



# Different systems, similar outcomes? Tracking attrition in reported rape cases in eleven countries

## Country briefing: Sweden

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***Project funded by the European Commission Daphne II Programme to combat violence against children, young people and women***

## **Introduction**

Attrition - the process by which the majority of reported rape cases fail to reach trial - has become a critical research and policy issue. In virtually all countries where major studies have been published, substantial increases in reporting have not been matched by rises in prosecutions, resulting in a falling conviction rate. Whilst this pattern has been documented in two previous Daphne projects (Regan & Kelly, 2003), it was not universal across Europe. The central research question for the current study was to analyse the similarities and differences in attrition processes across 11 countries with varying judicial systems and socio-legal cultures; it is the first study to do this.

## **Methodology**

The research design combined two strands: the first updated the time series national level data on reporting, prosecution and conviction for 33 European countries for the years 2001-2007. The second had at its core a quantitative content analysis of 100 case files in Austria, Belgium, England & Wales, France, Germany, Greece, Hungary, Ireland, Portugal, Scotland and Sweden. This was supplemented by: interviews with key informants; mapping the legal process/procedure; creating a time line to document social and legal responses to sexual violence. Project Partners were responsible for the collection and collation of data from their respective countries.

The 100 cases were to be consecutively reported after 1<sup>st</sup> April 2004 and fitting the following inclusion criteria: cases recorded as rape; female and male *adult* victims (aged over 16/the age of consent); single perpetrator.

All data was collected using case file content analysis, and covered: socio-demographic information on the victim and the suspect; the offence and reporting proceedings; the investigation, prosecution processes and court outcomes; and attrition. The process of data collection revealed gaps, in official record-keeping.

The Swedish sample of 100 cases was drawn from three diverse districts within a large urban area. Access was negotiated through a separate research project led by the Swedish Partner. The 100 cases were selected sequentially from this larger sample according to the study inclusion criteria. Although all police reports are computerised and centrally co-ordinated by Brå, the Crime Prevention Agency, the courts have a separate database which is not linked. Case outcomes, for prosecuted cases, were gathered via the courts. Because agreements had already been secured for the original Swedish project, access was straightforward.

The data for all countries is presented in more detail in the final report - in English - and will be available at [www.cwasu.org](http://www.cwasu.org) from May 31, 2009. Country specific briefing documents focus on attrition and emerging comparative findings.

## **Legal system and procedure**

The main difference between Sweden (and some other Scandinavian countries) and most other criminal systems is that in Sweden the victim is not regarded as a witness but assumes the role of party in the trial alongside the prosecutor. Since 1988, the victim has also been entitled to a court-appointed lawyer to act, not only as solicitor for the compensation claim, but also as a legal representative in the criminal procedure with the authority to challenge proceedings, for instance by calling new witnesses or requesting that the suspect receive a more severe punishment.

The procedural system is adversarial, not investigative, and the parties, not the court, are responsible for the production and presentation of evidence. There is a free evaluation of evidence in court and no rules of exclusion exist as long as the evidence is regarded as relevant. Questions put to the victim about sexual history and habits can, however, be excluded, even if relevant, if the main purpose is considered to be that of undermining their credibility.

The police are responsible for the initial investigation, but the prosecution takes the lead once a charge has been laid. In the District Court, the case is tried by one professional judge and three lay judges, but all verdicts can be appealed and re-tried in Crown Court, where three professional judges and two lay judges preside. All testimony in District Courts is now video-taped and replayed if the case is referred to a higher court.

## **Attrition in reported rape cases**

The attrition data is presented in two sections, the first outlining the national statistics and the second reporting findings from the case file analysis. All comparisons are with other participating countries.

### ***National statistics***

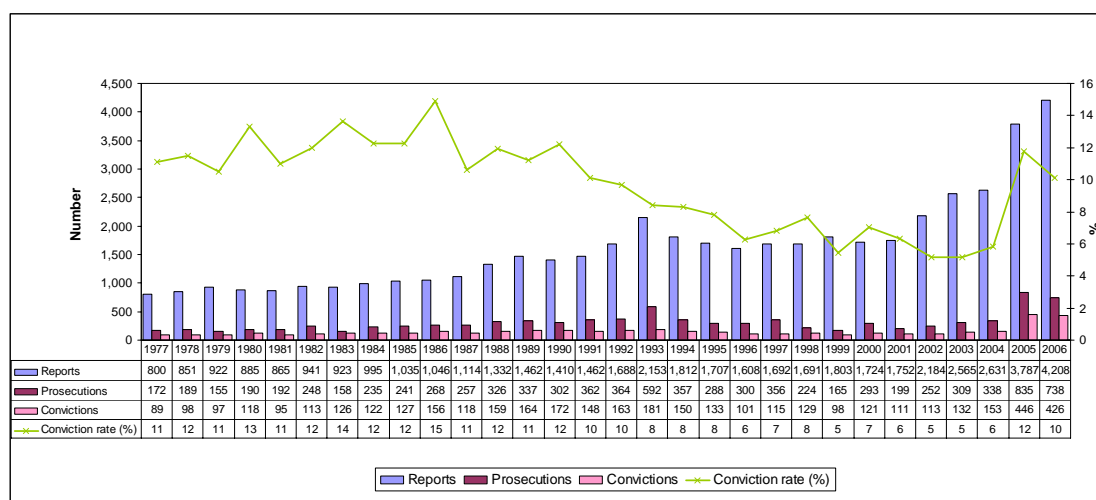
*Sweden has the highest reporting rate for rape in Europe.* Currently, at 46.5 per 100,000 population based on 2006 figures, this is almost twice the rate found in England & Wales, where rape reporting is also considered high, and four times higher than the rate in Germany. Reporting has increased dramatically over the last two decades – by 426% between 1977 and 2006, though there have been some minor fluctuations year on year, with a slight decline in the mid-1990s following a spike in 1993. Reporting for the last two years where data are available (2005-2006) increased particularly sharply – up 60%<sup>1</sup> from 2004.

The prosecution rate, however, is lower than in some other western European countries. Whilst remaining fairly steady since the mid-1980s, the numbers increased significantly in 2005-6; however this was purely a function of the increase in reporting. Despite an accompanying rise in the number of

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<sup>1</sup> Between 2004 and 2007 this is even higher at 81%, although 2007 figures are not presented in the chart because conviction data was not available.

convictions, in 2005 Sweden's conviction rate only recovered to the level registered in 1985: at 12% it is the fourth lowest conviction rate in Europe.



## Case tracking

### Victim profile

- The majority of victims were female; 7% were male – the second highest proportion across the study
- The age profile was younger than in many countries, with two-thirds (66%) aged 15-30, with 42% younger than 21.
- A much higher proportion were single (71%), partly a function of the age profile.
- There was also a higher proportion who were either employed or students (76%).
- The majority were white and Swedish nationals, with around one fifth having non-Swedish origins.
- Thirteen had a mental health issue, and just 3% had a disability.
- More than half of victims had consumed alcohol before the assault, one of the highest levels in the study, with a much smaller proportion having taken drugs.

### Suspect profile

- Virtually all were male, with a single female in relation to a sexual coercion offence.
- As with other countries suspects were, on average, older than victims, with very few under the age of 21.
- Suspects were more ethnically diverse, with around a third non-nationals.
- A substantially lower proportion had consumed alcohol prior to the assault, compared to both other countries and victims.
- Eleven percent had been previously accused of criminal offences, and 7 had been convicted. Sweden was one of the few countries where none of these were sexual offences.

### *Offences and contexts*

- All cases in the Swedish sample were classified as rape, apart from a single sexual coercion case.
- The most common locations for assaults were private settings: the homes of victims, suspects and friends.
- Given the high proportion of victims who consumed alcohol, very few assaults were committed in pubs, clubs or discos - where alcohol was involved assault occurred in private locations and public places or vehicles, suggesting connections with informal parties or social gatherings and travelling between/home from social events.
- Strangers comprised only a fifth of suspects, current and ex partners were higher (24%), with the largest category acquaintances (32%).
- Documented injuries were recorded in a quarter of cases, and a weapon was used in just 5% - proportions similar to other countries.
- Five assaults took place in the context of prostitution.

### *Attrition*

In the majority of cases the victim (80%) or a known other (12%) reported the assault; most victims were interviewed by police and more than four in five (85%) gave a formal statement. Attrition occurs at three junctures in the Swedish sample: between a suspect being identified and questioned; between interview and charge; and between charge and trial (see Table 1).

Almost three quarters of suspects were identified, although only just over half were actually interviewed, representing a loss of 21% of cases. Those not identified tended, unsurprisingly, to be strangers or recent acquaintances (n=20 of 27). In only three cases did a victim withdraw cooperation at this stage (all cases involving a suspects who were family or ex/partners). Evidential concerns account for the failure to progress in the remaining cases. One in five (21%) of suspects were arrested prior to interview – among the lowest rates in the study.

Following the suspect interview, a further 9% of cases were discontinued, meaning that less than half (43%) resulted in a charge.

**Table 1: Attrition in the case tracked sample in Sweden**

<b>Stage of legal process</b>	<b>Case progress and outcome</b>	<b>N / %</b>
Investigation	Victim interviewed	94
	Suspect identified	73
	Suspect interviewed	52
Charge	Suspect charged	43
Court	Absconded	2
	Went to trial	14
	Discontinued	1
	Acquittal	3
	Conviction	10

The most substantial attrition occurs between charge and trial, with a further 30% of cases being discontinued here, almost all due to evidential concerns. Over a third of these cases (37%, n=11 of 30) involved current or ex-partners, and in only two did victims withdraw cooperation. This suggests some reluctance among prosecutors to take partner rape cases forward.

This high level of pre-court attrition leaves only 14 proceeding to trial – one of the lowest rates among participating countries. However, the majority resulted in a conviction for rape. In seven out of the ten convictions the offender was given a custodial sentence; these ranged from six months to two and a half years. Of the three who were given non-custodial sentences, one was convicted only of a physical assault which was tried alongside the rape, while the other two were committed to psychiatric care.

Table 2 analyses the attrition points in more detail, who made the decision and the reason for it. The bulk of attrition occurs during the early and mid-investigation, which in combination account for the loss of 79% of all reported cases. In the early investigative phase, the decisions are made equally by police and prosecutors, primarily on evidential grounds, with identification and location of the suspect paramount for the police. At the mid-point of the investigation, case progression is impeded by concerns among prosecutors about evidence.

If victims withdraw their cooperation this becomes the reason police or prosecutors will close a case; but the reluctance of victims was much less in evidence than in many other countries. The rate of designation as false allegation (2%) was among the lowest, but the highest was only 8%.

**Table 2: Attrition points in the Swedish sample**

When case fell out	Whose decision	Why case fell out	N / %
Early investigation	Police	Offender not identified	10
		Victim withdrawal of co-operation	6
		Insufficient evidence	2
		No evidence of sexual assault	1
		Offender not located	1
	Prosecutor	Insufficient evidence	18
	No evidence of sexual assault	1	
	False allegation	1	
	Unknown	1	
<b>Early investigation total</b>			<b>42</b>
Mid investigation	Police	Offender not identified	5
		False allegation	1
		Insufficient evidence	1
		No evidence of sexual assault	1
		Offender not located	1
		Victim withdrawal of co-operation	1
Prosecutor	Insufficient evidence	18	
	Victim withdrawal of co-operation	4	
	Offender not identified	3	
	No evidence of sexual assault	2	
<b>Mid investigation total</b>			<b>37</b>
Late investigation	Prosecutor	Insufficient evidence	7
		Unknown	1
<b>Late investigation total</b>			<b>8</b>
At court during/at conclusion of case	Jury	Insufficient evidence	3
<b>At court during/at conclusion of case total</b>			<b>3</b>
<b>Convictions</b>			<b>10</b>
<b>TOTAL</b>			<b>100</b>

Data analysis revealed some factors that made conviction more likely:

- if the man came from a minority background, was unemployed and has consumed alcohol.
- evidence of victim injuries sample (60% versus 25% for the whole sample).
- a non-partner rape, only three of the 24 went to court, and only one resulted in a conviction for rape.
- the assault location was *not* the home of the victim or suspect.

## **Conclusions**

The data from Sweden was both similar and different to other countries in revealing ways, with implications for policy and practice which we summarise here.

### ***From the national data***

- Sweden has the highest reporting rate in Europe: 46.5 per 100,000 population on 2006 figures.
- There has been an increase of 426% between 1977 and 2006, and rate of increase is even greater in recent years: 81% between 2004-7.
- The conviction rate of 10% is one of the lowest in Europe.
- Sweden, with the English speaking countries, are the paradigm cases for concern about attrition.
- Victims have rights to be party to the case, but this has not had impact on prosecution and conviction rates – suggesting that attrition is an institutional issue, embedded in the practices of criminal justice system responses to rape.

### ***From the case tracking data***

- Reported rapes are primarily crimes against young women.
- The majority of attrition, similar to England and Wales and Scotland, takes place in early and mid investigation (79%)
- There has been an increase in reporting of rapes by ex/partners, but few make it to the final hurdle, most commonly due to decisions made by prosecutors to discontinue.
- The proportion of cases designated false allegations was only 2%, and it was not higher than 8% in any country. This is extremely strong evidence that the extent of false allegations is exaggerated by professionals, whilst creating a culture of scepticism (Kelly et al, 2005).
- Whilst a low number of cases reach trial, 77% resulted in a conviction.
- The majority of cases resulting in a conviction reflect stereotypes of rape and rapists.

## **References**

Kelly, L., Lovett, J. & Regan, L. (2005) *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293, London: Home Office. Available online at: <http://www.homeoffice.gov.uk/rds/pdfs05/hors293.pdf>.

Regan, L. & Kelly, L. (2003) *Rape: Still a Forgotten Issue*, Briefing Document for Strengthening the Linkages – Consolidating the European Network Project, London: Child & Woman Abuse Studies Unit. Available at: <http://www.rcne.com/downloads/RepsPubs/Attritn.pdf>.



# Sammanfattning på svenska

*Sverige har flest anmälda våldtäkter per capita i Europa; 46 på 100.000 innevånare dubbelt så många som nästa land (England med 23), ca fyra gånger fler än de övriga nordiska länderna och länder som Tyskland och Frankrike och upp till 20 gånger fler än vissa länder i Syd- och Östeuropa. I länder som Portugal, Ungern och Grekland, som har ungefär samma befolkningsstorlek som Sverige anmäls bara ett par hundra våldtäkter per år medan de i Sverige nu är över 5.000 per år.*

Man kan anta att i länder med låg anmälningsfrekvens är det i princip bara grova våldtäkter med skador som anmäls (överfallsvåldtäkter eller grova övergrepp inom relation) – så var det i Sverige för 40 år sedan – medan anmälningströskeln är betydligt lägre i Sverige. Undersökningen ger också visst stöd för en sådan slutsats: Sverige har låg andel fysiska skador i sina anmälningar, 25%, och även låg andel okända förövare, 20%. Däremot är andelen anmälda våldtäkter inom relation inte högre än i andra länder. I stället är det kategorin ”bekanta” som svarar för en större andel av de anmälda våldtäkterna än på andra håll; 53%, (varav 21% är ”nya bekanta”, som offret träffat inom 24 timmar från övergreppet).. Läger man sedan till att våldtäktsoffrens medelålder (för brott mot personer över 15 år<sup>2</sup>) är lägre i Sverige än i andra länder - 42% är under 21 år - och att 56% av offren var berusade vid tillfället (bara Irland har högre siffra), måste slutsatsen bli att *de höga anmälningstalen i Sverige inte enbart beror på hög anmälningsbenägenhet.*

Tvärtom tycks det vara så att våldtäkter är ett mer frekvent brott här, i vart fall om man jämför med länderna på kontinenten.<sup>3</sup> Vad som talar för detta är dels att de anmälda våldtäkterna ökar stadigt i Sverige medan de står nästan stilla i resten av Europa – och rentav minskar i Östeuropa – dels att våldtäktsoffren i Sverige i så hög grad är unga och ofta berusade, att 72% av offren är singlar och att förövarna i så hög grad är ”nya bekanta”.<sup>4</sup> Den stora ökningen av våldtäkterna i Sverige är alltså i högsta grad kopplad till nöjeslivet eller mer konkret till s.k. ”etterfester”; ca två tredjedelar av våldtäkterna sker i någons hem (men bara 6% i hem som delas med partner)<sup>5</sup>. Ökningen av våldtäkterna i Sverige handlar alltså i hög grad om ungdomskultur, alkoholkultur och sexualkultur. Tidig sexualdebut, hög alkoholkonsumtion, ”fri sexualitet” och ”rätten till ett sent nej” ger helt enkelt fler våldtäkter.

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<sup>2</sup> Ser man även till offer under 15 år kan man t.ex. konstatera att antalet 10-15-åringar som blir våldtagna i Sverige (enligt anmälningarna) överstiger det totala antalet anmälda våldtäkter i Portugal, Ungern och Grekland tillsammans.

<sup>3</sup> Situationen i England är möjligen jämförbar, men där hålls anmälningarna tillbaka av processsystemet.

<sup>4</sup> Att ökningen av våldtäkter främst sker inom denna kategori har även BRÅ kommit fram till, se BRÅRapport 2008:13.

<sup>5</sup> Läger man till att 6% av våldtäkterna skett på disko/bar/restaurang/hotell och 10% i färdmedel (bil, taxi, färja, tunnelbana) förstärks bilden ytterligare.

Eftersom de flesta anmälda våldtäkter i Sverige inte ger skador, eftersom den anklagade mannen i mer än hälften av fallen kommer med en samtyckesinvändning och eftersom nästan *ingen erkänner*<sup>6</sup> är bevisläget i de flesta fall besvärligt. Dessutom har man svårare att få tag i förövare av överfallsvåldtäkter. Sverige har också låg grad av tvångsmedelsanvändning; bara 21% av de kända misstänkta blev gripna, anhållna eller häktade. 30% av de kända misstänkta blev inte ens förhörda!

Av dessa skäl är också *uppklaringen i form av åtal sämst i Sverige* (och England), ca 13%. Beräknar man uppklaringen som en relation mellan anmälningar och fällande domar är England och Irland ännu sämre – eftersom juryn där friar mer än hälften av de våldtäktsåtalade!<sup>7</sup> – men av de länder som har blandad rätt har Sverige den lägsta relationen mellan våldtäktsanmälda och fällda, ca 10%.<sup>8</sup> De ärenden som leder till fällande dom är "stereotypa", dvs. innehåller en ideal gärningsman och ett idealt offer, sällan handlar det om våldtäkt inom relation. De flesta ärenden läggs ned på grund av att polis och åklagare inte anser att bevisningen räcker, däremot är det mindre vanligt (jämfört med andra länder och jämfört med ärenden om kvinnomisshandel) att kvinnorna drar sig undan vidare utredning. Inte heller är det vanligt med falska anmälningar; i EU-materialet klassificerades endast 2% av de svenska fallen som falskanmälningar.<sup>9</sup>

#### **Ytterligare referenser:**

BRÅRapport 2008:13 *Våldtäkt mot personer 15 år eller äldre*

Diesen, C. & Diesen, E. (2009) *Övergripp mot kvinnor och barn*, Norstedts Juridik

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<sup>6</sup> Även i andra länder är erkännandefrekvensen låg, men ingenstans så låg som i Sverige. I EU-materialet (från 2004) förekommer inte ett enda erkännande. 2006 byggde bara 2% av domarna i våldtäktsmål på erkännande.

<sup>7</sup> I Sverige frias ca 20% av de åtalade, 2006 var det 22%.

<sup>8</sup> I EU-studiens 100 case från 2004 var fällandefrekvensen 10%, liksom enligt den nationella statistiken från 2006.

<sup>9</sup> I en undersökning av 616 anmälningar från 2004 och 2006 bedömdes 1,5% var falska och ca 5% felaktiga, Diesen & Diesen 2009.