



RIKSREVISIONEN  
*The Swedish National Audit Office*

RiR 2009:12 Summary

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Handling of young offenders: A drawn-out process

# Summary

## Purpose of the audit

An increasing number of young people are suspected of crimes. After the turn of the millennium, there has been a relatively large increase in the number of suspects aged 15–20. In recent years it has emerged, for example from inspections by the Parliamentary Ombudsman's Office, that the government agencies in the field of criminal justice have found it difficult to meet the special requirements imposed on the handling of young offenders. Above all, these agencies have failed to meet the special statutory requirements of prompt handling.

There are thus indications that the agencies are unable to fulfil their duties. This means that there are good grounds for examining how the criminal-justice system handles young offenders and how well the agencies comply with the objectives set by the Riksdag (Swedish parliament) and the Government.

## Audit questions

The purpose of this audit by Riksrevisionen (the Swedish National Audit Office, SNAO) is to examine whether the handling of young offenders by the Government and the government agencies responsible is satisfactory. The following audit questions are to be answered:

- Have the Government and the government agencies responsible met the objectives and requirements as regards the handling of young offenders?
- If not, what are the reasons for their failure to meet these objectives and requirements?

The objectives set by the Riksdag and the Government for which we have examined compliance are that young offenders should be handled particularly promptly, that the proportion of crimes solved should increase and that recidivism should decrease. The objective for crimes solved must be measured as the percentage of cases where the prosecutor takes action in relation to the number of cases closed. The recidivism objective is covered only to a limited extent by this audit, given that compliance is strongly affected by factors other than judicial handling.

## Conclusions

*The Government and the agencies fail to meet objectives and requirements*

The agencies' performance is not satisfactory because they fail to meet the objectives set as regards young offenders, including in the respects detailed below.

#### HANDLING IS TOO SLOW

The law requires crimes by young people to be handled particularly promptly. Two time limits specify the maximum delays permitted. The first time limit relates to young people aged 15–17 who have committed a crime for which they can be sentenced to prison. In such cases, the time from the notification of the person that he or she is a suspect to the decision whether to prosecute must not exceed 42 days. The other limit applies to young people aged 15–17 who have committed a crime for which the minimum sentence is prison for more than six months. In such cases, the time from the decision to prosecute to the main proceedings before the court must not exceed 14 days.

The audit shows that the agencies do not meet the statutory promptness requirements. It is in fact a serious shortcoming that the average total time of handling – from the filing of a report with the police to the main proceedings before the court – is 5.7 months and that the two statutory time limits of six and two weeks are frequently exceeded. The first limit is exceeded in over 40 per cent of cases and the second one in about one-third of cases.

We have found two main fields where handling times are particularly long. The first one relates to the time before the first limit begins to apply, that is the time from when a crime is reported to the police to when a young person is notified that he or she is a suspect. This makes up one-third of the total time required for cases brought before a court: just over two months on average. The time before the first limit starts is even longer for cases that are subsequently closed: just over three months on average. The second area with particularly long handling times is the period from the completion of the preliminary investigation (carried out by the police and often led by a prosecutor) to the prosecutor's decision whether to bring the case before a court.

#### PROSECUTORIAL ACTION<sup>1</sup> IS TAKEN IN FEWER CASES

The Government's general objective for prosecutorial action to be taken in more cases cannot be deemed to have been attained. The proportion of cases where prosecutors take action against young people suspected of a crime has fallen from 66 to 58 per cent in the past six years. The SNAO deems that conditions for prosecutorial action can be improved if more use is made of leads identified at an early stage of criminal investigations. The process to assess whether the police should continue working on a case or whether the case should be discontinued consists of two steps. First it is determined whether the case is capable of investigation; if it is, the second step is to assess the measures already taken. Our review of discontinued cases involving young people shows that in at least 10–15 per cent of them there would appear to have been reasonable conditions for further investigation in order to improve conditions for prosecutorial action.

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<sup>1</sup> 'Prosecutorial action' here refers to a decision either to prosecute a person, waive prosecution or make an order for a summary penalty (as Swedish prosecutors may do in certain cases involving minor offences).

#### MANY COMMIT NEW CRIMES

Many young people continue to commit crimes after having had prosecutorial action taken against them. The audit indicates that the rate of recidivism among young offenders is rising slightly after falling for several years. If more young people relapse into crime, this will contribute to a failure to achieve the overall objective of reducing crime. The National Council for Crime Prevention has shown that the number of crimes committed by young people aged 15–21 has increased by 27 per cent over the past ten years.

#### REASONS FOR THE FAILURE TO MEET OBJECTIVES AND REQUIREMENTS

We conclude that the control exercised over operational work with young offenders as well as a number of shortcomings in implementation constitute important reasons for the failure to meet the objectives and requirements. This conclusion will be elaborated upon in the following.

#### INADEQUACY OF RESOURCES IS NOT DECISIVE

The audit shows that a lack of resources is not a decisive reason for the excessive length of handling times. In fact, our review of the extent of the various tasks and the time required to perform them shows that, in general, the existing resources should be sufficient. We therefore find that it should be possible to make better use of the existing resources, for example by improving procedures and working methods.

#### OBJECTIVES AND PRIORITIES ARE UNCLEAR

There is a need for explicit objectives and priorities in addition to the present statutory requirements. The audit shows that both the Government and the agencies responsible have failed to lay down, in key governance documents, explicit objectives, priorities or requirements for the handling of young offenders. This failure is noteworthy considering that juvenile delinquency is an area assigned high priority by the Riksdag and the Government. Unless cases involving young people have explicit priority throughout a government agency, there is a risk that other operations will get the upper hand. If the special promptness requirement is not explicitly stressed by top management, there is a risk that this requirement will fail to have an impact and that the formal time limits will be the sole targets.

#### MONITORING IS OF POOR QUALITY

Monitoring, which is an important element of control, suffers from neglect. The lack of explicit monitoring requirements from the Government or the National Police Board, the Prosecution Authority and the National Courts Administration, and the ways in which monitoring is carried out at local police authorities, local public prosecution offices and courts, influence individual case officials and contribute to the unsatisfactory results. The present monitoring activities do not generate an adequate basis for analysis to determine why handling times are so long, why the percentage of cases where prosecutorial action is taken does not increase or why the rate of recidivism fails to go down. As a result, the Government and the agencies do not receive regular feedback enabling them to identify problems.

#### SKILLS REQUIREMENTS ARE NOT FULLY MET

The statutory requirement that cases involving young people should be handled by specially appointed staff is not met. In many localities, attempts have been made to comply with the statutory requirements in terms of suitability, skills, etc., through the appointment of special staff for cases involving young people. Even so, between 60 and 70 per cent of police investigators dealing with young offenders have not been specially appointed to do so. The corresponding shares are 40 per cent of prosecutors and 60 per cent of judges. There is no training on youth issues organised at a national level for either the police or the courts. For prosecutors there is such training, but many appointed youth prosecutors have not taken part in it. The agencies have thus not taken adequate measures to ensure that the police officers, prosecutors and judges who handle young offenders have the skills necessary to deal with young people in an effective way which ensures equality before the law.

#### PROCEDURES AND WORKING METHODS ARE UNDERDEVELOPED

There are shortcomings in the procedures and working methods of, above all, the police and prosecutors. The police often do not take any active investigative measures until long after a preliminary investigation has been formally initiated. The police also often wait a long time before they interrogate suspects and notify them of suspicion, even in cases where the investigation of a simple case could have been completed immediately. Prosecutors similarly delay the completion of cases that are ready for a decision whether to prosecute.

Another example of inadequate procedures and working methods is the failure by police and prosecutors to make sufficient use of leads identified at an early stage of criminal investigations. Further, initial action is often late and inadequate, and interrogations sometimes are not held at all or focus on the wrong issues. Additional examples of shortcomings in procedures and working methods are presented below in the section on liaison. The SNAO finds that these shortcomings have a negative impact on both handling times and rates of prosecutorial action.

#### INADEQUATE LIAISON BETWEEN PROSECUTORS AND THE POLICE

Liaison between the police and prosecutors is not effective. There is a built-in problem that must be addressed whenever a prosecutor is leading a preliminary criminal investigation (which is carried out by the police) – and prosecutors lead investigations more often in cases involving young people than in other cases. Responsibility for leading an investigation entails a responsibility to ensure that it is performed promptly and yields results. However, prosecutors do not have powers to match that responsibility, since they do not have the investigative resources of the police at their disposal. This has a negative impact on prosecutors' effective ability to manage preliminary investigations.

There is no joint procedure to communicate information to the effect that a person has been notified that he or she is a criminal suspect. The absence

of flexible, simple and secure procedures enabling the police to inform the prosecutor that a suspect has been notified makes it difficult for the prosecutor, in his or her capacity as investigation leader, to request the opinion of the social services in time or to follow up on how cases develop.

What is more, there are no general procedures or systems enabling prosecutors to track time spent or monitor compliance with time limits. This makes it difficult for prosecutors to manage their own work and that of the police on individual cases in such a way as to respect the requirement of promptness. For example, it is not rare that a prosecutor leading a preliminary investigation fails to remind police detectives that a time limit is about to expire or has already expired.

#### SHORTCOMINGS OF LIAISON BETWEEN THE SOCIAL SERVICES AND THE CRIMINAL-JUSTICE SYSTEM

Shortcomings in liaison with the social services will affect the work of the criminal-justice agencies. One important component of the liaison between the social services and the police occurs in conjunction with interrogations. The law requires a representative of the social services to be present during the interrogation of a person under 18 years of age who is suspected of a crime punishable by a prison sentence, provided that this is possible and will not hinder the investigation. Even so, the social services participate in only about 10 per cent of the cases ending up before courts.

Shortcomings in the opinions and care plans produced by the social services influence the ability of the courts to decide appropriate sanctions. Just over 40 per cent of opinions do not meet the statutory requirement that they should assess the need for measures to prevent an unfavourable development or describe the nature, extent and duration of the planned measures.

In almost 40 per cent of all cases ending up before courts, the prosecutor receives the opinion of the social services so late that the time limit cannot be met. This is due about equally to the prosecutor requesting the opinion too late and the social services taking a long time to write it.

#### RESPONSIBILITY IS SHARED BETWEEN THE GOVERNMENT AND THE AGENCIES

The SNAO considers that responsibility for the shortcomings identified by the audit rests both with the Government and with the agencies. The Government has an overall responsibility to monitor the handling of young offenders and a duty to impose requirements and prioritise agencies' action as needed. The Government has failed to do so when it comes to the promptness objective and the time limits, even though it should have been well aware of the shortcomings in compliance with time limits that have been reported on by the Parliamentary Ombudsman's Office and the Prosecution Authority. The National Police Board and the Prosecution Authority have been late in reacting to the shortcomings in the handling of young offenders. The National Police Board and the Prosecution Authority do not monitor important data such as costs or the time required for individual elements of investigations. The Prosecution Authority has also failed to ensure that opinions from the social services are received on time. None of the agencies has explicitly stated that the special objective of promptness should permeate the entire process

of handling young offenders. The National Courts Administration has also failed to set explicit targets for the handling of juvenile cases and to monitor handling times, even though this would have been possible.

The Prosecution Authority and the local police authorities have failed to develop adequate procedures and working methods for their operational activities and for their reciprocal liaison.

Further, the local police authorities have failed to impose, and monitor, explicit requirements that the time targets are to be met. The courts have not performed any systematic monitoring of compliance with time limits.

## **Recommendations**

The SNAO considers that the handling of cases involving young offenders is not satisfactory. The government agencies concerned have a responsibility for the handling of those cases, and the Government has a duty to exercise direction over the agencies and to monitor their work. The SNAO considers that the Government has failed to make use of its opportunities to exercise direction and to monitor such cases. The SNAO therefore recommends that the Government should do the following:

- Lay down in its general instructions or appropriation directions for the agencies that particular promptness is required, and ensure that the agencies monitor compliance with that requirement;
- Entrust the National Board of Health and Welfare with the task of investigating and proposing measures to enhance the quality of the opinions issued by the social services and to improve liaison between the social services and the police and prosecutors.

The police and the Prosecution Authority have recently taken action to prioritise young offenders, and in May 2009 the National Police Board and the heads of the local police authorities decided on national efforts to counteract juvenile delinquency. Further, the Prosecution Authority mentions in its plan of activities for 2009 that a national action plan will be drawn up to enhance the quality of handling and to ensure that prosecutors take action sooner against young people who are suspected of having committed crimes.

The SNAO would prefer these important efforts to be made wider in scope and be carried out in a more integrated manner. The SNAO therefore recommends that the Government should instruct the National Police Board, the Prosecution Authority, the National Courts Administration and the courts to submit a joint proposal for measures, based on a perspective encompassing the entire chain of criminal justice, with a view to:

- improving control and monitoring as regards the handling of young offenders within each organisation and as regards the flow of cases among organisations;
- developing the working methods and procedures used to investigate and take prosecutorial action against young offenders;
- ensuring that the relevant skills are in place to handle cases involving young people;

- making liaison in the handling of cases more effective, especially between local police authorities and public prosecution offices but also with courts and with municipal social services.

The SNAO also considers that the following areas should be further analysed by the National Police Board and the Prosecution Authority, respectively, before any joint proposals are drawn up:

- The initial investigative measures and working methods of the police;
- The procedures and technical systems used by prosecutors to ensure compliance with the promptness requirement and monitor time limits;
- The ways in which a prosecutor leading a preliminary criminal investigation exercises control over the police and exchanges information with it;
- The use made by the police and prosecutors of specially appointed officials to handle cases involving young people;
- The documentation on the basis of which prosecutors decide to discontinue cases.