

# English summary

## Victim–offender mediation: Final report on a Swedish experiment

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Mediation with crime is a way of bringing perpetrators together with their victims in the presence of an impartial mediator. The theoretical point of departure for mediation is that perpetrators shall be given an opportunity to understand and take responsibility for the consequences of their offences. In addition, the opportunity shall be given for victims to work through the experience of being a victim, and for the immediate community to reinforce social control.

The first Swedish project with mediation was started in 1987 in the town of Hudiksvall. There, a policeman seized the opportunity to bring young persons who had committed an offence together with their victims. In the same year, a voluntary mediation project was started in the Solna/Sundbyberg suburb of Stockholm. By the beginning of the 1990s a handful of mediation projects had been started in a number of municipalities.

In 1994, the government requested the Prosecutor-General to make a survey of the experience gained on carrying out mediation. The Prosecutor-General was also asked to work out one or more models for carrying out mediation with youthful offenders. The subsequent report stated that mediation can be developed as an alternative or supplementary sanction to be used primarily with youthful offenders. A model for such work was put forward together with a number of proposals on changes in legislation. Starting a nation-wide trial, which should be the subject of a scientific evaluation, was recommended. This

should take place before political decisions were taken on the final framework for mediatorial activities, for instance legislation.

The National Council for Crime Prevention has evaluated the trial with mediation projects for youthful offenders in different parts of the country. The trial has been in operation for slightly more than one year, a period that is too short for rigorous evaluation. The trial is composed of thirty-two different projects, each with its own conditions. These concerned, for instance, whether mediators worked full or part-time, mediation methods and initial knowledge. More than 400 mediation cases have been dealt with during the year of the trial. Four of the projects account for more than 70% of mediation cases. Twelve projects carried out five or fewer mediations during the same period and three projects carried out none.

More than half of the offences dealt with during the year of the trial relate to shoplifting or the infliction of damage to an enterprise. In the latter case, it was usually the owner or shopkeeper who took part in the mediation. Rather more than one in ten of the mediations concerned violent offences involving private persons. One-third of the mediations were carried out with youthful offenders under 15, the age of criminal responsibility. In slightly more than 50 percent of cases, the perpetrator was over 15 and up to 17 years of age. This is the age-group that, in the government's directive, was to be the primary target group.

The majority of the projects were organized by the municipal social welfare services, either as separate distinct projects or in parallel with regular activities. One project was arranged by the police and one other by a voluntary association. Projects organized by voluntary organizations found difficulty in securing access to cases, usually because of the provisions on confidentiality. Projects organized in parallel with some other activity were often compelled to refrain from the task of mediation because priority had to be given to the more pressing nature of the other activity.

A well-functioning collaboration with other administrations and organizations was essential for mediatorial work. In the day-to-day work the projects have mainly collaborated with the police (notably the policeman investigating the offence), with the social welfare service (notably the youth section) and with prosecutors. This collaboration was necessary from several points of view, but especially in order to obtain referral of cases that are susceptible of mediation.

The projects have been run in close contact with the police. With several of the projects a mediator or some other responsible person has sojourned at the main police station or had a room there. Some projects, however, found it difficult in the beginning to start up a functional collaboration. This difficulty would seem to have diminished in importance during the year of the trial; it has occurred chiefly because of an absence of official instructions on the matter. The police were the body that referred most cases for mediation, followed by the social welfare services. Collaboration with the social welfare service functioned without any major problem. Where problems have occurred, they have been because the service concerned failed to become sufficiently involved

in, or to give priority to, the development of the mediation project. As few as three cases were referred by prosecutors. They do not perceive existing provisions – for example in the legislation on youthful offenders – as sufficiently binding for seeing that mediation has occurred or taking the initiative to see that a mediation is carried out. Some prosecutors were resistant to the idea of mediation until after the formal judicial procedure had been concluded. The projects were also run in collaboration with victim support organizations, the courts and religious bodies.

Two qualitative studies of victims and perpetrators respectively have been carried out with the aim of providing a description of the subjective experience of mediation. These studies show *inter alia* that the victims in cases of property offences against enterprises often perceived mediation as being for the benefit of the perpetrator. With this kind of mediation there was less possibility to achieve an emotionally grounded knowledge on the part of the perpetrator of the consequences of the offence. The conditions for doing so were more favourable when the offence concerned a private person. Thus, mediation with such offences provided better possibilities for insight into the consequences of the offence – an insight which is expected to lead to a reduction in relapses into crime. Private person who had been victims and subsequently interviewed stated that they have experienced a sense of relief and a termination of feelings associated with the offence event following mediation. They also thought that it was positive that the perpetrator was no longer anonymous but, had so to speak, been provided “with a face”. It should, however, be said that the two studies are based on limited samples and that the conclusions drawn cannot be taken as generalizations applicable to all those who took part in the trial with mediation.

The evaluation shows tendencies to use two approaches in Swedish mediation work. One was based on the idea of putting an early stop to criminal activity and was used primarily with property crime and younger perpetrators who were often under the age of criminal responsibility. The mediation was frequently of short duration and the content was mainly informative, chiefly emphasizing the material consequences of the offence. The other approach was focused more on conflict resolution and what emerged in the dialogue between the participants. These mediations were used mainly with offences against private persons and often with somewhat older perpetrators. They took a longer time to carry out and were often preceded by a prior meeting with the victim. The majority of the projects, especially those that were newly started, did not make use of one of these approaches to the exclusion of the other but pursued instead a middle course.

## Conclusions of the National Council for Crime Prevention

There are good reasons to think that mediation will continue to be developed in the country regardless of the nature of legislation. It is worth asking, therefore, which body in the community is best suited to undertake this activity. The National Council is of the opinion that the organization of mediation is best undertaken by the municipalities' social welfare service. This service provides the best conditions for ensuring an activity of good quality, undertaken by persons used to dealing with the kind of problems that arise and offering opportunities for appropriate training. The National Council's evaluation shows that mediation is best established as a functional activity if it is undertaken as an independent operation clearly distinct from other work.

Another finding of the evaluation is that prosecutors, and even to some extent the police, need clear instructions as to their responsibilities *vis-à-vis* mediation. It is true that there already exist legislative provisions, for example in the law on youthful offenders, which seek to ensure that perpetrators shall make good the injury they cause or which imply that mediatorial activities should be undertaken. The National Council for Crime prevention considers that a further clarification of such provisions would give mediation enhanced legitimacy and vigour.

When considering possible legislation on the matter it is vital that the notion of mediation and the aims of mediatorial activity are clearly defined. The two purposes that emerge most clearly from the trial – and which, in the view of the National Council should be emphasized in legislation – are those of reducing relapse into crime and reducing the sense of suffering by victims. This means that mediation should be so designed that both victims and perpetrators can draw benefit from it.

If one of the main purposes is to prevent relapse into crime, then doubt arises as to whether mediation should be a *general* response to, for example, shoplifting. Since a large proportion of those that are caught shoplifting will probably not commit the offence again, let alone be at the beginning of a criminal career, it is not necessary to make use of mediation for the entire group of such youthful offenders. It is more useful to make use of the measure with the particular group or groups where a strategic examination of the offences and the perpetrators' personal and social situation suggests that there is need of it to prevent the development of a criminal career.

In another study carried out by the National Council of Crime Prevention, three *début* offences were identified that were associated with a high probability for continued criminality – vehicle theft, robbery and theft. By contrast, a very low probability for the development of chronic criminality was associated with a first conviction for shoplifting.

This is not to say that mediation is without value in cases of minor offences. There may well be individual cases where, having regard to the perpetrator's personal and social situation, mediation can usefully be brought into

play. The National Council considers that a parent or guardian should be present during mediation, especially where the offender is under fifteen years of age.

With serious offences, where the purpose is often to satisfy the needs of victims, mediators must be fully conversant with the problems of victims of crime. For this reason it is important to increase the emphasis placed on these problems in the agenda of mediatorial activity. This is especially important in the training of mediators.

The evaluation has shown that little attention has been given in the development of the projects' work to well-based thought on how it affects the participants. Nor has this work to any great extent been built on an analysis of youthful offending in the neighbourhood in question.

Thus, even if much has been achieved, mediatorial activities have largely been based on common-sense approaches rather than knowledge. Mediation is still in its early stages and in process of further development. With any future expansion of mediatorial activities there will be a general need to improve both knowledge and training. There will also be an increased need to exchange experience between the various projects.