

5. RAPE AND HUMAN RIGHTS IN SWEDEN

5.1 EXECUTIVE SUMMARY

“It’s part of the healing. You feel: At last! At last they believe you, the system believes you... But I still don’t trust the system that much, I think I am one of few who got justice. I do have hopes though, and the experience I had [of the law enforcement authorities] is what I want for everyone else. To get a police investigator that was so determined to find the witnesses, who was pushing, asking the right questions to the right persons. I wish everyone would get such a committed investigator.”

Zarah⁴⁷⁶

In 2018 Sweden took a significant step forward in addressing rape and other sexual violence by adopting a new law on sexual crimes which makes sex with someone who does not voluntarily participate a criminal offence. It also introduced the new offence of negligent rape. Amnesty International welcomed the new consent-based law which brings Swedish law into line with the international human rights law and standards.

Nevertheless, despite a political commitment to prevent and eradicate gender-based violence against women, rape remains pervasive in the Swedish society and the number of rapes reported has continued to increase over the past decade.

In 2017, the Swedish police received 5,236 reports of rape involving people aged 15 or over: 95% of victims were women or girls.⁴⁷⁷ The preliminary statistics for 2018 show 5,593 reports of rape of which 96% of victims were women or girls.⁴⁷⁸ However, under-reporting of rape and other sexual crimes means that these figures do not give a realistic picture of the scale of the problem. In a 2017 study, 1.4% of the population stated they had been subjected to rape or sexual abuse, corresponding to approximately 112,000 people.⁴⁷⁹

The vast majority of rape victims will never report the crime to the police. Of those who do, few will see their case heard in court. In 2017, prosecutions were initiated in 11% of cases involving children aged between 15 and 17 and in 6% of cases involving adults.⁴⁸⁰

⁴⁷⁶ Interview with Zarah, 29 November 2018, at Amnesty International’s office in Stockholm, Sweden.

⁴⁷⁷ Anmälda brott, Brå, www.bra.se/statistik/kriminalstatistik/anmalda-brott.html

⁴⁷⁸ Anmälda brott, Brå, www.bra.se/statistik/kriminalstatistik/anmalda-brott.html The official criminal statistics is disaggregated by male and female gender only.

⁴⁷⁹ Nationella trygghetsundersökningen 2018, Brå Rapport 2019:1,

⁴⁸⁰ Handlagda brott, Brå www.bra.se/statistik/kriminalstatistik/handlagda-brott.html

While several of the professionals that Amnesty International interviewed stated that the treatment of rape victims by the police has generally improved in recent years, many of the flaws identified by Amnesty International stem from the police's handling of rape cases.

The Prosecution and Police Authority jointly developed a best practice working method for investigations of sexual offences against adults. However, the model is not always implemented, and this has a negative impact on the quality of the investigations, hampering prosecution. Interviews of suspects are sometimes held after a long delay, or not at all. The quality of the interrogation also varies. The excessively long waiting times for the results of DNA analyses of up to nine months at the National Forensic Centre also impacts on rape investigations, a systemic problem identified several years ago, by both the Swedish Agency for Public Management (Statskontoret) and Swedish National Audit Office (Riksrevisionen), but still unresolved.

The low prosecution rate affects confidence in the will and ability of the authorities to prosecute these serious crimes, both among rape survivors and the public, further exacerbating impunity for sexual violence in Sweden. The urgent need to significantly reinforce the investigative capabilities of law enforcement authorities to ensure prompt and appropriate investigations in cases of rape was also raised by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the body responsible for monitoring the implementation of the Istanbul Convention, in its 2019 Baseline Evaluation Report on Sweden.⁴⁸¹

Some positive initiatives have been taken to improve the knowledge, skills and working methods of the police. A two-week training module on rape outside intimate relationships has been developed and rolled out in 2018 and 2019. Given the various shortcomings there is a strong need for continuous high-quality training of all police who investigate rape.

In 2018 legal reforms further clarified the law guaranteeing the right to free legal aid and the assistance of complainant's counsel for victims of serious sexual crimes. A request for such counsel should be made to the court immediately after an investigation is initiated or reopened. Survivors' access to complainant counsel has been identified as one of the most important factors for successful prosecution in cases of rape.

However other support to victims of rape lag behind. Many victims experience severe trauma, which hampers their ability to immediately seek justice. Some of the survivors interviewed by Amnesty International said that they had not received any trauma treatment at all, or had to struggle for their right to get help from the psychiatric services.

It is still too early to judge what the impact of the recent changes to the law will be. However, the positive potential is being compromised by flaws in the investigation, prosecution and judicial processes described to Amnesty International. These need to be addressed if Sweden is to make serious strides in tackling the prevalence of sexual violence and in ensuring that rape survivors feel confident that when they report they will receive an informed, supportive and prompt response and their right to justice will be respected.

5.2 INTRODUCTION

On 1 July 2018, a new law on sexual crimes came into force in Sweden which makes sex with someone who does not voluntarily participate a criminal offence.⁴⁸² It also introduced the new offence of negligent rape.⁴⁸³ Amnesty International welcomed the new law which brings Swedish law into line with the Istanbul Convention.

Removing discriminatory, harmful myths and gender stereotypes from the law and its implementation is crucial to ensuring justice, impartiality and equality before the law. Evolving social norms have informed the development of the law on rape in Sweden, while at the same time new legislation has contributed to a shift in social norms. All major reforms or important amendments to rape legislation made since the 1960s reflect changes in social attitudes and were often driven by women's organizations and LGBTI activists and individuals who exposed and rejected discriminatory notions about gender roles and sexuality in the law and

⁴⁸¹ GREVIO Baseline Evaluation Report Sweden, 2019, pp. 51-52, <https://rm.coe.int/grevio-inf-2018-15-eng-final/168091e686>

⁴⁸² Penal Code, Chapter 6, 1 §, available in Swedish at <https://lagen.nu/1962:700#K6>

⁴⁸³ Penal Code, Chapter 6, 1 §, available in Swedish at <https://lagen.nu/1962:700#K6>

in its implementation.⁴⁸⁴ The new rape legislation of 2018 can be seen as a continuation of an evolving understanding of what rape is and builds on previous reforms.⁴⁸⁵

Preventing and eradicating gender based violence against women, including rape and other sexual crimes, has long been a key goal of government policy on gender equality. For example, in 2016 the government adopted a new policy, the Feminist Policy for Gender Equality,⁴⁸⁶ with the stated aim of moving from a reactive to proactive approach and promoting effective preventive measures. The policy included a 10-year “National strategy to prevent and combat men’s violence against women”.⁴⁸⁷ The government stated that the strategy reflected its obligations under the Istanbul Convention.

5.2.1 THE SCALE OF THE PROBLEM

Nevertheless, despite these positive efforts, recent prevalence surveys reveal high levels of sexual violence, including rape, in Sweden and the percentage of the population who state that they have been subjected to sexual crimes is on the rise (see Table 1). The annual survey on exposure to and fear of crime in the adult population carried out by the Swedish National Council for Crime Prevention (Brottsförebyggande rådet, Brå) includes questions about exposure to sexual crimes, which cover a wide range of offences such as offensive sexual comments, sexual molestation and rape. Specific questions about the most serious sexual offences, equivalent to the (pre-2018) legal definitions of rape and sexual abuse, are also included.⁴⁸⁸

In 2017, 6.4% of people surveyed aged between 16 and 84 stated that they had experienced sexual crime during the year. Exposure to sexual crimes varies considerably according to gender and age: over a third of women aged 16-24 said they had experienced sexual crimes in 2017. Many people experienced repeated sexual crimes: of those who had experienced sexual violence, over 60% had done so more than once.

⁴⁸⁴ In 2013 Sweden saw a new, powerful grassroots movement - *FATTA!* (Get it!) - which set out to advocate for legal recognition that sex without consent is rape. *FATTA!* started as a reaction to a rape case that was extensively covered by national media in which a district court acquitted three young men accused of raping a 15-year-old girl with a wine bottle until she bled. The verdict stated: “People involved in sexual activities do things naturally to each other’s body in a spontaneous way, without asking for consent.” The court’s ruling—and their suggestion that the girl’s refusal to open her legs might have been a sign of “shyness”—was a catalyst for widespread protests.

⁴⁸⁵ Previous reforms include the criminalisation of rape within marriage in 1965, although classified as a less serious form of rape, until 1984, when repealed. From then on, the relationship between the perpetrator and victim was no longer considered a mitigating circumstance. Also in 1984 “sexual acts comparable to intercourse” was criminalised as rape. This meant in practice that the legislation was made gender neutral as acts other than vaginal penetration with a penis were considered to be rape. Comparable sexual acts include oral and anal penetration with a penis or inserting any body part or object in the victim’s vagina or anal opening. The 2005 reform reduced the level of violence required for an act to be considered rape. The rape definition was broadened to include acts carried out through “improperly taking advantage of a person in a helpless state”. Unconsciousness, sleep, intoxication, illness, bodily injury and mental disturbance exemplified circumstances that may render the victim helpless. In such cases, no force or threat was needed, and consent did not relieve the perpetrator from criminal liability. Additional amendments entered into force in 2013, reflecting a growing knowledge of frozen fright reactions among rape victims. Taking advantage of a person in a “helpless state” was replaced by “particularly vulnerable situation”. Severe fear was added to the non-exhaustive list of circumstances that may cause a person to be in a particularly vulnerable situation.

⁴⁸⁶ Makt, mål och myndighet - feministisk politik för en jämställd framtid. Regeringens skrivelse 2016/17:10, www.regeringen.se/rattsliga-dokument/skrivelse/2016/11/skr.-20161710/

⁴⁸⁷ En nationell strategi för att förebygga och bekämpa mäns våld mot kvinnor, www.regeringen.se/49d3d6/globalassets/regeringen/dokument/socialdepartementet/jamstalldhet/en-nationell-strategi-for-att-forebygga-och-bekampa-mans-vald-mot-kvinnor_utdrag-ur-skr.-2016_17_10.pdf

During the first implementation period (2017-2020) the government action focuses on four political goals: expanded and effective preventive work against gender-based violence, improved detection of such violence and stronger protection and support for women and children exposed to violence, more effective law enforcement and improved knowledge and development of methods. The goal of more effective law enforcement encompasses specific goals on rape and other sexual crimes, including more rape cases to be resolved, adequate and professional support from a complainant’s counsel early in the process and to address the under-reporting that is particularly high in cases of sexual crimes. According to the Baseline report, submitted by Sweden pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, a total of SEK 600 million SEK (about €59 million) was allocated to the four goals in 2017-2020. See Baseline report, 7 September 2017. <https://rm.coe.int/state-report-on-sweden/168073ffff>

⁴⁸⁸ Nationella trygghetsundersökningen 2018, Brå Rapport 2019:1, p. 55, available in Swedish at: www.bra.se/download/18.62c6cfa2166eca5d70e22d3/1548248345315/2019_1_Nationella_trygghetsundersokningen_2018.pdf.

This survey has been conducted since 2006, although the methodology has changed over the years. The latest survey, published in January 2019 was based on data collected from a stratified unbound randomized sample of the population in 2017 and was conducted mainly via questionnaires sent by post and internet questionnaires. About 74,000 people aged between 16 and 84, responded, Brå then extrapolated these results to the equivalent proportion of the population. The question asked in the survey reads as follows: Were you sexually molested, forced or attacked by someone during last year (2017)? This can, for example, include sexually offensive comments in speech or writing or that someone touched you, forced you into a sexual act or raped you. It may have happened at home, in school, in the workplace, on the Internet or at another place. The specific questions on exposure to serious sexual crime read as follows: Did the event or any of the events include someone forcing or trying to force you into a sexual act by threatening, holding or hurting you in some way? Did the event or any of the events mean that someone sexually exploited you when you were asleep or so intoxicated that you could not defend yourself?

Also, 1.4% of the population stated they had been subjected to rape or sexual abuse, corresponding to approximately 112,000 people (estimated number by Brå).⁴⁸⁹

TABLE 7: EXPOSURE TO SEXUAL CRIMES AMONG PEOPLE AGED 16 TO 84 IN SWEDEN

Year	Exposure to any sexual crime, % of population	Exposure to any sexual crime, % of women	Exposure to any sexual crime, % of men	Exposure to rape/sexual abuse, % of population	Exposure to rape /sexual abuse, % of women	Exposure to rape /sexual abuse, % of men
2017	6.4	10.7	1.6	1.4	2.3	0.4
2016	4.7	8	1	1.1	1.7	0.3
2015	3.4	5.8	0.7	-	-	-
2014	2	3.4	0.5	-	-	-

5.2.2 REPORTING TO THE POLICE

Between 2008 and 2017 reported rapes increased by 35%.⁴⁹⁰ According to Brå, the main reasons for this increase were changes in the law about what constitutes rape and a rise in the tendency to report such crimes. However, rape remains an underreported crime. While the national survey estimated that 112,000 people aged 16 or over were raped or sexually abused in 2017, only 5,236 reports of rape of people aged 16 or over were received by police; 95% of victims were women or girls. In 2018, according to the preliminary crime statistics, 5593 acts of rape against a person 15 years or older were reported and 16 acts of negligent rape.

TABLE 8: REPORTED ACTS OF RAPE AGAINST PEOPLE AGED 15 OR ABOVE BY GENDER

Year	Reported acts of rape against girls aged 15-17	Reported acts of rape against boys aged 15-17	Reported acts of rape against women	Reported acts of rape against men	Total reported acts of rape against people over 15
2018*	1,135	34	4,231	193	5,593
2017	933	55	4,041	207	5,236
2016	765	78	3,559	147	4,549
2015	644	49	3,333	141	4,167
2014	872	29	3,395	130	4,426

*Preliminary statistics

Source: The Swedish National Council for Crime Prevention, Brå.⁴⁹¹

In 2017 a preliminary investigation was initiated in 93% of reported rape cases. Regarding the 7% immediately dismissed by police,⁴⁹² the most common reason given was that “the information in the case does not give reason to believe that a crime subject to public prosecution has been committed”. According to Brå, these cases involved mentally ill people with a history of reporting⁴⁹³ and cases where the statute of

⁴⁸⁹ Nationella trygghetsundersökningen 2018, Brå Rapport 2019:1.

⁴⁹⁰ Anmälda våldtäkter, Brå www.bra.se/statistik/statistik-utifran-brottstyper/valdtakt-och-sexualbrott.html

⁴⁹¹ The official criminal statistics is disaggregated by male and female gender only.

⁴⁹² Handlagda brott, Brå, www.bra.se/statistik/kriminalstatistik/handlagda-brott.html

⁴⁹³ Information received by Amnesty International from Lars Lewenhagen, investigator at Brå, email dated 9 January 2019.

limitations had expired.⁴⁹⁴ A less common reason given was that it was “obvious that the crime cannot be investigated”. This included rapes committed a long time ago or abroad where key evidence was not available to the Swedish police.

5.2.3 PROSECUTION AND CONVICTION

Of the almost 4,900 rapes investigated in 2017, prosecutions were initiated in 11% of cases involving children aged between 15 and 17 and in 6% of cases involving adults.⁴⁹⁵

A 2012 Prosecution Authority assessment of criminal investigations into cases of rape of adults found that in 98% of the audit sample, the investigations led by a prosecutor were closed. In 80% of these cases the stated reason was insufficient evidence.⁴⁹⁶

In 2017, 190 people were convicted of rape, including aggravated rape. All but one were men or boys. Most perpetrators (146) received a prison sentence; the remainder were sentenced to juvenile care, psychiatric care or other sanctions.

TABLE 9: RAPE CRIMES: NUMBER OF REPORTS, INVESTIGATIONS, PROSECUTIONS AND CONVICTIONS

Year	Reported acts of rape against people aged 15 or over	Number of investigations	Number of cases brought to trial	Number of convictions	Number of people convicted of rape
2017	5,236	4,881	346	236	190
2016	4,549	4,237	359	194	171
2015	4,167	4,207	403	224	176

Source: Brå statistics.⁴⁹⁷ Figures for 2018 were not available at the time of writing.

5.2.4 LACK OF TRANSPARENT DATA

It is not possible to determine from the official statistics how many rape survivors see their cases tried in court or how many of the reported rapes end in a conviction.⁴⁹⁸ This is because, while Swedish crime statistics on reported rape cover acts of rape, the statistics on prosecutions involve criminal cases, each of which may include multiple acts of rape and/or multiple perpetrators. The statistics on convictions reflect the number of people convicted of rape or the number of criminal cases. A person may have been convicted of several rapes and several perpetrators may have been convicted of rape of the same person. In addition, a rape may be reported one year while the investigation and/or the decision to prosecute and/or the court decision are taken the year after. It is not possible to determine from the official statistics how many rape victims see their case tried by a court, or how many of the reported rapes end with a conviction.

Amnesty International considers this to be a serious shortcoming of the data collection systems. The same concern was raised by the organization over a decade ago.⁴⁹⁹ In 2019, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the mechanism that monitors states' compliance with the Istanbul Convention, expressed similar concerns.⁵⁰⁰ According to Brå, a system of data flow is currently being developed which would allow information of a rape case to be followed throughout the criminal justice system and enable the identification of trends and developments over time.⁵⁰¹

⁴⁹⁴ The statute of limitations is 15 years for aggravated rape and 10 years for rape and “less serious” rape, calculated from the date the crime was committed, Penal Code, Chapter 35, <https://lagen.nu/1962:700#K35>

⁴⁹⁵ Handlagda brott, Brå, www.bra.se/statistik/kriminalstatistik/handlagda-brott.html

⁴⁹⁶ Våldtäkt mot vuxen – Kvaliteten i den brottsutredande verksamheten. Tillsynsrapport 2012:4 ÅM-A 2012/0821, www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport_2012_04_valdtakt_mot_vuxen.pdf

⁴⁹⁷ Brå provides databases with statistics covering reported crimes, investigated crimes, prosecuted crimes and number of conviction, www.bra.se/statistik.html. The statistics in the table were also discussed with Lars Lewenhagen, investigator at Brå, by email, dated 28 January 2019.

⁴⁹⁸ Phone conversation with Charlotta Lindström, statistician at Brå, 7 December 2018.

⁴⁹⁹ *Case Closed - Rape and human rights in the Nordic countries*, 2008, p. 63, <https://amnesty.dk/media/1557/case-closed.pdf>

⁵⁰⁰ GREVIO Baseline Evaluation Report Sweden, 2019, pp. 51-52, <https://rm.coe.int/grevio-inf-2018-15-eng-final/168091e686>

⁵⁰¹ Phone conversation with Charlotta Lindström, statistician at Brå, 7 December 2018.

5.3 THE 2018 LAW ON SEXUAL CRIMES

Chapter 6 of the Swedish Penal Code, “On sexual crimes”, deals with a range of unlawful acts, including rape, negligent rape, sexual abuse and negligent sexual abuse.⁵⁰²

The 2018 legislation is based on the notion that sex must be mutually agreed and voluntary in order to be legal. The defining element of rape is lack of voluntary participation.⁵⁰³ Violence, threats or improperly taking advantage of a person in a vulnerable situation are now among the circumstances under which a person cannot be considered to have participated voluntarily. Additional circumstances that negate voluntary participation were also added, including abuse of a person’s dependency on the perpetrator.

The decision to engage in sexual activity can be withdrawn at any time. There is no legal requirement that a person express verbally or otherwise their willingness to participate, but when assessing whether participation is voluntary or not special consideration should be given to whether it was expressed through words or actions or in other ways. According to the preparatory works, passivity on part of the victim cannot be understood as voluntary participation.⁵⁰⁴ This means that the focus on the perpetrator may increase somewhat as “the court would want to know what made the accused believe that the sexual act was desired by the counterpart”.⁵⁰⁵

Rape of people aged 15 or over is divided into three categories that carry different sanctions: rape, which is punishable by between two and six years’ imprisonment; aggravated rape, which is punishable by between five and 10 years’ imprisonment; and “less severe rape”, which is punishable by up to four years’ imprisonment. Attempted rape is also a crime.

The 2018 law introduced the new offence of negligent rape.⁵⁰⁶ This deals with situations where someone does not realize, but should have realized, that the other party was not participating voluntarily. Generally in Swedish law, criminal liability is established through intent. For the crime of rape this means that it needs to be proven beyond reasonable doubt that the perpetrator was aware that the other person did not participate voluntarily but continued anyway. The new provision on rape by negligence establishes that anyone who commits rape and is grossly negligent regarding the fact that the other person is not participating voluntarily will be held liable. It applies in situations where the perpetrator realized the risk of the other person not participating voluntarily, but went ahead despite this. Negligent rape is punishable by up to four years’ imprisonment.

Chapter 6 of the Penal Code also includes the crimes of sexual abuse and (since 2018) sexual abuse by negligence. This provision covers sexual acts other than rape with someone who does not participate voluntarily. These offences carry lesser sentences than rape.⁵⁰⁷

5.3.1 IMPACT OF THE NEW LAW

Women’s rights organisations and activists as well as Amnesty International campaigned for the new consent law for more than a decade. Amnesty International welcomed the new law when it was passed in Parliament in May 2018 because it clearly protects the right to bodily integrity and sexual autonomy of all, and means that more rape cases can be prosecuted.

The Swedish Bar Association was among those who were critical of the law before it was passed, arguing that it would not lead to more convictions and pointing out that the difficulties in proving rape would remain the same.⁵⁰⁸ They also warned that it would lead to more questions violating the privacy and integrity of the

⁵⁰² Penal Code, Chapter 6, 1 §, available in Swedish at <https://lagen.nu/1962:700#K6>

⁵⁰³ Penal Code, Chapter 6, 1 §, available in Swedish at <https://lagen.nu/1962:700#K6> and Fact Sheet in English, available www.government.se/4ab7a8/contentassets/ee1de9e9781046afb784f034565f32e9/consentthe-basic-requirement-of-new-sexual-offences-legislation

⁵⁰⁴ The preparatory works of the laws, especially the law proposal given to parliament, are important sources of additional legal instruction to the courts.

⁵⁰⁵ Regeringens proposition 2017/18:177 En ny sexualbrottslagstiftning byggd på frivillighet (in Swedish only), www.regeringen.se/4950e9/contentassets/20977a5e47ab41bd89e4ff609208bfa8/en-ny-sexualbrottslagstiftning-byggd-pa-frivillighet-prop.-201718177

⁵⁰⁶ Penal Code, Chapter 6, 1 §, available in Swedish at <https://lagen.nu/1962:700#K6>

⁵⁰⁷ The punishment for sexual abuse a maximum of 2 years’ imprisonment; for aggravated sexual abuse the penalty is between six months and six years; and negligent sexual abuse is punishable by up to four years in prison Penal Code, Chapter 6, 2 § and 3 §, available in Swedish at <https://lagen.nu/1962:700#K6>

⁵⁰⁸ See, for example, Advokatsamfundet: “En samtyckeslag kommer inte leda till fler fällande domar”, www.svt.se/nyheter/inrikes/regeringen-lovar-samtyckeslag-advokatsamfundet-varnar-for-populism

complainant and that the burden of proof would be affected as the accused would have a certain burden of explanation.⁵⁰⁹

However, most of the experts interviewed by Amnesty International welcomed the new legislation. Specialist Public Prosecutor Christina Voigt, who prosecuted one of the first cases under the new law, described it as a “game changer”.⁵¹⁰ She told Amnesty International that her initial reservations faded once she started to apply the law and that she believed the new law would lead to more acts being considered as rape and that it would result in more convictions.⁵¹¹ Silvia Ingolfsdóttir Åkermark, who acts as a lawyer for the complainant, considered that the new legislation could empower women and girls by clearly making the perpetrator responsible for their actions. She also believed that the law could help survivors deal with and recover from feelings of shame and guilt.⁵¹²

It is too early to assess whether the new law will lead to more victims reporting, higher rates of prosecutions and more convictions. However, the Director of the Prosecution Authority’s Development Centre in Göteborg told Amnesty International that the Centre is monitoring the development of court practice in implementing the new law.⁵¹³

Amnesty International has reviewed 30 judgments in rape cases from district courts under the 2018 legislation; 28 ended in convictions and two in acquittals.⁵¹⁴ Violence and/or threats or taking advantage of a victim in a particularly vulnerable situation, circumstances that negate voluntary participation, were involved in 26 of these cases, including the two acquittals. In these cases, the district courts often concluded that the 2018 reform implied that rape is seen as a more serious crime than before and that the use of violence or other means that negate consent should result in a slightly harsher punishment than cases where no such means were used. As a result, more differentiated punishments seem to have been imposed, although at the lower end of the scale. The minimum sentence for rape is imprisonment for two years and the district courts have typically imposed between 27 and 30 months in prison in such cases.

Most district court judgments (25 out of 30), including the two acquittals, were appealed. As of 1 March 2019, judgments have been issued in 20 of the 25 appeal cases. The appeal court upheld the sentence in nine, raised the sentence in five cases and lowered the sentence in six.

A small number of the sample involved acts that were not considered to be rape before 2018. As of 1 March 2019, a petition to appeal to the Supreme Court had been lodged in three cases of the sample; however, no leave to appeal had been granted. To Amnesty International’s knowledge only one charge of negligent rape had been brought at the time of writing.

5.4 BARRIERS TO JUSTICE: THE LEGAL PROCESS

5.4.1 MYTHS ABOUT RAPE AND GENDER STEREOTYPES

Harmful rape myths can have a negative impact on rape survivors, both in their daily lives and in their fight for justice. The 2016 European Commission’s Eurobarometer survey on gender-based violence, including sexual violence, showed that victim blaming and rape myths, although less widespread than in other parts of Europe, are still in evidence in Swedish society. For example, it found that almost one in 10 people in Sweden agreed that gender-based violence against women is often provoked by the victim herself.⁵¹⁵ Several women interviewed by Amnesty International described their experience of this.

⁵⁰⁹ “Risken uppenbar för ännu mer integritetskränkande frågor”. Dagens Juridik 2017-09-08 <http://www.dagensjuridik.se/2017/09/risken-uppenbar-annu-mer-integritetskrankande-fragor-hor-anne-ramberg-om-samtyckeslagen>

⁵¹⁰ Samtyckeslag har haft effekt, Swedish Radio, 8 November 2018, <https://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=7084923>

⁵¹¹ Interview with Christina Voigt, 20 November 2018.

⁵¹² Interview with Silvia Ingolfsdóttir Åkermark, 30 November 2018.

⁵¹³ Interview with Marianne Ny, Director of the Public Prosecution Authority at the Development Centre in Göteborg and public prosecutor Karin Lundström-Kron, Public Prosecution Authority at the Development Centre in Göteborg, 4 October 2018.

⁵¹⁴ There is an overlap as the previous law still applies to rape crimes committed before the new legislation entered into force on 1 July 2018. Nevertheless, it is highly likely that more judgments from district courts and appeal courts exist than Amnesty International was able to gather. Amnesty International received a list of relevant court cases on request from the Prosecution Authorities’ Development Centre which is monitoring the development of court practice in implementing the new law. By contacting the 48 district courts Amnesty International found additional cases. Amnesty International traced all 30 cases and gathered information on whether they had been appealed. It then requested the judgments from the regional courts of appeal.

⁵¹⁵ Special Eurobarometer 449: Gender-based violence, available at:

<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2115>

The survey was carried out by the TNS Opinion & Social network in the 28 Member States of the European Union between 4 and 13 June 2016. Face-to-face interviews were held with 27.818 EU citizens from different social and demographic categories in their native language, including 1.109 citizens of Sweden.

38-year old Zarah has been subjected to rape several times in her life.⁵¹⁶ She told Amnesty International:

“It’s something you get to hear if you have been subjected [to rape]: ... ‘If you have been abused that much it must be something YOU do? It must be something about you, or else you wouldn’t be subjected?’ (...) I’ve had those remarks several times by people. I even got that comment from my mother (...) Then, I just snapped and said, ‘How do you have the nerve?’ [and she said] ‘I have always tried to teach you how to dress, how to talk’ and I just went: ‘IT DOESN’T MATTER!!!!’”

41-year old Erika told Amnesty International that she was raped, threatened and assaulted by her former partner in her home in June 2015. She called the police who immediately arrested the man. Erika recalled: **“I got messages from all kinds of people, telling me that I was horrible, having done this to him, from his friends.”**⁵¹⁷

According to providers of victim support interviewed by Amnesty International, feelings of guilt and shame are common among survivors. Rape myths and victim blaming may further exacerbate their suffering and influence their own understanding of whether or not what they experienced was rape.

“Lena” told Amnesty International that she was raped when she was 18 while on holiday abroad. Many years later she was raped by her partner. She did not report the rape to the police. She said she took a number of issues into consideration:

“Going to the police after the first rape was totally out of question... I was stuck in this way of thinking that I was to blame. After the second rape I hesitated... it is difficult when it happens within a relationship. How would I explain that a couple of hours earlier, we had consensual sex and then a couple of hours later, it is a rape? Who would believe me?”⁵¹⁸

Erika who was raped by her former partner said she only realized that she had been raped after the police officer told her so following her providing details of what had happened:

“I didn’t know it was a rape. I thought then that rape was a fully consummated intercourse and nothing else but that was not the case (...) It wasn’t me who reported it, or wanted to... they [the police] came, that’s it. And it was they who decided to bring him in, and they told me ‘You have been raped, we will bring him in now.’ It was their call.”⁵¹⁹

Zarah who has been subjected to rape several times in her life told Amnesty International about what made her decide to file a report to the police on the last occasion in April 2018:

“The thing is that this specific rape... it became so obvious, because the other times, I blamed myself much more, I’ve punished myself. Now it was more like... I had been walking around vomiting! I mean it should be obvious to anyone that I was not interested in having sex.”

21-year old Malin was raped by an older student when she was in secondary school. She didn’t tell anyone, but her friend noticed something was wrong. The friend then took her to the headmaster. Malin eventually told her parents and reported the rape to the police. She told Amnesty International that she found it shocking to hear others say that she had been raped:

“Was I making this up or was it really as serious as Catharina [my friend] said? Because she told the headmaster that so and so has raped Malin... And then I thought ‘God, what are you saying!’... And after the interview [the police] said ‘I will classify this as rape’ and I thought ‘My God, was it really...?’ That was a big thing to me, I didn’t understand it was [rape].”⁵²⁰

5.4.2 INITIAL POLICE REPORT

Although most rapes are not reported, thousands of women and girls and hundreds of men and boys do take the decision to report rape to the police. Some survivors will report immediately; others need time to think

⁵¹⁶ Interview with Zarah, 29 November 2018, at Amnesty International’s office in Stockholm.

⁵¹⁷ Interview with Erika, 23 October 2018, at Amnesty International’s office in Göteborg.

⁵¹⁸ Interview with “Lena”, 30 November 2018 in hotel room in Stockholm. (Name has been changed to protect the interviewee’s privacy.)

⁵¹⁹ Interview with Erika, 23 October 2018 at Amnesty International’s office in Göteborg.

⁵²⁰ Interview with Malin, 11 December 2018, at her home in a city in the south east of Sweden.

through what steps to take, especially if the perpetrator is someone with whom they have a close relationship. A 2019 report by the Prosecution Authority's Development Centre in Göteborg and the Police Authority's Development Centre West found that among the sample cases of sexual crimes, reporting to the police took place within two days in 44% of cases and after two months in 25%.⁵²¹

Rape may be reported to the police by telephone through a Contact Call Centre, to the 24-hour on duty officers or to the officer on duty at a local police station or by email. In some cases, the police are alerted by the Emergency Call Centre and patrol police officers are sent to the crime scene. The victim makes an initial statement to the police, which is the basis for the police's decision on whether to start an investigation or not.

The initial response and treatment from the police can have decisive impact on the willingness and ability of survivors to go through the legal process.



ZARAH

Zarah made a report to the police by phone in April 2018. She described to Amnesty International how she felt supported by the police officers in a very difficult situation:

"I thought that I would report it quickly while my son was out playing... they asked, 'Have you showered?' Basically, I had done everything right. I hadn't showered, I had just brushed my teeth and washed my face and that 'cause I was so out of it. It was the same bed sheets, everything was right there. The only thing I remember doing was that I had taken my panties off and put them in a plastic bag, just in case. It didn't take 15 minutes, and [the police] said 'Are you at home? Wait there, we'll send a car right away'. And it was like five more minutes until the police arrived, so it was really fast... I had explained what had happened briefly by phone, but I had to tell it briefly again when they arrived... Then it came back... everything, all things [the rapes] I had been through before... so I was very affected by it. I know I was shaking, and they saw that. They were so nice, the police who were there, completely wonderful, it was a woman and a guy... They tried to cover it up [for my son], I don't remember what excuses they made up... because they were taking everything out, it was the bedsheets, that are actually still with the police because I haven't dared collect them. But it was sheets, clothes, underwear, everything. They had like ten bags because everything needs to go into different bags."⁵²²

Zarah went on to describe how the police helped her out of her apartment to take her to the Emergency Clinic for Rape Victims for the necessary tests:

"Then, it was also [the issue of] how to get me out, because it was really hard with all the neighbours. It was in the middle of the day, it was a bank holiday and wonderful weather, so everyone was outside, and the kids were surrounding the police car. So she [the officer] drove a bit further down and they went down with all these bags (...) And I was so shaky that I had some difficulties walking. We went through the basement and out on the side [of the building] to avoid [the neighbours] and she reversed so I could just get into the car... The day after, the police contacted me, those who were there, asking about how it went [at the Emergency Clinic for Rape Victims]."

⁵²¹ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1, Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 28, available in Swedish at www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

The thematic inspection was made by the Prosecution Authority Development Centre in Göteborg jointly with the Police Authorities' Development Centre West and covered six prosecution offices and equivalent police areas in different parts of Sweden. The study covered randomized sample of 664 cases of sexual crimes against adults and violence in intimate relationships that had either been closed or led to a prosecution decision between 1 October 2017 and 31 March 2018. The sample included 266 cases of sexual crimes of which the majority, 199 cases, involved rape, (*Våldtäkt - tvångsmedelsanvändning vid misstanke om våldtäkt*. Åklagarmyndigheten (ÅM2017-919) Förstudie, Tillsynsrapport 2017:2, Utvecklingscentrum Göteborg, November 2017).

⁵²² Interview with Zarah, 29 November 2018, at Amnesty International's office in Stockholm.



ERIKA

Erika told Amnesty International that she had been raped, threatened and assaulted by her former partner in her home in June 2015. She managed to escape from the house to call the police and then returned home because she was concerned about the children. Erika recalled the police arriving:

“It was two of them, a man and a woman, and they were really, really great...and I remember that the woman sat down with me in the kitchen, and said ‘Could you tell more in detail, what happened there on the sofa?’ ... ‘Yes, he did it here’, ‘How did he do it?’ And then she started asking more, and she went: ‘You know what, you have been raped and we will take him in now’. If she hadn’t sat down and asked those questions, they might have just left the scene and made him leave.”⁵²³

5.4.3 ACCESS TO LEGAL AID

A 2010 study by the Public Prosecution Authority identified survivors’ access to complainant’s counsel as one of the most important factors for successful prosecutions in cases of rape and violence in intimate relationships. According to the study, the appointment of complainant’s counsel increases the likelihood of prosecution eight-fold compared to cases where the victim had no legal aid.⁵²⁴ However, complainant’s counsels have sometimes come in at a late stage of the rape investigation, if at all.⁵²⁵

The law guaranteeing the right to free legal aid and the assistance of a complainant’s counsel for victims of serious crimes was first introduced in 1988 and has been amended on several occasions since.⁵²⁶ Following the 2018 legal reforms, a request for complainant’s counsel should be made to the court immediately after a preliminary investigation of sexual crimes is initiated or reopened, unless it is obvious that the complainant does not need one.⁵²⁷ The investigating officer should immediately inform the victim about their right to counsel of their choice, free of charge.

Complainant’s counsel Rebecca Lagh described her work to Amnesty International:

“What I see as our most important role, is to make the person feel safe and prepare her for what is going to happen. Build trust so that she first dares to tell me. And then we go through everything, really thoroughly, what is important to tell, and what is perhaps not as important for the police, so that when she is [interviewed by the police], she knows what to talk about ... To explain how it works. Always focus on her feeling safe and assured. Because if she doesn’t feel safe with me, then she will never be safe with the police. So it is a lot of work we do during the process. And possibly several meetings [to] structure it up. Many times it leads to a better police investigation. You know, if they go there, as many do, and just talk... then the police will not bear to listen and then the quality of the investigation will suffer.”⁵²⁸

The police officers and prosecutors interviewed by Amnesty International all stressed the importance of promptly appointing complainant’s counsel to help relieve some of the stress and strain on survivors. They also believed that it can improve the quality of investigations, which in turn can lead to more prosecutions

⁵²³ Interview with Erika, 23 October 2018 at Amnesty International’s office in Göteborg.

⁵²⁴ Åklagarmyndigheten: Tvångsmedelsanvändning och beslutsfrister m.m vid vålds- och sexualbrott i nära relation och mot barn, Rapport, Utvecklingscentrum Göteborg, Februari 2010, p. 57, available in Swedish at <https://docplayer.se/6159430-Tvangsmedelsanvandning-och-beslutsfrister-m-m-vid-valds-och-sexualbrott-i-nara-relation-och-mot-barn-rapport.html>

The study, conducted by the Prosecution Authority Development Centre in Göteborg, covered a randomized sample of 575 cases of violence in intimate relationships and sexual crimes in close relationships and against children from six prosecution offices in different parts of Sweden, registered in 2008. An analysis what had the greatest impact on the possibility of prosecution in such crimes found that four factors had a statistically significant effect on the prosecution rate: the appointment of complainant’s counsel, detention of the suspect, a short processing time and reporting the crime to the police shortly after it was committed.

⁵²⁵ Åklagarmyndigheten: Tvångsmedelsanvändning och beslutsfrister m.m vid vålds- och sexualbrott i nära relation och mot barn, Rapport, Utvecklingscentrum Göteborg, Februari 2010, p. 57, available in Swedish at <https://docplayer.se/6159430-Tvangsmedelsanvandning-och-beslutsfrister-m-m-vid-valds-och-sexualbrott-i-nara-relation-och-mot-barn-rapport.html>

⁵²⁶ The right to complainant’s counsel applies to victims of sexual crimes (Chapter 6 of the Penal Code) as well as crimes against life and health (Chapter 3 of the Penal Code) and crimes against the individuals’ freedom and peace (Chapter 4 of the Penal Code) which carry a prison sentence.

⁵²⁷ Lag (1988:609) om målsägandebitråde, available in Swedish at www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1988609-om-malsagandebitrade_sfs-1988-609

⁵²⁸ Interview with Rebecca Lagh, 8 November 2018, in Stockholm.

and convictions for rape.⁵²⁹ Amnesty International also interviewed four people who act as complainant's counsel and all confirmed that they are appointed at an early stage and, as a rule, are present at the first police interview with the complainant after the police report has been filed.⁵³⁰

The competence, experience and suitability of the complainant's counsel were also raised in interviews with Amnesty International. For example, Ellinor, who was only 16 years old when she was raped, told Amnesty International: "I wasn't of age, so mom helped out and we had heard of one [complainant's counsel] who was good at this [type of case]. But then when the interview came up, it wasn't her who showed up, but someone else from the same law firm. I hadn't talked to her before, I knew nothing. I think we had half an hour before the [police] interview".⁵³¹

Following the 2018 reform, complainants counsel should be an attorney, an assistant lawyer at law firm or any other person who has completed the required test for eligibility for employment as a judge. Only a person with the right expertise and experience and who is otherwise particularly suitable for the assignment may be appointed.⁵³²

5.4.4 THE INVESTIGATION

"Then there were times when they would call and hold an interview over the phone... I just got a call from a hidden number. If I had had a time [agreed in advance] I would have made sure to be at home so that I could talk openly... The police would ask: 'Is it ok if we ask a few questions?' But when you are 16-17 you don't really know...it's the police calling, right. I had no idea about my rights, so you just agree to it... The police would ask: 'We found another film of you, do you remember this occasion?' which I didn't... I was so shocked and confused about not remembering. I hadn't been drinking on any of those occasions [when I was raped and abused]. And then they would hang up and I wasn't at home, so it was really hard because I was so sad. I remember that I called both my mom and my dad."⁵³³

Ellinor was repeatedly raped and abused by four young men over several months when she was 16. She told Amnesty International that the perpetrators had filmed her and threatened to spread the films on social media.

The quality of the criminal investigation is crucial to ensure survivors' right to access to justice. Marianne Ny, Director of the Prosecution Authority at the Development Centre in Göteborg, told Amnesty International that in 2010-2012 the Prosecution Authority and the police developed a joint best practice working model for investigating sexual crimes and violence in intimate relationships to ensure nationally uniform investigations of high quality.⁵³⁴ The working model included a set of templates, routines and checklists and other working tools to support implementation. The model was reviewed in 2016, resulting in what is known as "A developed best working model", and then again as part of the 2018 legal reforms. A 2019 joint thematic inspection found that the quality of rape investigations varied in different parts of the country and was better where this structured working model was fully implemented. Higher prosecution rates were also noted in districts that used the model.⁵³⁵ According to the Police Authority, these findings will form the basis for further concrete measures to improve investigations of sexual crimes.⁵³⁶

A 2014 Parliamentary Commission on Sexual Crimes was tasked with evaluating how the police and the judiciary deal with rape investigations and why so few reported rapes result in prosecution and conviction.⁵³⁷ The Commission concluded that, while the knowledge and methods relevant to rape investigations are present in the Police Authority, implementation varies.

⁵²⁹ Interviews with Anna Lindqvist and Hanna Karlsson, 21 September 2018, Christina Voigt, 20 November 2018, Marianne Ny and Karin Lundström-Kron, 4 October 2018.

⁵³⁰ Interviews with Ulrika Rogland, 18 September 2018, Rebecca Lagh and Linnea Svends, 8 November 2018 and Silvia Ingólfssdóttir Ákermark, 30 November 2018.

⁵³¹ Interview with Ellinor, 28 November 2018, at Amnesty International's office in Stockholm.

⁵³² Lag (1988:609) om målsägandebitråde, available in Swedish at www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1988609-om-malsagandebitrade_sfs-1988-609

⁵³³ Interview with Ellinor, 28 November 2018, at Amnesty International's office in Stockholm.

⁵³⁴ Interview with Marianne Ny, 4 October 2018, in Göteborg. The Prosecution Authority Development Centre in Göteborg is responsible for legal supervision, the development of methodology and knowledge within the Public Prosecution Authority nationwide as well as information and cooperation with other authorities on sexual crimes.

⁵³⁵ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Göteborg, Februari 2019, p. 28, available in Swedish at www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵³⁶ Amnesty International sought written feedback from the National Police Commissioner, Anders Thornberg by email on 15 March 2019. A written response was received by e-mail on 21 March from Per Ottosson and Anna Lindström on behalf of the Swedish Police Authority.

⁵³⁷ *Ett starkare skydd för den sexuella integriteten*. Betänkande av 2014 års Sexualbrottskommitté, SOU 2016:60

It also concluded that police investigators sometimes make their own assessments of evidence early on in rape cases and no further investigation is carried out.⁵³⁸

The survivor's testimony is a key part of the evidence and often allows other evidence to be identified, such as the crime scene and possible witnesses. There may also be forensic evidence on her body, which is perishable. It is therefore crucial that interviews with the victim, the suspect and witnesses are held promptly.

Complainant's counsel told Amnesty International that the treatment of rape victims has generally improved in recent years, but still largely depends on the individual police investigator.'

According to the Preliminary Investigation Decree, interviews should be held at a time and in a place that involves as little inconvenience for the person as possible, unless it obstructs the work of the police or prosecutor.⁵³⁹

Hanna Karlsson, a police investigator specializing in sexual crimes, told Amnesty International that the treatment of rape victims by the police is sometimes "poor".⁵⁴⁰ She said it was crucial that the police investigator "emphasize the context", confirming that she/he understand that it is a difficult situation for the victim, that the investigator has met many others in the same situation and that the survivor can ask to take a break whenever needed.

According to Marianne Ny, Director of the Public Prosecutions, it is important to improve the quality of all rape interviews, including those held with suspects. A professional approach as well as good interview techniques and video documentation are vital in rape investigations.⁵⁴¹ However, the 2019 joint thematic inspection showed that video recording of the initial interview with the complainant was only used in 7.5% of the sample cases. There were video or sound recordings of only 17% of the interviews with the suspect and in 26% of the sample the suspect was not interrogated at all.⁵⁴² While several of these cases related to situations where there was no reason to believe that a crime had been committed, the inspection concluded that the prosecutor also had refrained from interrogating identified suspects in cases where it was reasonable to suspect that a crime had been committed.

5.4.5 SECURING THE EVIDENCE

In a court case from October 2018, the court acquitted the accused of charges of physical abuse, unlawful threats and rape in part because of "significant shortcomings in the investigation".⁵⁴³ For example, fingerprints were not secured or DNA samples taken from all the items of evidence. In addition, a legal certificate was issued based on photos of the woman's injuries. However, some of the photos were of such poor quality that the medical forensic doctor could not form an opinion on how some of the injuries had been incurred. The court concluded that: "This affects the indictment because the prosecutor is responsible for conducting the preliminary investigation and the burden of proof in the case". The court decision in this case was under appeal at the time of writing.

The case illustrates the importance of securing robust and comprehensive evidence as thoroughly as possible. Marianne Ny, Director of the Public Prosecutions, told Amnesty International that the police need a better understanding of what constitutes important evidence and training in securing such evidence. She stressed the importance of securing as many different types of independent evidence as possible at the earliest stages of the investigation.⁵⁴⁴

According to the Code of Criminal Procedure, as soon as the police have identified a suspect, the rape investigation should be led by a prosecutor. However, this does not always happen in practice.⁵⁴⁵ In addition, Ulrika Rogland, a former judge and prosecutor who currently works as complainant's counsel, told Amnesty

⁵³⁸ *Ett starkare skydd för den sexuella integriteten*. Betänkande av 2014 års Sexualbrottskommitté, SOU 2016:60, pp. 381-388, www.regeringen.se/contentassets/8216d40ecc814613bccb394b4b1dfa38/ett-starkare-skydd-for-den-sexuella-integriteten-sou-2016-60.pdf

⁵³⁹ Förundersökningskungörelsen (The Preliminary Investigation Decree,) 5 §, <https://lagen.nu/1947:948>

⁵⁴⁰ Interview with Hanna Karlsson, 21 September 2018, in Göteborg.

⁵⁴¹ Interview with Marianne Ny, 4 October 2018, in Göteborg.

⁵⁴² Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1, Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, page 28. Available in Swedish at: www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁴³ Hudiksvalls tingsrätt, case B-1697-18

⁵⁴⁴ Interview with Marianne Ny, 4 October 2018.

⁵⁴⁵ Interview with Marianne Ny, 4 October 2018.

International that in cases where a suspect has not been identified, the police often focus entirely on finding the suspect and fail to take other measures to secure evidence.⁵⁴⁶

According to Prosecutor Karin Lundström-Kron, the police are using the standardized sexual assault evidence collection kits ("rape kits") to secure evidence on the victim and suspect more frequently than before.⁵⁴⁷ In addition, health-care providers can also collect such evidence. However, Amnesty International was told by staff at the Emergency Clinic for Rape Victims in Stockholm AV that the police do not always collect the rape kits from the health-care providers.⁵⁴⁸ This was also raised by the 2014 Sexual Crimes Commission.⁵⁴⁹

Legal certificates⁵⁵⁰ issued by the National Board of Forensic Medicine and health providers can be important pieces of evidence in rape cases. However, the police sometimes request medical records instead of certificates, which have less value as evidence in a legal process.

Amnesty International is also deeply concerned about the extremely long time it takes to get the results of forensic DNA analysis: up to nine months.⁵⁵¹ Christina Voigt, a prosecutor specializing in sexual crimes and violence in close relationships, described the situation as "a real catastrophe".⁵⁵² She told Amnesty International:

"You cannot hold anyone arrested for so long, it is not proportionate, so either you prosecute without [the results of the analysis] and keep your fingers crossed that it will work and that [the results] may come in time for the court of appeal, if dismissed [in the district court]. Or you let them [the perpetrators] go and you wait. And that has happened many times...

Just recently I had to release [a suspect] from detention [rather than bringing charges], because I felt that this analysis was so important... So he was on the loose for about half a year. But then came the analysis and I can say that I am glad that I didn't bring charges [earlier] for it was clear as crystal. They found stuff ... It has also happened that I brought charges for attempted rape and then maybe it turned out that there was sperm in her vagina. Then of course you adjust [the classification of the crime] to the court of appeal, to consummated rape.... But sometimes you cannot let [the suspects] out because when it is an intimate relationship, they can affect too much... no, clearly it's not good."

Christina Voigt also highlighted similar problems relating to mobile phones, which are normally searched by police. She told Amnesty International that it may take up to six months to receive the results of a search to extract data from a mobile phone.

"Then you have to try to invent new ways to document (...) Let's say that you have some important text messages, then you simply photograph them, take screenshots or photograph them directly from the person's phone, what is written there. You don't get any other information, just exactly what you see on the screen."

All DNA analysis related to crimes is conducted at the National Forensic Centre (NFC) in the city of Linköping. According to Siw Sullivan, Group Manager at the NFC Biology Section who deals with the most serious crimes, the number of requested DNA analyses in sexual crimes increased by 40% between 2015 and 2017 and the NFC now receives about 1,400 cases related to sexual crimes annually.⁵⁵³ She told Amnesty International that, ideally, trained crime scene investigators/forensic specialists should go through the materials before sending them to the NFC with clear requests for the type of analysis required, what to search for, the type of crime and other important case data, including whether the case is a priority or not.⁵⁵⁴ However, in some cases, the materials are sent to the NFC at a very early stage of the investigation with scant instructions and information. The information must then be supplemented before initiating the analysis. In addition, the NFC is not always notified by the police or a prosecutor when a case is closed, wasting resources.

⁵⁴⁶ Interview with Ulrika Rogland, 18 September 2018 in Malmö.

⁵⁴⁷ Interview with Karin Lundström-Kron, 4 October 2018 in Göteborg.

⁵⁴⁸ Interview with Lisa Nordlund, at the Emergency Clinic for Rape Victims in Stockholm, 30 November 2018.

⁵⁴⁹ Ett starkare skydd för den sexuella integriteten. Betänkande av 2014 års Sexualbrottskommitté, SOU 2016:60, p. 377,

www.regeringen.se/contentassets/8216d40ecc814613bccb394b4b1dfa38/ett-starkare-skydd-for-den-sexuella-integriteten-sou-2016-60.pdf

⁵⁵⁰ A legal certificate is a written medical statement by a doctor, obtained by the Police Authority or the Public Prosecutor's Office for use in criminal investigations or as evidence in a criminal case

⁵⁵¹ Interview with Hanna Karlsson, 21 September 2018, at the Development Centre of the Police in Göteborg.

⁵⁵² Interview with Christina Voigt, 20 November 2018, in Stockholm.

⁵⁵³ Interview with Siw Sullivan, 11 December 2018, at the National Forensic Centre in Linköping.

⁵⁵⁴ Cases involving minors and cases where the suspect is detained are prioritized. The police, not the NFC, decides which cases are prioritized.

Siw Sullivan told Amnesty International:

"We have too long processing time, yes. I think everyone agrees on that. There's no doubt. We want to be able to answer within periods of remand for example, but it is not possible. So in that way we create a bottleneck. But I also think that if we had a joint [approach] all the way, one thinks of more forensic specialists within the police perhaps, but if we think of the whole [chain] so that the work is optimized all the way, then we may not need to be as much of a bottleneck."

However, the situation is not new. In 2016 the Swedish Agency for Public Management (Statskontoret) presented an evaluation of forensic analysis in cases involving people held on remand⁵⁵⁵ which found that forensic investigations occurred in 40% of such cases.⁵⁵⁶ It concluded that the ordering of forensic analysis by the police and prosecutors was one of two "critical moments" in the process. Many orders were incomplete, which meant that employees at NFC had to contact the police or prosecutor in order to get additional information, slowing down the process. The second delaying factor was that all orders were not relevant and consequently, the resources at NFC are not used efficiently. Lack of forensic competence regarding what should be investigated and the fact that the police and prosecutors often failed to revoke orders that were no longer needed was pointed out as one of the main reasons. Statskontoret recommended that prosecutors take a more active role in requesting forensic investigations to ensure that orders to the NFC are relevant and that a case management system be developed to facilitate the work of the prosecutors. Recommendations also included improved order forms and the establishment of a forensic support function within the police authority. In addition, the review also pointed out ineffective work processes at the NFC and recommended particular attention be paid to streamlining the search and analysis of DNA trace – the most common analysis requested in investigations of sexual and violent crimes.

Similar recommendations were made by the Swedish National Audit Office (Riksrevisionen) in 2017. It stated that the forensic analysis made by the NFC and the crime scene investigators within the police was of high quality, while crime scene investigations by police who lack forensic specialist competence were often inadequate. Riksrevisionsverket also pointed to the need to review the case management systems within the police and prosecution authorities.⁵⁵⁷

According to Siw Sullivan, the NFC has hired additional staff and is testing new routines/approaches to speed up DNA analysis in rape cases. She told Amnesty International that during the autumn of 2018, priority was being given to the backlog of sexual crimes, but the waiting time in non-priority cases was about between eight and nine months and three to four months for priority cases.⁵⁵⁸

5.4.6 PRE-TRIAL DETENTION

Rape carries a minimum sentence of two years in prison and a suspect may be held on remand, unless there is an obvious reason why they should not be remanded and "the reasons for the measure outweigh the infringement or harm that it entails for the suspect".⁵⁵⁹ According to the Prosecution Authority, pre-trial detention may be required to secure evidence and to reduce the suspect's ability to influence the complainant or destroy evidence. Also, detention may be vital for the protection of the victim.⁵⁶⁰

A 2010 report by the Prosecution Authority found that the probability of rape investigations leading to prosecution increased sevenfold when the suspect was remanded compared with investigations where the suspect was not detained. One reason cited was that remand led to these cases being prioritized and all necessary investigations being carried out more promptly. However, the same report concluded that many suspects in rape cases in close relationships were not arrested or even brought in for questioning.⁵⁶¹ The 2019 joint inspection by the police and Prosecution Authority found that only 12.6% of those suspected of

⁵⁵⁵ Statskontoret is the government's organization for analyses and evaluations of state and state-funded activities. The review, Häktningstider och forensiska undersökningar Förslag för en snabbare forensisk process, 2016:2, available at www.statskontoret.se/globalassets/publikationer/2016/201602.pdf

⁵⁵⁶ The review did not focus on specific crimes.

⁵⁵⁷ Från spår till bevis - Polisens forensiska organisation. Riksrevisionen, RIR 2017:6, available in Swedish at www.riksrevisionen.se/download/18_78ae827d1605526e94b2daf6/1518435495349/RiR_2017_16_POLISEN_FORENSIK_ANPASSAD.pdf

⁵⁵⁸ Interview with Siw Sullivan, 11 December 2018, at the NFC in Linköping.

⁵⁵⁹ Rättegångsbalken (Procedural Code) Chapter 24, 1 §, available at <https://lagen.nu/1942:740#K24>

⁵⁶⁰ Åklagarmyndigheten: Tvångsmedelsanvändning och beslutsfrister m.m vid vålds- och sexualbrott i nära relation och mot barn, Rapport, Utvecklingscentrum Göteborg, Februari 2010, available in Swedish at <https://docplayer.se/6159430-Tvangsmedelsanvandning-och-beslutsfrister-m-m-vid-valds-och-sexualbrott-i-nara-relation-och-mot-barn-rapport.html>

⁵⁶¹ Åklagarmyndigheten: Tvångsmedelsanvändning och beslutsfrister m.m vid vålds- och sexualbrott i nära relation och mot barn, Rapport, Utvecklingscentrum Göteborg, Februari 2010.

sexual crimes in the sample were remanded.⁵⁶² The inspection considered the number low, given that there is a presumption of remand in rape cases.

5.4.7 LENGTHY PROCEEDINGS

Prolonged processing times may have significant negative consequences both on the survivor's motivation and well-being and on the possibilities to bring charges in rape cases. According to the Prosecutor's Office, the processing time for rape crime should not exceed six months.⁵⁶³

During the first five months of 2017, police closed on average 13 rape cases per day, according to the major daily newspaper *Svenska Dagbladet*.⁵⁶⁴ The then National Chief of Police reportedly promised to devote more resources within the police to rape investigations⁵⁶⁵ and in its spring 2018 budget, the government allocated extra funds of about €20 million to improve the capability to investigate sexual crimes, among other things.⁵⁶⁶ It is too early to assess what the impact of this will be.

The issue of inadequate resourcing for and/or prioritization of rape crimes and other sexual crimes was raised in some of the interviews conducted by Amnesty International for this report. According to the former judge and prosecutor Ulrika Rogland, resources within the police are often transferred from rape investigations to other serious crimes investigations such as murder and gang crime.⁵⁶⁷ In her experience, it is common for police investigators to change during the course of an investigation, with the new investigator needing to familiarize themselves with the case, and most cases that involve protracted investigations are eventually closed.

The review of the 2014 Sexual Crimes Committee concluded that there was a real risk that rape investigations were not sufficiently prioritized by police. It highlighted the importance of adequate resourcing along with the need to clarify organizational structures and responsibility in the police for investigating this type of crime.⁵⁶⁸ The 2019 joint inspection by the Prosecution Authority and police found that, although sexual crimes should be investigated by the "serious crimes" units or units working with violence in intimate relationships, a third of such crimes in the sample were in fact investigated by local police without the necessary experience or expertise due to lack of resources or, in some cases, geographical distance.⁵⁶⁹ According to the inspection report, representatives from both the police and Prosecution Authority expressed concern that "serious crimes" units deprioritized sexual crimes for other types of crimes.

In its Baseline Evaluation Report on Sweden, GREVIO pointed to the "urgent need to significantly reinforce the investigative capabilities of law enforcement authorities to ensure prompt and appropriate investigations" in cases of rape.⁵⁷⁰

⁵⁶² Of the 214 sample cases, 199 involved rape. Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1, Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 28, available in Swedish at www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁶³ Utredning av brott mot barn, våld i nära relation och sexualbrott mot vuxna. Promemoria om ett utvecklat bästa arbetssätt. Åklagarmyndigheten, Utvecklingscentrum Göteborg Polismyndigheten, Utvecklingscentrum Väst, Uppdaterad juni 2018.

⁵⁶⁴ Polisens facit: 13 nedlagda våldtäktsärenden - per dag. Svenska Dagbladet 16 June 2017, www.svd.se/polisens-facit-13-nedlagda-valdtaktsarenden--per-dag

⁵⁶⁵ Dan Eliasson lovar större resurser till att utreda våldtäkter, Dagens Nyheter, 22 September 2017, www.dn.se/nyheter/sverige/dan-eliasson-lovar-storre-resurser-till-att-utreda-valdtakter

See also Eliasson: Brist på resurser är orsak till färre våldtäktsutredningar, Swedish Radio, 18 September 2017, <https://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6780106>

⁵⁶⁶ Polisen tillförs ytterligare 200 miljoner kronor. Nyheter från polisen, 3 April 2018, available at: <https://polisen.se/aktuellt/nyheter/2018/april/polisen-tillfors-ytterligare-200-miljoner-kronor/>

⁵⁶⁷ Interview with Ulrika Rogland, 18 September 2018 in Malmö.

⁵⁶⁸ Interviews with Marianne Ny, and Karin Lundström-Kron, 4 October 2018, Anna Lindström, and Helena Karlsson 21 September 2018, Christina Voigt 20 November 2018. See also: Ett starkare skydd för den sexuella integriteten. Betänkande av 2014 års Sexualbrottskommitté, SOU 2016:60, pp. 345 and 382, www.regeringen.se/contentassets/8216d40ecc814613bccb394b4b1dfa38/ett-starkare-skydd-for-den-sexuella-integriteten-sou-2016-60.pdf

⁵⁶⁹ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1, Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 30, available in Swedish at www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁷⁰ GREVIO Baseline Evaluation Report Sweden, 2019, p. 8., <https://rm.coe.int/grevio-inf-2018-15-eng-final/168091e686>

5.4.8 CLOSED CASES

The vast majority of rape investigations are closed by prosecutors. The 2019 joint inspection mentions that prosecutors are sometimes “noticeably cautious” in their decision to bring charges.⁵⁷¹

The decision not to prosecute can be appealed to the Director of the Prosecution Authority’s Development Centre in Göteborg. In 2018 such appeals were made in 185 cases of rape. The Director decided to resume investigations in 17% of these. Similarly, in 2017 appeals were made in 124 cases of rape, of which 16% were resumed.⁵⁷²



KARINA

“It feels like they didn’t do their job properly. If they had done it properly from the start, I would have had justice today... All those hopes for justice and redress, and in the end - nothing. It was just another police report. I don’t believe in the justice system today. I don’t think it works the way it should. Maybe I’m blaming the police because it was the only face I saw. I can’t blame other people or the government because they were not the ones to receive my report. But I think the whole society has a responsibility and a duty. For a society to work, there must be a functional justice system. If not, why do we even have one?”

Karina lives in a small town in Sweden. She told Amnesty International that her former partner had continued to harass and abuse her after she left him in 2012. Karina said that he raped her on two occasions in August 2015 and April 2016 and that he assaulted her in May 2016. On another occasion the same month he tried to rape her. In June 2016 she went to a nearby city to report these crimes to the police, who opened a criminal investigation. Complainant’s counsel was appointed to her case and was present during most of the police interviews.

Karina said the police repeatedly told her that they would soon bring in the suspect for questioning. Meanwhile, the police asked her not to tell him that she had filed a report but to “pretend like nothing has happened”. According to Karina, they explained it would be better if they could take him by surprise. This went on for weeks and caused her a great deal of anxiety; at one point she had a severe anxiety attack and was taken to a psychiatric clinic. Then, the police investigator went on holiday and the investigation was stalled. It was not until October, more than four months after Karina reported the rapes, that the police finally questioned the suspect. He was questioned again in January 2017.

Meanwhile, Karina had been asked to go to the police station to translate two sound files in Spanish that she had given the police containing recordings of threats and physical violence that she had been subjected to on two of the reported occasions. No professional transcript was made of these recordings, but a police officer who spoke the language made some notes of the content. The police had documented an injury on Karina’s hand at the time of reporting, but the photo was lost.

In January 2017, the prosecutor closed the case, due to lack of evidence. Karina appealed the decision to the Vice Director of the Public Prosecution Authority in Göteborg, but her appeal was rejected in April 2017.⁵⁷³ Her stepfather then paid for an authorized translation of the sound files and she appealed again. Her appeal also included information about additional incidents of crimes that previously had not been investigated, including assault and harassment. In November 2017, the Vice Director of Public Prosecution Authority confirmed his earlier decision not to reopen the investigation into the reported rapes and assault but said these additional crimes should be investigated. The case was referred to the local public prosecution office.

⁵⁷¹ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning. Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1, Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 30, available in Swedish at www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁷² Information received from the Prosecution Authority’s Development Center in Göteborg by email on 18 February 2019.

⁵⁷³ A complainant has the right to a review of the decision to not open an investigation, to close an investigation or not to institute a prosecution. Reviews in cases involving sexual offences are carried out by the Public Prosecution Authority Development Centre in Göteborg, where the Director of the Public Prosecution Authority reviews the case and decides whether the investigation should be reopened or other investigative measures should be taken. The case is then referred back to the same division of the public prosecutor but allocated to another investigator. In rare cases the decision of the Director of the Public Prosecution Authority can also be reviewed by the office of the Prosecutor-General.

Several months later, in May 2018, Karina was notified by the prosecutor that the investigation was closed as the statute of limitation for these crimes had expired or would soon expire. Almost two years had passed since Karina first contacted the police.

(Amnesty International was given access to all documents in the case by Karina)

5.4.9 TRAININGS OF POLICE AND PROSECUTORS

Following the 2018 law reform, some positive initiatives have been taken to improve the knowledge, skills and working methods of the police. For example, a two-week training module on rape outside intimate relationships has been developed for police. Police Inspector Anna Lindström, who is responsible for developing police operations related to sexual crimes at the National Operations Police Department (Development Center West), told Amnesty International that the training aims to raise the status of working with sexual crimes and provide an opportunity for specialization. No such comprehensive training on rape has been held before.⁵⁷⁴ The first pilot course, with 26 participants, was held in 2018 and two additional courses are planned for early 2019.⁵⁷⁵

Given the various shortcomings in rape investigations mapped and identified in this report Amnesty International believes that there is a strong need for continuous training and calls on the authorities to provide all police that investigate rape and other sexual crimes with relevant high-quality training.

5.5 SUPPORTING SURVIVORS

Access to comprehensive support is crucial to enable survivors to participate with confidence throughout the legal process. This includes support of various kinds, such as legal aid, medical care and psychosocial support.

5.5.1 ACCESS TO INFORMATION

According to the EU Victims' Rights Directive,⁵⁷⁶ which was incorporated into Swedish law in 2015,⁵⁷⁷ and the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,⁵⁷⁸ victims of crimes should receive information about available support and assistance provided by the authorities and not-for-profit organizations.

In Sweden victim support is often provided via not-for-profit civil society organizations, some of which are partly state funded, such as local women's shelters and Victim Support Sweden (Brottsofferjouren, BOJ). Many of those who seek support from BOJ are referred there by the Police Coordinator for Victims of Crime.⁵⁷⁹ A 2018 analysis by Brå showed that victims of sexual crimes who made a report to the police were 10 times more likely to be offered support and assistance from a not-for-profit organization than those who did not.⁵⁸⁰ The police therefore play an important role in providing information about support. Indeed, according to the Crime Investigation Regulation, the police are responsible for providing victims with such information "as soon as possible".⁵⁸¹

⁵⁷⁴ Interview with Anna Lindström, Police inspector & Operations Developer at the National Operations Police Department, Development Center West, in Göteborg and Hanna Karlsson, police investigator on sexual crimes, 21 September 2018.

⁵⁷⁵ Information received from Anna Lindström, by e-mail, 12 February 2019.

⁵⁷⁶ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, para. (21), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

⁵⁷⁷ Regeringens proposition 2014/15:77 Genomförande av brottsofferdirektivet, <https://data.riksdagen.se/fil/CE92372B-D994-4978-AF4B-8DEBA2AEF8F9>

⁵⁷⁸ UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, para 15, www.un.org/documents/ga/res/40/a40r034.htm

⁵⁷⁹ The Coordinator for Crime Victims at the police sends out the contact details of the victims who ask for victim support to the 72 local victim support centres around the country, run by Victim Support Sweden, BOJ.

⁵⁸⁰ Stöd till brottsoffer Brå .Kortanalys 7/ 2018

https://www.bra.se/download/18.62c6cfa2166eca5d70eecf/1543847572859/2018_Stod_till_brottsoffer.pdf

⁵⁸¹ Förundersökningskungörelsen, 13 a §, <https://lagen.nu/1947:948#R1>

However, according to Heléne Karlsson, whose work at BOJ focuses on violence in intimate relationships, the organization has noted a sharp drop in the number of victims seeking support despite the increase in the number of reported crimes, including rape.⁵⁸² She believes that the new crime report registration system used by the police is the main reason for this discrepancy. Whereas the previous system obliged police to address the issue of victims' support, this is no longer mandatory in the new system.

5.5.2 ACCESS TO HEALTH CARE

Medical staff are often a rape survivor's first point of contact. Many survivors are in shock or traumatized and in need of comprehensive care and treatment, including counselling, which should be provided by experienced and specially trained staff in a safe and suitable environment. Also, health-care services are an important link in securing evidence that can be used in the legal process if and when the rape survivor decides to file a report.

In 2010 the National Centre for Knowledge on Men's Violence Against Women (NCK) produced a handbook and guidelines on providing care and collecting evidence after rape.⁵⁸³ This was developed at the request of the Ministry of Justice to ensure quality care for victims of sexual crimes and better procedures for evidence collection and documentation.⁵⁸⁴ However, a recent report from the National Board of Health and Welfare highlighted the need to investigate and possibly clarify in law the obligation of health-care facilities to collect and secure evidence.⁵⁸⁵ Health-care facilities are required to collect evidence at the request of the police, but according to the National Board of Health analysis, the obligation to gather and secure evidence is not interpreted consistently when there is no request from the police.

In its Baseline Evaluation Report on Sweden, GREVIO warned that the collection of evidence from a rape victim is a lengthy process which can be traumatizing and invasive if carried out by medical staff who are not properly trained, including in crisis intervention.⁵⁸⁶ However, only a few cities, including Stockholm, have specialized clinics for rape victims. Where there is no specialist clinic, survivors are referred to regular emergency clinics, women's clinics, youth clinics or local health centres. Male rape survivors may face particular obstacles in seeking help from health centres.⁵⁸⁷ According to Carina Wranglebo who works at the support centre of the National Association for the Rights of LGBTQ People (Riksförbundet för homosexuellas, bisexuellas, transpersoners och queeras rättigheter, RFSL) transgender people also face difficulties.⁵⁸⁸

The Emergency Clinic for Rape Victims in Stockholm (Akutmottagningen för våldtagna, AV) offers comprehensive support to people of all genders within 30 days of the rape. According to Lisa Nordlund, a psychologist at AV, about 60 % of the people they see report the crime to the police.

However, many victims experience severe trauma, which hampers their ability to immediately seek justice. In fact, according to representatives of one of the biggest emergency hospitals in Stockholm, rape and sexual abuse are the most common reasons why women in Sweden develop post-traumatic stress disorder (PTSD).⁵⁸⁹ Some survivors will only report after receiving adequate counselling or trauma treatment. AV can offer short-term crisis counselling but for long-term treatment patients are referred to other psychiatric services. According to Lisa Nordlund, the treatment provided by these psychiatric services varies and does not always meet the needs of the individual, as knowledge of interpersonal violence is sometimes lacking.⁵⁹⁰

According to Josefin Grände, a psychotherapist working with victims of sexual crimes, the response and treatment provided by the public health-care system and psychiatric services is inadequate. She told Amnesty International that rape survivors with different symptoms are often "shuffled around in the system"

⁵⁸² Interview with Heléne Karlsson, 22 October 2018, in Stockholm.

⁵⁸³ Handbok. Nationellt handlingsprogram för hälso- och sjukvårdens omhändertagande av offer för sexuella övergrepp. NCK [http://kunskapsbanken.nck.uu.se/nckkb/nck/publik/fil/visa/483/nck-handbok-nationellt-handlingsprogram-sexuella-overgrepp-2008-rev2010.pdf#_utma=1.1066386890.1548798371.1548798374.1549216348.3&_utmb=1.1.10.1549216348&_utmc=1&_utmz=1.1549216348.3.2._utmsr=googlelutmccn=\(organic\)lutmcmd=organiclutmctr=\(not%20provided\)&utmvl=-&_utmk=266637326](http://kunskapsbanken.nck.uu.se/nckkb/nck/publik/fil/visa/483/nck-handbok-nationellt-handlingsprogram-sexuella-overgrepp-2008-rev2010.pdf#_utma=1.1066386890.1548798371.1548798374.1549216348.3&_utmb=1.1.10.1549216348&_utmc=1&_utmz=1.1549216348.3.2._utmsr=googlelutmccn=(organic)lutmcmd=organiclutmctr=(not%20provided)&utmvl=-&_utmk=266637326)

⁵⁸⁴ Ett starkare skydd för den sexuella integriteten. Betänkande av 2014 års Sexualbrottskommitté, SOU 2016:60 <https://www.regeringen.se/contentassets/8216d40ecc814613bccb394b4b1dfa38/ett-starkare-skydd-for-den-sexuella-integriteten-sou-2016-60.pdf>

⁵⁸⁵ Hälso- och sjukvårdens spårsäkring vid sexualbrott. Redovisning av regeringsuppdrag. Socialstyrelsen, september 2018, p. 29, available in Swedish at www.socialstyrelsen.se/publikationer2018/2018-9-1

⁵⁸⁶ GREVIO Baseline Evaluation Report Sweden, 2019 available at: <https://rm.coe.int/grevio-inf-2018-15-eng-final/168091e686>

⁵⁸⁷ Hälso- och sjukvårdens spårsäkring vid sexualbrott. Redovisning av regeringsuppdrag. Socialstyrelsen, September 2018, p. 29, available in Swedish at www.socialstyrelsen.se/publikationer2018/2018-9-1

⁵⁸⁸ Interview with Carina Wranglebo by phone, 1 February 2019.

⁵⁸⁹ DN Debatt: Dubbelt så många unga söker till SöS våldtäktsmottagning, Dagen Nyheter 2017-12-21, www.dn.se/debatt/dubbelt-sa-manga-unga-soker-till-sos-valdtaktsmottagning/

⁵⁹⁰ Interview with Lisa Nordlund, 30 November 2018..

without being asked about their experience of sexual violence or receiving any specialized treatment because of the limited appropriate long-term trauma treatment available.⁵⁹¹

GREVIO has expressed concern that “mid- and long-term psychological counselling, psychosocial support trauma care and other services needed to provide holistic support for rape victims” are not generally available across the country and strongly recommended that the Swedish authorities ensure that sexual violence counselling services are available to all victims.⁵⁹² This resonates with the need for mid and long-term psychological counselling highlighted in Amnesty International’s interviews with rape survivors.

“Lena” told Amnesty International of her struggle to receive the help she needed:

“After a long struggle, I got to see a fantastic counsellor at the psychiatric services. The problem is that the psychiatry is so overburdened that you have to be suicidal to get help, and I was unfortunate to meet a doctor at the local health centre who just wanted to prescribe pills. And I said, ‘I don’t just want medicine, I want counselling too’... Then, I guess I was fortunate, because those pills actually made me suicidal. And then I met this fantastic person... Without her I wouldn’t be alive today.”

Ellinor’s experience of rape at 16 still affects her today, five years later. She told Amnesty International that she received no treatment for trauma at all.

“You think about it sometimes, it’s not something you can completely forget. It has affected some of my relationships at times and it’s been hard because you try to tell a new partner... It has affected me in the sense that I protect myself. Because after all, I’ve experienced situations where they [the rapists] wrestled me down and held a knife to my throat, you know. And those things you still carry with you. I have like a trauma that I haven’t received any help for. So in some situations... everything turns black for me. When people get close and start arguing with me, and get too close, I just push them [away], because I can’t handle to be close in such situations, because... I don’t know, it’s stuck in my head.”

Some of the not-for-profit organizations that provide support for victims of sexual violence, such as Association Big Sister (Föreningen Storasyster) and Association Together (Föreningen Tillsammans), were founded by people who had experienced sexual violence themselves.⁵⁹³ They provide individual counselling in person or on-line and group counselling. Operational manager at Association Big Sister, Cecilia Bødker Pedersen, told Amnesty International:

“I’m thinking about those who seek our support (...) they come to us because they can’t get help anywhere else. Often they may have contact with the psychiatry but there is...I don’t know if I can say aphophobia, but it is difficult to talk about sexual violence. There is no space within the psychiatry services to talk about exposure [to sexual violence].”⁵⁹⁴

Another staff member pointed to the need for support when a rape case is closed:

“We work to strengthen someone to dare to report and then to rebuild that person again when the case is closed. We don’t want to tell people ‘don’t report’, of course we encourage them to, but we also know that it can go either way. It shouldn’t depend on us referring them to a police station where we know the police officers are good.”⁵⁹⁵

5.6 PREVENTION: THE ROLE OF SCHOOLS

States not only have a duty to address the needs and ensure justice for rape survivors, they also have an obligation to prevent rape and other sexual violence from occurring in Sweden.

⁵⁹¹ Interview with Josefin Grände, 7 November 2018.

⁵⁹² GREVIO Baseline Evaluation Report Sweden, 2019, p. 39, <https://rm.coe.int/grevio-inf-2018-15-eng-final/168091e686>

⁵⁹³ Interview with Cecilia Bødker, Linnea Hall and Malin Junker Englund, Föreningen Storasyster 12 October 2018 and interview with Julia Östfeldt, Föreningen Tillsammans, 7 November 2018.

⁵⁹⁴ Intervju med Cecilia Bødker at Föreningen Storasyster, 12 October 2018.

⁵⁹⁵ Interview with Malin Junker Englund at Föreningen Storasyster, 12 October 2018

Many rape victims and perpetrators in Sweden are young. In a 2017 national survey on sexuality and health among young people, 18% of girls between 16 and 29 said that they had experienced vaginal intercourse against their will; over 13% responded they had experienced oral sex and 7% anal sex against their will.⁵⁹⁶

Rape and sexual violence take place in school settings and schools are obliged to immediately report suspected crimes against children to the Social Services. In cases of rape against a person younger than 18, the school can also report to the police.⁵⁹⁷ The 2019 report by the Prosecution Authority and the Police found that a third of the sample cases involved youth between 15-17-years, but concluded that school staff were rarely among those who reported rape or sexual abuse.⁵⁹⁸

Malin, who lives in a medium-sized city, told Amnesty International that at the age of 16 she was raped by another student in a study room at her school.⁵⁹⁹ The headmaster told her he would “talk to the boy” once he was told about the rape. Malin recalled:

“It was a crime committed on their premises. But the weeks passed, and it was a small school, less than 100 pupils... and they said they hadn’t had time to talk with him ... So the weeks went by. But they did change the doors to these study rooms for doors with small windows and without any lock.”

Some weeks later the headmaster told Malin that he had spoken to the boy, and said the boy regretted his actions and wanted to apologize. Malin told Amnesty International that the school did not report the crime to the Social Services or to the police, but that she herself finally told her parents and went with them to report to the police. An investigation was initiated, and the headmaster was heard as a witness, but the investigation was closed within weeks due to lack of evidence. Attempts to relocate the boy to another school were unsuccessful.

5.6.1 SEXUALITY EDUCATION

Schools play an important role in preventing rape and sexual violence among young people. The CEDAW Committee has highlighted the obligation of states to provide “age appropriate, evidence-based and scientifically accurate comprehensive sexuality education for girls and boys”.⁶⁰⁰ This should “target stereotyped gender roles and promote values of gender equality and non-discrimination, including non-violent masculinities” through “integration of gender equality content into curricula at all levels of education both public and private from the early childhood on and in education programmes with a human rights approach”.⁶⁰¹

While sexuality education has been compulsory in Swedish schools since 1955, its quality and content have been questioned.⁶⁰² A 2018 study by the Swedish Schools Inspectorate of sexuality and relationship education in a selection of elementary and upper secondary schools found it was of variable quality and identified a significant need to develop tools and improve the competence of teachers, who often felt uncomfortable with the subject. The review found that some teachers postponed sexuality education because they felt their pupils were not mature enough and only one in four of headteachers regularly monitored that their teachers had the necessary skills and knowledge and offer relevant capacity building where needed. Many of the students interviewed said they wanted to talk about sex earlier and more often than they had the opportunity to.⁶⁰³

⁵⁹⁶ Survey made by the Public Health Agency of Sweden in 2015. The survey included a stratified Simple Random Sample of 29,950 persons between 16-29 years of which 7,865 persons responded either to a postal or online survey. Data was collected by the survey unit at Statistics Sweden (SCB). Available in English at

<https://www.folkhalsomyndigheten.se/contentassets/ebe239903fd346cba9cb12bfb83e0bfd/sexuality-health-young-people-sweden.pdf>

⁵⁹⁷ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning.

Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1,

Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 28, available in Swedish at

www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁹⁸ Våldsbrott i nära relationer och sexualbrott mot vuxna - En gemensam granskning av polisens och åklagarens handläggning.

Granskningsrapport 2019, dnr A252.474/2018, Polismyndigheten, NOA, Utvecklingscentrum Väst, Tillsynsrapport 2019:1,

Åklagarmyndigheten, Utvecklingscentrum Göteborg, Februari 2019, p. 28, available in Swedish at

www.aklagare.se/globalassets/dokument/rapporter/tillsynsrapporter/tillsynsrapport-2019-1.pdf

⁵⁹⁹ Interview with Malin, 11 December 2018.

⁶⁰⁰ CEDAW General Recommendation No. 35, para. 35 (a), UN Doc. CEDAW/C/GC/35 (2017)

⁶⁰¹ CEDAW General Recommendation No. 35, para. 35 (a), UN Doc. CEDAW/C/GC/35 (2017)

⁶⁰² Sexuality education is included in the curriculum for both elementary and secondary school and should be integrated in a number of subjects such as history, religion, natural science, art. Gender equality, norms, gender roles, gender patterns, sexual orientation, emotions, body image, life issues, living conditions, identity, reproduction, puberty, love and responsibility are example of issues that should be brought up in the first 6 years of elementary school.

⁶⁰³ Sex- och samlevnadsundervisning Skolinspektionen, Tematisk kvalitetsgranskning 2018, Diarienummer: 400-2016:11445, available in Swedish at www.skolinspektionen.se/globalassets/publikationssok/granskningsrapporter/kvalitetsgranskningar/2018/sex-och-samlevnad/sex-och-samlevnadsundervisning-rapport-feb-2018.pdf

The survey also included elementary and upper secondary schools for students with learning disabilities.

The Swedish Association for Sexuality Education (RFSU) has advocated for many years for sexuality education to be included as a compulsory element in teacher training; Amnesty International Sweden has supported their call since 2008.⁶⁰⁴ According to RFSU Chairperson Hans Linde, the access to quality sexuality education varies and the state needs to ensure access to comprehensive sexuality education for all, in line with international human rights standards.⁶⁰⁵

The non-for-profit organization *FATTA!* has called for the concept of consent to be incorporated in sexuality education at all levels. According to *FATTA!* Chairperson Elin Sundin, introducing the concept of consent in all curriculums at all levels of the education system is important to ensure that all young people understand the difference between sex and abuse.

In July 2018 the government commissioned the Swedish National Agency for Education to review the elementary school curriculum and, in particular, analyse how issues such as consent, “honour”-related violence and pornography can be included in it. The Agency is due to report back to the Ministry of Education by May 2019.⁶⁰⁶

5.7 RECOMMENDATIONS

TO THE SWEDISH GOVERNMENT:

1. Give firm, long-term political priority to combatting widespread sexual violence and provide adequate, sustainable resourcing to ensure that the police and Prosecution Authority have the capacity to conduct thorough, timely investigations of high quality into all cases of rape.
2. Intensify efforts to analyse and address the cause of underreporting of rape, as outlined in the National Strategy to Prevent and Combat Men’s Violence Against Women.
3. Promote changes in the social and cultural patterns of behaviour of people of all genders with a view to eradicating harmful gender stereotypes and myths around sexual violence.
4. Providing comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality and relationships education for pupils and students of all genders, including education about consent, bodily and sexual autonomy and the right to physical integrity.
5. Introducing without delay the case management systems currently under development that would enable cases of rape and other crimes to be tracked from reporting to indictment and beyond, and that would enable statistical comparisons.

TO THE SWEDISH POLICE AUTHORITY:

4. Ensure rape and other serious sexual crimes are prioritized by allocating sufficient resources, both human and financial, to address these crimes.
5. Evaluate and further develop comprehensive training modules for the police, including on sensitive treatment of victims, the impact of trauma on survivors, evidence collection, interview techniques and other important skills and methods that contribute to improving the quality of rape investigations and rebut harmful myths and stereotypes around rape and rape victims. Ensure police receive such training on a regular basis.
6. Ensure that “A developed best working model” is fully implemented and used by all police investigating rape and other sexual crimes in order to ensure nationally uniform investigations of high quality of all such crimes.
7. As a matter of urgency, address the systematic failure regarding waiting times for results of DNA analysis carried out by the National Forensic Centre, including by reviewing case management systems.

⁶⁰⁴ Var går gränsen? En attitydundersökning om våldtäkt, Amnesty International Sweden, April 2018, www.amnesty.se/vara-rattighetsfragor/kvinnors-rattigheter/vald-mot-kvinnor/

⁶⁰⁵ Interview with Hans Linde by phone on 13 January 2019.

⁶⁰⁶ Skolverket får i uppdrag att se över läroplanerna för en bättre sex- och samlevnadsundervisning, www.regeringen.se/pressmeddelanden/2018/07/skolverket-far-i-uppdrag-att-se-over-laroplanerna-for-en-battare-sex-och-samlevnadsundervisning/

8. Address any backlog in rape cases that may create unacceptable barriers for rape survivors' access to justice.
9. Ensure that the routines for police to provide rape survivors with information about available support to rape survivors are fully functional and operate everywhere.

TO THE MINISTER OF SOCIAL AFFAIRS:

10. Ensure access to comprehensive support to all survivors of sexual violence throughout the country, including to those who do not report the crime to police.
11. Ensure that mid and long-term psychological counselling, psychosocial support trauma care and other necessary services are available to provide comprehensive support to all rape survivors, regardless of age, gender, sexual orientation, ethnicity or social background.
12. Ensure that such services are affordable, available and accessible to all survivors of rape, irrespectively of whether they have reported the crime to police or not and regardless of where in the country they live.
13. Clarify in law the obligation of the health services to collect evidence at the request of any victim of rape or sexual abuse, regardless of age, gender, sexual orientation, ethnicity and social background.
14. Clarify in law the obligation of the health services to collect evidence at the request of any victim of rape or sexual abuse, regardless of age, gender, sexual orientation, ethnicity and social background