of the changes to the law and lack the resources and procedures needed to deal with the types of cases concerned.

Social services are not as positive about the changes to the law

Social workers agree with the police that the law has become clearer now that the social services are responsible for deciding whether to conduct a police investigation in the interests of the child.

However, the majority do not believe that the changes to the law have led to any practical changes in their work with children suspected of criminal offences. Quite simply, they have not noticed any change to their work since the law was amended.

The changes to the law have not led to an increased need for police resources

The Government bill proposing the act assessed that the number of Section 31 investigations would increase, resulting in increased costs for, among others, the police and the Swedish Prosecution Authority. However, what has actually happened is that the changes have not led to more investigations; instead the number has fallen. This is due partly to the fact that the proportion of reports investigated has not increased as a result of the changes, and partly to the fact that there has been a decline in the number of reports.

National Council for Crime Prevention's estimate of resource consumption for 2012 suggests that the total time consumed by

police investigations concerned with children suspected of criminal offences amounts to roughly four full-time police officers across the country as a whole. This corresponds to an average of six weeks work per police authority. The total amount of work conducted by prosecutors is considerably less than that of the police, since they are generally only involved in cases involving more serious crimes or drug tests. In total, their work corresponds to about three quarters of one full-time member of staff across the country as a whole, or 30 hours of work per local public prosecution office per year.

No decrease in repeat offending

One quarter of the children suspected of offences who have been analysed are suspected of having reoffended within one year. Within three years, as many as one half have been suspected of committing a new offence. National Council for Crime Prevention's analyses show that the changes to the law have not resulted in a reduced level of repeat offending. Nor is there any previous research that shows that police intervention at an early stage has a preventative effect on children at risk of reoffending. There is, however, very little research data on this subject.

Victims' claims for compensation are rarely taken into account

In a previous study, National Council for Crime Prevention found that victims of offences committed by children were at a disadvantage as far as receiving criminal injuries compensation was concerned.⁶ This was thought to be partly due to the fact that the information on which the applications' merit is judged is often worse when the suspect is under the age of 15 than in cases when the suspect has reached the age of criminal responsibility. Consequently, in order to support the victim's claim for personal redress and compensation following offences committed by children, the police's opportunity to initiate an investigation with respect to an individual claim was made more explicit.

In this evaluation, nothing emerges to suggest that the changes to the law have had the desired effect. The number of investigations pursuant to the Young Offenders Act initiated as a result of a specific claim is largely unchanged. The number of claims rejected by the Swedish Crime Victim Compensation and Support Authority (BrOM) with the reason given being "crime not confirmed" has not decreased, and the proportion of rejections is still considerably higher in applications where people under the age of 15 are sus-

⁶ National Council for Crime Prevention 2007:16. Data in the study concerning criminal injuries compensation is based on material collated in 2006.

pected of committing the offence. The police interviewed in the study also confirm that they seldom take into account the option of initiating an investigation with regard to a particular claim.

In addition to this, National Council for Crime Prevention's analysis does not provide any unequivocal evidence that the occurrence of a Section 31 investigation has had any decisive influence on whether or not an application is approved in the cases studied. The fact that clarification is often lacking with respect to the question of guilt in these Section 31 investigations is naturally an important factor in this regard.

The National Council's assessment

The overall question that may be asked is that of whether the aims of the changes to the law have been achieved.

One of the aims of the amendments to Section 31 of the Young Offenders Act was to produce an increase in the proportion of children suspected of criminal offences who are investigated by the police. This aim has not been achieved, primarily because it has become less common for an investigation to be initiated on the basis of the request of the social services. It is clear that the previous model, in which the police had the discretion to decide for themselves whether the social services required a Section 31 investigation, led to more investigations being initiated than has been the case since the responsibility for this decision was explicitly transferred to social services. The social services are clearly less likely than the police to consider that a Section 31 investigation is necessary in order to assess what measures may be needed in relation to children suspected of offences. When the social services do request a police investigation, they often feel that this is valuable. But in the majority of cases they feel that, as a result of their own investigations, or previous police investigations, they have sufficient knowledge to be able to assess what measures the child requires. In addition, there is nothing in the National Council for Crime Prevention study to suggest that social services' interventions have been negatively affected by the fact that they most often do not request a police investigation. For example, the proportion of children who reoffend has not increased.

The aim of investigating a greater number of serious offences has been achieved. However, the requirement that, as a rule, all particularly serious offences, where the sanctioning scale includes a custodial sentence of at least one year, are to be investigated has still not been met. This is primarily due to the fact that the police have not always been aware of the implications of the changes to the law. With greater experience of the new regulations, these knowledge gaps should decrease.

However, the goal to clarify when and by whom a Section 31 investigation is to be initiated is thought to have been achieved. The social workers and the police officers who were interviewed both agree that this has become clearer and that this has made their decisions regarding the initiation of an investigation easier.

Still rare that decisions to investigate are recorded

Despite the fact that National Council for Crime Prevention, in a previous report on children⁷ suspected of offences, commented on the need for a “minimum threshold” for the definition of a Section 31 investigation, and that the decisions to conduct such an investigation should always be recorded, this still rarely happens.

In National Council for Crime Prevention’s opinion, it is still important that the police develop a uniform definition of what a Section 31 investigation should include, and it is important that the decision regarding such an investigation is registered in the police’s case handling system for reported offences (RAR) so that the police can monitor their work with children suspected of criminal offences. Special investigations that require a great deal of resources are currently required to obtain a picture of whether and why children suspected of criminal offences are investigated by the police. If the police get better at recording cases involving children suspected of offences – and do this on the basis of on a uniform definition – then it would be much easier to monitor this matter in the future.

Social services must be informed of the changes to the law

It has emerged from the study that information regarding the changes to the law has not reached all social workers working with children suspected of criminal offences. This is a problem because the work of the social services is governed by this legislation. There should be routines in place, at both the national and local levels, to ensure that social workers are able to familiarise themselves with changes to the law. This will give them the opportunity to build up the knowledge and procedures necessary with respect to the new legislation.

Another shortcoming that should be highlighted is that there is still no representative from the social services in three of every ten police interrogations initiated as the result of a particularly serious offence or at the request of the social welfare board. This is in spite of the fact that the law expressly states that the social services should, as a rule, always be present at interrogations initiated on these grounds. It is important that this shortcoming is remedied.

⁷ National Council for Crime Prevention 2007:16.

This work can be improved by greater consensus and cooperation

On the whole, the police officers and social workers who participated in the study think that the Young Offenders Act covers the groups of suspected children that the police may need to investigate. However, in several of the interviews with police officers, it appears that they do not think social services take sufficient responsibility when it comes to requesting Section 31 investigations when children are suspected of repeat offending, despite the fact that these offences may be serious. This is particularly evident in the police districts where the police and social services have not developed any specific cooperation.

In National Council for Crime Prevention's view, it is vital that the police and social services improve their understanding of each other's roles and procedures concerning children who commit offences. Co-location would be a good way to achieve this. The value of this way of working is also highlighted in the Government's bill proposing changes to the law.⁸ This states that it would be desirable for social services to have staff stationed with the police on a more permanent basis, since this increases the likelihood of effective collaboration, with consensus and an understanding of each other's roles.

The police should take into account victims' claims for compensation to a larger extent

Nothing emerges from the study to suggest that the changes to the law have had the desired effect of better taking into account victims' claims for compensation. There are still, as National Council for Crime Prevention's previous studies indicate,⁹ very few police investigations that are initiated with this aim. However, it is important to remember that, in the majority of cases, this aim for initiating an investigation is not relevant.

The proportion of applications for criminal injuries compensation that are rejected by the Crime Victim Compensation Authority remains significantly higher for applications where people under the age of 15 are suspected of the offence than it is where older suspects are involved. This suggests that people who are victims of offences committed by minors are still at a disadvantage when it comes to the chances of receiving criminal injuries compensation.

In addition, the study does not show that Section 31 investigations were of any major significance in those cases where the Crime Victim Compensation Authority granted criminal injuries compensation in 2012. But, in the same way as police reports con-

⁸ Govt. Bill 2009/10:105.

⁹ National Council for Crime Prevention 2007:16.

cerning suspects who have reached the age of criminal responsibility do not regularly lead to either prosecution or a definitive clarification of the question of guilt, neither do all investigations pursuant to Section 31 of the Young Offenders Act. However, the Crime Victim Compensation Authority emphasises that more Section 31 investigations, in which the victims' need for a clear finding on the question of guilt is given more consideration, would increase the victims' chances of receiving compensation. The police should therefore pay more attention to the question of compensation when they initiate an investigation, and be aware of what the investigation needs to achieve in order to provide a good basis for decisions by the Crime Victim Compensation Authority.

Risk groups need to be identified and supported

The study of repeat offending provides no support for the view that Section 31 investigations have an effect on whether or not a given child will reoffend. Nor has the reoffending rate decreased since National Council for Crime Prevention's previous study on repeat offending among children,¹⁰ the results are the same as those from 2005.

Nevertheless, the study does support the basic idea behind the tightening up of the Young Offenders Act – that children under the age of 15 who have been reported for offences are a risk group that society should devote its attention to. Within three years, nearly half of the children have been suspected of having reoffended. This shows that the ambition to identify this group of children is correct. At the same time, there should also be an awareness that half of these children do not reoffend. Accordingly, there is a need for better prognostic instruments than are currently available in order to identify those children who are at risk of continuing to offend. The ability to identify children at high or low risk of continued offending is important, bearing in mind that unnecessary or incorrect interventions risk having a direct, harmful effect on the child.

Many children undeniably need help to prevent them getting caught up in continued offending. Nevertheless, a greater number of police investigations is not thought to be the best solution. The answer to the Government's question of whether there are grounds to investigate more offences committed by children is therefore no. Instead, it is other actors such as the social services and schools that need to develop their interventions for children and their families so that children do not become stuck in a pattern of criminal behaviour. In particular, interventions targeting the small group (5 per cent) of children who represent nearly half of the new offences for which children are suspected in a three-year period need to be improved.

¹⁰ National Council for Crime Prevention 2008:18.

Recommendations to the police

1. Develop the police's computerised system for recording investigations pursuant to Section 31 of the Young Offenders Act so that it becomes more user-friendly, even for those who do not continually work with investigations involving children.
2. Make it more widely known that, as a rule, all presumption offences are to be investigated.
3. Increase awareness of the issue of compensation and of what is required of investigations in order to produce a good basis on for decisions by the Crime Victim Compensation Authority.
4. Find ways to increase consensus and collaboration with social services concerning children suspected of offending.

Recommendations to social services

1. Ensure that those working with cases involving children receive sufficient information regarding changes to the legislation. Continual information regarding new laws and how they are to be used in practice by social services.
2. Increased attention to the fact that suspected offences committed prior to the age of 15 are a warning sign for continued offending, and develop measures for this group accordingly.
3. Review how resources can be made available/redistributed so that more time can be spent participating in police interrogations.
4. Better cooperation with the police for local consensus.