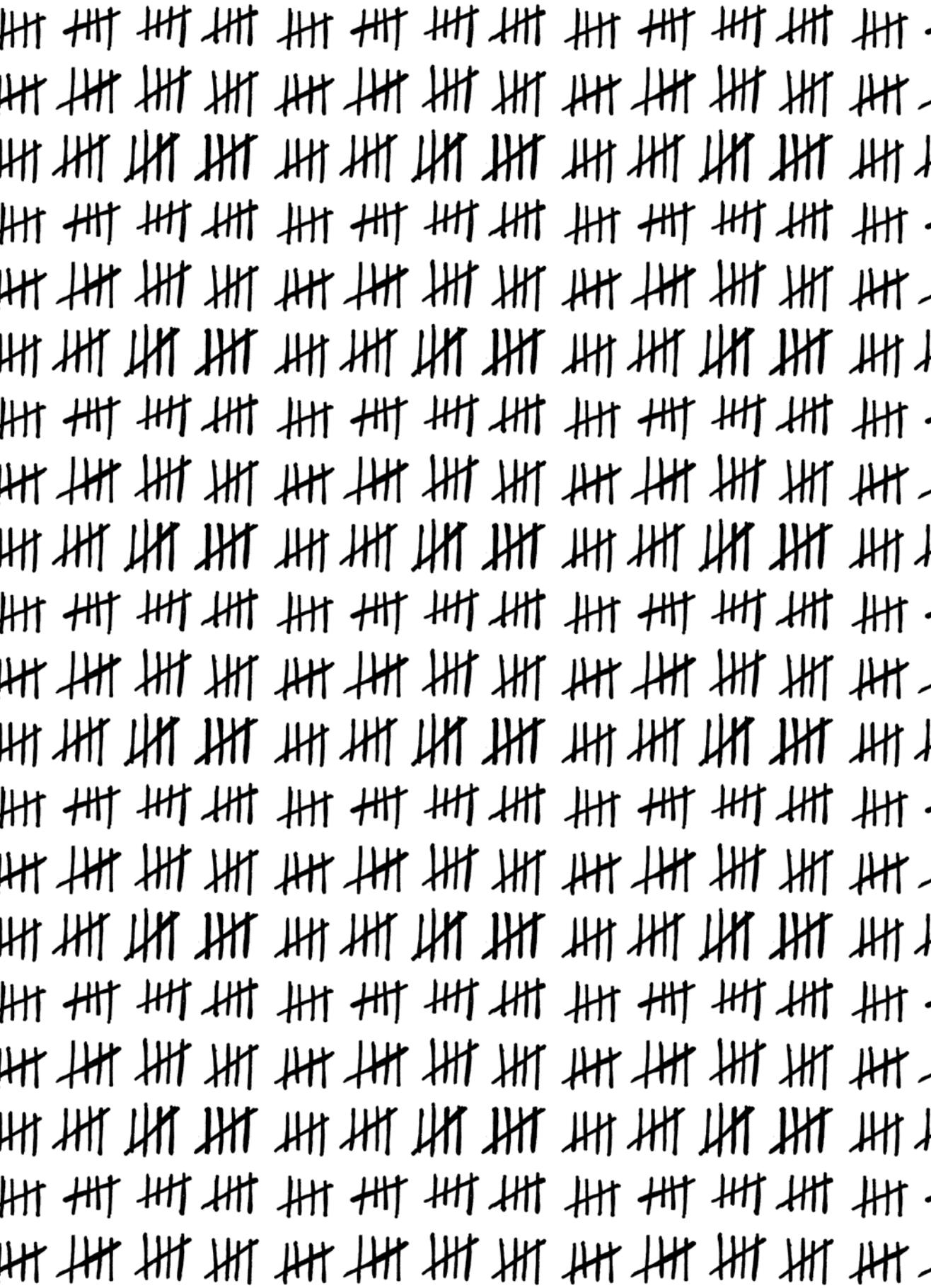


# FROM THE INSIDE

CHILDREN AND YOUNG PEOPLE ON LIFE IN POLICE CELLS AND IN REMAND PRISONS



THE OMBUDSMAN FOR CHILDREN IN SWEDEN



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**THE OMBUDSMAN FOR CHILDREN IN SWEDEN** is a government agency charged with representing children and young people in accordance with the UN Convention on the Rights of the Child (CRC). We maintain a regular dialogue with children and young people in order to obtain knowledge of their living conditions and their opinions on current issues. We monitor and encourage the implementation of the CRC in Sweden's municipalities, county councils/regions and government agencies. The Ombudsman for Children in Sweden provides information, advocates and proposes changes in legislation and ordinances on issues concerning children's and young people's rights.

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**“THE POLICE CELL IS PURE HELL”**

AXEL

The cartoon strips in this report are based on what children and young people have told us in the course of our dialogue.

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### ARTICLE 37:

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

# INTRODUCTORY REMARKS



Fredrik Malmberg  
Ombudsman for  
Children

## “SWEDEN MUST RESPECT THE CONVENTION AGAINST TORTURE”

“YOU’RE JUST TRYING TO REMAIN IN THE REAL WORLD.”

That’s how Daniel describes the effect of being held in solitary confinement. This solitary confinement is something children in Sweden are subjected to when they are deprived of liberty due to being suspected of a crime.

In the present report to the Swedish government, the Ombudsman for Children in Sweden shows that Sweden systematically subjects children deprived of their liberty to what the UN Special Rapporteur on torture says can amount to “torture and cruel, inhuman or degrading treatment”. According to the rapporteur, solitary confinement of juveniles violates article 16 of the UN Convention against Torture and article 7 of the UN Covenant on Civil and Political Rights.

For a number of years, the Ombudsman for Children in Sweden has been systematically listening to children and young people in vulnerable situations. We have met children taken into social care and children who have been exposed to violence and abuse in close relationships. These children have frequently expressed disappointment that the outside world has not reacted to their signals that they need support and help. That is serious, in several ways. Those children who fall through the safety net run an increased risk of becoming alienated and turning to crime.

Over the past year, the Ombudsman for Children in Sweden has carried out an audit of how human rights are respected when children become suspected of crimes and deprived of their liberty. In international as well as in Swedish law, everyone under 18 years of age is considered a child.

The Ombudsman for Children in Sweden has visited a total of 13 police cell blocks and remand prisons around the country, asking open questions about what happens and what a child thinks when he/she is deprived of his/her liberty.

It is not possible to generalize these accounts as applying to all children who are deprived of their liberty, but they do contribute to identifying shortcomings. On the basis of the qualitative study, the Ombudsman for Children in Sweden has carried out quantitative mappings of a kind not previously done in Sweden.

Human rights regulate the relationship between the state and individual persons. They constitute a limitation of the state’s power over the individual, while at the same time establishing certain obligations that the state has towards the individual.

A child suspected of a crime risks being subjected to reprisals, viola-

**“IT IS NOT POSSIBLE TO GENERALIZE THESE ACCOUNTS AS APPLYING TO ALL CHILDREN WHO ARE DEPRIVED OF THEIR LIBERTY, BUT THEY DO CONTRIBUTE TO IDENTIFYING SHORTCOMINGS.”**

tions of justice, harm and violence. It is against this background that international conventions provide strong protection for the human rights of the child suspected of a crime:

- The child suspected of a crime is to be regarded as innocent until the opposite has been proven.
- The child is entitled to information adapted to his/her age and to public defence counsel during interrogation.
- The child may only be deprived of his/her liberty prior to trial as a last resort.
- The child whose liberty has been deprived may not be placed in solitary confinement.
- If the child is deprived of his/her liberty prior to trial, this must be for the shortest possible period of time, and never for more than 30 days.

The UN Committee on the Rights of the Child (the Committee) monitors the implementation of the Convention on the rights of the Child (the CRC). The committee has requested data on the total number of children under 18 held in police stations and the average duration of their detention. Data that Sweden has been unable to provide since the government does not require police authorities to collect this type of statistics.

This lack of a fundamental follow-up is remarkable. Continuous follow-up of data concerning children deprived of their liberty is a prerequisite for upholding the human rights of children. Comparable data which can be audited contributes to increased transparency and lessens the risk of violations of justice, as well as increasing trust in the rule of law.

At the Ombudsman for Children in Sweden's request, all police authorities have now collected this data for the first time. During 2011, children were placed in police cells on 3,052 occasions.

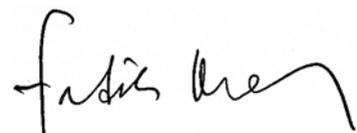
We have also surveyed whether police authorities have adopted guidelines for how children in police cells are to be treated. In addition, we have studied virtually every detention record of children made over a period of one year.

The picture that emerges from the interviews with children in police cells and remand prisons, and from the complementing studies we have done, is totally unacceptable. Our review shows systematic and very far-reaching shortcomings in the observance of the fundamental human rights of children deprived of their liberty.

In closing I would like to address a heartfelt thank you to all of you who have shared with us what it is like to be a child suspected of a crime and deprived of their liberty. You have contributed wise thoughts and new insights. Thanks are also due to the Swedish Prison and Probation Service and the police authorities for their helpful collaboration.

In the present report we submit proposals for necessary measures to the government.

The report will be translated in its entirety and submitted to the Committee on the Rights of the Child as well as to the Council of Europe and the UN committees against torture.



# THE METHOD

## WHAT WE DID

**TO FIND OUT HOW THE HUMAN RIGHTS OF CHILDREN AND YOUNG PEOPLE SUSPECTED OF CRIME AND DEPRIVED OF THEIR LIBERTY ARE UPHELD, IT IS IMPORTANT TO LISTEN TO THE FOREMOST EXPERTS ON THE ISSUE – THE CHILDREN THEMSELVES.**

There is little research in the area. Research moreover has a tendency to be retrospective, and we believe there is a point to listening to children and young people precisely when they are in the difficult situation, and to highlight how their rights are upheld. What works well, and what needs improvement?

The Ombudsman for Children in Sweden met with 34 young people suspected of crimes and deprived of their liberty. All of the young people who feature in this report do so under assumed names. We visited police cells at seven locations and remand prisons at six locations around the country (and held one telephone interview) to learn about how authorities apply the rights of children and young people on the basis of the UN Convention on the Rights of the Child (the CRC).

We spoke to each young person in private. Our ambition was to get a picture of what is needed in order to give children and young people suspected of crimes the best possible treatment and to uphold their human rights. We did not go into the reasons why the young people we met were placed in police cells and in remand prisons.

Our work has had the support of the highest level of management within the Swedish Prison and Probation Service and the National Police Board.

In order to get a more in-depth view of life for children in police cells and in remand prisons, we also interviewed various categories of staff, from management to youth administrators, prison officers and police cell guards.

In our interviews with staff, our questions included how children are treated compared with adults.

For example, are there special reception routines where children are concerned? Are children given information specially adapted for them?

We also looked at what training the staff had regarding children and their rights. We furthermore made our own observations *in situ* to get an idea of the physical environment for children in police cells and remand prisons.

## **SURVEY OF POLICE AUTHORITIES**

In order to obtain an overall picture of the situation in the whole country, we sent a survey to all police authorities on what their guidelines are for children held in police cells. Questions included how children were treated, what information they receive and what training the staff who meet children have.

All 21 police authorities in Sweden replied to the survey. It was completed by police cell managers, police superintendents/inspectors, lawyers and department heads.

## **AUDIT OF DETENTION RECORDS**

An important part of our work was to examine on what grounds children are placed in remand prisons, what types of crimes they are suspected of, and if they are subject to restrictions. The Swedish Prison and Probation Service provided a list of personal identity numbers of individuals born between 1993 and 1996 who had been held in remand prisons during the period from July 2011 until June 2012, inclusive.<sup>1</sup> With the list as a basis, we asked the courts<sup>2</sup> to provide application for detention orders and detention records for those children who had been in detention during the second half of 2011 and the first half of 2012. There were 108 files in all. Both sexes were represented, but the majority were boys.

## **COLLECTION OF STATISTICS**

We requested data from police authorities on how many children were held in police cells during 2011. Data reporting by police authorities varied in terms of detail. In the initial phase, we requested data on the number of individuals under 18 years of age who were held in police cells in the police district during 2011. Additionally, we requested data that made it possible to see why the young person had been incarcerated, i.e. if it was due to having been apprehended, arrested or taken into custody under the Act on Police Interventions against Intoxicated Persons etc. (abbreviated LOB in Swedish)<sup>3</sup>, or because he/she was awaiting deportation.

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1. 1 July 2011 - 30 June 2012. The list does not include children born in 1997.

2. Since only detention records and application for detention orders were requested, the data does not indicate to what extent there were several perpetrators in the cases.

3. Act (1976:511) on Police Interventions against Intoxicated Persons etc.

The latter request proved difficult for many police authorities to accommodate.

The Ombudsman for Children in Sweden therefore changed its request to include only data on the total number of incarcerations of persons under 18 years of age who had been placed in a police cell in the police district during 2011. In a few cases we nevertheless received unique data sets, divided by grounds for apprehension. In showing the total number of incarcerations of children during 2011 it is important to point out that the data from Jönköping, Värmland and Västerbotten counties are underestimates since they do not include children taken into custody under LOB. ■

# THE UN CONVENTION ON THE RIGHTS OF THE CHILD

## A SEPARATE JUVENILE JUSTICE SYSTEM

CHILDREN AND YOUNG PEOPLE UNDER 18 ARE NOT ADULTS AND SHOULD THEREFORE NOT BE TREATED AS ADULTS IN THE JUDICIAL PROCESS. DEPRIVATION OF LIBERTY PRIOR TO TRIAL IS ONLY TO BE USED AS A MEASURE OF LAST RESORT, AND FOR THE SHORTEST APPROPRIATE PERIOD OF TIME.

**A** General Comment from 2007 by the UN Committee on the Rights of the Child (the Committee) dealt with children's rights in juvenile justice. It explains in greater detail what a juvenile justice policy should contain, how children alleged as, accused of or recognized as having infringed the penal law, should be treated, and how the CRC's articles should be interpreted and applied. The General Comment gives States Parties guidance in their work to develop a comprehensive juvenile justice policy in accordance with the CRC and other relevant rules and guidelines.<sup>1</sup>

The Committee also emphasizes that a comprehensive juvenile justice policy should not be limited to the specific provisions contained in articles 37 and 40, but should take the CRC as a whole into account, not least the general principles enshrined in articles 2, 3, 6 and 12.<sup>2</sup> Among other things, this means that all children have the right to equal and non-discriminatory treatment, and that the best interests of the child should be a primary consideration in all decisions taken within the context of the administration of juvenile justice.<sup>3</sup>

The Committee notes that children differ from adults in their physical and psychological development and in their emotional and educational needs. These differences are the reasons for a separate

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1. The UN Committee on the Rights of the Child. General Comment No. 10 (2007). Children's rights in juvenile justice. (CRC/C/GC/10).

2. CRC/C/GC/10 Paragraph 4.

3. CRC/C/GC/10 Paragraphs 6 and 10.

juvenile justice system, and require different treatment for children.<sup>4</sup> Every child's right to life, survival and development should lead to a policy of responding to juvenile delinquency in ways that support the child's development. The use of deprivation of liberty has negative consequences for the child's development and reintegration in society, and should therefore be avoided.<sup>5</sup> The right of the child to express his/her views in all matters affecting the child should be respected throughout the process of juvenile justice.<sup>6</sup> The child has the right, throughout this time, to be treated in a way that is consistent with the child's sense of dignity and worth.<sup>7</sup> The Committee also refers to other international standards that states should promote the integration of in their comprehensive policy for juvenile justice: the UN Standard Minimum Rules for the Administration of Juvenile Justice, the UN Rules for the Protection of Juveniles Deprived of their Liberty (the "Havana Rules") and the UN Guidelines for the Prevention of Juvenile Delinquency (the "Riyadh Guidelines").<sup>8</sup>

#### **DEPRIVATION OF LIBERTY IS NEGATIVE FOR DEVELOPMENT**

The Committee emphasizes that the deprivation of liberty has negative consequences for the child's development and hampers the child's reintegration in society.<sup>9</sup> To ensure that deprivation of liberty is only used as a measure of last resort, there should be a number of alternatives to deprivation of liberty. The fact that children in many countries are in pretrial detention for several months, even years, constitutes, according to the Committee, a grave violation of article 37. Appropriate legislative and other measures should be applied in order to reduce the use of pretrial detention.<sup>10</sup>

Under article 19, the state shall take all measures to protect the child from all forms of violence while in the care of parents or any other person who has the care of the child. Under article 37, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. It is the Committee's view that disciplinary measures in violation of article 37, including solitary confinement or any other punishment that may compromise the mental or physical health or well-being of the child concerned, must be strictly forbidden.<sup>11</sup>

Use of pretrial detention as a punishment violates the presumption of innocence, i.e. the principle that a person is innocent until proven

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4. CRC/C/GC/10 Paragraph 10.

5. CRC/C/GC/10 Paragraph 11.

6. CRC/C/GC/10 Paragraph 12.

7. CRC/C/GC/10 Paragraph 13.

8. CRC/C/GC/10 Paragraph 4.

9. CRC/C/GC/10 Paragraph 11.

10. CRC/C/GC/10 Paragraph 80.

11. CRC/C/GC/10 Paragraph 89.

# THE UN CONVENTION ON THE RIGHTS OF THE CHILD

guilty. The law should clearly state on which grounds a child may be placed or held in pretrial detention.<sup>12</sup>

The right of the child to be heard under article 12 is fundamental for a fair trial and must be observed at all stages of the process. The child must be given the opportunity to express his/her views freely, and those views should be given due weight in accordance with the age and maturity of the child. In order for the child to be able to effectively participate, he/she shall have the right to information about the charges, the juvenile justice process as such, and of the possible measures.<sup>13</sup>

The Committee further emphasizes that every child, in all cases of deprivation of liberty, should have the right to make requests or complaints, without censorship as to the substance, to the central administration, the judicial authority or other proper independent authority. He/she also has the right to be informed of the response without delay. Children need to know about and have easy access to these mechanisms.<sup>14</sup>

The Committee recommends that all professionals involved in administration of juvenile justice receive training about the principles and provisions of the CRC and about relevant UN rules and guidelines.

Training should also include information on social and other causes of juvenile delinquency, psychological and other aspects of children's development, and knowledge of alternative measures to judicial proceedings.<sup>15</sup> ■

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12. CRC/C/GC/10 Paragraph 80.

13. CRC/C/GC/10 Paragraph 44.

14. CRC/C/GC/10 Paragraph 89.

15. CRC/C/GC/10 Paragraph 97.

# SWEDEN

## MORE AND MORE CHILDREN ARE DETAINED

**THE NUMBER OF YOUNG PEOPLE SUSPECTED OF CRIMES AND PLACED IN REMAND PRISON HAS GROWN SHARPLY IN SWEDEN OVER THE PAST 20 YEARS. THIS DESPITE THE PRINCIPLE THAT YOUNG PEOPLE ARE ONLY EXCEPTIONALLY TO BE PLACED IN REMAND PRISON.**

The Committee has expressed concern about insufficient statistics regarding e.g. children in pretrial detention, and urges States Parties to systematically collect and maintain data on the use and average duration of pretrial detention.<sup>1</sup>

In its latest report to the Committee, Sweden presented the number of children in remand prison, the duration of detention and the number of detained children with restrictions.<sup>2</sup> Despite being expressly required by the Committee, the report lacks data on the number of children held in police cells on suspicion of crimes and on the average duration of the deprivation of liberty. Nor were there any statistics on the share of these children who had had legal or other assistance. The same thing applies to the number of reported cases of abuse and maltreatment of persons under 18 years of age that had occurred during their arrest and detention.<sup>3</sup>

The Ombudsman for Children in Sweden therefore requested data from police authorities on how many children were held in police cells during 2011.

**AT LEAST 3,000  
INCARCERATIONS OF  
CHILDREN IN POLICE CELLS  
OCCURRED DURING 2011.**

1. CRC/C/GC/10 Paragraph 98.

2. The Government Offices. Sweden's fifth periodic report to the UN Committee on the Rights of the Child, on the implementation of the Convention on the Rights of the Child 2007-2012. 2012.

3. The UN Committee on the Rights of the Child. Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child. 2010.

## NUMBER OF INCARCERATIONS OF CHILDREN UNDER 18 YEARS OF AGE IN POLICE CELLS, 2011

POLICE AUTHORITY	SUSPECTED OF CRIME	LOB	OTHERS	TOTAL	POPULATION AGED 15-17
BLEKINGE	18	23		41	5 198
DALARNA <sup>1</sup>	22	15		37	10 025
GOTLAND <sup>2</sup>				43	2 030
GÄVLEBORGS LÄN	21	11	2	34	9 746
HALLANDS LÄN	33	41	9	83	11 301
JÄMTLANDS LÄN	21	12	3	36	4 394
JÖNKÖPINGS LÄN <sup>3</sup>	74		1	75	12 768
KALMAR LÄN	27			27	8 476
KRONOBERGS LÄN	11	3		14	6 703
NORRBOTTEN	73	34	4	111	8 651
SKÅNE	595	70	23	688	43 056
STOCKHOLMS LÄN <sup>4</sup>				867	70 994
SÖDERMANLANDS LÄN	58	14	3	75	10 065
UPPSALA LÄN <sup>5</sup>	57	40	61	158	12 241
VÄRMLAND <sup>6</sup>	26			26	9 589
VÄSTERBOTTENS LÄN <sup>7</sup>	48			48	9 231
VÄSTERNORRLANDS LÄN <sup>8</sup>				20	8 468
VÄSTMANLANDS LÄN	27	9		36	9 277
VÄSTRA GÖTALAND <sup>9</sup>	339	85	13	437	55 998
ÖREBRO LÄN <sup>10</sup>	75	39		114	10 318
ÖSTERGÖTLANDS LÄN <sup>11</sup>	5	45	32	82	15 833
<b>TOTAL</b>	<b>1 530</b>			<b>3 052</b>	<b>334 362</b>

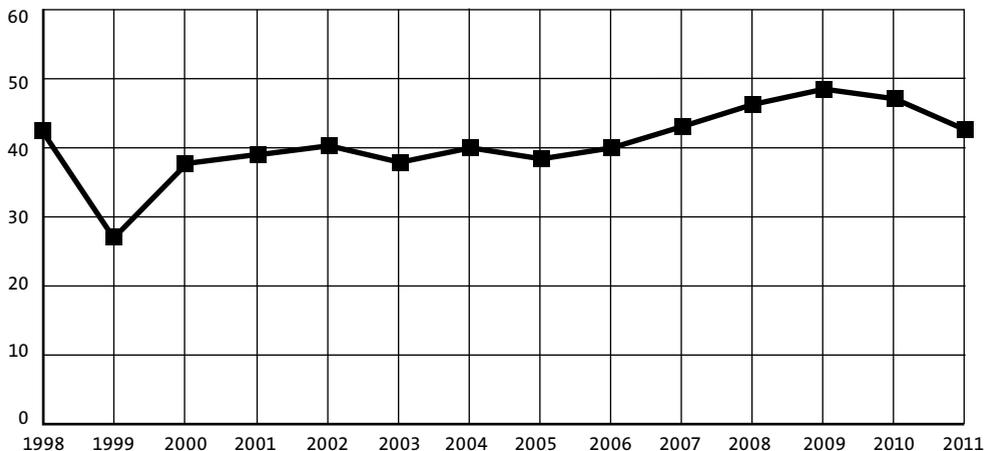
LOB=Act (1976:511) on Police Interventions against Intoxicated Persons etc.

Others=children placed in police cells on other grounds (Sections 11, 12, 14 of the Police Act etc.). Note that not all police authorities have reported this.

- Dalarna reported that one incarceration was uncertain.
- Gotland reported that 45 persons under the age of 18 were deprived of their liberty. 2 of these were under 15 years of age. We have chosen to remove that figure from the compilation since not all police authorities reported that figure. Gotland reported the total number of children deprived of liberty without specifying grounds. It is not clear how many of those deprived of liberty were held in police cells.
- Jönköping did not report how many children were taken into custody under LOB and held in police cells.
- Stockholm reported the total number of children held in police cells, without specifying the grounds for the incarceration.
- Uppsala reported 163 deprivations of liberty. 5 of these were under 15 years of age. We have chosen to remove that figure from the compilation since not all police authorities reported that figure. 61 persons were reported to have been in custody, and it could not be distinguished if they were held in police cells.
- Värmland did not report how many children were taken into custody under LOB and held in police cells.
- Västerbotten reported the number of individuals held in police cells, but did not report how many children were taken into custody under LOB and incarcerated in police cells.
- Västernorrland reported the total number of incarcerations of children without specifying the grounds.
- Västra Götaland reported 431 incarcerations. A recount showed that the correct total is 437.
- Örebro specified the grounds for taking into custody under LOB. The grounds for other incarcerations could not be distinguished.
- Östergötland reported 86 deprivations of liberty and it could not be distinguished if they were held in police cells. 4 of these were under 15 years of age. We have chosen to remove that figure from the compilation since not all police authorities reported that figure.

Source: Statistics submitted by police authorities and Statistics Sweden's population data on 1 November 2011, Statistics Sweden.

**NUMBER OF SUSPECTED PERSONS AGED 15-17  
PER 1,000 POPULATION IN THE AGE GROUP**



Source: Crime statistics, Brå (the Swedish National Council for Crime Prevention) and Population statistics, SCB (Statistics Sweden).

Our accumulated data shows that there were approximately 3,000 occasions when children were incarcerated in police cells during 2011. This includes those occasions when there was no suspicion of a crime.<sup>4</sup> Our compilation shows that more than 1,500 incarcerations of children in police cells on suspicion of crime occurred in the same year. The true figure is much higher, as Stockholm and Gotland are not included.

We have no historic figures to compare with, and can therefore not comment on whether the measured year is representative of the county in question. But our compilation provides the first national and regional picture of how many incarcerations of children in police cells occur during a year in Sweden.

According to the CRC, children may only be deprived of their liberty as a measure of last resort, when all alternative measures have been tried. And if it occurs, it should be for the shortest possible time. Even so, the number of young people suspected of crimes and placed in remand prison has increased sharply. 41 children were placed in remand

**41 CHILDREN WERE PLACED IN REMAND PRISON IN 1998; IN 2011 THAT FIGURE HAD RISEN TO 122.**

4. For example, taking into custody under LOB and the Police Act (1984:387).

prison in 1998<sup>5</sup>; in 2011 that figure had risen to 122.<sup>6</sup> The increase is notable considering the fact that the intention of both the CRC and Swedish legislation is that children be placed in remand prison only exceptionally.

Statistics also show that it is common for young people to remain in remand prison for long periods of time. In 2011, 17 per cent of all 15 to 17-year-olds were in remand prison for longer than 30 days, and 34 per cent were in remand prison for no more than ten days.<sup>7</sup>

Statistics of the number of young suspects of crime show that variations over time are small and do not in themselves explain the great increase in the number of children placed in detention. The number of 15 to 17-year-olds suspected of crimes has varied between 37 and 49 per 1,000 population over the years between 2000 and 2011.

With the exception of the decrease in 1999 and the years 2005-2009, when the number of suspects increased, the level remained fairly stable during the period under study. The five most common types of crimes that young people were suspected of during the same period were unlawful appropriation (stealing), drug offence, assault, crimes against the Road Traffic Offence Act (including unlawful driving) and infliction of damage. Unlawful appropriation was the dominant type of crime among 15 to 17-year-olds during the entire period under study.<sup>8</sup> ■

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5. Svensson, L. Häktad eller omedelbart omhändertagen? – en studie om akuta frihetsberövanden av unga lagöverträdare. Stockholm University. Department of Social Work. 2006..

6. The Government. Sweden's fifth periodic report to the UN Committee on the Rights of the Child, on the implementation of the Convention on the Rights of the Child 2007–2012. 2012.

7. The Government. Sweden's fifth periodic report to the UN Committee on the Rights of the Child, on the implementation of the Convention on the Rights of the Child 2007–2012. 2012.

8. The Swedish National Council for Crime Prevention. Development of crime in Sweden 2008-2011. 2012.

# DEPRIVATION OF LIBERTY – THE LEGAL CONTEXT

**EVERY INDIVIDUAL HAS CIVIL LIBERTIES (FREEDOMS AND RIGHTS) ENSHRINED IN SWEDEN’S FUNDAMENTAL LAW. CERTAIN RIGHTS MAY BE RESTRICTED IN LAW, BUT ONLY FOR ENDS THAT ARE ACCEPTABLE IN A DEMOCRATIC SOCIETY.**

Investigating crime is such an end. The prosecutor therefore has the right to use coercive measures in the preliminary investigation. In Swedish law, the use of coercive measures on children and young people is regulated primarily in the Swedish Code of Judicial Procedure (1942:740), abbreviated CJP below, and the Act (1964:167) with Special Provisions concerning Young Offenders, abbreviated AYO below.

If there are grounds to arrest a person, a policeman may in the case of urgency apprehend the suspect without a decision for an arrest. If a person who has committed an offence for which imprisonment may be imposed is observed in the act of committing the offence or fleeing from it, he/she may be apprehended by anyone. Similarly, anyone may apprehend a person posted as wanted for an offence. The person apprehended shall be promptly turned over to the nearest police officer.<sup>1</sup>

## **PROMPT INTERROGATION**

If there are grounds for detaining a person, he/she may be placed under arrest while awaiting the court’s determination of the detention issue. Decisions concerning arrest are made by the prosecutor. Even in the absence of full cause for detention, a person reasonably suspected of an offence may be arrested if it is extraordinarily important

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<sup>1</sup>. Ch. 24, Section 7 of CJP

that he/she be placed in custody pending further investigation. The decision for arrest shall state the suspected offence and the grounds for arrest.<sup>2</sup> When a person is apprehended or arrested he/she shall be informed of the offence for which he/she is suspected and the grounds for the arrest.<sup>3</sup>

A police officer or a prosecutor shall question anyone apprehended as soon as possible. After questioning, the prosecutor shall decide immediately whether the suspect shall be arrested.<sup>4</sup> A person not under arrest or in detention is not obliged to stay for questioning longer than six hours.<sup>5</sup> If the person reasonably suspected of a crime is under 18 years of age, his/her guardian must immediately be notified and summoned for interrogation with the young person, if this can be done without compromising the investigation and there are no other special reasons against it.<sup>6</sup> If the crime is punishable by imprisonment, the social welfare board must also be notified immediately<sup>7</sup> and be present during the interrogation, if this is possible and can be done without compromising the investigation<sup>8</sup>.

### GROUNDS FOR DETENTION

A person under 18 years of age may only be detained when there are exceptional reasons for it.<sup>9</sup> This means that greater restrictiveness must be applied when detaining children than when detaining adults. Any person suspected on probable cause of an offence punishable by imprisonment for a term of one year or more may be placed in detention if, in view of the nature of the offence, the suspect's circumstances, or any other factor, there is a reasonable risk that the person will:

- **flee** or in some other way evade legal proceedings or punishment
- **remove** evidence or impede the investigation in some other way (collusion) or
- **continue** his or her criminal activity (recidivism).

If a penalty less severe than imprisonment for two years is not prescribed for the offence, the suspect shall be detained unless it is clear that detention is unwarranted. Detention may only occur if the reason for detention outweighs the intrusion or other detriment to the suspect or some other opposing interest.<sup>10</sup> The two-year rule applies

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2. Ch. 24, Section 6 of CJP

3. Ch. 24, Section 9 of CJP.

4. Ch. 24, Section 8 of CJP

5. Ch. 23, Section 9 of CJP.

6. Section 5 of AYO.

7. Section 6 of AYO.

8. Section 7 of AYO.

9. Section 23 of AYO.

10. Ch. 24, Section 1 of CJP

primarily for adults. For children there is a relatively broad scope for not requesting that the child be detained even if the minimum penalty is two years or more.<sup>11</sup>

If it can be assumed that the suspect will only be sentenced to a fine he/she must not be detained.<sup>12</sup> Any person suspected on probable cause of an offence may be detained regardless of the nature of the offence if his/her identity is unknown, and he/she either refuses to provide his/her name and address or he/she provides a name and address that is assumed to be false. The same applies if the suspect does not reside in Sweden and there is a risk that he/she will flee - this is known as the aggravated risk of flight.<sup>13</sup> A person reasonably suspected (a lower degree of suspicion) of a crime may also be detained if the conditions for detention are otherwise fulfilled and if it is required pending further investigation.<sup>14</sup>

If it may be feared that detention will cause serious harm to a suspect by reason of his/her age, health status or similar factor, detention may only take place if adequate supervision of the suspect outside of detention cannot be arranged.<sup>15</sup> The prosecutor must try to arrange the necessary supervision as soon as possible. This can be in the suspect's home or in a suitable institution.<sup>16</sup>

For a suspect who has not yet turned 18 years of age, public defence counsel must be appointed unless it is evident that he/she does not need defence counsel.<sup>17</sup> ■

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11. The Prosecutor-General's guidelines for the processing of juvenile cases RÅR 2006:3 p 41.

12. Ch. 24, Section 1 of CJP

13. Ch. 24, Section 2 of CJP.

14. Ch. 24, Section 3 of CJP.

15. Ch. 24, Section 4 of CJP.

16. Section 26 of the Proclamation on preliminary investigations (1947:948).

17. Section 24 of AVO.

# THE SURVEY

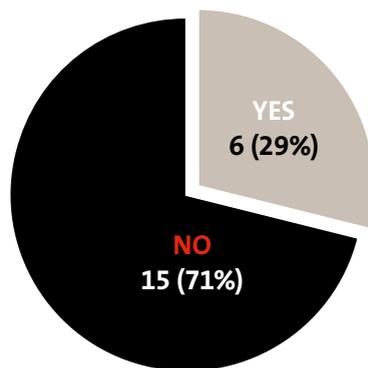
## FEW GUIDELINES FOR CHILDREN IN POLICE CELLS

DESPITE THE RULE THAT CHILDREN WHO ARE DEPRIVED OF THEIR LIBERTY ARE TO BE TREATED AS CHILDREN, THE CHILD RIGHTS PERSPECTIVE IS INSUFFICIENT AT THE COUNTRY'S POLICE AUTHORITIES. THIS EMERGES IN THE OMBUDSMAN FOR CHILDREN IN SWEDEN'S SURVEY, TO WHICH ALL POLICE AUTHORITIES RESPONDED.

Just under a third of the police authorities replied that they had drawn up their own guidelines for incarcerated children.

The authorities stating that they have guidelines were Gävleborg, Jönköping, Kronoberg, Södermanland, Västernorrland and Örebro counties. When there are guidelines, they deal above all with how to notify guardians and the social services when a child is placed in

HAS YOUR POLICE AUTHORITY  
DRAWN UP ITS OWN GUIDE-  
LINES THAT APPLY SPECIFICALLY  
TO CHILDREN INCARCERATED  
IN POLICE CELLS?



Number of police authorities: 21 (100%)

a police cell. One of the authorities, in Örebro county, has guidelines which state that a child should be confined to a cell only if absolutely necessary. In the first instance, the child is confined to some other space in the police station, e.g. an interrogation room, together with staff. None of the police authorities has produced information specifically for children held in police cells. In other words, there is neither specially adapted information about what rights the incarcerated children have, nor about how the judicial process proceeds. Furthermore, no police authority places any special training requirements on the police cell guards who meet children deprived of their liberty. Ten police authorities, about half the total, usually employ externally sourced police cell guards.

The guards usually attend an internal introduction course<sup>1</sup> arranged by the police authority itself.

But externally sourced police cell guards do not always attend. To the extent that the training course discusses children, it deals with rules and regulations that apply to children held in police cells.

Judging from the responses to the survey, there is a link between guidelines and training on the one hand, and whether children are given special consideration on the other. The six police authorities mentioned above that do have guidelines state, to a greater extent than those with no guidelines, that they contact family members and the social services. They further state, also to a greater extent than the other authorities, that they are restrictive about placing children in police cells. Those police authorities that do not state that children are only exceptionally placed in police cells share the characteristic that they offer a shorter introduction course than the others, with a maximum of two days.<sup>2</sup> ■

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1. In half of these cases, the length of the course is given as two days at most. In the remaining cases, the length of course varies between 2.5 days and a maximum of 7 and 18 days.

2. Nine out of the ten that did not state that they only exceptionally placed children in police cells also answered that their internal training course is two days or less.

# THE AUDIT

## UNCLEAR GROUNDS WHEN CHILDREN ARE DETAINED

**IN THE AUTUMN OF 2012 THE OMBUDSMAN FOR CHILDREN IN SWEDEN EXAMINED 108 DETENTION RECORDS FOR CHILDREN. THE AUDIT SHOWED THAT IT IS UNCLEAR HOW THE COURTS ASSESS EXCEPTIONAL REASONS.**

**A**ccording to the Swedish Prosecution Authority, children are normally only detained if they are suspected of a serious crime or if there are several suspects in the case.<sup>1</sup>

Our audit shows that it is common for several grounds for detention to underlie a decision on detention. The risk of collusion (that the child removes evidence or impedes the investigation in some other way) is the most common grounds for detention. It is usually combined with the risk of recidivism (that the child will continue his/her criminal activity). The risk of collusion was cited in 90 cases and was the only grounds in 15. The risk of recidivism was grounds for detention in 49 cases, and was the only grounds in five of those cases. The risk of flight (that the suspect will flee or evade legal proceedings or punishment in some other way) was the grounds in 24 cases, and the only grounds in two cases. The aggravated risk of flight for persons who don't reside in the country or whose identity is unknown was cited in eight cases.

### **WHY CHILDREN ARE DETAINED**

In total, the children in the study are suspects in 263 crimes. Each separate suspicion of crime was counted. About half of the children

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1. The Prosecution Authority. Report on a review of the use of restrictions. The Development Centre, Malmö. February 2011. p 16.

## DETENTION GROUNDS:



were suspected of one crime. 41 children were suspected of 2-4 crimes and the rest for up to 11 crimes. The figures include incitement to crime, attempted crime and complicity in crime.

The most frequently occurring crime in the material is robbery, with 48 cases. In seven cases it is the only crime. Aggravated assault features in 22 cases, and is the only crime in four. Serious theft features in 21 cases, and is the only crime in five. Interference in a judicial matter features 18 times in combination with other crimes.

## UNCLEAR INFORMATION ABOUT RESTRICTIONS

Restrictions were granted in all 91 cases where they were requested by the prosecutor. The detention order has a box that the prosecutor can tick in order to request permission to impose restrictions on the suspect. At the detention hearing, the prosecutor has to specify which restrictions are applicable and the grounds for them. This may be done orally. The detention record only includes the decision on detention and on whether restrictions may be imposed on the suspect. The individual restrictions in each case are not specified. It is therefore not possible to glean from the records whether the court made any actual examination of whether full restrictions were necessary.

Only in one case did the court highlight the suspect's young age in connection with the prosecutor's request to impose restrictions. In the case in question, the prosecutor was not permitted to restrict the young person's contact with his/her family, only his/her contact with others.

## CLARITY ABOUT WHAT IS REQUIRED

According to the Committee on the Rights of the Child, the state should take adequate legislative and other measures in order to redu-

## CLASSIFICATION OF THE CRIME:

CRIMES AGAINST THE PERSON<sup>1</sup> 79  
THEFT, ROBBERY AND UNLAWFUL APPROPRIATION<sup>2</sup> 100  
CRIMES OF FRAUD<sup>3</sup> 23  
INFLICTION OF DAMAGE/CRIMES CONSTITUTING A PUBLIC DANGER<sup>4</sup> 21  
BREACHES OF THE NARCOTIC DRUGS PENAL LAW 12  
OTHER (EMBEZZLEMENT, PERJURY, CRIMES AGAINST PUBLIC ACTIVITY)<sup>5</sup> 28  
**TOTAL 263**

1. 3-6 kap BrB.

2. 8 kap BrB.

3. 9 kap BrB.

4. 12-13 kap BrB.

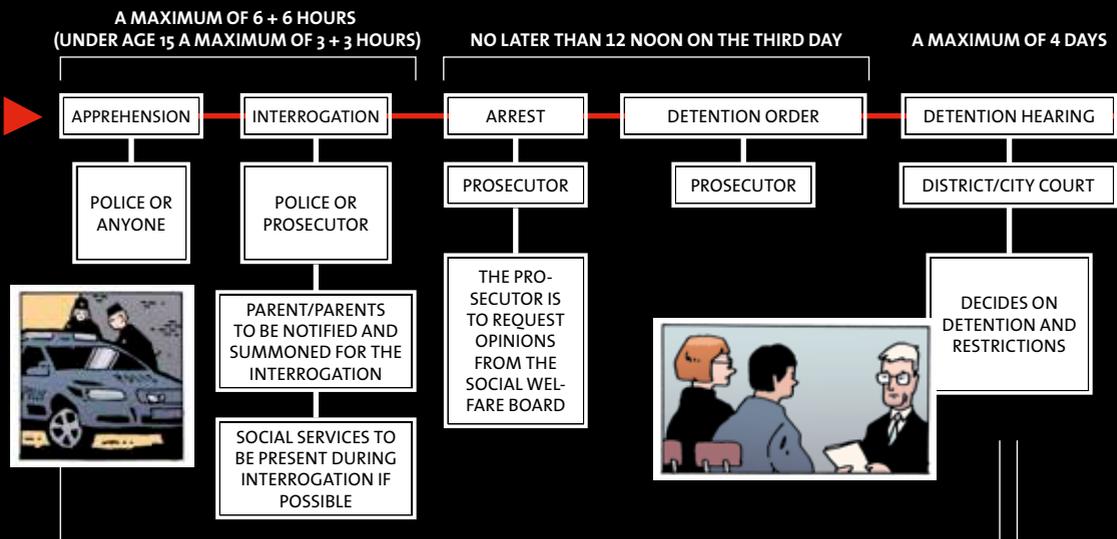
5. 10, 15, 17 kap BrB.

ce the use of pretrial detention. The law should clearly state the conditions that are required to determine whether to place or keep a child in pretrial detention.<sup>2</sup> The Ombudsman for Children in Sweden would emphasize the CRC's requirement that children only exceptionally be placed in detention, and then for the shortest appropriate period of time. When children are deprived of their liberty it must be under forms that are in accordance with the requirements in the CRC. If it may be feared that detention will cause serious harm to a suspect by reason of his age, health status, or similar factor, detention may only take place if adequate supervision of the suspect outside of detention cannot be arranged.<sup>3</sup>

For the detention of children, exceptional reasons are furthermore required.<sup>4</sup> This is in addition to the general conditions that must be fulfilled in order for detention to come into question. Regardless of the age of the suspect, it is a requirement that the suspected crime carries a penalty of at least one year's imprisonment in order for detention to come into question. If it can be assumed that the suspect

2. CRC/C/GC/10 Paragraph 8o.  
 3. Chapter 24, Section 4 of CJP.  
 4. Section 23 of AYO.

## TIMELINE – HOW IS IT DONE



**POLICE CELL.** MANNED BY POLICE CELL GUARDS OR SECURITY GUARDS.  
 THERE ARE TWO TYPES OF POLICE CELLS - ONE FOR CRIME SUSPECTS AND ONE FOR INTOXICATED PERSONS.

will only be sentenced to a fine he/she must not be detained.<sup>5</sup> It is not clear from the legislative history how the examination of exceptional reasons is to be carried out. According to the Prosecutor-General, the assessment of whether there are exceptional reasons is to be made on the basis of an overall assessment of all the circumstances.<sup>6</sup> The Swedish Parliamentary Ombudsmen have stated that detention of persons under 18 years of age may only occur in extreme situations.<sup>7</sup>

The records rarely show how the assessment is made of what are to be considered exceptional reasons. The Ombudsman for Children in Sweden finds it regrettable that it is not possible to glean from the records how the court reasoned in respect of exceptional reasons, in view of the fact that the CRC states that detention may only be used as a last resort.

### ALTERNATIVES MUST BE EXPLORED

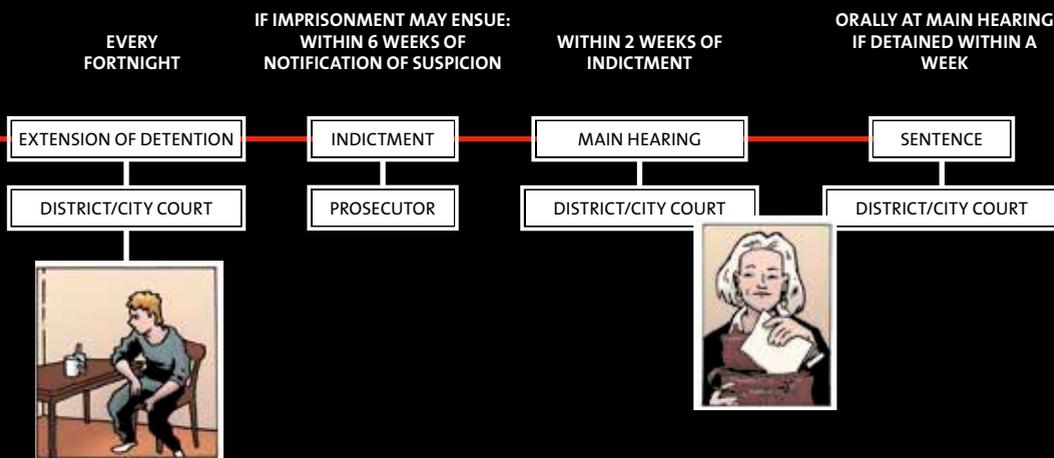
A person who is not resident in Sweden or who is unknown and refuses to provide his/her identity may be detained even if the crime

5. Chapter 24, Section 1 of CJP.

6. The Prosecutor-General's guidelines for the processing of juvenile cases RÅR 2006:3.

7. The Parliamentary Ombudsmen 1994/95 p. 255.

# WHAT HAPPENS – WHEN?



**PRISON AND PROBATION SERVICE REMAND PRISON.** . MANNED BY CORRECTIONAL OFFICERS. THE SUSPECT IS MOVED TO THE REMAND PRISON AT THE LATEST WHEN A DECISION HAS BEEN MADE ABOUT DETENTION. THERE IS NO ABSOLUTE TIME LIMIT FOR HOW LONG A PERSON CAN BE HELD AT A REMAND PRISON.

in question can be assumed to lead only to a fine.<sup>8</sup> Even in such cases, however, the prosecutor must explore alternatives to detention such as travel prohibition or obligation to report.<sup>9</sup> It is the Ombudsman for Children in Sweden's view that detention must not be used in a way that contravenes the discrimination proscription in article 2 of the CRC.

Our audit further shows that the risk of collusion is the most common ground for detention, but that it is often combined with one or more other grounds. The risk of collusion also appears to be the reason why prosecutors do not think there are alternatives that can guarantee adequate supervision. The Supreme Court has stated that the court is obliged to examine the grounds cited by the prosecutor in order to show that there are no alternative possibilities for supervision of persons under the age of 18.<sup>10</sup>

Among other things, the material shows that the suspect's previous behaviour can affect the choice of measure. For example, detention may be seen as the only realistic alternative if the suspect has previously escaped from alternative placements. If the prosecutor considers that the existing alternatives do not amount to adequate supervision, detention becomes the only option.

The detention records do not show what grounds were cited in support of the imposition of restrictions on the child. However, our audit shows that the court has always granted restrictions when the prosecutor has requested it. According to the Prosecution Authority's regulations, the grounds for restrictions are to be documented and the concrete conditions that underlie the decision specified.<sup>11</sup> Only from one of the records were we able to glean that the court made an individual examination of the restrictions. ■

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8. Chapter 24, Section 2 of CJP.

9. Chapter 25, Section 1 of CJP.

10. NJA (Nytt Juridiskt Arkiv, a publication of Supreme Court cases) 2008, p. 81.

11. ÅFS (the Prosecution Authority's statute book) 2005:29.

# INTERVIEW

OLA BJÖRSTRAND, YOUTH PROSECUTOR, STOCKHOLM:

## “DETENTION IS THE LAST RESORT”

THE NUMBER OF CHILDREN AND YOUNG PEOPLE PLACED IN DETENTION ON SUSPICION OF CRIME HAS GROWN DRAMATICALLY IN RECENT YEARS. YOUTH PROSECUTOR OLA BJÖRSTRAND IS NOW CALLING FOR MORE MEASURES UNDER LVU (CARE OF YOUNG PERSONS [SPECIAL PROVISIONS] ACT) AND VOLUNTARY CARE IN ORDER TO COUNTER THIS TREND.

Children may only be detained in the most exceptional cases and if no other recourse exists. This is stated in the CRC, which also states that the child’s time in detention should be kept to a minimum.

Despite the convention, however, the number of children and young people detained on suspicion of crime has more than tripled in recent years, from 41 children in 1992 to 122 children in 2011. According to the surveys carried out by the Ombudsman for Children in Sweden, more than 80 per cent of these children also have restrictions imposed on them, meaning for instance a limit to their contact with family and friends.

### A LACK OF RESOURCES

According to Ola Björstrand, prosecutor and head of the juvenile justice team at Södertörn Local Public Prosecution Office, this trend is partly to do with an increase in serious organized crime among the very young, while at the same time measures under LVU and voluntary

care can’t keep up with developments. There simply aren’t enough resources and funds to cover the growing need for care. “The basic premise is of course that children and young people shouldn’t be locked up,” he says. “Everyone who works with these things knows that. But detention is based on not having an alternative. It’s the last resort, when it is absolutely necessary and no other means are available.”

### QUICK SOLUTION

Faced with the possible detention of a suspect, prosecutors cooperate with the police and social services to analyse the suspect’s life situation from several perspectives. The goal is to devise a constructive solution based, among other factors, on the legislator’s requirement for expediency, the restrictive use of coercive measures, and the guaranteeing of a satisfactory and objective investigation.

The solution simply has to be quick and contribute to a good cri-

“THE BASIC PREMISE IS THAT CHILDREN AND YOUNG PEOPLE SHOULDN’T BE LOCKED UP. EVERYONE WHO WORKS WITH THESE THINGS KNOWS THAT.”

# INTERVIEW

minal investigation, Ola Björstrand sums up.

“We don’t want to use coercive measures unnecessarily either.”

In most cases where the prosecutor anyway decides to apply coercive measures, some form of restrictions are also applied.

“In practice, young people are only detained if there is a risk that they will compromise the investigation. That means that they automatically also have restrictions imposed on them.”

Which restrictions are imposed depends on a number of factors. How serious is the crime? What is the length of the deprivation of liberty? How great is the risk that the investigation becomes compromised? How is the young person doing?

“If I learn that the detained person is coming to harm in a police cell or a remand prison, I prefer to take the risk that the investigation

becomes compromised. There are constant trade-offs to be made. We also use a de-escalation model in which we gradually lift restrictions as the investigation proceeds,” Ola Björstrand explains.

“I also always give the social services permission to visit the inmate. Among other things, this is to allow them to offer voluntary care instead of LVU. If it’s OK with the investigation, placement in a HVB home (a residential care home for children and young persons) can be a good idea.”

More measures by the social services could also reduce the number of detentions of children and young people in the long run, Ola Björstrand believes.

“And if we were also given access to more lawyers who could act on short notice, waiting times in police cells could be shortened, too,” he says. ■

# INTERNATIONALLY

## CRITICISM AGAINST SWEDEN

**A SHORTAGE OF SUPPORT, NO INFORMATION AND EXTENSIVE RESTRICTIONS ARE THE GROUNDS FOR CRITICISM LEVELLED AT SWEDEN WITH RESPECT TO THE TREATMENT OF CHILDREN AND YOUNG PEOPLE DEPRIVED OF THEIR LIBERTY.**

The issue of detention and restrictions has been central to the dialogue between Sweden and the Council of Europe Committee for the Prevention of Torture (CPT) ever since the committee's first report in 1991. A recurrent criticism against Sweden, both from the CPT and from the UN Committee Against Torture (CAT), regards the use of restrictions in connection with detention.<sup>1</sup>

The most recent examination of Sweden was carried out by the CPT in the summer of 2009. It noted a number of deficiencies which Sweden was urged to remedy.

Several of the most serious deficiencies were to do with children deprived of their liberty. The CPT noted, among other things, that young people were not informed of their rights. There were also occurrences of young people being interrogated without parents, social services or a lawyer being present. Sweden was urged to take measures to guarantee that children interrogated by the police have an adult they trust and a lawyer present during interrogation.<sup>2</sup>

The CPT was also concerned that a majority of the persons detained had not been informed about why restrictions had been imposed on them. Many of them thought that the only reason they were prevented from having contact with their family was to break their spirit.

The CPT regarded it as particularly troubling that all the children in one remand prison they visited had had restrictions imposed on them for two to three months. Placing people as young as 15 in conditions

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1. CPT/Inf (2009) 34 and CAT/C/SWE/CO/5.

2. CPT/Inf (2009) 34.

resembling solitary confinement is “a draconian measure”, the CPT noted.<sup>3</sup>

When the UN Committee Against Torture examined Sweden in 2008 it reported similar criticisms. Sweden was recommended to take measures to reduce the use of restrictions and to shorten the time during which they are imposed. The restrictions must always be based on concrete grounds, be individualized, be proportionate to the crime the individual is suspected of, and be removed immediately when no longer needed.

On the basis of this criticism, the detention inquiry<sup>4</sup> proposed that the prosecutor, in connection with asking the court to consider whether the detainee’s contact with the outside world should be restricted, state what restrictions of a specific kind he/she wants to impose. The prosecutor should also present the reasons for each restriction, to the extent that this does not compromise the investigation of the matter. In their decisions, District Courts should state what restrictions of a specific kind the prosecutor may impose. It should be possible to appeal against the decision.

The government’s opinion was that in view of the limited advantages the inquiry’s proposal would bring, and of the fact that the current system satisfies stringent requirements for legal certainty, the need for and effectiveness of the change could be questioned. It therefore chose not to propose any such change. It did, however, introduce the possibility of appealing against restrictions of a certain kind, which was in line with the committee’s recommendations.<sup>5</sup>

The committee also recommended that Sweden take measures to guarantee that all persons who are deprived of their liberty immediately be assigned defence counsel and that this arrangement be maintained throughout the investigation. All persons deprived of their liberty should also have the right to be seen by a doctor and to inform a close relative or other person of their choosing about their situation.<sup>6</sup>

### **SOLITARY CONFINEMENT A PART OF THE JUSTICE SYSTEM**

According to the UN Special Rapporteur on Torture, the definition of solitary confinement is the physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day.<sup>7</sup>

The use of solitary confinement is well documented in history. Solitary confinement was used in the 19th century for sentenced criminals in the belief that it would rehabilitate them, and was regarded as

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3. CPT/Inf (2009) 34.

4. SOU (Swedish Government Official Report) 2006:17 New detention act.

5. Govt. bill 2009/10:135. New legislation on prisons and remand prisons.

6. CAT/C/SWE/CO/5.

7. United Nations General Assembly. Interim report of the special rapporteur of the Human Rights Council on Torture and other cruel, inhuman or degrading treatment or punishment. (2011), A/66/268. (The UN Special Rapporteur on Torture, 2011).

progressive in relation to other punishments such as the death penalty and amputation.<sup>8</sup>

Solitary confinement is still used in many countries, e.g. in security prisons in the USA. This has been criticized by the UN Special Rapporteur on Torture. Another example is the widespread use of solitary confinement at remand prisons and in police cells in the Scandinavian countries. Pretrial solitary confinement is described as intrinsic to the justice systems of the Scandinavian countries.<sup>9</sup> The CPT's reports moreover indicate that the use of restrictions is another distinctive feature of Nordic justice systems.<sup>10</sup>

The UN Special Rapporteur highlights various examples of how states use solitary confinement for persons who are deprived of their liberty.

In some of the Nordic countries, pretrial solitary confinement as a way of facilitating a criminal investigation is common. The purpose of pretrial solitary confinement varies. Sometimes it is about preventing suspects from having contact with each other and about forcing confessions from suspects. In the United Kingdom, for example, it is not possible to place a detainee in solitary confinement to aid an investigation.<sup>11</sup> Norway has recently adopted a regulation barring courts from deciding to place a minor in solitary confinement to aid an investigation.<sup>12</sup> The Norwegian legislative bill states, among other things, that it is appropriate to forbid full solitary confinement of children due to the considerable trauma this can cause.<sup>13</sup>

Children are also subjected to solitary confinement in police cells. In Sweden the maximum time a minor may be held in a police cell is four days and nights. In Norway this limit is 24 hours.<sup>14</sup>

Against the background of the serious harm solitary confinement may cause when used as a punishment, during pretrial detention, for juveniles or persons with mental disabilities, the UN Special Rapporteur considers that it can amount to torture or cruel, inhuman or degrading treatment or punishment. The UN Special Rapporteur on Torture recommends that states should abolish the use of solitary confinement for juveniles and persons with mental disabilities, and that they take the necessary steps to stop using solitary confinement in pretrial detention. ■

#### REASONS ADDUCED BY STATES FOR THE USE OF SOLITARY CONFINEMENT:

- AS PUNISHMENT
- TO PROTECT VULNERABLE INDIVIDUALS
- TO FACILITATE MANAGEMENT OF SPECIFIC INDIVIDUALS IN PRISON
- TO PROTECT NATIONAL SECURITY
- TO FACILITATE PRETRIAL CRIMINAL INVESTIGATIONS

8. (The UN Special Rapporteur on Torture, 2011).

9. (The UN Special Rapporteur on Torture, 2011).

10. Sweden CPT/Inf (2009) 34, Denmark CPT/Inf (2008) 26, Finland CPT/Inf (2009) 5, Norway CPT/Inf (2011) 33, and Iceland CPT/Inf (2006) 3.

11. The Prosecution Authority. The Restrictions Project, Part 2. Detention and restrictions - a European survey. 2011.

12. Norska Straffeprosessloven § 186 a.

13. Govt. bill 135 L (2010–2011), 7:7-3-4.

14. Norska Straffeprosessloven, Section 183, para. 2.

# INTERVIEW

INTERNATIONAL

## **RENATE WINTER,**

JUDGE AT THE UN SPECIAL COURT FOR CRIMES AGAINST HUMANITY COMMITTED IN SIERRA LEONE\*

## **PETER SCHARFF SMITH,**

SENIOR RESEARCHER AT THE DANISH INSTITUTE FOR HUMAN RIGHTS AND AN INTERNATIONAL EXPERT ON ISSUES INCLUDING SOLITARY CONFINEMENT OF PRISONERS

## **CÉDRIC FOUSSARD,**

HEAD OF INTERNATIONAL ISSUES AT THE INTERNATIONAL JUVENILE JUSTICE OBSERVATORY (IJJO) IN BELGIUM

## **HUMAN RIGHTS CANNOT BE DENIED**

**Children were incarcerated in police cells over 3,000 times in Sweden during 2011. And yet there is no systematic collection of statistics on how many children are affected. What is your view on that?**

**Renate Winter:** Statistics have to show how old the children are, the gender, the fact why they are in police custody and how long. This information is very important, as the numbers have to be compared with those of the prosecution and the courts and the youth protection systems in order to find out what has happened to the children afterwards.

**Last year just over 120 children were placed in pretrial detention in Sweden. Of these, 80 per cent had restrictions imposed on them. In most cases, the children have to spend 22 out of every 24 hours alone in their rooms. What is your view on the fact that children are subjected to this kind of isolation?**

**Peter Scharff Smith:** It is well known that such isolation – i.e. solitary confinement – can harm the health of prisoners. This has been studied extensively and demonstrated by researchers in, for example Denmark, Sweden and Norway. Therefore solitary confinement of adults should only be used in exceptional circumstances and should be prohibited with regard to children – as recommended by, for example, the UN Committee on the Rights of the Child. The UN Special Rapporteur on Torture has similarly expressed that solitary confinement of minors should be forbidden, in accordance with the UN Convention against Torture.

**How should a child be treated when detained and under investigation for a suspected crime?**

**Renate Winter:** A child in pretrial detention has every right a child has minus rights that would, if executed, hamper the course of justice.

Thus e.g. letters of a child can be censored in order to make sure that no evidence is destroyed. Other rights such as right to health, to education, to visits of parents etc. cannot be denied.

**From an international perspective, the treatment of children suspected of crimes is often more a question of punishment than of rehabilitation, despite the intentions of the CRC. Why?**

**Cédric Foussard:** On a procedural level, the absence of well-trained professionals in dealing with children; insufficient numbers of facilities to accommodate young offenders with different needs and the lack of independent oversight can also be identified as contributing factors. Finally the wrongful prioritization of short-term over long-term goals is an unfortunate characteristic of the policy approach to this problem worldwide.

**Are there any successful alternative ways of treating children who have been convicted for committing a crime, where the child takes responsibility for his/her acts without being criminalized and hence risking to develop a criminal identity?**

**Peter Scharff Smith:** On general note diversion away from the use of imprisonment is recommenda-

ble. Recently Danish research has indicated that the use of electronic monitoring can lower the risk of recidivism when used on offenders below the age of 25. Restorative justice and the use of victim-offender mediation services are also considered good practice by many.

**What is required in order to have a child-friendly juvenile justice system?**

**Cédric Foussard:** A child-friendly justice will have to ensure that the rights of the child are protected throughout all stages of the justice system, including police apprehension; police custody; trial in court; detention and release. This entails political will and technical support to enable children and adolescents' access to information, direct participation, practical and emotional support, adequate legal representation and assistance, effective right to appeal, complaint and remedy.

The reintegration of young offenders, notably further to a detention period, can only be complete if it is grounded in a positive "sense" of justice. A positive experience of justice can come from due process, exemplary magistrates and staff, access to complaint and remedy. ■

**"THE REINTEGRATION OF YOUNG OFFENDERS, NOTABLY FURTHER TO A DETENTION PERIOD, CAN ONLY BE COMPLETE IF IT IS GROUNDED IN A POSITIVE "SENSE" OF JUSTICE."**

\*Special Court for Sierra Leone (SCSL).

# ISOLATION

## “CHILDREN ARE PARTICULARLY EXPOSED”

**OBSESSIVE THOUGHTS, PANIC AND DIFFICULTIES SLEEPING ARE COMMON AMONG PEOPLE WHO ARE FORCED INTO SOLITARY CONFINEMENT. THIS CAN LEAD, OVER TIME, TO MENTAL ILL HEALTH AND THE RISK OF SUICIDE.**

**A**ccording to the UN Special Rapporteur on Torture, the definition of solitary confinement is the physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day.<sup>1</sup>

In Sweden, children under 18 years of age are sometimes placed in solitary confinement pending trial. This confinement may be in a remand prison with or without restrictions, or in a police cell.

The UN Special Rapporteur on Torture has expressed strong criticism of children and persons with intellectual disabilities being placed in solitary confinement, and said that it can amount to torture or cruel, inhuman or degrading treatment. Solitary confinement is harmful for several different reasons. Principally it is social isolation, a lack of possibilities for social interaction and minimal stimulation which are dangerous. Solitary confinement can have immediate negative consequences for mental health, and the longer the solitary confinement lasts, the greater the risk for mental ill health.<sup>2</sup>

### **MANY EXPERIENCE ANXIETY**

Research has shown that the brain's ability to function is negatively affected already after a few days in solitary confinement. Common

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1. United Nations General Assembly. Interim report of the special rapporteur of the Human Rights Council on Torture and other cruel, inhuman or degrading treatment or punishment. 2011. A/66/268. (The UN Special Rapporteur on Torture, 2011).

2. (The UN Special Rapporteur on Torture, 2011).

symptoms include less ability to pay attention, impaired memory, reduced ability to concentrate and reduced cognitive ability. Many experience intense anxiety and anguish, and severe difficulties sleeping.<sup>3</sup> This means that the person isn't functioning in an adequate manner and becomes limited in his/her ability not just to deal with solitary confinement but also with participating in the judicial process in a good way. The human brain continues to develop until the age of 20-25, and it is primarily the functions located in the frontal lobe that develop last. The frontal lobe is the location of what are known as executive functions. These are our ability to plan, correct ourselves, think in several steps, coordinate activities, maintain a previously drawn-up plan, and the ability to control attention and concentration. You might say that the executive functions serve as the brain's conductor.<sup>4</sup> Compared to adults, children do not have the same mental resources for dealing with solitary confinement. And children with intellectual disabilities generally have even greater difficulties dealing with solitary confinement.

A significant proportion of those placed in solitary confinement develop serious health problems that can only be explained by the confinement.<sup>5</sup> Being isolated and barred from contact with other people is difficult for human beings to handle. This means that the risks of mental ill health are great irrespective of the reason for the solitary confinement and of what our state of health was before it. International research has shown that psychosis-like conditions are common among persons in solitary confinement.

These may include feelings of unreality, uncontrollable anguish, panic, obsessive thoughts, distressing hallucinations and a strong urge to harm oneself or others, as well as extreme restlessness, sleep disorders, crawling sensations or difficulties in moving parts of the body. Many become passive and indifferent, or apathetic. The brain's memory functions and ability for rational thought deteriorates, and paranoid thoughts and feelings of being persecuted are common. The smallest sound may be perceived as a threat.<sup>6</sup>

## **RISK OF PERMANENT DAMAGE**

The examples of reactions to solitary confinement described by the children we have spoken to are not unique to persons who have been deprived of their liberty. Voluntary isolation, in which social contact, activities and sensory impressions are limited, can also imply risks of

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3. (The UN Special Rapporteur on Torture, 2011).

4. Hansen, S. Från neuron till neuros: En introduktion till modern biologisk psykologi. Natur & Kultur, 2000.

5. (The UN Special Rapporteur on Torture, 2011).

6. (The UN Special Rapporteur on Torture, 2011).

# ISOLATION

mental ill health.<sup>7</sup> The more complete the isolation, and the longer it goes on, the more negative its effects. And the worse a person's mental well-being before the isolation begins, the bigger the risk of serious consequences.

Many of the symptoms disappear when isolation or solitary confinement ends, but some problems may become permanent. Research has shown that even many years after solitary confinement has ended, individuals may still be suffering harm caused by it. For some this is in the form of post-traumatic stress syndrome or other serious ill health and personality disorders. Others may have permanent difficulties dealing with social contacts and relationships. Some become unsociable, develop sleep disorders and an increased vulnerability in the face of new and difficult situations in life. This means, according to the UN Special Rapporteur on Torture, that solitary confinement makes reintegration in society more difficult.<sup>8</sup>

## CHILDREN ARE THE WORST AFFECTED

Children are still developing both physically and mentally. Also, children do not have a fixed, developed identity.<sup>9</sup> They are therefore more vulnerable and have a greater need of support and for contact with the outside world than adults do. This makes them especially vulnerable to the hardships of solitary confinement. Children do not have the same capacity for time perception as adults do, and have not yet had time to develop their ability to manage the stress, anguish and anxiety that solitary confinement creates.<sup>10</sup> Research has shown that stress affects the brain's capacity for work. Memory functions may be drastically reduced, and the brain is "reprogrammed" to be on constant alert.<sup>11</sup>

Several of the children we spoke to said that the interrupted contact with family and friends was very difficult. It is to family and friends one usually turns for support. But faced with a truly difficult situation, perhaps the biggest crisis of one's life so far, one is deprived of that support. Neither is there access to professional help to the extent that is needed. ■

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7. Grassian, S. Psychiatric Effects of Solitary Confinement. Washington University Journal of Law & Policy, Vol 22, 2006.

8. (The UN Special Rapporteur on Torture, 2011).

9. Broberg, A. Almqvist, K., Tjus, T. Klinisk barnpsykologi. Utveckling på avvägar. Natur och Kultur, 2003.

10. Broberg, A. Almqvist, K., Tjus, T. Klinisk barnpsykologi. Utveckling på avvägar. Natur och Kultur, 2003.

11. Hansen, S. Från neuron till neuros: En introduktion till modern biologisk psykologi. Natur & Kultur, 2000.

# YOUNG PEOPLE'S OWN VOICES

ISOLATION

## “YOU BECOME STRANGE – COLD AND CLOSED OFF”

SOLITARY CONFINEMENT CAUSES SEVERE DAMAGE. THE CHILDREN THE OMBUDSMAN FOR CHILDREN IN SWEDEN MET DESCRIBED THEIR EXPERIENCES OF SOLITARY CONFINEMENT IN A CLEAR AND EVOCATIVE WAY.

The mental strain can be described as feelings of panic, intense anguish and claustrophobia - feelings that become so powerful and overwhelming that they are difficult to cope with. Oliver describes how, when those feelings become too strong, he props up the mattress against the wall, punches it and jumps and skips around the cell. Ruben describes how “you go completely bonkers in the police cell”. When we ask him what you do when that happens, he replies: “My neighbours bang on the walls and the doors the whole time - no-one can stand it here.”

“MY NEIGHBOURS BANG ON THE WALLS AND THE DOORS THE WHOLE TIME – NO-ONE CAN STAND IT HERE.”

RUBEN

It's about trying to endure and to deal with one's desperate thoughts and feelings. Emmaus feels that he has changed, he doesn't quite recognize himself in this situation and describes it in terms of solitary confinement making him daft. “I've started talking to myself in here, in front of the mirror. I don't know, it makes you daft. I stand in front of the mirror for 20 minutes, just looking at myself.” Jakim looks back to the days in the police cell and observes that “you can't do an awful lot in there, you behave more like a psychopath in there.”

### SUICIDAL THOUGHTS

Several of those interviewed describe the enormous willpower and strength it takes to endure the enormous mental strain of solitary confinement. In Daniel's words: “You just try to remain in the real

# YOUNG PEOPLE'S OWN VOICES

## ISOLATION

world.” Self-harm and suicidal thoughts recur in several accounts. Then Daniel says that if he’d had a weapon when he was locked up in the police cell as a 16-year-old, he’d have taken his own life: “I swear, I couldn’t take that place. It went too far.”

A recurring theme in the accounts is sleep disorders and the feeling of indifference, so much so that you haven’t even got the energy to go outside for the hour per day that you can. The same applies to memory disorders and the sense of unreality. You become “strange” and cold, closed off.

Others describe feelings of intense anger and hatred that they don’t recognize in themselves. “I get a whole lot of anger, and you get evil thoughts in that cell. Really, really evil thoughts”, Rafael relates. Solitary confinement affects children’s physical and mental health and well-being, not just then and there but in the longer term too. Daniel told us that it took about six weeks after his release from the cell before he began to feel normal again. His mother immediately understood that he was not well and took him to a psychologist.

The Ombudsman for Children in Sweden finds it unacceptable that society puts children in solitary confinement despite having knowledge of the serious consequences this has for them. The measures that currently exist to break the confinement are not, in our view, sufficient to compensate for or mitigate the children’s difficult experiences. ■

**“I GET A WHOLE LOT OF ANGER, AND YOU GET EVIL THOUGHTS IN THAT CELL. REALLY, REALLY EVIL THOUGHTS.”**

RAFAEL

# ALTONS

CAN YOU BEGIN BY TELLING US WHAT HAPPENED WHEN YOU WERE APPREHENDED?

I WAS OUTSIDE MY HOUSE WITH MY GIRLFRIEND. IT WAS IN THE EVENING.

SUDDENLY A COP CAR DROVE UP ON THE LAWN.



TWO OF THEM GOT OUT AND PUSHED ME INTO THE CAR.



DID THEY SAY WHAT YOU WERE BEING APPREHENDED FOR?



NO... THEY DIDN'T.

BUT I HAD TO STAY IN THE CAR FOR A LONG WHILE, AND MY MUM CAME OUT OF THE HOUSE.



WHAT'S HAPPENED?





IT'S A COMPLETELY BARE ROOM.

THE WINDOW HAS WHITE IRON BARS AND IS COVERED SO YOU CAN'T SEE IF IT'S DAY OR NIGHT.

AND THE ONLY THING THERE IS THE PLASTIC MATTRESS.



AND THEN THERE'S A BUTTON YOU CAN PRESS IF YOU WANT TO GO TO THE TOILET.

... BUT SOMETIMES THEY KEPT YOU WAITING AN HOUR OR TWO.



IT'S COLD, TOO. I STARTED FEELING COLD STRAIGHT AWAY. I WAS AFRAID I WAS GOING TO BECOME ILL.



THERE WERE PEOPLE SCREAMING AND PEOPLE BEING BEATEN UP.



I MEAN, YOU HAVE TO GO PRETTY FAR TO BE BEATEN UP BY A COP.

SO I GUESS THEY WERE BEING A REAL PAIN.



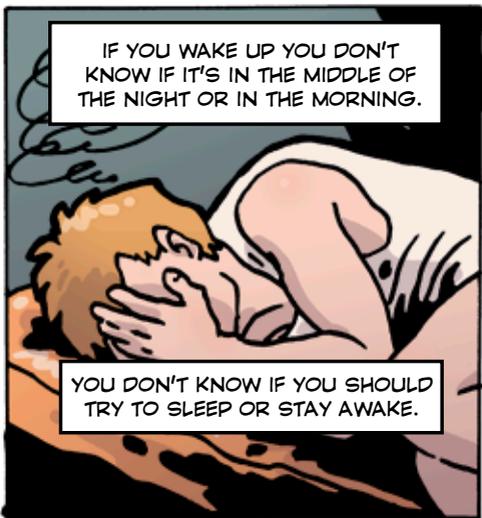
BUT IT'S NOT A GOOD ENVIRONMENT. IT REALLY ISN'T.



MAYBE THE WORST THING OF ALL IS THAT YOU HAVE NO SENSE OF TIME.

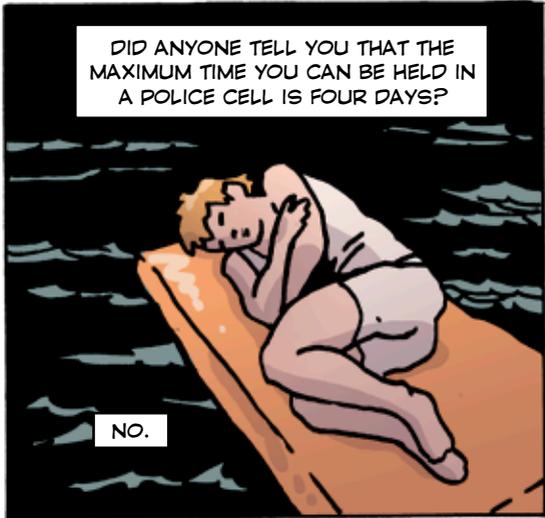
THERE IS NO CLOCK IN THE CELL, AND THE WINDOWS ARE COVERED UP.

SO THERE'S NO WAY OF KNOWING IF IT'S DAY OR NIGHT.



IF YOU WAKE UP YOU DON'T KNOW IF IT'S IN THE MIDDLE OF THE NIGHT OR IN THE MORNING.

YOU DON'T KNOW IF YOU SHOULD TRY TO SLEEP OR STAY AWAKE.



DID ANYONE TELL YOU THAT THE MAXIMUM TIME YOU CAN BE HELD IN A POLICE CELL IS FOUR DAYS?

NO.



I DIDN'T KNOW IF MY MUM KNEW WHERE I WAS.

I REALLY DIDN'T KNOW ANYTHING.



THOSE DAYS IN THE POLICE CELL WERE EASILY THE WORST I HAVE EVER EXPERIENCED UP TO NOW.

# INTERVIEW

ISOLATION

KICKIE LINDBERG, DETENTION PSYCHOLOGIST, MALMÖ:

## “THEY HAVE TO HAVE SOMEONE TO TALK TO”

SOCIETY’S NEEDS AND CHILDREN’S NEEDS ARE OFTEN DIFFICULT TO RECONCILE. THAT’S HOW KICKIE LINDBERG, A DETENTION PSYCHOLOGIST IN MALMÖ, SEES IT. IN HER WORK SHE MEETS CHILDREN AND YOUNG PEOPLE WHO ARE IN DETENTION, MANY OF THEM WITH RESTRICTIONS.

“I can understand society’s need for protection, and of course those who have committed crimes should not obstruct the investigation. But I can also see the need for protecting these children from a destructive personal development.”

Children’s experiences of solitary confinement at remand prisons vary. Some can deal with the situation, particularly if it isn’t their first time. Others isolate themselves, roll themselves up in their blankets on the bunk and lie there, motionless. A primitive form of defence - you “play dead”, hoping it will pass.

“That applies mainly to those who are younger and those who are experiencing the remand prison for the first time.”

### UNJUSTIFIED BOUNDARY

Those who work with these young people are from various government authorities and organizations, and their opinions always take priority, Kicki Lindberg notes. This is something she finds it difficult to accept.

“There are so many strange opinions and boundaries. Sometimes

you hear the argument “he has turned 18, after all”, as justification for a pretty harsh treatment. As if the difference with a 17-year-old were that big! My view is that many of these young people have not finished developing. Yet we detain and sentence children and young people as if they were responsible, sober adults.”

Young people who come into contact with the prison and probation services often have documented intellectual disabilities and are therefore particularly exposed, Kickie Lindberg argues. They easily become the victims of various instigators and are exploited in a very tragic way.

“Special measures are needed here to handle their cases. It’s clear that there is no understanding that the person who cannot understand really doesn’t understand.”

### HELP UNDERSTANDING

One of the most important measures for helping young people in detention is to give them someone

“OTHERS ISOLATE THEMSELVES, ROLL THEMSELVES UP IN THEIR BLANKETS ON THE BUNK AND LIE THERE, MOTIONLESS.”

# INTERVIEW

to talk to, Kickie Lindberg says. A lot of what happens at the remand prison, and which affects the young people themselves, is never explained to them - at least not in a way they can understand.

“A whole lot of people express opinions about this person, and their comments are written into an interrogation report. What it says there, and what the police and lawyers say during the preliminary investigation, can often be totally incomprehensible to the suspect, which causes him or her anguish and anxiety later, alone in the cell. There has to be someone who explains what was said and why.”

Kickie Lindberg also calls for greater geographical consistency in how young people are treated, which is lacking today.

“In the big cities there are often special youth investigators, but not in rural areas. What’s more, investigators of child crime victims have extensive training, and the investigation is often carried out in a special place, such as a children’s house [The Children’s House provides specialized services to children suspected of being subjected to sexual abuse or violence]. There is no corresponding system for perpetrators.”

## ACTIVITIES BREAK THE ISOLATION

Another problem which has not received enough attention is the demands for damages made on young perpetrators.

“I met a 16-year-old facing eight million Swedish crowns in damages. How is he ever going to make it back into society?”

Kickie Lindberg works with individuals. Every young person is treated on the basis of his or her particular circumstances and needs. She and her team often prioritize those young people who are least noticeable. They make sure that they go on activities, that they spend time on schoolwork and that they are kept busy so that they don’t bottle up their anguish.

“There are staff members at remand prisons who are pretty provocative, calling what we do nanny-ing. But most of the guys like to do stuff, making Christmas decorations or building models.”

In order to break the isolation, young people can be helped in several ways. They can study with the help of a teacher, play ping-pong with staff or meet with a coordinator who helps them in counselling or does crisis counselling.

The work that Kickie Lindberg and her colleagues do is receiving increasing attention. More people have understood that networks are important for changing children’s and young people’s situation in remand prisons, as it gives them the opportunity to compare experiences and help each other.

But an overall perspective is still lacking, according to Kickie Lindberg. The resources that exist to support young people are fragmented and involve many different people.

“There ought to be a group of people from the authorities involved that had its own budget and direct responsibility for the development of these individuals during their time in remand prison. ■

# YOUNG PEOPLE'S OWN VOICES

## “THE POLICE CELL

## IS PURE HELL”

LIFE IN POLICE CELLS  
AND REMAND PRISONS

CHILDREN AND YOUNG PEOPLE WHO HAVE SPENT TIME IN POLICE CELLS DESCRIBE IT AS A DEEPLY DISTRESSING AND AGONIZING EXPERIENCE. SOME OF THEM REGARD IT AS THE VERY WORST TIME THEY HAVE EVER HAD.

“The police cell is pure hell”. That’s how Axel, one of the children we spoke to during our visits to police cells and remand prisons, describes it. He has spent a total of four days in a police cell. “There’s nothing there. It’s a small room. Cold. And then there’s a mattress on the floor”, he tells us. Another of the children, Mark, has similar experiences: “It was pretty much your worst nightmare, spending time in the cell. You weren’t treated like a human being at all.”

Young people describe the time spent in police cells as a deeply distressing and agonizing experience. Many of them regard it as the very worst time they have ever had. For Ruben, who has also been in detention for several months, memories of his three days in a police cell are very strong. He describes his experience in the following way: “It was pure hell. I had never been locked up, it was the first time.”

The hardships suffered by the children in police cells comes in many different forms. Among the things they describe are self-destructive acts, fear of one’s own feelings and thoughts, the sensation of losing one’s mind and going mad, and the feeling of losing one’s grip on reality. Despite these experiences, none of the young people report that they were ever in contact with a psychologist or counsellor during their time in the police cell.

### A TRAUMATIC EXPERIENCE

The police cell environment is often disorderly and noisy, with people who may be on drugs or drunk. Daniel describes how “you can scream for half an hour and no-one will care, because everybody there screams. That’s pretty horrible too, you can hear people screaming,

# YOUNG PEOPLE'S OWN VOICES

old men and young guys and just anyone. It's a madhouse, really." The young people find the setting both frightening and unpleasant, and the first time spent in the cell is described as a traumatic experience. For the first time in their lives they are locked up in a cell, isolated from the outside world during 23 out of every 24 hours, which means they are totally alone with nothing but their own, often frightening, thoughts.

The cells are often run down and covered in graffiti. "The place actually stinks of piss and vomit", Mark says, and goes on: "You become sort of worried for your own health. How long are you going to have to spend there? Because it's not the neatest and cleanest of places." The room is often cold, and the blanket isn't enough to keep you warm. The only thing in the room is a plastic mattress on the floor, or a bed.

"It's anguish", says Joel, who once spent three days in a row in a cell, and adds: "You have a small mattress on the floor to lie on. They give you a pair of trousers and a t-shirt, and then it's freezing cold in there. You lie there shivering without a blanket, without a pillow, just lie there. That's pretty much it."

Often the cell is either too light or too dark. "It was completely dark, no light at all. There was just a mattress to lie on, and no light at all", says William, whose experience of isolation is made worse by the fact that he neither understands nor speaks Swedish.

**"YOU HAVE NO SENSE OF TIME IN THERE. YOU DON'T KNOW HOW LONG YOU'VE BEEN THERE. YOU HAVE NO IDEA HOW LONG YOU'RE GOING TO STAY THERE."**

DANIEL

The light switch is outside the cell, which means that they can't turn the light off or on themselves. This can lead them to lose their sense of time, making it difficult to distinguish night from

day. Daniel feels this uncertainty was perhaps the hardest thing to endure: "You have no sense of time in there. You don't know how long you've been there. You have no idea how long you're going to stay there. Nobody tells you anything. You get no information, you know nothing. You just sit there."

If you need to go to the toilet you have to call the staff to let you. Sometimes you have to wait a long time before they arrive. Or as Alvin puts it: "No, you just have to keep buzzing them, and then it can take anything from five minutes to two hours before they come."

## NEED FOR HUMAN CONTACT

Daniel doesn't think children under 17 years old should be placed in a cell. "Not at all. It marks you. You never forget that you've been locked in a cell. You don't. Not if you've spent say four days there, which is the maximum", he says.

Daniel has spent time in a police cell on more than one occasion. The first time, when he was 15, he was deprived of liberty for one day. The following year he spent four days in a cell. Daniel wasn't prepared for being deprived of his liberty for several days. In his own words: "After the first day, well, you just thought, OK, I'll buzz that bell as often as possible just to get someone to talk to. It was just really tough. And then you were that age, 15-16, when you didn't want to ask for help and that. I wanted to manage on my own. It was really tough, so you always blamed it on something, I have a pain here and [...] so that someone would come and talk to you and that."

The total isolation is generally very difficult to bear. The time spent in the police cell is principally about lying down and waiting, and about enduring. Jason describes how he was affected by the total idleness of being in a police cell: "Nothing to do, actually. You're alone. You think too much. You can't sleep". He goes on: "But when you're there you really do nothing. There's nothing to do. You just have a bed, and you just lie there."

Except for the outdoor break that inmates have to have access to, nothing really happens. Our interviewees describe a great need for human contact. And yet there are few of them who describe how the staff has taken the time to talk to them.

One of the children we spoke to, Jakim, described how the three days he spent in the police cell was one of his most horrible experiences ever. He describes his contact with the guard in the following way: "You have to ask for everything. The only thing they give you is food. You don't get anything else. The only thing they ask was in the morning: Coffee or tea? Just that, nothing more."

### **NO HYGIENE, DIFFICULTIES SLEEPING**

One problem that came up in the interviews was that there had been no possibilities for taking a shower and no access to hygiene articles such as toothbrushes or soap. "Shower? It's not even mentioned. I began to smell because there was no chance of having a shower there. And I wasn't allowed out at all. That was solitary confinement all right", Gideon tells us.

Caleb, who has spent three full days in the police cell, sums it up: "No. I wasn't given any information whatsoever. Not even a shower, nothing. No toothbrush, no toothpaste. I mean, I did actually spend three days there. You might expect to be allowed to brush your teeth at least."

"They come and check on you like once an hour, and that's, like, the worst. You're asleep. So they open the hatch, and the light shines

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1. Statute book of the National Police Board RPSFS 2001:12 FAP 915-1.

# YOUNG PEOPLE'S OWN VOICES

straight in your face and you wake up again - and then they close the hatch”, Daniel tells us, adding that he has had great difficulties sleeping in the cell.

Difficulties sleeping during the time spent in the police cell are a common problem among the young people we met. Among the reasons for this is that there's too much light in the cell, or that the inmate is constantly being disturbed by guards clattering with the hatch when they check on them.

Sleep can also be a way of trying to escape the whole anguished experience of being locked up. Jakim notes that he wanted to sleep all day. He didn't even want to know that he was there, he tells us. Sleeping during the day can of course lead to difficulties sleeping during the night.

Abraham also remembers trying to sleep away the experience: “What you do in there is, like, sleep. I don't know what others are like in there. I know people who have been in the cell and who have had like a panic attack. They go around banging on the walls and so on. But that's not how it's been for me. [I have] just sort of died in there”.

But sleeping a lot during the day can make it hard to sleep at night. Daniel turned day into night, and in the end couldn't sleep at night.

He says that the only contact he had was with the guards who came to check on him every hour during the night.

The young people we spoke to also told us that the food is not adapted to children's needs, which is something Gideon finds particularly trying: “And it was also horrible since I'm a Muslim, and we don't eat pork,

and they gave me meat which led to me sitting there for four days without eating anything because I wasn't sure what it was. Four days I lay there, eating nothing.”

**“I KNOW PEOPLE WHO HAVE BEEN IN THE CELL AND WHO HAVE HAD LIKE A PANIC ATTACK. THEY GO AROUND BANGING ON THE WALLS AND SO ON.”**

ABRAHAM

## LACK OF ROUTINES

When we asked the children what information they received when they were placed in the police cell, several of them had difficulties remembering whether they received any information at all. Instead they describe the period immediately following their apprehension as confusing. This is what Gabriel had to say about the initial period: “One night I had to spend in a drunk tank, then they chucked [me] into another room. But in the drunk tank they never said that I was apprehended or anything, so I thought like what happens now and that. And what am I like doing in this room here? And then that was it.”

The interviewees also described a remarkable lack of routines on release from some police cells. “He just came and opened the door

when I was asleep, and said like, now you can leave”, Gabriel says. It also emerges from the children’s accounts that parents or social services are not routinely contacted, which means that there is no-one to meet the child when he or she is released. “They open the gates, and then you’re out. I thought someone from my family would be standing there, but there was no-one”, Emil tells us.

Neither does anyone make sure that the child has somewhere to go, or even if they have money to get home. Some children told us that they have had to go home without a coat or shoes in the middle of winter. “I was still wearing the Prison Service’s clothes, and they’d confiscated my shoes, so they released me there without shoes, in winter. I mean, I thought, can they really do that?”, Gabriel says.

### DEGRADING TREATMENT

Some children have experienced events that they describe as both inhuman and degrading treatment. Mark tells us: “It was a weird feeling, because these three policemen came out. They grab you by the arms and more or less drag you in. You almost go into shock. It feels very weird. And that just makes everything else even more scary.”

Some have experienced violent apprehensions and handcuffs that caused them pain. The interviewees told us that it happens that their belongings disappear after being confiscated, never to be found. Some children also find the search offensive. One of them is Jakim: “No, I didn’t like that. And not in the cell either. In the cell he just stood there and said: Take all your clothes off! And then he shone his light.” Others were not given access to health and medical care or the opportunity to wash off blood from injuries. One of them is Ruben, who was brought to the police cell while drunk. “I wasn’t allowed to wash myself. I [was] covered in blood and I had a few cuts. I didn’t even get plasters or anything. For two days”, he says. ■

LIFE IN POLICE CELLS  
AND REMAND PRISONS

# HOARING PEOPLE'S OWN VOICES

LIFE IN POLICE CELLS  
AND REMAND PRISONS

## “THE REMAND PRISON IS 100 TIMES BETTER”

THE CHILDREN'S ACCOUNTS SHOW THAT RECEPTION AND TREATMENT AT REMAND PRISONS IS CONSIDERABLY BETTER, AS A RULE. BUT THE WIDESPREAD USE OF RESTRICTIONS MEANS THAT MANY OF THEM COME TO HARM DESPITE THIS.

**M**alcolm tells us: “I’m not allowed to speak to my mother. I find that too much, especially for a young person. Imagine, there are kids who are 15 in here. If I had been stuck here when I was 15, I’d have had a breakdown.”

The interviewees describe their days at the remand prison as regulated and monotonous. They wait for breakfast, for being allowed to shower, for meals and for their break. “From the moment you wake up until lunch, you’re waiting. After that, you’re more or less sitting around, waiting for dinner”, Mark tells us when we meet him at the remand prison. Sometimes activities such as computer games or baking are offered to break the isolation.

When the Ombudsman for Children in Sweden meets Abraham he has been in detention for several months in a section for young people. He tells us that despite everything, the remand prison feels far more humane than those frightening days and nights in a police cell. “Yeah, the remand prison is a hundred times better compared to the police cell. Here at least you have a bed sheet and a blanket. Decent food, at least. There are youth sections here. Staff at least treat you OK. They ask you how you are and so on. I think that’s a lot better than the police cell, anyway.”

### “MISSING YOUR FAMILY IS THE HARDEST PART”

The majority of young people in detention have restrictions imposed on them, which means that their contacts with the outside world are limited. Daniel is one of those who has been in detention with restrictions. He tells us: “I have restrictions. I can’t contact the outside world, can’t phone out or receive calls.”

Abraham has similar experiences. He has not met or spoken to any of his younger siblings during the months he has been in detention. Missing his mother and then rest of the family is tough, he says. Not least because restrictions limit his possibilities of keeping in contact with them. "I didn't talk to mum for two and a half months, I think. And then I got to meet her with the policemen. Then after that I got to meet her with the [...] remand prison staff. And then I wasn't allowed to hug her. I wasn't allowed to kiss her. Couldn't talk to her about anything", he tells us, and goes on: "That's bloody awful. I mean I'm 16, I still live with my mum. I'm in contact with my mum every day. I think there's a difference between children and grown-ups in detention. [...] Children still have their parents and siblings. Older people live on their own, like. They've moved out. They have their own life."

It emerges from our interviews with the children that they may be worried their families haven't been informed that they've been placed in custody. Another worry is what parents and other family members actually think of them. How does the family see the crime they're suspected of? What questions would they like to ask? How will what's happening affect their relationship and family ties?

Restrictions may mean that the young person has no possibility of contacting his or her family. Instead of meeting or speaking on the phone, the young person can sometimes maintain contact with his or her family via letters. However, it can take a long time to process applications for having letters screened, making contacts even more difficult to maintain.

"They might get my letter after two weeks, and I get theirs in return after another two weeks. Which means it takes almost a month just to send and receive a letter", says Axel, who has not yet spoken to his parents although he has been at the remand prison for 47 days when we meet him.

Restrictions may also mean that the inmate is not allowed any contact with other people at the remand prison. The result of this is that he or she spends a large part of the day and night confined to his or her room, without any contact except for with the staff. One way of breaking this isolation is for the prosecutor to grant the inmate permission to spend time with another, selected, inmate during part of the day, known as joint sitting.

## THE RIGHT TO APPEAL

"I didn't know why I wasn't allowed to talk to my mum. I don't know why I wasn't allowed to see her", Abraham says when we ask what information he received about restrictions.

*"I'M NOT ALLOWED TO SPEAK TO MY MOTHER. I FIND THAT TOO MUCH, ESPECIALLY FOR A YOUNG PERSON. IMAGINE, THERE ARE KIDS WHO ARE 15 IN HERE."*

MALCOLM

# YOUNG PEOPLE'S OWN VOICES

A decision on restrictions may be appealed against. But Alvin tells us that he never received any information about the legal process to do with restrictions. "There isn't much you can do if you're not happy", he says. Or as Axel says when we ask him about his possibilities of appealing against decisions on restrictions: "You can't make complaints, no. Or can you?"

## MEASURES TO BREAK ISOLATION

Nils is one of the inmates who has been in solitary confinement for most of his time in detention. He has had restrictions for several months in a row, without possibilities of contacting either his parents or the outside world. Nils tells us: "I was there in the room for 23 hours out of every 24, and then you get an hour's walk every day when you have restrictions."

Abraham, who lived at home with his parents and siblings before he was detained, tells us how he went into a state of near apathy after a while in solitary confinement. When we ask him much time he has spent outside his room he replies: "Maybe half an hour. Half an hour. Yeah, I didn't leave my room for, let's see, maybe between two and half and three months. I didn't go outside. I didn't go for the walk, I didn't do anything. Because you're in such a bloody bad state in here."

**"YOU FEEL EVEN WORSE ON THE WALK THAN YOU DO IN A CELL. YOU FEEL LIKE AN ANIMAL. PLUS YOU'RE NOT ALLOWED TO TALK. I HAVEN'T TALKED TO ANYONE FOR A REALLY LONG TIME."**

RAFAEL

Watching TV is an important pastime for inmates, which also helps them survive the boredom and isolation in the remand prison. It also emerges from our interviews that activities and isolation breaking measures do occur at the remand prisons we visited, albeit to a very variable extent.

Caleb himself feels that he gets out quite a lot, and has therefore been able to break isolation. He thinks that the staff at the remand prison is good and that life there is tolerable. "And then they have a Wii game and a TV and things like that in a small room. And I've been allowed out there a bunch of times, so I've baked buns, made chocolate mud cake, played Wii and stuff".

The activities mentioned at the various centres we visited are similar. The children watch TV, train, bake, play games or read books and magazines. Those deprived of their liberty in a remand prison are entitled to spend one hour outdoors every day.<sup>1</sup> Opinions about the walk, as the outdoor hour is known, differ among the young inmates. Some feels it's meaningless to go outside. "It's the same thing there. It may be a walk, but it's still like a room. It's like being inside", Malcolm says.

Rafael tells us he doesn't go for the walk. When we ask why he

1. Act on Detention (Swedish Code of Statutes 2010:611), Section 7.

replies: “You feel even worse on the walk than you do in a cell. You feel like an animal. Plus you’re not allowed to talk. I haven’t talked to anyone for a really long time. And then you hear other people talking. You want to talk, but ...”

Since inmates with restrictions are often alone during their walk, the walk doesn’t break their isolation from other people, and once it’s time to return to their cell it becomes tangible for the inmate that he or she is being locked up again. This is a feeling that the detainee may have a hard time dealing with.

One way of avoiding that feeling is to opt out of walks altogether. We talk to Mark, who has chosen not to go out, about this. He describes his way of thinking: “The problem is that when you go out it feels good during the short time you’re up there, but then when you come down you realize that you’re confined. But if you just sit inside the cell instead, you don’t think as much about the fact that you’re confined. You think it away. For me, at least, it feels easier to deal with it that way.”

## DIFFERENT POSSIBILITIES FOR SCHOOLING

The young people we met were sometimes concerned about what will happen with their schooling in the future. Opportunities for schooling are different in different remand prisons. “I’m at school and studying and that, so that’s something I’m missing out on”, Mark says about how his life outside is affected by the fact that he’s now in detention.

Some inmates are in contact with teachers at the remand prison once a week or so. Others have not been offered any tuition at all. In such cases, detention may amount to a complete interruption of schooling. That’s how it turned out for Lucas, for example: “No, that’s of course true. [...] I’ve redone a year, so if I started at a new school I’d already be behind since I joined about three weeks after it had started. And now I’m here, so I’ll have to redo another year for sure. That feels bloody grim.”

Caleb describes what teaching can be like: “You get given a school-book [...] and she says something like, you have to do two pages. And then you have a whole week to do it. So it’s not strict like you have to do this, otherwise you can’t go to school any more.”

The demands made on those who do receive tuition don’t seem to be very high. Still, with the small number of teacher-led lessons that appear to be available, the children can find it hard to manage their schooling. Or as Rafael puts it: “You can get books and stuff, but you want to study with a teacher. You can’t manage everything yourself. I got a book a few months ago, so I got started. But then when I got to more difficult chapters, well... And now I haven’t done anything in three weeks. It’s difficult.” ■

# ANALYSIS

LIFE IN POLICE CELLS  
AND REMAND PRISONS

## FAR FROM THE INTENTIONS OF THE CRC

THE CHILDREN AND YOUNG PEOPLE THAT THE OMBUDSMAN FOR CHILDREN IN SWEDEN MET TESTIFY TO AN EXISTENCE MARKED BY ISOLATION AND A LACK OF HUMAN CONTACT. THAT IS NOT CONSISTENT WITH HUMAN RIGHTS.

Under the CRC, children suspected of crimes are to be treated with respect and in a way that is consistent with the child's sense of dignity and worth. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The treatment is to reinforce the child's respect for the human rights and fundamental freedoms of others and promote the child's reintegration and the child's assuming a constructive role in society. The Committee on the Rights of the Child emphasizes that the child is to be treated in a way that promotes the sense of dignity and worth, from the first contact with the justice system and throughout it.<sup>1</sup>

### UNDIGNIFIED ENVIRONMENT IN THE CELL

According to the Statute book of the National Police Board, children should only be confined to a police cell when absolutely necessary. Under normal circumstances, anyone under 18 years of age should be kept under guard in an interrogation room or similar.<sup>2</sup> However, the young people we met were not kept in a room as described in the legislation – instead they were locked up in cells.

Young people we met describe an existence far from the intentions of the CRC. One example of this is time spent in the cell, which is felt

1. CRC/C/GC/10 Paragraph 13.

2. Statute book of the National Police Board. The National Police Board's regulations and general guidelines on preventive custody of persons in police cells STBKNPB. 2000:58.

to be frightening and inhumane and is characterized by isolation, lack of food, sleep and human contact. Some of the young people have experienced events they describe as both inhuman and degrading. All of this can lead to strong feelings of anguish, fear and anger in the young person. These feelings can become so strong that the inmate becomes suicidal or believes he or she is going to lose her mind. The CRC states that all children, irrespective of their life situation, have the right to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Despite this, none of the young people report that they were ever in contact with a psychologist or counsellor during their time in the police cell. The Ombudsman for Children in Sweden notes that when many of the conditions described by the children coincide, the police cell can be perceived as cruel, inhuman and torture-like.

Our own visits confirm the image of a frightening and undignified police cell environment described by the children. Sometimes the only thing in the cell is a mattress on the floor. The light switch is on the outside, meaning that the inmate cannot him or herself turn the light on or off. There is no clock either. This, and the fact that the inmate cannot control the light, are things that the interviewees find very onerous.

The young people we met also described painful experiences of having to travel home on their own after being released from the police cell, without either winter clothes or bus money. The Ombudsman for Children in Sweden finds the police cell environment unacceptable and not in keeping with the CRC.

## **RESTRICTIONS ARE COMMON**

The vast majority of the young people we spoke to had restrictions imposed on them in detention, which meant that their contacts with the outside world were limited. There are even examples of young people having been in solitary confinement at the remand prison for several months, without any contact with their families or anyone else outside the remand prison.

One of the most important messages from the interviewees is precisely that the lack of contact with the family can be difficult to endure. In the chaotic situation that a deprivation of liberty can be for a child, the need for contact with parents and other close relatives is often great. Sometimes the young person has no previous experience of living alone, either. For someone coming directly from an everyday existence with siblings and family, restrictions in terms of contacts with them can be particularly difficult to deal with.

In the autumn of 2012, the Ombudsman for Children in Sweden carried out its own audit of detention records. The results show that

84 per cent of young people in detention have restrictions imposed on them. This high figure, which has been confirmed by other studies<sup>3</sup>, is justified by the Prosecution Authority on the grounds that children are only placed in detention for serious crimes and in cases where there is a risk that the suspect will influence the investigation.<sup>4</sup> Under the CRC, every child deprived of liberty has the right to maintain contact with his or her family through correspondence and visits, apart from in exceptional cases. The Committee argues that the exceptional circumstances which may warrant limitations to contacts should be clearly described in the law, and not be assessed at the discretion of the authority in charge.<sup>5</sup>

Our interviews with children and young people show that activities and other measures to break isolation are only offered to a very limited extent. Some of the young people we spoke to appear rarely to be offered other activities than walks, with the consequence that they may remain alone and locked up for much of the day and night, often up to 23 hours out of every 24.

The Ombudsman for Children in Sweden finds it a grave concern that restrictions are regularly used in a way that leads to children not being allowed to have any contact with their families and to their being in solitary confinement during large parts of the day. Sweden has received criticism for how it uses restrictions for children.<sup>6</sup>

According to the Committee, the child's right to a private life and opportunities to associate with their peers must be respected. It must also be possible for the child to participate in activities. Furthermore the child must be stimulated and given the opportunity of participating in sports, physical exercise, in art and other leisure pursuits.<sup>7</sup>

## KNOWING YOUR RIGHTS

The young people we met in police cells and remand prisons describe how in many cases they haven't understood important information to do with their own situation. Sometimes the young people have received written information when they become registered, sometimes not. Irrespective of the type of information, the child has not always understood it. This is especially common in the police cell environment.

The Council of Europe Committee for the Prevention of Torture (CPT) has criticized Sweden for not informing young people of their rights. The CPT says that Sweden must ensure that all persons

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3. The Prosecution Authority. Report on the use of restrictions. The Development Centre, Malmö, February 2011. In an audit, the Prosecution Authority looked at how many of the children detained in 2010 had restrictions imposed on them. The share of children with restrictions was 87 per cent in 2010.

4. The Prosecution Authority. Report on the use of restrictions. The Development Centre, Malmö, February 2011. CRC/C/GC/10 Paragraph 87.

6. The Council of Europe Committee on the Prevention of Torture (CPT/Inf(2009)34).

7. CRC/C/GC/10 Paragraph 89.

deprived of their liberty receive such information.<sup>8</sup> In our interviews with children and young people it became clear that the child doesn't always know that you can make complaints and appeal against decisions. The Committee states clearly that the child must be given the possibility of making complaints about his or her situation and appeal against decisions.<sup>9</sup> This requires that he or she receives clear and comprehensible information about how the system works.<sup>10</sup>

The Ombudsman for Children in Sweden regards it as very serious that many young people have not had a clear idea about how the system works or about the procedure for appealing against decisions. The right to information is fundamental for giving a child the ability to influence his or her situation, and a core right under the CRC.

### THE RIGHT TO EDUCATION

Schooling at the remand prison varied greatly among the young people we met. Some are happy with their schooling, others have not had any at all. We also found that both teacher support and the number of teaching hours varies between different remand prisons.

Children and young people deprived of their liberty have the same right to education as everyone else of their age. The CRC states that just like for all children and young people, their education, too, shall be directed towards the development of the child's personality, talents and mental and physical abilities to their fullest potential. The Committee has clarified the right to schooling for children who have been deprived of their liberty. For example, the Committee states that all children of compulsory school age who have been deprived of their liberty have the right to an education suited to their needs and abilities. The education should be designed to prepare the child for a return to society. In addition, every child should, when appropriate, receive vocational training in occupations likely to prepare him/her for future employment.<sup>11</sup>

The Ombudsman for Children in Sweden is of the opinion that children and young people should not be placed in police cells in their current form. The environment and treatment that children and young people describe from their time in police cells are unacceptable and not consistent with the child's human rights. Neither is it compatible with the child's rights to place him or her in solitary confinement for large parts of the day and night, or systematically to deny him or her contact with family and the outside world. ■

8. The Council of Europe Committee on the Prevention of Torture (CPT/Inf(2009)34).

9. CRC/C/GC/10 Paragraphs 84 and 89.

10. CRC/C/GC/10 Paragraph 44.

11. CRC/C/GC/10 Paragraph 89.

LIFE IN POLICE CELLS  
AND REMAND PRISON

# Sasha



MY SOCIAL WELFARE WORKER I DON'T LIKE. WHEN I WAS GOING INTO A TREATMENT CENTRE, SHE SAID THAT I WAS ONLY GOING TO SPEND A FEW WEEKS THERE.



BUT THEN THEY KEPT ME THERE FOR SEVERAL MONTHS INSTEAD. I DON'T TRUST HER.



THE POLICE SAID THAT I WAS ALLOWED TO HAVE MY MOTHER THERE, BUT I DIDN'T WANT THAT.



ONCE WHEN I WAS IN A POLICE CELL BEFORE, I SAID I WANTED TO DO THE INTERROGATION WITHOUT COUNSEL.



IT WAS A FRIDAY, AND I'D HAVE HAD TO WAIT UNTIL MONDAY FOR THE COUNSEL. AND I WANTED TO GET OUT OF THERE.



BUT WHEN I SAW THE PAPERS AFTERWARDS, THEY'D MISINTERPRETED EVERYTHING I'D SAID!





AND I WASN'T GIVEN ANY BREAK EITHER. LATER I HEARD THAT IF YOU SMOKE THEY LET YOU GO OUTSIDE.



APPARENTLY SOME PAPER I'D BEEN GIVEN HAD THAT INFORMATION, BUT I WAS ANGRY, SO I'D CRUMPLED IT UP.

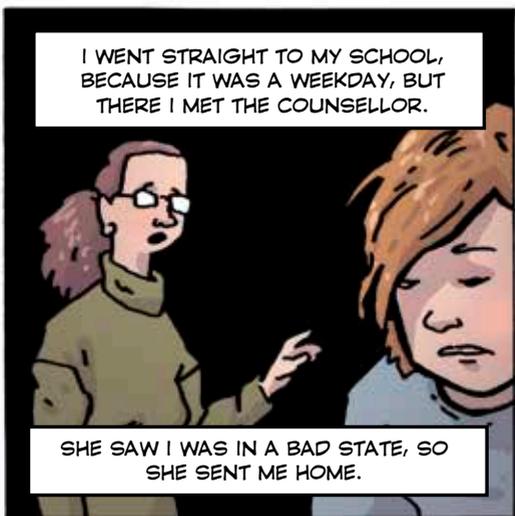


WHAT WAS IT LIKE WHEN YOU WERE RELEASED? WAS THERE ANYONE THERE TO MEET YOU?

NO. APPARENTLY THEY HADN'T TOLD MY MOTHER ANYTHING.

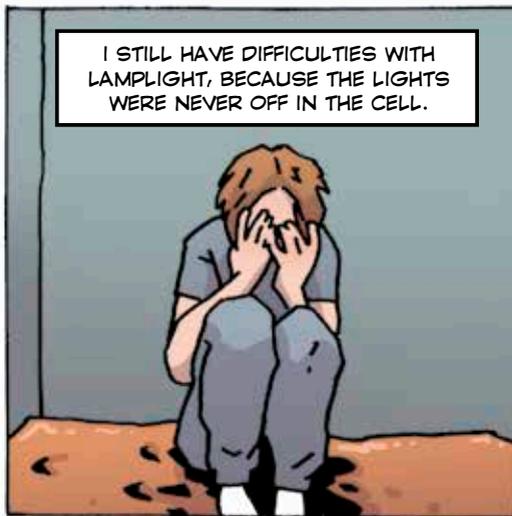


THEY HADN'T GIVEN ME MONEY FOR THE BUS EITHER, SO I HAD TO WALK. EVEN THOUGH IT WAS WINTERTIME AND I DIDN'T HAVE THE RIGHT CLOTHES.



I WENT STRAIGHT TO MY SCHOOL, BECAUSE IT WAS A WEEKDAY, BUT THERE I MET THE COUNSELLOR.

SHE SAW I WAS IN A BAD STATE, SO SHE SENT ME HOME.



# INTERVIEW

FEIN DOUGE CELLS  
ND REMAND PRISONS

BENGT HOLMGREN, PSYCHOLOGIST AT THE PRISON AND PROBATION SERVICE AND ÅSA LANDBERG, PSYCHOLOGIST AT SAVE THE CHILDREN:

## “RESTRICTIONS CAN AFFECT LEGAL CERTAINTY ADVERSELY”

ONE IN FOUR INMATES WITH RESTRICTIONS AT REMAND PRISONS DEVELOP MENTAL HEALTH PROBLEMS IN THE FORM OF DEPRESSION AND ANXIETY SYMPTOMS. THAT AFFECTS LEGAL CERTAINTY, SAYS BENGT HOLMGREN, A PSYCHOLOGIST AT THE PRISON AND PROBATION SERVICE.

He has studied how restrictions in the form of extended solitary confinement affects mental health. He studied a group of 1,100 persons aged 18-60, with and without restrictions.

“A quarter of those with restrictions were clearly in worse health than the other inmates, which could imply difficulties in carrying out meaningful conversations with the defence counsel, understanding the preliminary investigation report and conducting oneself in a representative way in court.” That obviously lowers legal certainty, Bengt Holmgren says.

Around 60 per cent of all those in detention have restrictions. Usually this means that they spend the time in detention alone, and are not allowed to speak to anyone other than remand prison staff and their lawyer. In a few cases television, radio and newspapers are also prohibited. Solitary confinement can last between a week or two up to a

few months, sometimes a year. The justification is that the investigation into the suspected crime might otherwise be made more difficult.

Over a period of just over a year, those who participated in the study were asked to complete self-evaluation tests with a scale from 0 to 28 points. The higher the number of points they gave for various symptoms and conditions, the worse their state of health.

The threshold value for mental ill health is 19. Among the general population, the figure is three. Among the inmates with restrictions, a quarter were above the threshold value. When restrictions were removed, the value dropped.

Summing up, he notes that three factors are particularly destructive for those with restrictions: The passivity in the cell, the uncertainty about when solitary confinement is going to end, and the feeling of powerlessness, not being able to protect and support your family.

## **MOBILE PHONE BAN CAUSES ANXIETY**

The study does not include persons under 18 years of age. But Bengt Holmgren believes that young people who are in detention with restrictions fare as badly as adults, and possibly worse. Åsa Landberg, psychologist at Save the Children, confirms this:

“I occasionally meet young people in this situation. Most of those who are deprived of their liberty quickly develop a severe crisis, particularly if they have restrictions.”

From interviews with young people it emerges that common reactions include turning cold and switching off, feeling panic and becoming aggressive. The worst thing is not knowing what is happening in the outside world - how parents are reacting and what friends at school are saying.

“Just the fact of no longer being online and maintaining contact via your mobile phone causes anxiety,” Åsa Landberg says.

## **WEAK ATTACHMENT EXACERBATES RISK**

What worries her most of all is the effect of solitary confinement on a young person’s longer term identity development.

“For some, detention can be an eye-opener and bring a desire to change. For others, the identity as norm-breaker can be strengthened. No-one wants to be an exposed child. Becoming criminal is an alternative to being helpless.”

Åsa Landberg says that the teenage years are a period of risk-taking.

You do things you shouldn’t and you test the limits in your search for a new identity and a new way of living your life. Many manage it. But in those who have a weak attachment to parents and family, the desire to be oppositional is reinforced and risk-taking increases. Weak attachments lead to distrust of those around you and can lead to difficulties throughout your life.

## **APPLY A HOLISTIC APPROACH**

So how are young people in detention to be given the support they need?

Åsa Landberg emphasizes that they need someone who helps them manage the network: family, friends and school. She also says more resources and measures to offer support are needed, as is a holistic approach that takes the young person’s whole life situation into account.

“They need contact with an adult that they can relate to, someone who listens, explains contexts and helps them think through what led to the deprivation of liberty.

What does he need help with, and what has he experienced previously? Are there neuropsychiatric difficulties, problems at school or is there a broken family situation in the background? If you take on the difficulties that have contributed to a child committing crimes, the negative behaviour pattern can be broken.” ■

**“MOST OF THOSE WHO ARE DEPRIVED OF THEIR  
LIBERTY QUICKLY DEVELOP A SEVERE CRISIS,  
PARTICULARLY IF THEY HAVE RESTRICTIONS.”**

TREATMENT BY STAFF

# YOUNG PEOPLE'S OWN VOICES

## **“YOU WEREN’T TREATED LIKE A HUMAN BEING”**

THE YOUNG PEOPLE WE SPOKE TO DESCRIBE THE POLICE CELL AS A FRIGHTENING PLACE. NOT LEAST DUE TO THEIR TREATMENT BY THE STAFF, WHICH CAN BE BOTH CONDESCENDING AND TYRANNICAL. TREATMENT AT THE REMAND PRISON IS MUCH BETTER ACROSS THE BOARD.

The time spent in a police cell is often a frightening experience for a child. This emerges clearly from the accounts we heard during our interviews.

The interviewed children compare the routines and the physical environment to being in hell. They also give a consistently negative picture of their treatment by police cell staff. Not least due to the evident lack of human contact between staff and inmates.

One of the children we spoke to was Mark. He describes the feeling of trying in vain to have some contact with the staff. “It’s the way they address you, and that they open the hatch to look at you and then close it quickly, as if they’d rather not see you. Of course they might have a tough time too. They probably get treated in all sorts of ways themselves. But I don’t think you can treat everyone as if they had already been sentenced.”

He goes on: “They open it [the hatch] once every half hour and make sure you’re alive. Then they close it. Well, if they weren’t too quick in closing the hatch you could ask them what time it was. But usually they’re too quick. So you didn’t get a chance to ask at all.”

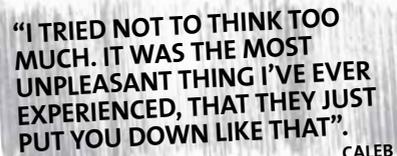
During our visits all over Sweden we met children who described the physical environment of the police cells as unpleasant, frightening and anxiety-causing. Elias describes a situation full of impotence and the inability to influence anything in his situation: “They [the staff]

take a bloody long time. You can buzz that thing for example, you know, it's kind of like our phone. If we need anything we use it. You buzz it and they kind of ignore it. That's how I feel, that they ignore it. They go 'you'll just have to wait', or else they just can't be bothered to answer. [...] So then you have to buzz them again. And then maybe they come, and you get a few books. It's very strict."

Being locked up in a cell, without contact with the outside world, can in itself be an extreme strain. But the children also describe the feeling of having less value as a human when they have been deprived of their liberty.

Gabriel tells us that throughout his time in the police cell he was never once addressed by his name. Instead the staff consistently referred to him as "apprehended". Abraham recounts: "If I were to describe it I would say that they look down on you. You know, as if my rank is below theirs. At least that's how I was treated in the police cell I was in." When we ask him how he noticed, he replies: "It's how they look at you, how they talk to you, how they order you to go there and there and there."

Treatment that doesn't contribute to facilitating the time spent in a police cell can have many consequences for a child. Children we met described what strategies they used to endure the time there. Caleb recalls how he switched off, as he calls it: "I tried not to think too much. It was the most unpleasant thing I've ever experienced, that they just put you down like that", he says. Asked if it was possible to talk to anyone, Joel replies: "Yeah, you can try. But then they try to turn everything against you instead, so it's probably better to shut up until you meet the lawyer."



**"I TRIED NOT TO THINK TOO MUCH. IT WAS THE MOST UNPLEASANT THING I'VE EVER EXPERIENCED, THAT THEY JUST PUT YOU DOWN LIKE THAT".**

CALEB

### **"THEY DON'T CARE."**

Sitting in a small room at the remand prison, Nils describes his time in the police cell: "Really, it's like, I don't know, like you don't exist. They don't care, they couldn't give a shit. They come and give you your food, and then they go. [...] If you need to go to the toilet they come and open up. I don't even know, during those two days [...] if they said a single word to me. [...] They just came and opened, and then you did what you had to do and then they locked you up and, like, left."

Jason has similar experiences: "I didn't actually talk to them. They just came and checked on me every hour. That was all." He has also thought about why the contact with them is essentially non-existent. "They're not allowed to ask you anything. Only the police can ask you questions", he says.

During our interviews with the children, questions naturally come up about why the picture they describe looks the way it does. Axel

# YOUNG PEOPLE'S OWN VOICES

thinks the bad treatment is due to the staff's training. "What I think about the police cells is that just about anyone could get a job there. You don't need any kind of training", Axel says.

There is also another description of the staff, in which the child feels that the staff use threats, physical violence, power games and put-downs to break their spirit. Elias tells us: "And then it seems as if some of them want to show that they have a higher power than the other guy. You know what I mean? There especially, it feels as if many of them want to show that, well, like they think they're the USA. You know what I mean?"

## STRICT ROUTINES

Routines in police cell blocks are strict, and there is rarely any margin for deviation. When Rafael, who is a Muslim, tells the staff that he can't eat pork meat, the reply is "If you don't want to eat, don't eat", with the result that he is forced to go hungry for most of time he is there.

How the routines are carried out by staff can be of great significance to the individual child. Mark tells us: "It was pretty much your worst nightmare, spending time in the cell. You weren't treated like a human being at all. They threw the food in when it was time. If you were lucky, the container didn't break. Otherwise you had to pick the food up off the floor and eat it. If they thought you complained too much [...] then you were only allowed to go to the toilet twice in 24 hours. And they chose when they thought was a good time."

Another strategy that staff can use, according to the children, is to create a feeling of being exposed. The children feel that the staff are allowed to do anything. Axel tells us: "Here [at the remand prison] it's more that you can't do anything, I mean that a warder can't do anything to someone who's detained without it getting out, without someone else seeing it. But in the police cell it's just the guard against everyone locked up there. He can go into a cell and just hit somebody. Who's going to believe the guy?"

Lucas thinks about how he was received and treated by the police cell staff, and describes how he feels that you almost have yourself to blame in some situations. "If you're unlucky they can always come into your cell and give you a bit of a beating or something like that. But that's only if you're rowdy or if you keep buzzing them and hassling them. If you're asking for it, then of course you can get it, then they can become aggressive". We ask Lucas if he himself has had anything like that done to him. "No, I try to keep calm. Most of the time it doesn't pay to give them a hard time. Then they just give you a hard time back." It also emerges from our interviews with the children that there are situations in which they feel afraid. This can depend on

T B & STAFF

a number of different things, not least their treatment by the staff.

“Yeah, they sort of had the attitude that we’re the biggest and best, and we’re in charge around here. So you might as well step into line. It was a bit scary, because they’re not little guys”, Mark says. Emil tells us: “There are quite a few friends of mine who have been badly treated by the police, like [getting] almost assaulted, so there are a lot of policemen who have been reported by young people because they’ve been so badly treated.”

### **“THE IDEA IS TO BREAK YOUR SPIRIT”**

There are also positive appraisals of staff that emerge from our interviews with the children. These are of individuals that the children feel have done something special for them. For example, Elias describes how he was once given sandwiches by, as he calls her, a nice girl who worked in the cell block.

Oliver, too, met a cell guard who could contribute to making his situation easier, if only for a short while: “She then had the wooden door open, so I could at least look out. I talked to her when she opened the door, so we talked for three or four minutes.” Daniel tells us: “They actually tried to help you as much as possible. Without me even asking for it, they brought me a book, and every time I went to interrogation we had a little chat on the way.”

Unfortunately, Lucas’ experiences are much more representative of the accounts we heard during our interviews with children and young people who had spent time in a police cell: “They have cells for the purpose of breaking you mentally or physically. The idea is to break your spirit. To make you want to get out of there. To make you tell them what they want to know, so that you can get out of there. That’s why it is the way it is, to break your spirit. And it does, so in that way it works.”

### **BETTER TREATMENT IN REMAND PRISONS**

Most of the children we met over the past year were in remand prisons at the time of our meeting. All of them had previously spent a shorter or longer period in police cells. The first thing that strikes us when we listen to the children’s accounts is how differently they view the police cell staff and the remand prison staff.

For example, the treatment by staff is generally much better in remand prisons than in police cell blocks, according to the children. Gideon describes the remand prison staff: “They treat you in a good way. And when they talk to you they’re cheerful.

And they’re always like cheerful and funny, so that when they’re cheerful and they speak to you, you become cheerful too. They treat you in a very good way, and if there’s something you don’t under-

TREATMENT BY

# YOUNG PEOPLE'S OWN VOICES

stand they help you understand it. They make sure you understand”.

Daniel gets treated with respect at the remand prison he is in: “Yes, the people who work here are different. They engage with each guy and care about him. It’s not like they say Hi to person and Bye when he leaves. They’re more, so what’s your story, where are you from? They get involved.” Emmaus describes what good staff should be like and uses the example of a person he himself likes a lot: “[...] For example, I go outside, and I haven’t told NN that I feel bad, but he can tell anyway.”

Part of the explanation for why the children describe remand prison staff as both kind-hearted and competent is that the remand prison is a completely different environment from the police cells where they have previously been held. Gideon tells us: “The people here [at the remand prison], they’re not policemen. They’re human beings.”

A major difference between remand prisons and police cells appears to be that at the remand prison, inmates meet staff who talk to them, who can answer questions and are prepared to spend some time on small talk. Mark tells us: “They treat you a bit like a human being.” They’re kind. They’re pleasant. You get a chance to speak to them. That makes a huge difference, because when you come from the police cell where you’ve been locked up without any contact with anyone else, then there’s nothing you want more than to talk to somebody. You have to let your emotions out, otherwise you go mad.”

However, the sharp contrast between the remand prison and police cell environments is not the only explanation for the positive opinions that the children give of remand prison staff. There are other differences. The children are of the opinion that remand prison staff do more than the job demands, and that they really care about the inmates.

Judging from the children’s accounts, they have a nuanced view of remand prison staff and of what they can do within their professional role. The children’s expectations on staff have to do with the very simplest things. Malcolm tells us: “They play a few board games, a few card games. Would you like to do some baking? Do you want to go to the sports centre? They get quite involved and make an effort for you to be able to break the isolation as much as possible. But they can’t be at it with you every day, because there are a lot of people here. But they try, which I think is good.”

## “THEY WANT TO SHOW YOU WHO’S IN CHARGE”

The children also show, in several ways, that they have a deep-rooted belief that the way you treat others is the way you yourself will be treated. For that reason it is difficult to understand the differences the children describe between their treatment in the remand prison and the police cell blocks. Linus says: “I think they’re pretty easy. There

BY STAFF

will always be someone crying their eyes out, but that has to do with how you treat them from the start, too. If you give them a hard time and buzz the bell all the time, then that comes back to you. If you're decent to them and say hello and act cheerful, then they act in the same way towards you."

But there are also negative pictures of remand prison staff. These are often about the inmate having met an individual member of staff who he or she feels did not do a good job. Rafael tells us: "There's an older man who works here - and I mean I'm pleasant enough, I say thank you after the meal and that. I say thank you, and he just says hmm. I've stopped saying thank you to him. I think he's been working for too long and has lost his spark. Some are passionate about their job. And then you see others who can't wait for four o'clock, when they can go home."

Only rarely did we hear accounts about remand prison staff using their power to put the young inmates down. And no child reported that he or she was afraid of the staff at the remand prison, or had experienced threats or fear of physical violence. What the children's accounts do show, however, is that inmates can be treated differently depending on how familiar they are with how the system works. Children with experiences of earlier detentions seem to feel they are treated better than others. Rafael tells us: "When I was 15 they were hard on me. They wanted to show that they were in charge and all that. That's the way it is. They want to show that they're the ones in charge. But today I know my rights. What they can and cannot do. Today I know how to talk and what I have a right to and how to defend myself." ■

**"I THINK THEY'RE PRETTY EASY. THERE WILL ALWAYS BE SOMEONE CRYING THEIR EYES OUT, BUT THAT HAS TO DO WITH HOW YOU TREAT THEM FROM THE START, TOO."**

LINUS

# ANALYSIS

TREATMENT BY STAFF

## LACK OF KNOWLEDGE

## BEHIND BAD

## TREATMENT

CHILDREN AND YOUNG PEOPLE DESCRIBE HOW THEIR RECEPTION AND TREATMENT IS MUCH BETTER IN REMAND PRISONS THAN IT IS IN POLICE CELLS, WHERE THEY CAN BE SUBJECTED TO EVERYTHING FROM INSULTS TO DIRECT THREATS. LACK OF KNOWLEDGE, GUIDELINES AND ADEQUATE TRAINING REQUIREMENTS FOR POLICE CELL STAFF ARE SOME POSSIBLE EXPLANATIONS FOR THIS.

In our meetings with young people, we have been given two separate pictures of how their reception and treatment have been in remand prisons and police cell blocks, respectively. The interviewees feel that they are badly received and treated by police cell staff. This can be anything from being ignored to receiving direct threats. In remand prisons, by contrast, the staff's good sides are highlighted, and the interviewees appreciate the way they are received and treated. They feel that the staff do more than just their job.

This can partly be explained by the fact that a person in a police cell is in a more critical situation. The physical environment is poor, the young person is experiencing a crisis and may also be under the influence of alcohol or drugs. These factors may affect the perception of how they are treated. None the less, these factors are partially present in detention as well, and it is difficult fully to explain the difference on this basis.

Regardless of why young people find treatment so different in remand prisons and police cells, the state is obliged under the CRC to guarantee children and young people treatment which is consistent with their fundamental human rights.

The Committee on the Rights of the Child acknowledges that the preservation of public safety is a legitimate aim of the justice system. But the Committee also says that this must be done with full respect for and implementation of leading and overarching principles enshrined in the CRC.<sup>1</sup> The Ombudsman for Children in Sweden shares this view. A child who has been deprived of his or her liberty may feel that it is both frightening and stressful to be locked up and interrogated. It is therefore important that the judicial process places high demands on the treatment of children in conflict with the law. According to the CRC, the child is to be treated in a way that is consistent with the child's sense of dignity and worth. Moreover, the treatment is to reinforce the child's respect for the human rights and freedoms of others. All key actors must respect the guarantees that are in place for a fair trial. The Committee asks how police officers, prosecutors and judges who do not fully respect and protect these guarantees can expect that the child, with such poor examples, will respect the human rights and fundamental freedoms of others.<sup>2</sup>

Treatment must take the child's age into account and promote his or her reintegration and assuming a constructive role in society. This requires that all professionals involved in the administration of juvenile justice be knowledgeable about child development, the dynamic and continuing growth of children, what is appropriate to their well-being, and the pervasive forms of violence against children. Respect for the dignity of the child requires that all forms of violence in the treatment of children in conflict with the law must be prohibited and prevented.<sup>3</sup>

## **THE STATE MUST PROTECT CHILDREN**

Under article 37 of the CRC, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. This is supplemented and developed in article 19, which requires that the state take measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation while in the care of parent(s) or any other person. This article requires that states take various measures to protect children against all forms of violence. Article 37 also echoes the absolute proscription in the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which also applies to children. The Committee considers that placement of a child in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or

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1. CRC/C/GC/10 Paragraph 14.

2. CRC/C/GC/10 Paragraph 13.

3. CRC/C/GC/10 Paragraph 13.

well-being of the child concerned must be strictly forbidden.<sup>4</sup>

The treatment and reception that young people we have interviewed faced in police cells are not acceptable. It is a difficult work environment that requires a high level of competence. Those working there should be implicitly compassionate and should facilitate the child's situation. The UN guidelines also state that it is especially important in the initial stages that law enforcement agencies treat the young person in a way that avoids harming the child, which requires compassion and kind firmness. This is because it is significant for the child's future attitude towards the society.<sup>5</sup> Living up to this requires sound training and that employees are suited to the task.

The Committee emphasizes that a key condition for a proper and effective implementation of the CRC's rights or guarantees is the quality of the persons involved in the administration of juvenile justice. The training of professionals, such as police officers, prosecutors, legal and other representatives of the child, judges, probation officers, social workers and others is crucial and should take place in a systematic and ongoing manner. These professionals should be well informed about the child's, and particularly about the adolescent's physical, psychological, mental and social development. They should also be informed about the special needs of the most vulnerable children, such as children with disabilities and asylum-seeking children.<sup>6</sup>

## REMAND PRISON STAFF BETTER TRAINED

One reason that the interviewees feel that treatment is better in remand prisons than in police cell blocks may be differences in basic training for staff at the two workplaces. Remand prison staff have a basic training programme of 19 weeks, which includes both theory and practice. Employees' personal suitability is assessed during the practical phase. The theoretical part focuses on ethics, rules and regulations, health and medical care, client contacts, safety and conflict management. Children's rights are included as part of the training programme.<sup>7</sup>

In our own survey of police authorities we asked what training requirements the police authority places on cell guards in internal recruitment and in sourcing from security firms. The replies show that there are no general requirements.

All police authorities except one state that cell guards attend an internal introduction course arranged by the police authority itself. Only about a fifth of these training courses deal with values, ethics and/or

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4. CRC/C/GC/10 Paragraph 89.

5. The UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), Rule 10.

6. CRC/C/GC/10 Paragraph 40.

7. The website of the Swedish Prison and Probation Service, 9 Dec 2012. [www.kriminalvarden.se](http://www.kriminalvarden.se)

human rights. The most common modules on the courses are reviews of current legislation and local routines. We also asked if any part of the introductory course deals with children or children's rights. About a fifth of the police authorities stated that their introductory courses included such a module.

Since the staff at police cell blocks and remand prisons are often the only people the child meets aside from the investigating police officers and their defence counsel, they must be able to meet the child's fundamental rights and needs. Remand prison staff seem capable, according to the children's own accounts, of giving the support that the child needs, while at the same time helping uphold his or her rights.

Institutions where children are deprived of their liberty are often closed to outside scrutiny. According to the UN's study on violence against children, it is widely recognized that there is a connection between unqualified and badly trained staff and various types of violence against children in institutions, e.g. psychological violence. Overwhelmed staff may resort to violent measures in order to maintain discipline.<sup>8</sup>

Children we met described police cell staff who are tyrannical and use different means to break the child's spirit. These might be threats, fear of physical violence, put-downs and various power games. The children feel that the staff doesn't really do anything to uphold their rights. In some cases the children are even treated in a way that directly contravenes their right to protection against inhuman and degrading treatment.

This is obviously not in conformity with the CRC and other international conventions, and totally unacceptable. No child should have to suffer such treatment. The Ombudsman for Children in Sweden is of the opinion that no child should be placed in police cells in their current form. ■

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8. Sérgio Pinheiro, P. World Report on Violence against Children. United Nations Secretary-General's Study on violence against children, 2006.

TREATMENT BY STAFF

# INTERVIEW

TREATMENT BY STAFF

MATS LINDBERG, YOUTH ADMINISTRATOR  
AT THE REMAND PRISON, GOTHENBURG:

## “LITTLE THINGS MAKE A BIG DIFFERENCE”

RESPECT AND HUMOUR WILL GET YOU FAR. AT THE REMAND PRISON IN GOTHENBURG, THE FAIR TREATMENT OF YOUNG DETAINEES GOES WITHOUT SAYING AND IS THE MOST IMPORTANT TOOL FOR WORK.

There is one name that kept coming up when the Ombudsman for children in Sweden spoke to young people deprived of their liberty. Mats Lindberg.

He is a youth administrator at the remand prison in Gothenburg and clearly a person who makes a difference for the young people who are sent there. His own view is that it's about teamwork in creating an environment where detained young people do not come to harm. But that isn't always the reality. That's why he handed in his notice in 2005, after 20 years with the Prison and Probation Service, and promised himself he'd never be back. He was sick and tired of the old remand prison culture, which was characterized by a fear of getting too close to the inmates and was essentially a question of storage.

“We were a bunch of people working for the same clients, but we never spoke to each other. We were not in contact with the young people's families nor with the correctional institutions we sent them to. It doesn't feel good to send a minor off to a special supervisory

home without even having spoken to his parents.”

But just two years later, the remand prison in Gothenburg received a special commission to work with young people. The goal was to break the isolation with the help of activities, and develop frequent contacts with non-institutional care, social services and family members. And Mats Lindberg changed his mind.

“In order to influence someone in the right direction you have to create good, sound relationships. That takes time and is based on having a dialogue. Activities often turn into very good dialogue occasions. They allow you to be more of an ordinary person, not just a correctional officer”, he explains.

### SOLITARY CONFINEMENT CAUSES HARM

At the remand prison in Gothenburg it is common that young inmates have restrictions all the way up to the trial, and sometimes afterwards as well, as they wait to be transferred to a correctional institution. The staff can tell that solitary confinement causes harm. This can take

the form of the person speaking more loudly or more quietly, changing their eating habits or giving up exercising. In the end they have no need to meet any other people. And for someone who has been in solitary confinement for a long time, it can be very difficult to come out and be among people again.

“For that reason we usually write to the prosecutor to ask if there’s any chance of reducing restrictions, so that the youngster can spend time with some other youngsters who also has restrictions. That helps a lot in breaking isolation. That way they can go to each other’s rooms and do things together, like play cards.”

But many inmates spend just about all their time in their rooms. Even if the staff try to get them out as often as possible, to play video games, relax and laugh a bit. It usually ends up being a period of about 1 1/2 hours, Mats Lindberg tells us. Not much out of 24 hours, but extremely valuable even so.

When staff represent the only human contact inmates have, treatment becomes even more important. Many of the inmates here don’t feel very well. That’s a normal reaction, says Mats Lindberg. And that’s an important message to convey - that everyone here is sad.

“I usually say that I’d have felt the same way if had been detained. I’d also be missing my family. When someone who’s just been placed in detention thinks it’s OK, I get worried.”

### **IMPORTANT TOOLS MISSING**

Today the project is a fixed part of the activity, focusing on a human

outlook and reception/treatment. Much has got better. There is now an acceptance, from the top down, that a specially adapted method is required for taking care of young people.

But Mats Lindberg misses two spaces that served as important tools for the staff. In the old remand prison there was a kitchen that staff and inmates could use on a daily basis. There was also a gym where young inmates could release their energy and frustrations. And more staff - a condition for being able to organize activities individually as well as in groups.

“We played a lot of ball games, and always finished by sitting around talking for a while. That was a good way of finding out more about them: seeing how they functioned physically and how they acted in a group. Important knowledge for understanding the clients and treating them in the right way.”

### **DIAGNOSES ARE COMMON**

It is only in recent years that it has become clear that many of those who end up in remand prisons have neuropsychiatric diagnoses such as ADHD. That is sometimes the reason they can’t do certain things and need extra support.

Many also have unprocessed childhood traumas and put up a tough front which collapses after a while in the remand prison.

“It’s extremely important that we’re there in those situations, that we assume our responsibilities and help them sort it out. At the same time we have to be very careful not

# INTERVIEW

to spark processes that we then can't take care of", Mats Lindberg says.

In the past, staff also accompanied young inmates on walks and when they were going for interrogations or received visits. They were natural platforms for dialogues with parents, lawyers and the police. At the new security remand prison, inmates are transported via an internal lift and staff have no way of knowing what happens.

All the employees here have applied to work here because they want to work with young people. That's good, says Mats Lindberg, because without involvement you can't do a good job. Staff strive to serve as good examples. In other ways, their profiles and talents vary. He thinks being yourself is the most important thing.

"It sounds like a commonplace, but I think we've come a long way with humour. At the same time we have to see the gravity of the situation the youngsters are in, and not just play around and be silly."

It's the little things that make a big difference, he tells us. Many young people feel that they've been branded and that no-one believes them even if they are honest.

"We make a point of listening to and believing what the person is saying. And anyone who's failed is always welcome back!

We work hard to make sure the youngsters leave here unharmed, and maybe a little wiser. Hopefully they'll think they've been given a fair assessment and be ready to deal with the rest of their lives. Though of course that is far from always the case." ■

# CLAR

WHAT KINDS OF ACTIVITIES ARE THERE IN THE REMAND PRISON?

YOU CAN PLAY CARDS, SHOWER AND WALK. I GET TO DO TRAINING EVERY OTHER DAY.

YOU GO TO THE SPORTS CENTRE AND THERE ARE VARIOUS THINGS YOU CAN PLAY.



OVER THE LAST MONTH I'VE BEEN TO THE SPORTS CENTRE TWICE AND PLAYED BASKETBALL.



AND THEN I'VE BAKED ROLLS ONCE. THEY'RE ACTUALLY GOOD, THE STAFF HERE, THEY'RE NICE.



AND IT'S A LOT BETTER THAN THE POLICE CELL. I MEAN, I HAVE A ROOM WHICH IS OK. AND THEN THERE'S TV.

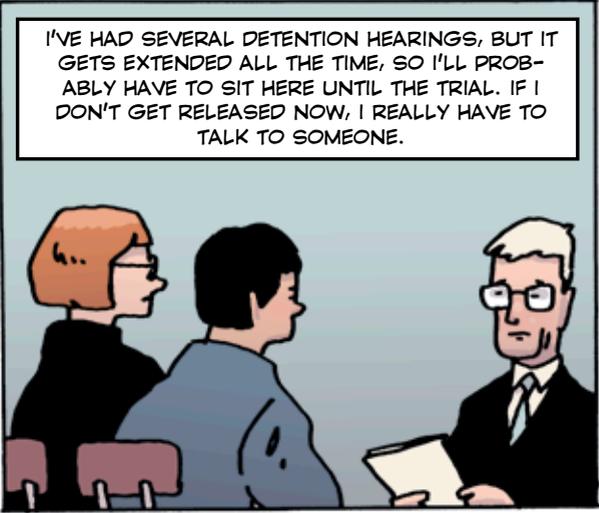




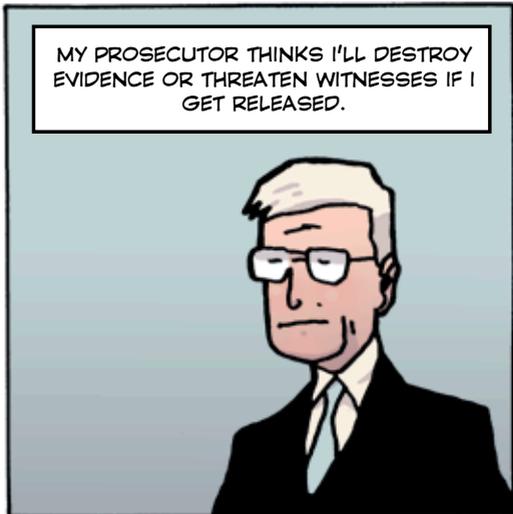
OTHERWISE I MOSTLY WATCH TV.



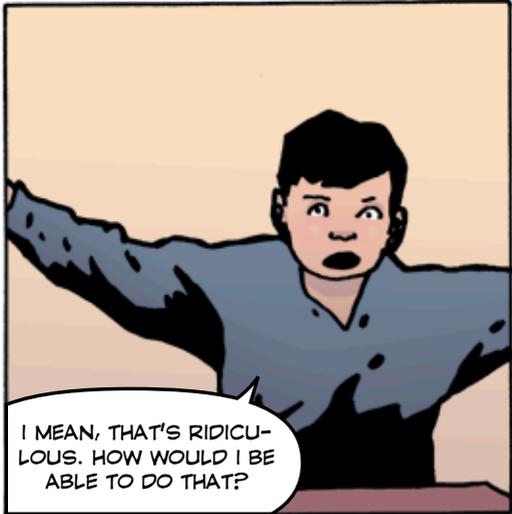
THE WHOLE TIME YOU'RE WAITING FOR THE NEXT DETENTION HEARING.



I'VE HAD SEVERAL DETENTION HEARINGS, BUT IT GETS EXTENDED ALL THE TIME, SO I'LL PROBABLY HAVE TO SIT HERE UNTIL THE TRIAL. IF I DON'T GET RELEASED NOW, I REALLY HAVE TO TALK TO SOMEONE.



MY PROSECUTOR THINKS I'LL DESTROY EVIDENCE OR THREATEN WITNESSES IF I GET RELEASED.



I MEAN, THAT'S RIDICULOUS. HOW WOULD I BE ABLE TO DO THAT?

THE FOOD ARRIVES ON A TROLLEY, AND THEN YOU EAT IN YOUR ROOM.



IT'S A BIT OF A DRAG, HAVING TO EAT BY YOURSELF ALL THE TIME. AT HOME THERE WERE ALWAYS LOTS OF US AT THE DINNER TABLE.



AND THEN I'VE ASKED TO BE GIVEN SCHOOL-  
WORK AS WELL. I WANTED TO STUDY A BIT OF  
HISTORY AND RELIGION AND STUFF LIKE THAT.



MY MUM WAS ALLOWED TO  
VISIT AFTER A WHILE, BUT IT  
TOOK QUITE A LONG TIME TO  
ARRANGE.



SHE HAD TO SIGN THE  
CONSENT PAPERS.

BUT WE'RE NOT ALLOWED TO TALK  
ABOUT WHAT HAPPENED, WHICH IS WHAT  
YOU WANT TO TALK ABOUT, SO WE  
MOSTLY SIT QUIETLY TOGETHER.



I'M NOT ALLOWED TO SEND LETTERS  
EITHER, SO IT REALLY FEELS AS IF I  
HAVE FULL RESTRICTIONS.





# YOUNG PEOPLE'S OWN VOICES

THE INTERROGATION SITUATION

**“YOU WANT TO SAY WHAT  
THEY WANT TO HEAR SO  
THEY’LL COOL IT”**

THE INTERROGATION SITUATION IS SO STRESSFUL FOR YOUNG CRIME SUSPECTS THAT THEY CAN SAY JUST ABOUT ANYTHING JUST TO GET OUT OF THERE. DESPITE THIS, THERE IS OFTEN NO DEFENCE COUNSEL PRESENT AT THE FIRST INTERROGATION.

The children the Ombudsman for Children in Sweden met have all experienced at least one interrogation in connection with becoming suspected of a crime and deprived of their liberty. Interrogations are a fundamental part of the judicial process.

It is clear from our interviews that interrogations can cause many different emotions. They can be a stressful and threatening experience for a child. A consequence of that is that they can say just about anything, to try to please or to get out of there. Emmaus describes how he was very affected by the stressfulness and pressure of the interrogation situation: “I don’t want to tell a story once, twice, three times and then go back into it again, back and forth, this way and that, left, right and centre, you know.”

Asked about what happens when you become pressured, Emmaus replies: “You begin not to know what you’re talking about. You just want to say what they want to hear so they’ll let you go. You want to say what they want to hear so they’ll cool it.”

The pressure of the situation can make the child give up and say what the police want to hear, Axel tells us, and goes on: “It’s like you can’t understand what they mean, so you get confused about it yourself, thinking that you may have said something that was wrong. It feels like you’ve said something wrong, so you go along and say what they’ve been saying, even though it’s wrong and you shouldn’t say that.”

# YOUNG PEOPLE'S OWN VOICES

It is also difficult for the child to understand what the interrogation questions mean. Axel doesn't think he's alone in not understanding everything that's said in the interrogation situation: "I mean, they usually ask complicated questions. It's not just because I'm not Swedish, I think even a Swedish kid wouldn't understand straight away. Because you know, they ask complicated questions, so once I do answer they add words themselves. Is this what you mean, [they ask].

Do you understand?"

**"IF YOU SAY THAT YOU DON'T WANT A LAWYER AT AN INTERROGATION, THEN MAYBE YOU GET DETAINED THE SAME EVENING, BUT IF YOU SAY YOU WANT A LAWYER, THEN YOU'LL HAVE TO BE THERE FOR ANOTHER HALF A DAY, GUARANTEED."**

LUCAS

It is also clear that the conditions surrounding interrogations are not always ideal. This can be about the child not feeling prepared or about him or her lacking information about what an interrogation is. Emmaus had it explained to him that the police would initially hold a short inter-

rogation, what is known as a 24:8. It's only afterwards that he realizes the interrogation will have consequences: "A short interrogation puts me here for five months", he says.

Nils has had the experience that the police made use of the fact that he was drunk, despite the fact that his defence counsel has been present at most interrogations he has had. He remembers one occasion particularly well: "Once when I was drunk they took advantage of that, I mean when they were interrogating me. I was 17 or 18 at the time. I was suspected of a crime, and I was interrogated. But afterwards I had to stay in the police cell for a day, and then after that my lawyer came, and the interrogation was disallowed."

From the accounts we heard, it seems to be the rule rather than the exception that defence counsels are not present at the first interrogation police hold with a young person. When we met Axel he didn't even know that he has a right to a defence counsel at the first interrogation. He tells us: "At the first interrogation you don't have one - you get notified but they can ask questions. But at the second interrogation you have to have a lawyer." When we ask him why the defence counsel isn't present at the first interrogation, he just shrugs his shoulders and says that that's how it works, and he replies no to our question about whether the police say anything about a defence counsel.

## YOUNG PEOPLE DECLINE DEFENCE COUNSEL

From the accounts we heard it emerges that a common reason for defence counsels not being present at interrogations is that the young people themselves choose to waive their right. Alvin said yes to an interrogation without a lawyer, since he thought it would increase his chances of getting out faster. It didn't, as it turned out. Mark, too, declined defence counsel for the same reason: "I more or less thought

that there'd be an interrogation and that then I'd go home again. So I thought that it'll only take a lot of extra time, since then the interrogation would be postponed until the following day, if I waited for a lawyer."

Lucas tells us: "If you say that you don't want a lawyer at an interrogation, then maybe you get detained the same evening, but if you say you want a lawyer, then you'll have to be there for another half a day, guaranteed. You spend a long time in here as it is. So that's something you absolutely want to avoid".

How the police ask the question can also influence the answer. For example, interviewees told us that the police had asked them if it was OK to do an interrogation without a lawyer. But they were not told that they have a right to a lawyer. Other children expressed a wish to have a defence counsel at the first interrogation, but were refused this by the head interrogator. One of them is Abraham: "That wasn't good, that wasn't a very nice thing of them to do to me. If you have a lawyer there, he or she helps you."

### **"SAFER WITH A LAWYER"**

One reason young people don't demand defence counsel when they are suspected of a crime is that they are unaware of their rights. One of those who neither asked for or was offered a lawyer is Emil. "If I'd had a lawyer I might not have been taken into custody. But because I didn't, I went in. I guess the best thing is always to have your lawyer there", he says.

Asked whether the defence counsel has any significance for the outcome of the interrogation, Axel replies: "In a way. You feel safe during it. You have someone on your side instead of two policemen against you. There are questions I don't have to answer even though I don't know. In those cases the lawyer is there for you."

In the interrogation situation itself, the lawyer is important for several reasons. The interviewees described the difficulties in having to make their own decision about defence counsel at the first interrogation.

Lucas describes it like this: "You have to wait until the lawyer arrives. That always takes more time. Either you can go in there and do the interrogation on your own, but it's always good to have a way, someone to bounce ideas off ... I guess it's mostly a reassurance for yourself. I don't usually have a lawyer with me, because I usually want to get it over with so that I can get out of there. But in this situation it was different. They can ask you questions and distort your words, which can make it go wrong. [They can] try to find out who your friend was or to fool you. Get you to say a bunch of things and stuff like that."

THE INTERROGATION

# YOUNG PEOPLE'S OWN VOICES

## INTERROGATION SITUATION

Gomer tells us why his lawyer is important: "The difference if you have a lawyer in an interrogation is that they don't shout at you and they don't look you straight in the eye and tell you that you're lying. They wag their finger like this and say that you're lying. But they're the police and the police equals the law, and you can't say anything to the police."

Oliver tells us: "Before I was a bit more cocky when I had a defence counsel. Because she can tell them off and tell you what to say. She always defends me. So you're always a little bit safer with a lawyer. If you're on your own I think almost anybody would be a little scared. Because the cops, the police, are in power in their house - that's the way it is." In Elias' view, the lawyer contributes to balancing the power a little. "Let's say that every person who goes on trial has the word criminal written all over him, that he's a criminal. But the lawyer helps rub that word out more and more. Help rub, rub, rub, rub it out. So when I go into an interrogation it feels as if I have to try and rub it out," Elias says.

The interviewees describe the lawyer as an important person in several ways, even disregarding his or her judicial role, which can sometimes be unclear. For many of them the lawyer is a compassionate human being in a difficult situation, who can offer support, help and security. The defence counsel can even be perceived as a fun and trusted friend.

One boy stated that he would have been completely alone without his lawyer. Malcolm tells us: "Me and my lawyer have a special bond, because I've had him since my first trial. So we're like pals. We can talk, and he phones to see how I am."

A recurring theme in the children's accounts is the importance of contacts with parents and other significant adults. Daniel tells us: "[During] my interrogations when I was 16 I said nothing, because I sat there talking to my mum instead. She was more important then. And the policeman understood that, so he let the interrogations go on for a bit to allow me to talk to my mum a while. That helped me a hell of a lot. So I mean, if someone maybe has problems with their parents, maybe mum and dad, and is there on their own and doesn't have

anyone who comes and talks to him. Well, it's not much fun for that guy, I can tell you, and I really understand that." ■

**"THE DIFFERENCE IF YOU HAVE A LAWYER IN AN INTERROGATION IS THAT THEY DON'T SHOUT AT YOU AND THEY DON'T LOOK YOU STRAIGHT IN THE EYE AND TELL YOU THAT YOU'RE LYING."**

GOMER

# ANALYSIS

THE INTERROGATION SITUATION

## DIFFICULT FOR CHILDREN TO UNDERSTAND THE CONSEQUENCES

**LACK OF INFORMATION AND APPLYING PRESSURE DURING INTERROGATION JEOPARDIZES LEGAL CERTAINTY FOR CHILDREN IN CONFLICT WITH THE LAW. FOR THAT REASON, ALL CHILDREN MUST BE PROVIDED WITH A DEFENCE COUNSEL FROM THE FIRST INTERROGATION.**

Every child who is alleged as or accused of as having infringed the penal law has the right to be informed promptly and directly of the charges brought against him or her (article 40). According to the Committee it is not enough to give the child written information about the charges, and instead an oral explanation may often be necessary.<sup>1</sup>

Authorities should not leave this to parents or legal guardians, or to the child's legal or other assistance. It is the responsibility of the police, prosecutor and judge to make sure that the child understands each charge brought against him or her. The child should be informed in a language he or she understands, e.g. if the child speaks a foreign language or by making the formal legal jargon comprehensible.<sup>2</sup>

From the accounts the Ombudsman for Children in Sweden has heard it emerges that children don't always understand the questions during the interrogation, or what the implications are of a child answering a certain question in a certain way. The possibilities of preparing a defence are thereby reduced, which in turn means that the process cannot be regarded as fulfilling the requirements of legal certainty.

The Committee says that the child's right to information encompasses not only the charges, but also information about the juvenile

1. CRC/C/GC/10 Paragraph 48.

2. CRC/C/GC/10 Paragraphs 47 and 48.

justice process as such and of the possible measures.<sup>3</sup> This in order to effectively participate in the proceedings.

The interrogation itself is carried out by one or more policemen. They may not use information they know to be false, promises or hints of special advantages for the purpose of extracting a confession. Nor may threats, force or questioning to the point of fatigue be used. The person being interrogated is entitled to customary meals and necessary rest.<sup>4</sup>

According to the Committee a child may not be compelled to give testimony or to confess or acknowledge guilt.<sup>5</sup> Torture, cruel and degrading treatment in order to extract an admission or a confession constitutes a grave violation of the rights of the child (art. 37) and is totally unacceptable. No such admission or confession can be admissible as evidence.<sup>6</sup>

The term “compelled” should be interpreted in a broad manner and not be limited to physical force or other clear violations of human rights. The age and development of the child, the length of the interrogation, the child’s lack of understanding, the fear of unknown consequences or of a suggested possibility of imprisonment may lead him or her to a confession that is not true. That may become even more likely if rewards are promised such as: “You can go home as soon as you have given us the true story”, or lighter sanctions or release are promised.<sup>7</sup>

Judging from the accounts of the children and young people we interviewed, it is dubious whether the police in these cases followed the rules for interrogation. Instead it is clear that the interrogation situation is one of elevated pressure and that the inmate doesn’t always know that he or she may have to remain in the police cell, regardless of what is said during the interrogation.

The inmate may furthermore be unaware of what the continuing judicial process implies, which means that he or she cannot foresee the consequences of a specific action.

## **KNOWLEDGE ABOUT THE CHILD’S RIGHTS REQUIRED**

According to the Committee, there must be independent scrutiny of the methods of interrogation to ensure that the evidence is reliable as well as voluntary and not coerced. The court or other judicial body must take into account the age of the child, the length of custody and interrogation, and the presence of legal or other counsel, parent(s), or independent representatives of the child. Additionally, police officers

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3. CRC/C/GC/10 Paragraph 44.

4. Chapter 23, Section 12 of CJP.

5. CRC/C/GC/10 Paragraph 56.

6. CRC/C/GC/10 Paragraph 56.

7. CRC/C/GC/10 Paragraph 57.

and other investigating authorities should be well trained to avoid interrogation techniques and practices that result in coerced or unreliable confessions or testimonies.<sup>8</sup>

In order to guarantee the child's human rights throughout the judicial process, knowledge is required of all law enforcement representatives, in particular about the rights of the child and how the child is to be treated.

The police obviously have a prominent role, not least since they are in charge of leading interrogations. In most places around the country the police also run the cell block, which in its current form increases the strain on the child during the time he or she is deprived of liberty. According to the Committee, a comprehensive juvenile justice system requires the establishment of specialized units within the police, the judiciary, the court system and the prosecution authority. There must also be specialized defence counsels and other representatives who provide legal or other appropriate assistance to the child.<sup>9</sup>

### **“CONDEMNED IN ADVANCE”**

The presumption of innocence is fundamental in protecting the rights of children in conflict with the law. It means that the burden of proof is on the prosecution. Due to the lack of understanding of the process, immaturity, fear or other reasons, the child may behave in a suspicious manner, but the authorities must not assume that the child is guilty without proof of guilt beyond reasonable doubt.<sup>10</sup> The state should provide information about child development to ensure that this presumption of innocence is respected in practice.<sup>11</sup>

Children and young people we spoke to felt that they were condemned in advance even in interrogation, i.e. that the justice system had decided that they were guilty. The way they are treated during interrogation can strengthen that feeling and thereby also contribute to their giving up or saying what the interrogator wants to hear. In the worst case scenario, this may lead to the young person admitting to acts he or she has not committed. The Ombudsman for Children in Sweden's view is that it is not consistent with fundamental principles for a legally certain procedure in a state governed by the rule of law that a child is treated such that his or her guilt is presumed for the purpose of investigating a suspected crime.

According to the Committee, parents or legal guardians should also be present at the proceedings because they can provide psychological and emotional assistance to the child. That does not mean that pa-

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8. CRC/C/GC/10 Paragraph 58.

9. CRC/C/GC/10 Paragraph 92.

10. CRC/C/GC/10 Paragraph 42.

11. CRC/C/GC/10 Paragraph 42.

THE INTERROGA

rents can act in defence of the child or be involved in the decision-making process. However, the judge or competent authority may decide, at the request of the child or of his/her legal or other assistance or if it is in the best interest of the child to limit, restrict or exclude the presence of the parents from the proceedings.<sup>12</sup>

Under Swedish legislation it is also possible, in certain circumstances, for the legal guardian to be present at interrogations held with child. In our interviews with children it emerged that there are both advantages and disadvantages to having legal guardians present during interrogations. If it is the only occasion when the child has the opportunity to meet his or her parent(s) for the foreseeable future, then it is very important that this opportunity is provided. However, it must not encroach on the interrogation, which serves an important judicial interest. The Ombudsman for Children in Sweden's view is that the child should have the opportunity to speak to his or her parent(s) without this happening during the time allotted to interrogation.

## THE RIGHT TO PUBLIC DEFENCE COUNSEL

Article 37 states that every child deprived of liberty shall have the right to prompt access to legal and other appropriate assistance. If a child cannot understand or speak the language, he/she has the right to get the free assistance of an interpreter.<sup>13</sup> Children with a speech impairment or other disabilities are to be provided with adequate and effective assistance by well-trained professionals.<sup>14</sup>

For a suspect who has not yet turned 18 years of age, public defence counsel must be appointed unless it is evident that he or she has no need of one.<sup>15</sup> In recent years, the Parliamentary Ombudsmen have in several cases criticized the fact that interrogations in youth investigations have been carried out without defence counsel present. One decision by the Parliamentary Ombudsmen was about a 17-year-old boy who had been apprehended on suspicion of assault. The boy had expressed a wish to see a particular lawyer, but consented to having the initial interrogation without the lawyer's presence. In their decision, the Parliamentary Ombudsmen note: "Even if a suspect says that questioning can take place without a defence counsel, the person in charge of the investigation must make an assessment on objective grounds that this is the case."<sup>16</sup> In other words, the assessment cannot be left to the suspect alone.

In a case concerning a 17-year-old boy, the European Court of Human Rights (ECHR) described the particular considerations required

12. CRC/C/GC/100 Paragraph 53.

13. CRC/C/GC/10 Paragraph 62.

14. CRC/C/GC/10 Paragraph 63.

15. Section 24 of AVO.

16. Parliamentary Ombudsmen decision, 28 Oct 2011, reg.no. 4608-2010.

INTERROGATION SITUATION

when a juvenile is accused of a crime. Among other things, special requirements must be fulfilled in order for someone to be able to waive a right afforded by the Convention. The ECHR noted the following: "Given the vulnerability of an accused minor and the imbalance of power to which he is subjected by the very nature of criminal proceedings, a waiver by him or on his behalf of an important right under Article 6 can only be accepted where it is expressed in an unequivocal manner after the authorities have taken all reasonable steps to ensure that he or she is fully aware of his rights of defence and can appreciate, as far as possible, the consequence of his conduct."<sup>17</sup>

The lawyer's role during the interrogation is to be on hand to answer any questions from the child and at the same time ensure that the interrogation is carried out correctly. Both Swedish legislation and the CRC are clear that children are to have the right, on the whole without exception, to defence counsel from the first interrogation.

However, several studies<sup>18</sup> show that interrogations of minors suspected of crimes in most cases are carried out without the presence of defence counsel. When Kaliber, a radio programme, went through 1,000 reports of interrogations with minors suspected of crimes, it found that just over 600 of them had been held without defence counsel.<sup>19</sup> Hallands Nyheter, a newspaper, has shown that young people had been pressured into having interrogations without defence counsel,<sup>20</sup> and a random sample of 90 criminal cases at Gothenburg City Court in 2008 showed that defence counsel had been present at only 12 per cent of interrogations of minors suspected of crimes.<sup>21</sup>

From our own material, consisting of interviews with children in police cells and remand prisons, and other audits, it emerges that children are interrogated without the presence of defence counsel. This appears to be most common at the first interrogation. The need for defence counsel is likely to be more, not less acute at the first interrogation.<sup>22</sup>

Inducing the child by various means to waive defence counsel, e.g. with reference to the risk of remaining longer in the police cell, is obviously not acceptable. It must be possible to appoint a defence counsel at any time of the day or night, and promptly too. ■

17. Panovits v. Cyprus, judgment issued 11 December 2008, application number 4268/04, § 68.

18. Hallands nyheter, <http://hn.se/nyheter/halland/1.1036967-far-inte-forekomma-patryckningar> and Meyerson, A. Rätten till försvarare vid polisförhör. School of Business, Economics and Law, University of Gothenburg, Department of Law, Bachelor programme, Applied Studies, 30 credits. 2008 and Kaliber's investigation: Unga förhör utan försvarare, Sveriges Radio, P1 (2011).

19. Kaliber visited the city/district courts of Stockholm, Gothenburg, Malmö and Umeå and went through all the youth cases of offences against the person which were adjudicated in those courts during 2010. Offences against the person include assault, robbery, unlawful threat and arson - crimes that carry long prison sentences for adults. They are not trivial crimes.

20. Hallands Nyheter, <http://hn.se/nyheter/halland/1.1036967-far-inte-forekomma-patryckningar>.

21. Meyerson, A. Rätten till försvarare vid polisförhör. School of Business, Economics and Law, University of Gothenburg, Department of Law, Bachelor programme, Applied Studies, 30 credits. 2008 p. 31.

22. Fitzer. The Swedish Code of Judicial Procedure, [www.nj.se/zeteo](http://www.nj.se/zeteo), Chapter 23, Section 5.

# INTERVIEW

THE INTERROGATION SITUATION

ANNE RAMBERG, SECRETARY GENERAL, THE SWEDISH BAR ASSOCIATION:

## “A QUESTION OF LEGAL CERTAINTY”

ANYONE SUSPECTED OF A CRIME ALWAYS HAS THE RIGHT TO DEFENCE COUNSEL AT THE FIRST POLICE INTERROGATION. THIS IS ESPECIALLY IMPORTANT WHERE CHILDREN ARE INVOLVED. IN SPITE OF THIS, THE POLICE OFTEN CHOOSE TO INTERROGATE CHILDREN WITHOUT THE PRESENCE OF A LAWYER.

And it's not just that anyone suspected of a crime has the right to defence counsel at the first police interrogation. Additionally, the head interrogator is obliged to inform the suspect that he or she is not required to make any statement. The suspect is also to be informed of his or her right to legal counsel.

This of course becomes especially important in interrogations of children and young people, who may be regarded as particularly vulnerable in that type of situation, and for whom it may be difficult to foresee the consequences of an initial interrogation. That is also why the basic premise is that children are always to be provided with defence counsel, even if they should themselves express a different wish.

The only exception is if there is no need for defence counsel, as the phrase goes, and there is therefore no risk of legal loss, says Anne Ramberg, Secretary General of the Swedish Bar Association.

“But that is rare,” she continues. “This is a question of legal certainty.

The initial interrogation can be decisive for the entire judicial process that follows. If you give the wrong answer to a question it can lead to a lack of legal certainty, a lack of objectivity and erroneous judgements. That can have fateful consequences for the child's future.”

### GREAT NEED FOR SUPPORT

The defence counsel always plays a key role in a judicial process. But this applies to a particularly high degree when children are involved, since they may be expected to need more support than adults before, during and after the process itself. It is reasonable to assume that children generally lack relevant knowledge about how the judicial process works, Anne Ramberg says.

“They must be given that type of information by someone they can trust,” she says. But the lawyer also has other important tasks, such as helping out with practical matters and being a link to the child's parents. The lawyer is furthermore bound by professional secrecy. For that reason,

it's important that a child suspected of a crime is assisted by a lawyer and not by a parent or someone from the social services. It is up to the police interrogator to ensure that a public defence counsel is appointed by the court. Despite this, many children do not have public defence counsel during the initial interrogation. The consequence of this is that those children's rights are not upheld. This can be due to pure negligence from the police," Anne Ramberg says. Or else the police make the assessment that the crime must be investigated immediately, and that there is therefore no time to call in legal counsel.

"In any case it is apparent that the police sometimes misinterpret the rules and regulations. That is most likely due to ignorance. The police must get better at disseminating this type of information throughout their ranks."

#### **DIFFICULT TO FIND A LAWYER AT NIGHT**

However, the most common reason why police interrogate children without legal counsel is that interrogations take place at night, on

weekends or at other times when very few lawyers are available, or courts closed. On such occasions, the child suspect is usually given two options: to be interrogated immediately without counsel and then released, or to have to spend a long and uncertain wait at the station until counsel becomes available.

"Unfortunately there is no system in place today for arranging defence counsel for children at these odd hours. That is a contributing factor to why we have this situation, even if that is not a valid argument for failing to arrange a lawyer. This problem could be solved with the use of night courts and more lawyers on call, for example."

This is first and foremost a question of legal certainty," Anne Ramberg notes.

"But it's also a matter of how we treat our children, and of how we create trust in our justice system among the younger generations. This is particularly important in view of the fact that many of the most vulnerable children come from families whose trust in the police and the authorities is already undermined." ■

**"THE INITIAL INTERROGATION CAN BE DECISIVE FOR THE  
ENTIRE JUDICIAL PROCESS THAT FOLLOWS."**

# YOUNG PEOPLE'S OWN VOICES

**“ALL THEY DO IS  
SEND PEOPLE OFF  
TO HOMES”**

CHILDREN AND YOUNG PEOPLE IN REMAND PRISONS PLACE A HIGH VALUE ON MEETINGS WITH SOCIAL WORKERS WHO DEMONSTRATE PERSONAL ENGAGEMENT. UNFORTUNATELY, THE SOCIAL SERVICES ARE OFTEN ABSENT, ACCORDING TO THE CHILDREN'S ACCOUNTS.

Collectively, the young people the Ombudsman for Children in Sweden met had little to tell about contacts with the social services during the time they had spent in remand prisons and police cells. Accounts about the social services had more to do with earlier measures and help that never materialized. Several of the young people describe the feeling of not having received enough support earlier in life, and faith in the social services is low.

Malcolm has been in contact with the social services since about the age of 13, and feels that the social services have always lied to him. The feeling of betrayal and of not being listened to in terms of what you think and want is a recurrent theme. Emil tells us: “I’ve been in contact with the social services since I was little, and they’ve told me that they’re going to try and help me. [...] The only thing they do is send people off to homes and think that they’ll be just fine. But they’re not.”

There can also be a sense of disappointment that the social services didn’t do enough at an earlier stage. Daniel felt that nothing at all happened the first times he was arrested. The warning signs were there, but they didn’t act: “The social services ought to have taken me and put me in a new city straight away”, Daniel tells us.

## “THE SOCIAL SERVICES DIDN’T COME”

Under the Act on Young Offenders, the social services should be present during interrogations, but that isn’t the way reality looks, according to the children and young people we spoke to. Jakim knows that the police rang both the social services and a lawyer before the first interrogation: “The social services didn’t come, but I got a lawyer at least”, he notes.

In those cases where a social worker was present during the interrogation we cannot see that it had any actual significance for the young person. Nils lists those who were present at his interrogation: the investigator, Nils’ lawyer, and then he thinks that the third adult who was there during the interrogation was a social worker. But he’s not completely sure, because she was only there in the room during the interrogation, she kept quiet and didn’t talk to him at all on the occasion. Nils has not understood what role the social services are meant to have and what they can do for him.

We asked Oliver how he felt it was to have a social worker present during the first interrogation: “No difference, I’d say. I didn’t feel any safer or anything. Though he was quite nice, the old guy. I wasn’t allowed to smoke at all, but he offered me a cigarette. That was the best thing about it.”

There are also positive experiences of meetings with the social services, where the young person has felt seen and been treated in good way.

Abraham has re-evaluated his view of the social services as a result of a meeting with this new social worker: “I’ve never liked the social services. The one I’ve got now, she’s new. I think she’s pretty good. She cares. She tries to help you.” ■

“THE SOCIAL SERVICES DIDN’T COME,  
BUT I GOT A LAWYER AT LEAST.  
JAKIM

# ANALYSIS

THE SOCIAL SERVICES

## CHILDREN NEED SUPPORT THROUGH- OUT THE ENTIRE JUDICIAL PROCESS

**CHILDREN IN CONFLICT WITH THE LAW HAVE A RIGHT TO SUPPORT AND HELP. THE SOCIAL SERVICES HAVE TO TAKE ON A CLEARER RESPONSIBILITY THROUGHOUT THE JUDICIAL PROCESS.**

**T**he ultimate responsibility for ensuring that municipal residents get the support and help they need lies with the municipality'. The social welfare board's remit includes promoting secure and good conditions under which children and young people grow up, and being especially observant of the development of children and young people who have shown signs of developing in an unfavourable direction.<sup>2</sup>

The social services shall, when this is possible and can be done without compromising the investigation, be present at interrogations with children suspected of crimes that can lead to imprisonment.<sup>3</sup> The purpose of this is to allow for the establishment of contact with young people suspected of crimes, and with their legal guardians, at an early stage. In this way the social welfare board can quickly familiarize itself with the case, get a good picture of the young person's situation and make an early assessment of what measures are needed.<sup>4</sup>

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1. Chapter 2 Section 1 of the Social Services Act.

2. Chapter 5 Section 1 of the Social Services Act.

3. Section 7 of AVO.

4. The Swedish National Board of Health and Welfare. Children and young people who commit crimes. Handbook for the social services 2009 pp.64-65.

## INSUFFICIENT SUPPORT FOR YOUNG PEOPLE

But that isn't always the way reality looks, according to children and young people the Ombudsman for Children in Sweden spoke to.

This is also confirmed by Kaliber, a radio programme that investigated 1,000 interrogation reports and noted that in over a fifth of the interrogations the suspect had either been alone with the police or else there was no record of anyone else having been present.<sup>5</sup> Aside from being present when the child is interrogated, the role of the social services when he or she is deprived of liberty in police cells or remand prisons appears unclear. It is questionable if the interrogation is even the occasion when the child's need to see the social services is greatest.

Young people we interviewed state that their own social workers rarely or never visited them when they were held in a police cell. While it is slightly more common that they receive visits by their social workers at the remand prison, we are still of the opinion that it must be clear that the social services' responsibility is not suspended while the child is in a police cell or a remand prison. Several of the young persons we spoke to feel that they have not received sufficient support.

Primarily, these young people would like measures that can help them avoid recidivism. The measures can be small but significant, such as helping somebody fill in an application for financial assistance.

The Ombudsman for Children in Sweden considers it extremely important that children suspected of crimes and deprived of their liberty receive the support or the help from the social services that he or she is entitled to. And this responsibility is not limited to the time during which the judicial process goes on, but can instead continue should the child be sentenced to a sanction. This means that all stakeholders surrounding the child, but in particular the social services, must apply a comprehensive approach to his or her situation.

To a greater extent than currently, the social services must accompany the child throughout the entire judicial process and provide the support and help the child is entitled to. The Ombudsman for Children in Sweden is therefore of the opinion that the social services have to establish procedures that guarantee their presence throughout the judicial process, to provide the child with support and help. ■

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5. Kaliber's investigation: Unga förhörs utan försvarare, Sveriges Radio, P1 (2011).

# INTERVIEW

THE SOCIAL SERVICES

THOMAS HAMMARBERG, FORMER EUROPEAN COMMISSIONER FOR HUMAN RIGHTS AND MEMBER OF THE OMBUDSMAN FOR CHILDREN IN SWEDEN'S COUNCIL OF EXPERTS:

## “SOCIAL WORKERS SHOULD BE THE MAIN STAKEHOLDERS”

WE USE INCREASINGLY HARSHER METHODS AGAINST CHILDREN WHO ARE IN CONFLICT WITH THE LAW, AND INVEST LESS AND LESS IN HELPING THEM REGAIN A PLACE IN SOCIETY. THE TREND IS THE SAME ACROSS EUROPE.

The shortage of support for young people on the wrong path is alarming. That is the view of Thomas Hammarberg.

“Anyone who has committed a crime is responsible for it. Society has to react quickly and clearly when children are suspected of crimes, but without criminalizing and punishing them as is the case today.”

In other words, it's not about ignoring the young people and disregarding the crimes. Society has to respond immediately, so that the message is driven home. But the response should be a different one than the one we're giving today. That requires an attitude change.

Thomas Hammarberg believes that the economic crisis has led to a more brutal attitude towards vulnerable people in society. And children in conflict with the law are a vulnerable group, even if they can behave aggressively and annoy people.

“Many of those who end up in conflict with the law have themselves been victims when growing up. It is

society's responsibility to give them a chance for a new beginning in life.”

### APPLY THE WHOLE CONVENTION

Articles 37 and 40 of the CRC describe how society is to treat children who are in conflict with the law. But Thomas Hammarberg emphasizes that the whole CRC must be applied also when children are deprived of their liberty.

“They are children first and foremost, and all the other rights in the CRC apply to them too. We have to be vigilant that they are not discriminated during the judicial process, that they can make themselves heard and appeal against decisions. And everything we do must be done with the best interests of the child in mind.”

According to the CRC, the locking up of children should generally be avoided. The exception is when there is a risk that the child dramatically harms him or herself, or someone else. But even then, deprivation of liberty is to be done humanely and for as short a period of time as possible.

And there are many things to think about before you lock up a child.

“They mustn’t be left alone - there must be human contact. This is particularly important when it comes to young people who are in a crisis situation. They need to have contact with people who are close to them. If it doesn’t work with the family, someone else is needed to be a support person.”

Sweden has been criticized for being too casual about placing children in remand prisons. The way the children are treated has also been criticized. Thomas Hammarberg wishes that politicians would stand up for the values enshrined in the CRC.

### **INSUFFICIENT SUPPORT**

Trained staff are needed who can deal with these kinds of situations and who know how to talk to children - not just some kind of authority bearing down on them.

“This area requires constant review, it’s that sensitive. I’m not sure we have that in Sweden at the moment.”

So how does Sweden fare in an international comparison?

“We’re not the best, but neither are we the worst. There are very considerable differences between countries, but also within countries.”

Another deficiency is the support for those who are released, he says.

“It’s important to ensure that they get a chance to go back to a normal, sensible life. Instead they are kicked outside, and then left to fend for themselves. That creates counter-reactions and paves the way for continued criminal activities. And it costs money, too. But it shouldn’t be

necessary to argue in economic terms for children’s rights - the respect for the principles should be the governing factor.”

When young people are released again, they often disappear. Municipalities have no preparedness to support them with housing and jobs, both important for finding one’s place in society.

“The social services ought to play a leading role when children are deprived of their liberty, specifically because that is about rehabilitation and reintegration in society. They should be there from the very beginning, and be the main stakeholders rather than the police,” Thomas Hammarberg says.

Society’s treatment of children who are deprived of their liberty is undoubtedly an urgent area for reform, where much needs to be done in order to comply with the spirit and intentions of the CRC. The Prison and Probation Service is an important voice in the debate on the rights of children deprived of their liberty.

“The prosecutors press for harsher methods, while those responsible for custody and institutions see reality and its negative consequences. They often become an opposing force - that’s the way it looks in many countries”, he notes.

Thomas Hammarberg wishes the politicians would listen to the experiences of those who meet the children when they’re deprived of their liberty, and who see how badly they fare when they’re locked up. In order to correct the shortcomings here in Sweden, but also to shift developments internationally. ■

# PROPOSALS FOR IMPROVEMENTS

# YOUNG PEOPLE'S OWN VOICES

## “IT SHOULD NOT BE NECESSARY TO LOCK UP A CHILD”

IT'S BETTER TO SUPPORT CHILDREN THAN TO PUNISH THEM AND LOCK THEM UP. THAT IS THE VIEW OF THE YOUNG PEOPLE THE OMBUDSMAN FOR CHILDREN IN SWEDEN INTERVIEWED. THEY ALSO CALL FOR FEWER RESTRICTIONS IN REMAND PRISONS, A MORE HUMANE ENVIRONMENT IN POLICE CELL BLOCKS AND BETTER-TRAINED STAFF.

The young people we met during our work with children in conflict with the law offered quite a few of their own suggestions for how children's situation in the judicial process should be changed. “There's no point in punishing someone who's that young. It just creates bigger

problems. It's better to give them the help they actually need instead”, Mark says when we meet him in the remand prison. Joel has the same view: “I don't think it should be necessary to lock up a child. All this really ruins things for you. It makes you feel worse. You become capable of much worse crimes”.

One aspect highlighted by the interviewees is that young people should not be held in police cells or remand prisons at all, since these environments do not counteract criminality. “You don't become nicer from sitting here”, Joel says, and goes on: “Anyone can understand that if you just



“IT WOULD BE BETTER [...] IF YOU COULD BORROW BOOKS IN THERE OR DRAW OR WHATEVER. IF YOU COULD GO OUTSIDE FOR SOME AIR OR WHATEVER.”

GABRIEL

spend time with criminals for a few years, that doesn't make you less criminal." Instead the young people want help and support in their lives. "I'll be locked up for six months. What good does that do? Why should it be impossible for someone who needs help in Sweden to get it?", Mark asks.

The interviewees also expressed a wish that the social services had given them greater support at an earlier stage in their lives. "The social services ought to get involved right from the beginning. Even if it's just about shoplifting, for example. [I would like] the social services to get on to it [...]. Because there's something in that person's life that makes you do what you do", Paul says.

### **"REMOVE RESTRICTIONS"**

There are also quite a few ideas about how young people's lives in remand prisons and police cells could become better. The single most important measure for making life in detention more tolerable would be to give all young inmates the possibility of maintaining contact with their families.

"I think that you should at least be able to keep in contact with your family. That's the very first thing you need in order to cope. Mentally, anyway. That's the first thing I would change", says Abraham when we ask him what he would like to change if he could.

Malcolm tells us: "I would remove restrictions. They're such a mental strain. That you're not allowed to write letters to whoever you like and however you like, that's another thing I find exaggerated. All the little things like that. I'm not allowed to speak to my mother - I find that too much, especially for a young person".

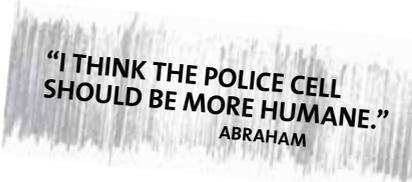
Another recurring view is that the environment in the police cells should be improved.

"I think the police cells should be more humane", Abraham says, and goes on: "Put in a TV, a window you can look out of. Things like that, you know. It's just a dark room with nothing in it except a mattress. That way it'd at least be a bit more friendly."

Other things that ought to be improved in the police cell blocks include treatment by the staff. Mark tells us: "That they treat you as a suspect and not as if you'd been convicted. Because they treat you as if you were already convicted. You're hardly a human being."

One suggestion is that there should be specially trained staff who work with young people in police cells and remand prisons. This staff is to have special competence in respect of children and their rights. There are also requests for hygiene articles and bedclothes. "And then I think they should give you sheets, pillow cases and hygiene accessories", Jakim says.

A recurring point of view in our interviews with young people deprived of their liberty was that they would like more meaningful



**"I THINK THE POLICE CELL  
SHOULD BE MORE HUMANE."**  
ABRAHAM

# YOUNG PEOPLE'S OWN VOICES

daytime activities. "It would be better [...] if you could borrow books in there or draw or whatever. If you could go outside for some air or whatever", Gabriel says about the police cells. Others, who are in remand prisons, would like to do more sport or go for walks more often. There are also requests for a more stimulating environment in the exercise yard.

## YOUNG PEOPLE WANT INFORMATION

A further area in which the interviewees called for improvements was the information they receive in connection with their deprivation of liberty. It emerges from our interviews that the uncertainty about what awaits them in the police cell can be difficult for the inmates to handle. "So I would like to have some information from the outset.

## ADVICE FOR IMPROVEMENTS:

**MORE HUMANE  
POLICE CELLS**

**MORE TV CHANNELS**

**ALLOW CONTACT  
WITH FAMILIES**



**RAISE THE AGE FOR  
BEING LOCKED UP  
BY TWO YEARS**

**CHILDREN SHOULD NOT BE  
HELD IN REMAND PRISONS/  
POLICE CELLS**

**EARLIER MEASURES BY  
THE SOCIAL SERVICES**

**STAFF SHOULD SPEND TIME  
IN A CELL THEMSELVES IN  
ORDER TO UNDERSTAND  
HOW IT FEELS**

**DIVIDE WALKS INTO TWO PARTS AND PROVIDE  
MORE TIME OUTSIDE THE CELL**

Maybe even in the police car already. That they tell you that this is what it's going to be like. This is the cell, you may have to stay here for 24 hours, in which case it's like this and like this", Caleb says. Or as Emil puts it: "You might also be pretty much in a state of shock at the beginning. And then it might not be enough just to hear it once either, instead you really have to understand."



Maybe the decision makers should also try spending time in a cramped cell, to really understand how it feels, Ruben suggests, and adds: "I've never thought of the people sitting here, but if the prime minister sits here himself he'll understand a bit better." ■

**IMPROVEMENTS TO THE PHYSICAL ENVIRONMENT IN THE CELL, THE NEED FOR A CLOCK!**

## REMOVE RESTRICTIONS FOR CHILDREN

**NOT TO TREAT YOU LIKE A CONVICTED CRIMINAL WHEN YOU ARE SUSPECTED OF A CRIME**

**THE POLICE SHOULD PROCESS CASES INVOLVING CHILDREN AND YOUNG PEOPLE FASTER**

**ALTERNATIVES TO REMAND PRISONS, JUVENILE HOMES**

**SPECIAL EXPERTS WHO WORK WITH CHILDREN AND YOUNG PEOPLE**

**REHABILITATION INSTEAD OF PUNISHMENT – NOT GETTING HELP LEADS TO MORE CRIME**

**IF YOU CONFESS YOU SHOULD BE RELEASED**

# THE PROPOSALS

## WHAT WE WANT TO CHANGE

**A**ccording to the CRC, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The arrest, detention or imprisonment of a child shall only be used as a measure of last resort, and for the shortest appropriate period of time. Every child deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.

According to the UN Committee on the Rights of the Child, a separate juvenile justice system is required for children in conflict with the law, since children differ from adults in their physical and psychological development and in their emotional and educational needs. The Ombudsman for Children in Sweden's view is that several changes are needed if Sweden is to live up to the requirements of the CRC.

### **PRETRIAL DETENTION ONLY AS A MEASURE OF LAST RESORT**

The Ombudsman for Children in Sweden's view is that there can be situations in which a child must be deprived of his or her liberty during the time that a suspected crime is being investigated. Today that can be done by arresting the child and placing him or her in a police cell, or by detaining the child and placing him or her in a remand prison, or optionally by taking him or her into care immediately by means of a placement at a special supervisory home. A pretrial detention must, according to the Committee, be kept brief. Moreover, the situation in connection with the deprivation of liberty must be adapted to the child's rights. This includes adapting the physical environment, access to well-trained staff, possibilities for contact with family and with other young people deprived of their liberty, and the opportunity to complete schooling, if applicable.

According to the CRC, children should only be deprived of their liberty as a measure of last resort and for the shortest appropriate period of time, regardless of whether it is an arrest or a detention. The

state should take adequate legislative and other measures in order to reduce the use of pretrial detention.

Under Swedish law, detention of children may only occur if it is evident that adequate supervision cannot be arranged. Exceptional reasons are also required in addition to the general conditions that have to be fulfilled in order for detention to come into question. The same requirements apply to arrest decisions. The Swedish Parliamentary Ombudsmen have stated that detention of persons under 18 years of age may only occur in extreme situations. Our review of detention records from district courts shows that it is rarely clear from the records how the assessment is made of what are to be considered exceptional reasons. Neither is it clear from the legislative history how the examination of exceptional reasons is to be carried out. It is the Ombudsman for Children in Sweden's view that legislation must clarify the meaning of exceptional reasons.

For the purpose of reducing the use of pretrial detention the alternatives to arrest and detention that offer adequate supervision must also be acceptable in terms of upholding the human rights of the child. The legislative report SOU 2012:34 makes suggestions for new sanctions for young offenders, e.g. youth monitoring that does not amount to full deprivation of the young person's liberty. In our view, several of these measures could also be used for children suspected of crimes, with the aim of reducing the number of pretrial detentions and of shortening their time for those whose liberty is deprived.

### **INTRODUCE TIME LIMITS**

According to the Committee, the law should state clearly on what grounds a child may be placed or held in pretrial detention. The duration of pretrial detention should be limited by law, and subject to regular review. The time limits should be shorter than those that apply for adults. The maximum time a child in Sweden may be held in a police cell is four days. In Norway a limit of 24 hours has been introduced for the time a child may be held in a police cell. It is the Ombudsman for Children in Sweden's view that this should also be the case in Sweden.

A child who has been deprived of his or her liberty pending trial should, according to the Committee, be charged and brought before a court no later than 30 days after his/her pretrial detention takes effect. It is our view that Sweden should live up to this requirement, and therefore introduce a time limit of 30 days for pretrial detention. This means that the state must prioritize investigations in which children suspected of crimes have been deprived of their liberty. As pretrial detention should be for the shortest appropriate period of time, the state must furthermore prioritize investigation measures that contribute to the reduction of e.g. the risk of collusion.

## **NO CHILD SHALL BE PLACED IN POLICE CELLS IN THEIR CURRENT FORM**

The children in our survey describe the police cell environment as unpleasant, inhuman and destructive. The treatment the children describe receiving by the staff varies, but can be summarized as cold, impersonal or downright frightening. The reality that children are confined to that environment during the judicial process is not consistent with their fundamental human rights. Neither can it be regarded as legally certain, as the child is to be interrogated during the time he or she is in the police cell. In our view, no child should be deprived of his or her liberty during the investigation by being placed in a police cell intended for adults. Today there are alternatives to the police cell environment, and they should be used. According to the National Police Board, persons aged between 15 and 18 should only be held in a police cell when absolutely necessary. Under normal circumstances, anyone under 18 years of age should be kept under guard in an interrogation room or similar. It is the Ombudsman for Children in Sweden's view that if a child is arrested and for some reason cannot be held in an interrogation room or similar, he or she should be placed in a remand prison instead of a police cell.

## **NO CHILD SUSPECTED OF A CRIME SHALL BE KEPT IN SOLITARY CONFINEMENT DURING THE INVESTIGATION PERIOD**

Being placed in a remand prison or a police cell means spending a shorter or longer time in solitary confinement. It is this solitary confinement that the child perceives as the absolutely worst experience. The children describe how it takes both willpower and strength to endure the enormous mental strain of solitary confinement. Self-harming behaviour and suicidal thoughts recur in several accounts.

Considering the severe mental pain or suffering solitary confinement may cause for juveniles, the UN Special Rapporteur on Torture considers that it can amount to torture or cruel, inhuman or degrading treatment. According to the rapporteur, solitary confinement of juveniles of any duration, violates article 7 of the UN Covenant on Civil and Political Rights and article 16 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It is the rapporteur's view that it should be abolished for juveniles. In our view, no child should be deprived of his or her liberty in solitary confinement during the investigation period. The state must assume its responsibility for creating a justice system in which children in conflict with the law are treated in accordance with their fundamental rights.

## **INDIVIDUALIZE RESTRICTIONS FOR CHILDREN**

From our interviews with children and young people, analyses of statistics and detention records, as well as discussions with law en-

forcement representatives, it is clear that it is not unusual for children to have full restrictions imposed on them, both during their time in the police cell and remand prison. Neither is it unusual for the restrictions to be maintained for relatively long periods of time. This despite the fact that the CRC states clearly that the child shall, among other things, have the possibility of contacting his or her family through visits or phone calls, as long as it is in the best interest of the child. It is our view that the court, when it decides to detain a child, should make an individual assessment in each case of which restrictions are necessary. It should not be up to remand prison staff and the child him or herself to apply continuously for single reductions in restrictions. From the outset, and then on a continuous basis, the prosecutor should assess the need for each individual restriction.

Certain restrictions may sometimes be necessary, and therefore the possibility of imposing restrictions on a child cannot be entirely excluded. These might be limitations intended, for example, to protect the plaintiff and witnesses from threats and other unacceptable pressures.

#### **ALL CHILDREN SHALL ALWAYS HAVE ACCESS TO PUBLIC DEFENCE COUNSEL FROM THE FIRST INTERROGATION**

All children must be guaranteed fundamental rights during the judicial process. According to the CRC every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance. From the accounts we heard it emerges that a common reason for defence counsels not being present at interrogations is that the young people themselves waive that right because they

## **THE OMBUDSMAN FOR CHILDREN IN SWEDEN PROPOSES:**

- **PRETRIAL DETENTION AS A MEASURE OF LAST RESORT.**
- **INTRODUCE TIME LIMITS.**
- **NO CHILD SHALL BE PLACED IN POLICE CELLS IN THEIR CURRENT FORM.**
- **NO CHILD SUSPECTED OF A CRIME SHALL BE KEPT IN SOLITARY CONFINEMENT DURING THE INVESTIGATION PERIOD.**
- **INDIVIDUALIZE RESTRICTIONS FOR CHILDREN.**
- **ALL CHILDREN SHALL ALWAYS HAVE ACCESS TO PUBLIC DEFENCE COUNSEL FROM THE FIRST INTERROGATION.**
- **ESTABLISH AN INDEPENDENT CHILD REPRESENTATIVE.**

believe they will be allowed to leave the police cell earlier that way.

There should be no margin for the stakeholders of the judicial process to use pressure, threats and promises to get the child to waive these rights. Moreover, the child is already at a disadvantage due to the very form of the judicial process and therefore it cannot be regarded as acceptable, in the vast majority of situations, that the child waives that right. In most cases it is impossible for the child to foresee the consequences such a waiver might have, and therefore the stakeholders of the judicial process must assume their responsibility to guarantee the child its fundamental human rights. Always guaranteeing the child public defence counsel must not mean that the duration of the deprivation of liberty is prolonged, which in turn requires that society makes sure that public defence counsel can be appointed regardless of the time. It must also be possible to make the appointment promptly. While waiting for public defence counsel to be appointed, the child should not be held in a police cell but in an interrogation room or similar space.

## **ESTABLISH AN INDEPENDENT CHILD REPRESENTATIVE**

The child's right to be heard under article 12 is fundamental for a fair trial and must be observed throughout the judicial process. The child must be given the opportunity to express his/her views freely, and those views should be given due weight in accordance with the age and maturity of the child. In order for the child to be able to effectively participate, he/she shall have the right to information about the charges, the process as such and of the possible measures.

Institutions where children are deprived of their liberty are often closed to outside scrutiny. The Committee emphasizes that every child, in all cases of deprivation of liberty, should have the right to make requests or complaints to the central administration, the judicial authority or other independent authority. He or she also has the right to be informed of the response without delay. Children need to know about and have easy access to these mechanisms. It is the Ombudsman for Children in Sweden's view that an independent child representative should be established to serve as an independent instance to which children and young people deprived of their liberty can turn with any complaints about how their human rights have been upheld during the judicial process.

The representative is to represent the child and have the right to pursue claims in court in order to obtain compensation. ■

# OUR WORK

## THE OMBUDSMAN FOR CHILDREN IN SWEDEN'S WORK IN 2012

### **FOLLOW-UP OF "SIGNALS"**

In March 2012, the Ombudsman for Children in Sweden presented "Signals", the year's in-depth project about children who have experienced violence in close relationships. In connection with the presentation, several of the participating young people paid visits to the Minister for Justice Beatrice Ask, the Minister for education Jan Björklund, the Minister for Children and the Elderly Maria Larsson and the Minister for Health and Social Affairs Göran Hägglund. That way they had the opportunity to share their experiences and opinions directly with those in charge. The young people's as well as the ministers' experiences of these encounters were documented in a film. The participating young people were further given the possibility of creating digital stories, and some of them also appeared on TV and radio. Additionally, they took part in follow-up meetings with the Ombudsman for Children in Sweden, where they also learned of the results.

### **REPORT TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD**

Every five years, all states that have ratified the CRC are to present a report to the Committee. In Sweden, the government is responsible for producing the report that shows what Sweden is doing in order to live up to the requirements of the CRC. As part of the 2012 report, the Ombudsman for Children in Sweden was

asked to produce its own report. In February 2012, our documentation was submitted and annexed to the government's report.

### **CHILD RIGHTS DAYS 2012**

Child Rights Days is a national gathering for all those who want to develop their approach to and work in the child rights area. Violence against children in close relationships was the theme for the 2012 Child Rights Days, which were held in Örebro, Sweden, in April. The event was organized by the Ombudsman for Children in Sweden, the Children's Welfare Foundation Sweden ("Allmänna Barnhuset") and the Academy for the Rights of the Child ("Barnrättsakademin"). Over two days, about 600 participants met to discuss experiences and methods for discovering, protecting and supporting children who have experienced violence in close relationships. Among the speakers were researchers, practitioners and representatives of voluntary organizations. The Child Rights Days were documented and broadcast during the spring on "Sveriges Television", the Swedish public service broadcaster.

### **PRESENTATION OF THE REPORT "OSKYDDAD" ("UNPROTECTED")**

On 5 July, the Ombudsman for Children in Sweden delivered the report "Oskyddad" to Maria Larsson, the Minister for Children and the Elderly. The report highlights the specific problems experienced

by children with protected personal data, as well as providing concrete proposals for how society could improve the everyday lives of these children.

## **THE CHILD RIGHTS OPEN-AIR MEETING IN ALMEDALEN**

The Almedal Week is an annual event in Visby on the island of Gotland, where representatives of Swedish political parties, interest groups and business get together to discuss politics and social issues. In July 2012, the Ombudsman for Children in Sweden participated, for the third consecutive year, as one of seven organizers of the Child Rights open-air meeting in Almedalen, Gotland. The aim of the open-air meeting is to set up a meeting place at a central location during the Almedal week, to spread knowledge and discuss different issues concerning children's rights. The Ombudsman for Children in Sweden held four of the nine well-frequented seminars on children in vulnerable situations.

## **LAUNCH OF MAX18**

In July the Ombudsman for Children in Sweden launched Max18, a web based follow-up system for monitoring the implementation of the CRC in Sweden. Max18, which is available via the [barnombudsmannen.se](http://barnombudsmannen.se) website, includes a compilation of statistics on the situation for children and young people in Sweden. The primary target group is decision makers and officials in municipalities, county councils and various agencies.

## **PEJLING OCH DIALOG (STUDY AND DIALOGUE)**

On 7 November, the project "Pejling och dialog" was launched at Kuturhuset in Stockholm, in the presence of Maria Larsson, the Minister for Children and the Elderly, and representatives from the Swedish Association of Local Authorities and Regions, among others. Pejling och dialog is the name of the Ombudsman for Children in Sweden's government commission to disseminate the national strategy for strengthening children's rights in all parts of the public sector in Sweden. As part of the commission, we will visit around 50 municipalities, county councils/regions and agencies. The way it works is that children and young people share their experiences of an area to be studied in the municipality in question. The participants are then given the opportunity of personally presenting their views to the decision makers. During

the autumn of 2012, a film and website were produced where everything to do with Pejling och dialog was brought together, plus a self-evaluation test. The first municipality was studied, and studies began in another two municipalities. An agency conference and a special meeting were held about the rights of the child, for directors-general and heads at government agencies.

## **DIALOGUE WITH AGENCIES**

At the beginning of October, the Ombudsman for Children in Sweden held a follow-up dialogue with the Swedish Migration Board and the National Board of Health and Welfare about the situation for children who are in need of care and who are threatened by expulsion. The Ombudsman for Children in Sweden is also the driving force behind a network of agencies collaborating on the basis of the CRC, with particular focus on economic vulnerability and children's right to education.

## **CHATS**

Over the year, children and young people had the opportunity of chatting directly with Fredrik Malmberg, Ombudsman for Children, on four occasions with different themes.

## **THE OMBUDSMAN FOR CHILDREN IN SWEDEN AWARDED PRIZES**

In 2012 the Ombudsman for Children in Sweden was awarded a prize by Unga KRIS, an organization that works preventively, using motivation and aftercare, to minimize the risk of recidivism among young people with criminal background and the distinction "Trasdockan" by Atsub, an organisation of families of sexually exploited children, for its work with children in vulnerable situations. The website of the Ombudsman for Children in Sweden was also nominated for the Episerver Awards, in the public sector category.

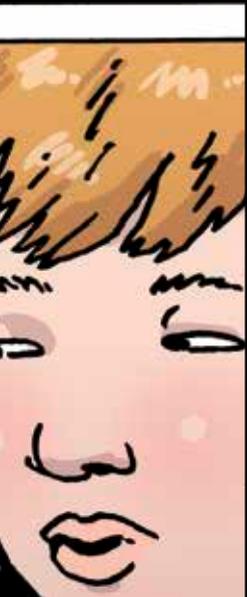
## **GENERAL COMMENTS IN SWEDISH**

The UN Committee on the Rights of the Child publishes interpretations of various areas concerning children's rights, in the form of General Comments. In 2012 the government instructed the Ombudsman for Children in Sweden to translate these General Comments, which had hitherto only been available in English. The translations will be available on the Ombudsman for Children in Sweden's website to anyone who wants to read them.

## ARTICLE 40:

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
  - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
  - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
    - (i) To be presumed innocent until proven guilty according to law;
    - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
    - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
    - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
    - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
    - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
    - (vii) To have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
  - (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
  - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

# WORDS



**APPREHENSION** || A person suspected of a crime may be apprehended directly by the police. If the crime is punishable by imprisonment, a person caught in the act of committing it may be apprehended by anyone until the police arrives.

**ARREST** || A temporary deprivation of liberty decided by the prosecutor. A maximum of 4 days. The crime must be serious enough that the person may be detained, or that it requires further investigation before the person can be released.

**DETENTION ORDER** || The prosecutor submits a request for someone's detention to the court. This must be done no later than at midday on the third day following the arrest.

**DETENTION HEARING** || A hearing in court to be held as soon as possible following an arrest. No later, under any circumstances, than on the third day.

**DETENTION** || The court decides on detention after the prosecutor has requested this in a detention order.

**DETENTION GROUNDS** || Those circumstances in which detention is possible, including risk of flight, risk of collusion and risk of recidivism (see below).

**RISK OF FLIGHT** || The risk that the suspect disappears or hides so that criminal prosecution cannot be carried out.

**RISK OF COLLUSION** || The risk that someone impedes the investigation, e.g. by destroying evidence or threatening witnesses.

**RISK OF RECIDIVISM** || The risk that the person continues to commit crimes.

**MAIN HEARING** || The oral hearing in court at which the case is decided, and which is usually called a trial.

**PROSECUTOR** || The person who decides whether a crime is to be processed in court by bringing an indictment. Heads criminal investigations and makes decisions on various coercive measures. At a main hearing, it is the prosecutor who has to prove that the indicted person is guilty.

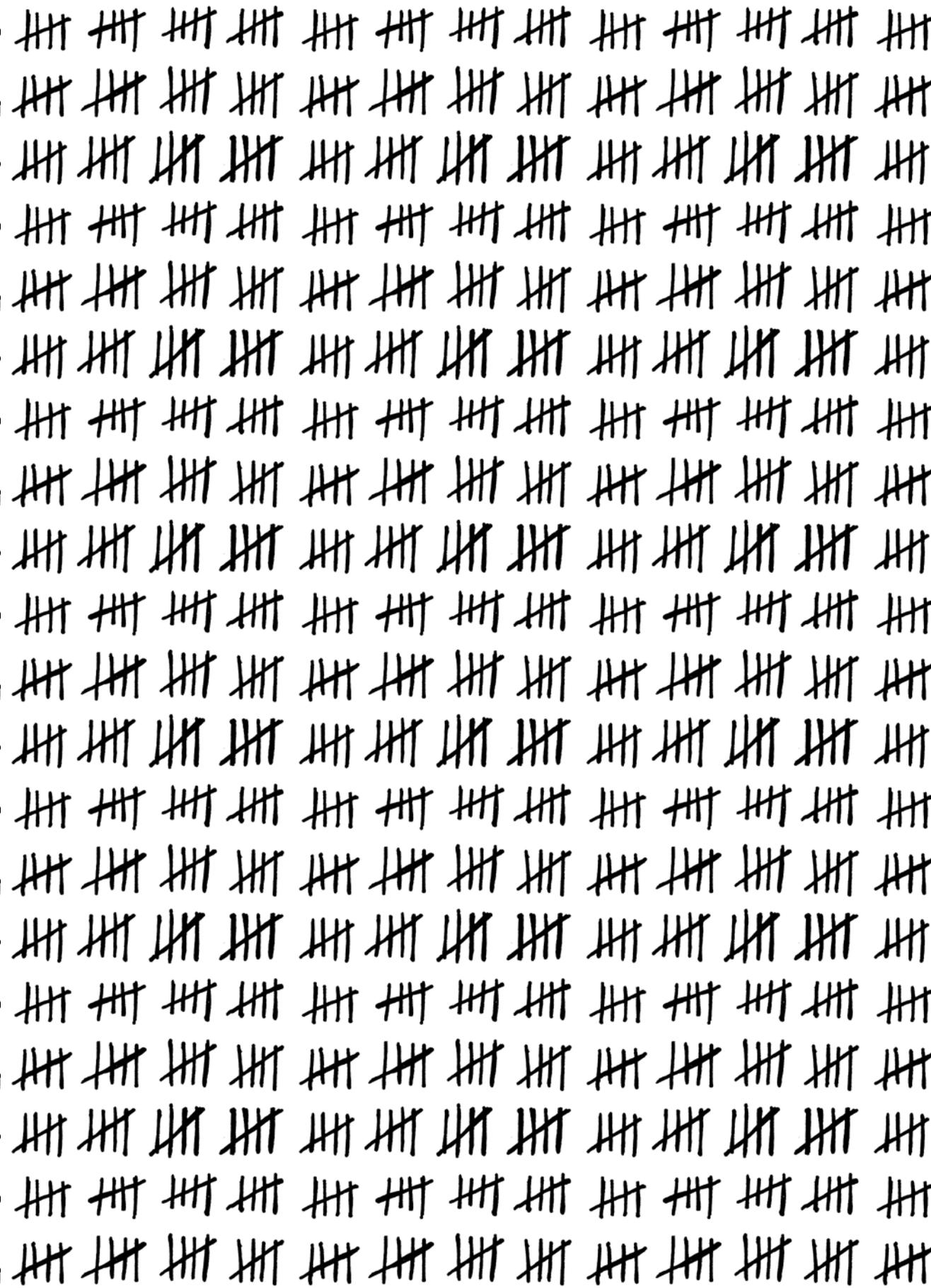
**COERCIVE MEASURES** || Measures applied to investigate crimes or to make it possible to carry out a trial, including apprehension, arrest and detention.

**RESTRICTIONS** || An investigation may be impeded by the suspect having contact with the outside world. In such cases, the prosecutor can decide to impose restrictions. These can mean that the suspect is forbidden from reading newspapers, writing letters, watching TV or meeting other inmates at the remand prison. It can also mean that the suspect is not allowed to receive visits from his or her family, for example.

**PROBABLE CAUSE** || The higher degree of suspicion in arrest and detention. In order for someone to be detained, there must be probable cause to suspect that he or she committed the crime.

**REASONABLE SUSPICION** || A lower degree of suspicion than probable cause. In exceptional cases, detention may occur even on reasonable suspicion.

**EXCEPTIONAL REASONS** || Must be present if a person under 18 years of age is to be arrested or detained.





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