

COUNTRY STUDY SWEDEN

IMMIGRATION DETENTION AND PRE-TRIAL DETENTION

CIVIL RIGHTS DEFENDERS IS AN INDEPENDENT EXPERT ORGANISATION FOUNDED IN 1982 IN SWEDEN, WITH THE MISSION TO DEFEND PEOPLE'S CIVIL AND POLITICAL RIGHTS AND EMPOWER HUMAN RIGHTS DEFENDERS AT RISK WORLDWIDE.

TABLE OF CONTENT

1 NATIONAL LEGAL AND INSTITUTIONAL FRAMEWORK	8
1.1 Are rights of detainees enshrined in national law?	15
1.2 Are there any prison rules or manuals governing the conduct and rights of detainees?	21
1.3 Does national law set out rights of victims of violence committed in detention?.....	25
1.4 What facilities exist to house immigration detainees and detainees in pre- trial detention?.....	28
2 RIGHT TO INFORMATION.....	29
2.1 At what stage are detainees provided with information about their rights?	30
2.2 Is there any other type information provided to detained victims beside their rights?..36	
2.3 In what format is the information provided.....	36
2.4 What measures do authorities take, if any, to overcome communications barriers when informing detainees of their rights?	37
2.5 Does the law recognises the right of detained victims who do not understand or speak the language of the criminal proceedings to be provided with interpretation and/or translation?	39
2.6 Is the procedure for providing information followed in practice?	41
2.7 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	43
3 MONITORING OF DETENTION FACILITIES.....	44
3.1 Do National Preventive Mechanism (NPM) exist? If not, is there any other mechanism or entity with the mandate to monitor prisons and other places of detention?	44
3.2 Are mechanisms, such as NPMs, allowed access to all places of detention (including pre-trial, police and migrant detention centres)?.....	44
3.3 What is the mandate of the NPM or other similar institutions?	45

3.4 What is its composition? How are members of the mechanism appointed?.....	49
3.5 Is it empowered to receive complaints from detainees? If so, what is the procedure for handling and responding to complaints received from detainees? [see also below].....	50
3.6 Is the monitoring body independent from officials in charge of the detention centre? Please explain your answer.	50
3.7 Do local or international civil society organisations have access to places of detention?	51
3.8 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	53
4 COMPLAINTS	53
4.1 Do Detained Victims have a right to file a complaint?	53
4.2 Are there any fees involved when submitting complaints? Is legal aid available for individuals seeking to make a complaint? What are the conditions, if any, to access legal aid?.....	60
4.3 What is the name of the competent authority that considers the complaint?.....	62
4.4 Are the particular circumstance of the victim (language barrier, gender, vulnerability, age, etc.) taken into account in order to facilitate the submission of a complaint to the relevant authority? How does that work?.....	63
4.5 Does the law recognises the right of victims to submit complaints for abuse that took place in another detention centre different to the one where they are detained (even if in another country)?.....	64
4.6 Do complaints normally lead to the opening of investigations of those responsible? Please include any official data, if possible.....	64
4.7 How often have detention officers been prosecuted for violence committed against Detained Victims? Please provide official data, if possible.	65
4.8 If no investigation and/ or prosecution took place despite allegations of abuse, what are the obstacles preventing such procedures from taking place?	65
4.9 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	65

5 RIGHT TO PROTECTION.....	65
5.1 Does the law in your jurisdiction recognise the rights of detained victims to protection?.....	66
5.2 What measures, if any, can be taken to protect a detainee from secondary harm/reprisal (from fellow inmates/ authorities) for submitting the complaint?.....	68
5.3 What is the procedure to request/adopt those measures taken? Which authority is competent to decide on the appropriateness of the measure of protection?	68
5.4 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	70
6 INDIVIDUALIZED NEEDS ASSESSMENTS	70
6.1 Do authorities carry out a needs assessment due to particular vulnerability (age, gender, disability, the type or nature of the crime, etc.) during their first contact (or later) with victims?	70
6.2 What arrangements are made to ensure that officials are able to deal with vulnerable detained victims in pre-trial and immigration detention? Do authorities receive training on victims’ needs / rights? How/ who provides training?.....	74
6.3 Do detained victims have access to a victim support service? If yes, please explain how including whether such access is confidential and free of charge.....	78
6.4 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	78
7 COMPENSATION.....	78
7.1 Does your jurisdiction have a specific legislation establishing a procedure by which victims of violent crime suffered in pre-trial and immigration detention may claim compensation?.....	79
7.2 Are victims entitled to compensation outside of the framework of court proceedings (e.g. disciplinary proceedings)?.....	83
7.3 Can victims receive compensation even absent the identification of a perpetrator?....	83

7.4 What is the average amount of compensation awarded per case depending on the harm? (if no overall data available please provide selected examples).....	84
7.5 Are there fees involved in case the claim for compensation proved to be unsuccessful?	85
7.6 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?	86
8 RESEARCH AND CASE STUDIES	86
8.1 What information is publicly available related to the frequency of violent crime.....	86
8.2 What research or reporting has been conducted into the regimes covering Detained Victims in your jurisdiction?	88
8.3 What, if any, systemic challenges have been identified in the regimes covering Detained Victims in your jurisdictions?.....	89
8.4 Have any cases been reported on (in academic research, government or non-governmental reports, or in the media) related to violent crime in detention? If so, can you please summarize each case?.....	90
9. INTERVIEWS WITH STAKE HOLDERS	91
9.1 Research Methods	91
9.2 Detention of Migrants	92
9.3 Pre-trial detention.....	95

INTRODUCTION

Under EU law, victims of crime benefit from a range of rights, including a right to support, to information about their rights, protection, to reparation (including the investigation and prosecution of alleged perpetrators) and compensation. These rights are expressly provided for in *Directive 2012/29/EU on establishing minimum standards on the rights, support and*

protection of victims of crime and *Council Directive 2004/80/EC of 29 April 2004* relating to compensation to crime victims (hereinafter “the Directives”). The Directives apply to victims of crimes in the EU regardless of the status of the victim (stateless, non-nationals, etc) and are binding on Member States as of November 2015.

The project *Victims of Violent Crime in Detention* focuses on what happens to detainees who become victims while held in pre-trial detention or immigration detention, whether the violent crime was committed by members of the authorities detaining them or fellow detainees.

The first part of this report focuses on the legislative and administrative framework surrounding victims of violent crime in immigration detention and pre-trial detention in Sweden. The *section* starts out with a short description of the implementation of the directives. It then focusses on the general national standards regarding the recognition of rights of both detainees and the victims of violent crime suffered in immigration detention and pre-trial detention, and the national institutional framework governing those institutions. The *second section* is focused on the existing regime governing the notification of rights in the specific context of victims of violent crime suffered in detention. The *third section* is focused on the existing monitoring mechanisms aimed at preventing harm/victimization in detention and at ensuring that detention conditions are adequate. The *forth section* focuses on the existing regime governing the right to make complaints and the procedure available to victims of violent crime suffered in pre-trial and immigration detention. The purpose is to gain an understanding of the means in place to ensure that detainees are able to file formal complaints when they have suffered any physical, mental or emotional harm from whatever party. The *fifth section* focuses on identifying measures available to protect victims and their families from secondary and repeat victimisation, from intimidation and from retaliation, including the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. The *sixth section* focuses on the right of detained victims to receive a timely and individual assessment to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the criminal proceedings due to their vulnerability to secondary and repeat victimisation, to intimidation and retaliation. The *seventh section* focusses on the right of detained victims to claim compensation by the offender whilst

in pre-trial and immigration detention or later. The *eight section* focusses on highlighting what level of research has been conducted into violent crime in detention in Sweden, whether the regime covering Detained Victims in Sweden has been criticized in the past, and whether there are any specific case studies that are worth directly following up on during the next phase of the project.

The second part of this report contains a summary of 38 interviews that have been made with various stakeholders (detention facility staff; lawyers; civil society organizations (CSOs); police officers; immigration officials; victims and policy makers.) **The third and last part contains a summary of the round table discussions with stakeholders to identify challenges and solutions with regard to the shortcomings which has been identified through this investigation.**

Summary

The research has identified a range of shortcomings regarding rights of Detained Victims in Sweden. Although no obvious deficiencies in the legislative implementation of the Directives have been found, insufficient arrangements have been made to ensure that Detained Victims may exercise their rights in practice. The shortcomings identified include:

- Insufficient arrangements to inform Detained Victims about their rights.
- Insufficient arrangements to identify Detained Victims and crimes committed in detention.
- Insufficient arrangements to document injuries of detained Victims. in detention.
- Insufficient arrangements to ensure access to an interpreter.
- The education for the staff only covers the working environment for staff and leaves out the perspective of Detained Victims or how to identify vulnerable victims.
- Insufficient data on violence committed immigration detention centres.
- documents relating to a police report are sent to the address of the incoming public register why the victims who are detained most often do not receive the documents.

- As a public defender of persons in pre-trial detention, the lawyer is not paid to represent a client as a victim of crime.
- There is a consensus among the lawyers, both regarding victims within the detention of migrants and the pre-trial detention that inmates who are victims of crime are a very low priority. It often leads to the victims within detention of migrants have left the country before the case will be dealt with.
- The parliamentary ombudsperson who is the NPM do not have adequate tools to follow up their critic towards various detentions.

A general observation from the interviews with the various stakeholders is that the victims who are detained are not seen as victims of crimes.

1 NATIONAL LEGAL AND INSTITUTIONAL FRAMEWORK

This section focuses on the general national standards regarding the recognition of the rights of both detainees and the victims of violent crime suffered in immigration detention and pre-trial detention and the national institutional framework governing those institutions.

The implementation of the directives

Directive 2012/29/EU

Affected entities

The implementation resulted in some amendments of the Code of Judicial Procedure (*rättegångsbalken* 1942:740) and the Decree on Preliminary Investigations (*förundersökningskungörelsen* 1947:948), mainly concerning victims' right to information.¹ In general, the position of the Swedish Government was that Sweden already fulfilled the obligations laid down in the directive. No special assignments were given to authorities by the Government with regard to the implementation.² However, the Swedish Police Authority has received a general assignment to report how relevant EU-regulations are implemented in the organization.³

In the preparatory work, the following entities were considered to be affected by the implementation:⁴

- The Swedish Police Authority
- The Swedish Prosecution Authority
- The Judiciary
- Victim support services (NGOs, the Crime Victim Compensation and Support Authority [*Brottsoffermyndigheten*] and the social services)
- Health and medical services
- Pre-schools and schools
- Swedish Customs Service
- Consulates and embassies

Yet, neither the Swedish Migration Agency nor the Swedish Prison and Probation Service were listed as entities being affected by the implementation. This was criticized by the Swedish Prison and Probation Service in their consultation response.⁵

The definition of victim

A statutory definition of “victim” does not exist in Swedish legislation, nor is the term used in the field of criminal- or procedural law.⁶ Instead, the relevant term when addressing the victims’ role in the criminal proceedings is injured party (*målsägande*).

The term “injured party” is defined in Chapter 20 Section 8 Paragraph 4 of the Code of Judicial Procedure. Of the provision follows that an injured party is:

1. The person whom the crime was committed against (that is, the person that is protected by the penalty regulation the offender has breached)
2. The person who has been offended by the crime and, with regard to the purpose of the criminal provision, can be considered directly affected by the crime.
3. The person who has been harmed by the crime (a person who has a right to damages as a result of the crime is generally considered to be an injured party)

Obtaining injured party status brings certain procedural rights and, in some cases, a right to an injured party counsel. The injured party becomes a *party* to the proceedings only if he/she decides to support the prosecution, that is, states a demand for liability or damages.

During the implementation process the Government concluded that Sweden did not have to make any legislative changes to the definition in order to fulfil the obligation deriving from article 2 of the Directive.⁷ In a European Implementation Assessment Study, it was stated that, while the Swedish approach may result in some victims being excluded, no evidence could be obtained of this happening.⁸ However, it would be informative to further study if the use of the term “injured party” instead of “victim” affects the Police Authority’s information to victims during the interview-phase of this project.

Children who has witnessed crime in close relationships does not fall within the definition of injured party according to the current legislation. This has been criticized by several NGOs and the Ombudsman for Children in Sweden (*Barnombudsmannen*), as children witnessing violence often experience trauma to the same extent as children being subjected to physical violence.⁹ The Government recently appointed commission of inquiry on assessing whether to criminalize the act of making a child witness crime committed against a family member. The commission should present its proposals in June 2019.¹⁰

Immigration detention centres

The rules concerning immigration detention are contained in Chapter 10 and 11 of the Aliens Act (*utlänningslagen* 2005:716). A decision to place a person in immigration detention is made by the Swedish Migration Agency, the Swedish Police or the Courts.¹¹ Immigration detention is primarily used to ensure that a person is available for the execution of expulsion decisions. A person may also be put in immigration detention if it is necessary in order to investigate the person’s right to stay in the country or the person’s identity.¹² The Swedish Migration Agency is responsible for the immigration detention centres as well as for the supervision and treatment of detained immigrants.¹³

A decision to detain a person may be appealed without limitation in time, and only then will the case be tried by a court.¹⁴ During 2015, 15 percent of the detention decisions were appealed, and only 6 percent of the appeals were successful.¹⁵

The statutory powers to detain

An alien who is over 18 years of age may be detained if:¹⁶

- His/her **identity** is unclear, and the right to enter or stay in Sweden otherwise cannot be assessed (*identitetsförvar*),
- Detention is necessary for the **investigation** of his/her right to stay in Sweden (*utredningsförvar*),
- It is **likely** that he or she will be refused entry or be expelled, or this is necessary for the **enforcement** of an existing refusal of entry or expulsion order, and there is a risk that the alien is involved in criminal activity in Sweden, goes into hiding or in another way hinders the execution of the decision (*verkställighetsförvar*).

A child may be detained if:¹⁷

- It is likely that the child will be refused entry with immediate enforcement, or if the purpose is to prepare or execute such a decision, and there is an obvious risk that the child otherwise will go into hiding and thereby jeopardize an enforcement that should not be delayed and it is not sufficient for the child to be placed under supervision.
- If the purpose is to prepare or enforce a decision to refuse entry in other cases than those mentioned above, or to prepare or enforce a decision to extradite the child and, on a previous attempt to enforce the order, it has proved insufficient to place the child under supervision.

A child may not be separated from both its custodians by detaining the child or its custodian. An unaccompanied child may only be detained if there are extraordinary reasons for it.¹⁸

Time limits of detention

An adult alien may not be detained for more than 48 hours for **investigation** of the right to stay in Sweden. This time cannot be prolonged. An alien may not be detained for investigation

of *identity* for more than two weeks, unless there are exceptional grounds for a longer period. However, the decision may be prolonged various times. An alien may be detained for two months for the *execution* of a decision, unless there are exceptional reasons for a longer period. Even if there are such exceptional reasons, the alien may not be detained for more than three months or, if it is likely that the execution of the order will take longer because of lack of cooperation by the alien or because it takes time to acquire necessary documents, more than 12 months.¹⁹ The time-limits of 3 and 12 months do not apply if the alien is expelled through a Court decision because of a crime.²⁰ *Children* may not be detained for more than 72 hours, unless there are exceptional grounds for a prolongation for another 72 hours.²¹

For individuals leaving the detention centre during 2017, the average time spent in detention was 31,5 days.²² However, several detainees spend a considerably longer time in the immigration detention:²³

0- 89 days	90- 179 days	180- 365 days	366- 730 days	Over 730 days
4 052	204	107	10	6

Confinement

A detainee who has attained the age of 18 may be held in confinement if this is necessary for good order and security in the premises or if he or she constitutes a serious danger to himself/herself or to others. The decision shall be reviewed continuously, but at least every third day. An detainee who is being kept in confinement because he/she is a danger to himself/herself shall be examined by a doctor as soon as possible.²⁴ In 2017, 344 decisions to place detainees in confinement were made.²⁵

Placement in prison, pre-trial detention facilities or arrest

A detainee may be placed in prison, pre-trial detention or police arrest if:²⁶

- The individual has been expelled by the court for committing a crime (*brottsutvisningsplacering*),

- The individual is held in solitary confinement in the immigration detention centre, but due to security reasons cannot stay there (*säkerhetsplacering*),
- It is necessary for reasons of transportation (maximum three days) (*transportplacering*), or
- There are other extraordinary reasons.

Only detainees that have been expelled for a crime may be placed together with other inmates. A child may never be subjected to placements in prison, pre-trial detention or police arrest.²⁷ A decision regarding placements in prison, pre-trial detention or police arrest may be appealed within three weeks.²⁸

The Parliamentary Ombudsmen have criticized the placement of detainees in pre-trial detention on various occasions and emphasized that the Swedish Migration Agency must take measures to make sure that a thorough assessment is made in each individual case and that the decisions are well motivated.²⁹ As the law does not require that security placements are continuously reviewed, the Ombudsmen have stressed that the Swedish Migration Agency must implement routines for such a reassessment.³⁰

Pre-trial detention centres

The rules concerning pre-trial detention centres are contained in the Act on Detention (*häkteslagen* 2010:611), the Regulation on Detention (*häktesförordningen* 2010:2011) and the Swedish Prison and Probation Service's regulations and general advice on detention, KVFS 2011:2 (*Kriminalvårdens föreskrifter och allmänna råd om häkte, KVFS 2011:2*). A decision to place a person in pre-trial detention due to suspicion of committing a crime is made by the Courts.³¹ A decision to place a person in immigration detention in a pre-trial detention centre is made by the Swedish Migration Agency.³² The Swedish Prison and Probation Service is responsible for the pre-trial detention centres as well as for the treatment of persons in pre-trial detention.

The statutory powers to detain

Detention is ordered for persons suspected on probable cause of offences carrying prison terms of one year or more, as long as there is a risk of flight, impeding investigation or continuing criminal activity.³³ A person may also be detained, regardless of the nature of the offence, if his/her identity is unknown or he/she does not reside in Sweden and there is a reasonable risk of flight.³⁴ A person that is under 18 years may only be detained if there are extraordinary reasons.³⁵

Pre-trial detention based on suspicions of committing an offence is reviewed by a court; a new remand hearing is required if no legal action has taken place within 14 days.³⁶ A detention decision may be appealed without limitation in time.³⁷

Placement of immigration detainees in pre-trial detention centres

As described above, a person in immigration detention may under some circumstances be subjected to placement in pre-trial detention centres. The Opcat-unit has on several occasions stressed the inappropriateness of placing individuals in immigration detention in pre-trial detention facilities, adapted for persons suspected or convicted for committing a crime. Even though detainees in security placement since 2012 shall enjoy the same right to contact with the outside world as detainees in immigration detention centres,³⁸ the Opcat-unit has concluded that the Swedish Prison and Probation Service cannot guarantee that right.³⁹ Sweden has also received international critique regarding the security placements.⁴⁰

Time limits of detention

The Swedish legislation does not stipulate a maximum period of pre-trial detention, which has been criticized by the Committee against Torture.⁴¹ For individuals in immigration detention, the time limits do not apply if the individual is expelled through a court decision for committing a crime.⁴²

Restrictions

At the request of the prosecutor, the Court shall consider whether a person detained due to suspicions of committing a crime should have his/her contact with the outside

world restricted. Permits to such restrictions may only be issued if there is a risk that the suspect will remove evidence or in other ways impede the inquiry of the matter at issue.⁴³ Restrictions for prisoners suspected of crime are regulated and listed in Chapter 6 of the Act on Detention. A decision of the court may be appealed without limitation in time.⁴⁴

Restrictions may include limitations in the right to:⁴⁵

- Interact with other inmates,
- Have access to mass media (watch TV, listen to the radio and read newspapers),
- Receive visits without special permission from the prosecutor,
- Receive or send letters without them first being inspected by the prosecutor (however, letters may always be sent to the public defence counsel, the Parliamentary Ombudsmen and certain international bodies),
- Receive or make phone calls without special permission from the prosecutor.

In its latest report on Sweden, the Council of Europe’s Committee for the Prevention of Torture (CPT) “regrets that despite 24 years of on-going dialogue between the CPT and Sweden authorities on the matter, there are no real signs of progress as regards the widespread imposition of restrictions on remand prisoners”.⁴⁶ Also, the Committee against Torture (CAT) is particularly concerned at the widespread use of restrictions and solitary confinement in pre-trial detention, suggesting that the suicide attempts in places of the detention are the result of restraints such as isolation measures.⁴⁷

1.1 Are rights of detainees enshrined in national law?

The Instrument of Government

1.1.1 The fundamental rights and freedoms are stipulated in Chapter 2 of the Instrument of Government (*regeringsformen* 1974:152) Most rights apply equally to Swedish citizens and non-citizens. Other rights may be restricted especially for non-Swedish citizens,⁴⁸ and some rights do not apply to non-citizens at all.⁴⁹

1.1.2 The Instrument of Government stipulates that everyone shall be guaranteed freedom of expression and information in his/her relations with the public institutions.⁵⁰ According to Chapter 2 Section 6, everyone shall be protected in their relations with the public institution against any physical violation, body searches, house searches and other such invasions of privacy and against examination of mail or other confidential correspondence. Chapter 2 Section 8 Paragraph 1 stipulates that everyone shall be protected in relations with the public institutions against deprivations of personal liberty. All Swedish citizens shall also in other respects be guaranteed freedom of movement. According to Chapter 2 Section 12, no act of law or other provisions may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour or other similar circumstances or on account of their sexual orientation.

1.1.3 For foreign nationals within Sweden, *special limitations* may be introduced to, inter alia, the following rights and freedoms:⁵¹

- Freedom of expression and freedom of information.
- Protection against physical violations, against body searches, house searches and other such invasions of privacy, against violations of confidential items of mail or communications.
- Protection against deprivation of liberty, and the right to have a deprivation of liberty other than a deprivation of liberty on account of a criminal act or on suspicion of having committed such an act, examined before a Court of law.

The Aliens Act

1.1.4 The rules concerning the treatment of detainees in immigration detention centres are laid down in Chapter 11 of the Aliens Act (*utlänningslagen* 2005:716). They can be summarized as follows:

- A detainee shall be treated **humanely**, and his/her dignity shall be respected. The detention shall be organized in a way that results in the least possible

infringement of the detainee's integrity and rights.⁵² According to the preparatory work, a part of being treated humanely is to feel safe and secure.⁵³

- A detainee shall be **informed of** his/her **rights** and responsibilities as a detainee in the immigration detention centre, as well as of the house rules in the detention centre.⁵⁴
- A detainee shall be given the opportunity to participate in activities, recreation, physical training and time outdoors. Children shall be offered opportunity to play and participate in activities adapted for children.⁵⁵
- A detainee who is being held in detention shall be given the opportunity to receive **visits** and have contact with persons outside the premises. A visit by a public counsel or a lawyer may only be monitored if the counsel or the lawyer personally request this.⁵⁶
- A detainee being held in detention shall have access to **health and medical care** that cannot wait, maternal health care, care in connection to abortion and counselling regarding contraceptives. If the alien is under 18, he or she has the same right to health care as nationals.⁵⁷
- A detainee may keep his/her property, as long as it cannot harm anyone or is detrimental to good order in the centre.⁵⁸
- Written content of **letters** or other documents may not be examined. Mail from public counsel, lawyers, the UN High Commissioner for Refugees or other international bodies that are competent to examine complaints from individuals may never be examined.⁵⁹
- A family in detention should be offered private housing.⁶⁰

Right to appeal

1.1.5 According to Chapter 14 Section 10 of the Aliens Act (*utlänningslagen* 2005:716), the detainee may appeal all formal decisions of restrictive nature.

Right to public counsel

1.1.6 A detainee has a right to a public counsel after three days in detention.⁶¹ The Committee for the Prevention of Torture has criticized Sweden for not ensuring an effective right to access a lawyer for all detainees (whether or not they are asylum-seekers) as from the very outset of the deprivation of liberty and at all stages of the proceedings.⁶² Also, the Committee against Torture has criticized Sweden on this account.⁶³

1.1.7 The public counsel should assist the detainee in issues regarding the decision on detention, and may also receive reimbursement from the state for work relating to issues of confinement and security placements in pre-trial detention etc.⁶⁴ However, it is not within the duties of the public counsel to represent the detainee in criminal proceeding and it is therefore unlikely that the public counsel will be reimbursed by the state for work relating to such issues. Instead, the state will under certain conditions provide the victim with an injured party counsel.

Regulations on pre-trial Detention

1.1.9 The rules concerning the treatment of detainees in pre-trial detention are laid down in the Act on Detention, the Regulation on Detention (*häktesförordningen* 2010:2011) and the Swedish Prison and Probation Service's regulations and general advice on detention (*Kriminalvårdens föreskrifter och allmänna råd om häkte* KVFS 2011:2). They can be summarized as follows:

- A detainee shall be treated with respect for his/her **human dignity** and with understanding for the special difficulties associated with the deprivation of liberty.⁶⁵ Enforcement shall be devised to counteract the negative consequences of deprivation of liberty. To the extent appropriate and if the detainee agrees, measures shall be taken to give him or her any needed help and support.⁶⁶
- Enforcement may not entail limitations of the detainee's liberty other than those that follow from the Act on Detention or are necessary to maintain good order or security. A control or coercive measure may only be used if it is reasonably **proportionate** to the objective of the measure. If a less intrusive measure is sufficient it shall be used.⁶⁷

- A detainee is entitled to be placed in a room of his/her own. However, two or more prisoners may be placed in the same room if this is necessary for reasons of capacity or for some other special reasons.⁶⁸
- A detainee may not be placed so that he or she is together with prisoners of the opposite sex.⁶⁹
- A detainee who is under the age of 18 years may not be placed with adults unless this can be considered in his/her best interest.⁷⁰
- A detainee shall be given the opportunity to, during the day, be together with other detainees unless, for example, it is necessary to hold the detainee separated from others due to security reasons.⁷¹
- If possible, a detainee shall be given an appropriate occupation in the form of work or other comparable activity.⁷² A detainee shall also be given the opportunity for recreation.⁷³
- A detainee shall be given the opportunity to spend at least one hour each day outdoors unless there are exceptional reasons for not providing this opportunity.⁷⁴
- A detainee shall be given the opportunity of following, in some suitable way, the events in the outside world (*access to mass media*).⁷⁵
- A detainee may receive and possess books, periodicals, newspapers and other *personal possessions* that cannot jeopardize good order or security.⁷⁶ Possessions that the detainee may not receive or possess may be seized.⁷⁷
- For particularly compassionate reasons, a detainee may be granted permission of temporary leave.⁷⁸
- A detainee may receive *visits* to the extent that visiting can be conveniently arranged. However, a visit may be refused if it may jeopardize security in a way that cannot be dealt with by a control measure (staff supervision, a special visiting room or body search or superficial body inspection of the visitor).⁷⁹
- A detainee may be in contact with another person through *electronic communication* to the extent that this can be conveniently arrange. However, such communication may be refused if it may jeopardize security in a way that cannot be dealt with by listening in (which they shall be informed of in advance).⁸⁰

- *Mail* between a detainee and his/her public defence counsel, a Swedish administration or an international organization that has been recognized by Sweden as competent to receive complaints from private individuals shall be forwarded without examination.⁸¹ However, such mail to a detainee shall not be forwarded but retained if there are reasons to assume that the information about the sender of the mail is incorrect.⁸² In other cases, a detainee may be refused to send or receive mail if this is necessary due to good order or security.⁸³ Mail that is retained may not be examined without the consent of the prisoner unless this is absolutely necessary for security reasons or, if the sender is assumed to be incorrect, in order to investigate the identity of the sender.⁸⁴
- A detainee who needs *health or medical care* shall be examined by a doctor. A doctor shall also be called if a detainee, so requests and it is not obvious that such an examination is not needed. The detainee shall be treated according to the doctor's instructions and, if necessary, transferred to hospital.⁸⁵
- A detainee may make a *request for review* of the Prison and Probation Service's decisions within three weeks. If the Prison and Probation Service decides not to change the decision in favour of the detainee, it may be *appealed* to an administrative court.⁸⁶
- Every detainee shall, at the outset of the detention, be *informed* of the implication of the detention in a language that he or she understands. Such information shall also be provided whenever it is needed. A person that is detained for other reasons than suspicions of committing a crime, shall be informed of the right to notify a person close to him/her about his/her location.⁸⁷ According to the Prison and Probation Service's regulations and general advice on detention, a detainee shall also receive information on his/her rights. The information should be provided in a language that the detainee understands.⁸⁸
- If a person that is detained due to suspicion of crime requests a *public defence counsel*, the request shall be sent to the Court immediately.⁸⁹

1.2 Are there any prison rules or manuals governing the conduct and rights of detainees?

Immigration detention centres

1.2.1 No regulations and general advice (MIGRFS) on immigration detention centres have been found.

“The Swedish Migration Agency’s detention units”

1.2.2 The detainees shall be provided with the brochure “The Swedish Migration Agency’s detention units” (appendix 1) during their introduction meetings (*inskrivningssamtal*) at the centres. The brochure is available in 19 languages⁹⁰ and contains information and rules governing the conduct and rights of detainees, which may be summarized as follows:

- Detainees have a right to have a mobile phone without camera at the detention centre.
- Phone and computers with internet access are available.
- There is access to special outdoor areas open every day at times specially posted.
- There is a weekly meeting between the Swedish Migration agency staff and detainees, where detainees can raise various questions and get information about current events.
- Men are not allowed to enter designated areas for women.
- Detainees are entitled to emergency healthcare free of charge.
- The country councils or healthcare regions are obliged to offer detainees a health examination, if not obviously unnecessary.
- Detainees have right to contact, for example, a consulate/embassy, relatives or the media.
- Detainees can receive visits. Staff may supervise visits if this is considered necessary for safety reasons. There are limitations on the number of persons permitted in visiting rooms.

- NGO-visits.
- The Swedish Migration Agency decides which objects detainees may have in their possession in the premises.
- Alcohol beverages and other intoxicants are prohibited.
- Threats, violence and sexual harassment directed at staff or other detainees, as well as escape attempts or refusal to follow staff instruction, are examples of situations that may lead to confinement or security placement.
- Detainees may be transferred to other detention units for various reasons.

1.2.3 Besides these central rules, there should be local information available at every detention centre.

Instructions for staff

1.2.4 The Swedish Migration Agency issues both central and local instructions for staff at the immigration detention centres. Most relevant instructions are the following: Reporting of incidents

- Security assessment
- Suicide prevention
- Placement within the Swedish Prison and Probation Service
- Enrolment and introduction
- NGOs Visits Luggage
- Confinement
- Situations of violence
- The detention centres' guidelines against violence and threats

1.2.5 No general central or local routines that explicitly regulate the Swedish Migration Agency's responsibilities towards the detainee when he or she becomes a victim of violent crime in detention have been found.⁹¹ The General Guidelines against Violence and Threats (*Migrationsverkets riktlinjer vid våld och hot*), the Detention Centres' Guidelines against Violence and Threats (*Riktlinjer för arbete mot*

hot och våld; Förvarsavdelningen) and the Security Handbook (*Säkerhetshandboken*) exclusively deals with violence against staff. Moreover, there is no official data on how many incidents of violence or threats against detainees that occur at the detention centres.

Pre-trial detention centres

Regulations and general advice on detention

1.2.6 The Swedish Prison and Probation Service's regulations and general advice on pre-trial detention (*Kriminalvårdens föreskrifter och allmänna råd om häkte KVFS 2011:2*), contains rules concerning the conduct and rights of detainees, for example:

- A security assessment shall be made immediately, or within three days from arrival.
- The detainee has a right to information on rights and obligations, laws and regulations concerning the detention, local routines, camera monitoring, health care etc.
- Food, basic equipment, hygiene etc.
- Access to legislation and regulations concerning the detention.
- Right to speak to the management.
- A remand prison plan shall be established.
- Harassments and other improper behaviour is not accepted.
- Placement and contact with other detainees.
- Recreation activities.
- Personal belongings.
- Detainees may only use electronic equipment provided by the Swedish Prison and Probation Service.
- Detainees that participate in an educational program arranged by the Swedish Prison and Probation Service may communicate with teachers etc. by using a computer.

- Correspondence to or from a detainee shall be forwarded the same day if possible.
- Decisions, important events and data shall be documented in a journal.

“Information for detained persons”

1.2.7 The national brochure “Information for detained persons” (appendix 2), available in 8 languages⁹², contain some information on the rights and conduct of detainees, which can be summarized as follows:⁹³

- Right to defence counsel
- Contact person and remand prison plan
- Interpretation
- Right to inform the native country consulate
- Contact with close relatives
- Visits
- The use of telephones
- Letters and packages
- Health care
- References to relevant laws and regulations

“Information – Detainees Storboda remand prison”

1.2.8 The pre-trial detention centre in Storboda (special department for immigration detainees in pre-trial detention) provides a special information material (appendix 3) available in 5 languages.⁹⁴ The information can be summarized as follows:

- Representatives of the Swedish Migration Agency will come once a week.
- Causing dangers to other persons (for example violence or threats) will be reported to the Police.
- The contact person (staff) may help out in contact with authorities.
- Health care.
- Exercise-activities.

- The detainee must sign a consent form for checking of post. If the detainee does so, he/she will receive his/her post after checks on the same day as it is delivered. If not, it will be stored and not checked.
- Detainees may call through the telephone system provided by the Swedish Prison and Probation Service. The authority will bear the cost of certain important calls within the country that concern the legal interest in the detainee's case.
- Visits and visiting activities.
- Copies of the laws and regulations concerning the detention are available on loan.

1.3 Does national law set out rights of victims of violence committed in detention?

1.3.1 The rights of victims of crime (injured parties) are laid down in the Decree on Preliminary Investigations (*förundersökningskungörelsen* 1947:948) and the Code of Judicial Procedure. However, these laws do not refer specifically to rights of victims of violence in detention but to victims of crime in general. The right to a temporary residence permit will be described in this section. Other key rights are described under each section below, but can be summarized as follows:

- Right to information.⁹⁵
- Right to interpretation and translation.⁹⁶
- Right to receive a written acknowledgement when making a formal complaint.
- Right to information about their case.⁹⁷
- Right to be accompanied by a person of choice during police interviews and during the main court hearing.⁹⁸ However, there is no statutory right to be accompanied by a person of choice from the first contact with the competent authority.
- Right to an injured party counsel.⁹⁹
- Right to claim damages.¹⁰⁰

- Right to an individual needs' assessment and, in some cases, right to protection measures.¹⁰¹
- Right to make a complaint in the Member State where he or she resides, if the offence was committed in another Member State but could not be reported there or, if he or she did not wish to report the case there and the offence was serious.¹⁰²

Temporary residence permits in relation to ongoing criminal proceedings

1.3.2 Sweden's immigration rules allow for the issuing of temporary residence permits in relation to on-going criminal proceedings.¹⁰³ According to Chapter 5 Section 15 of the Swedish Aliens Act,¹⁰⁴ a temporary residence permit on at least six months shall be granted a foreigner staying in Sweden if:

1. It is needed in order to perform the preliminary investigation or the main hearing in Court,
2. The foreigner clearly has shown that he or she is willing to cooperate with the investigating authorities,
3. The foreigner has cut all connections to the perpetrator(s), and
4. Consideration of public policy and national security does not contradict the granting of a permit.

1.3.3 It follows from Section 14 a of the Decree on Preliminary Investigations (*förundersökningskungörelsen* 1947:948) that the public prosecutor shall inform the foreigner of the possibility to attain a temporary residence, in cases where the victim may qualify for such permit.

1.3.4 The application for the temporary residence permit is made by the prosecutor to the Swedish Migration Agency. The opinion of the prosecutor shall be decisive when the Swedish Migration Agency assess whether the foreigner's participation in the proceedings is needed.¹⁰⁵ As the right to a temporary residence permit is based on the States interest of investigating serious offences, the permits shall not be issued if the

offence only may result in fines.¹⁰⁶ If the application is denied, the decision may only be appealed by the Prosecutor and not the foreigner.¹⁰⁷

1.3.5 A temporary residence permit of 30 days shall be issued on application of the prosecutor, if criteria 1 and 4 are met and the foreigner need a reflecting period to recover and escape the influence of the perpetrator in order to make an informed decision as to whether cooperate with the competent authorities or not. The permit may be prolonged. Regarding criteria to cut all contact with the perpetrator and to cooperate, the preparatory work stresses the importance of understanding the foreigner’s situation if the foreigner is young and has been subject to trafficking or if the foreigner is dependent on the perpetrator and therefore need a longer reflection period. It is also stated that, in case of the foreigner being a child, the best interest of the child shall be considered.¹⁰⁸

1.3.7 There is no official data indicating how many temporary residences permits that have been issued for detainees in immigration detention centres or pre-trial detention centres (if a detainee receives a temporary residence permit while in immigration detention, the detention shall cease immediately¹⁰⁹). However, the number of granted temporary residence permits in 2016 were:

2016¹¹⁰ *Temporary* *Temporary*
 resident *resident*
 permit, *permit,*
 trafficking *other*
 crimes

<i>Children</i>	5	7
<i>Adults</i>	20	28
<i>...whereof</i>	9	17
<i>men</i>		
<i>...whereof</i>	16	18
<i>women</i>		

<i>Total</i>	25	35
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1.4 What facilities exist to house immigration detainees and detainees in pre-trial detention?

Immigration detention centres

1.4.1 The Swedish Migration Agency is responsible for the immigration detention centres as well as for the supervision and treatment of detained immigrants.¹¹¹ The number of stays in immigration detention centres have increased from 3 700 in 2016 to 4 400 in 2017. A major challenge during 2017 has been a high occupancy, especially in the detention sites for men.¹¹² The Swedish Migration Agency have detention centres at five different locations: Åstorp, Göteborg, Flen, Märsta and Gävle.

Together they have the capacity to accommodate 357 individuals.

Pre-trial detention centres

1.4.2 The Swedish Prison and Probation Service is responsible for the pre-trial detention centres. The number of unique individuals that were registered in pre-trial detention the 1 of October 2017 were 1 831. Of those, 1 509 were detained due to suspicions of committing crime (*häktade*).¹¹³ The authority has 32 pre-trial detention centres¹¹⁴.

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According to the Swedish Prison and Probation Service, on an average day they have approximately 100 immigration detainees in the pre-trial detention centres and prisons (not counting placements due to reasons of transportation). About 10 % of those are held in prison. Only detainees that have been expelled by the court for committing a crime may be placed together with other inmates.¹¹⁵ In Storboda, Märsta, they have

dedicated a pre-trial detention department, with a capacity to accommodate 24 individuals, for persons in immigration detention.¹¹⁶

1.4.6 The Swedish Police Authority is responsible for the police arrests.

Accessibility and special needs

1.4.7 Accessibility to pre-trial detention centres, immigration detention centres as well as police premises is laid down in the Ordinance on Disability Policy (Responsibility of National Agencies for Implementation) (*förordningen om de statliga myndigheternas ansvar för genomförande av funktionshinderspolitiken 2001:526*). It states that all public venues, information and activities must be accessible for persons with limited abilities of movement and orientation capacity. The regulation also stipulates that authorities should compile plans of action for their work with accessibility. However, there are no obligations to provide adjustments for reasonable accommodation within detentions. Such considerations are also absent in the Act on Detention. Although the Act include provisions regarding the placement of a detained person in its second chapter, there is no provision specifying the necessity to have regards to persons with disabilities' special needs.¹¹⁷ The only pre-trial premises that are adapted for detainees with physical disabilities, is a national department within the Kronoberg remand prison.¹¹⁸

2 RIGHT TO INFORMATION

This section is focused on the existing regime governing the notification of rights in the specific context of victims of violent crime suffered in detention. The purpose is to gain an understanding of the means in place to ensure that victims understand their rights during the proceedings from the first point of contact (including before victimization).

2.1 At what stage are detainees provided with information about their rights?

Right to Information from the Police/prosecutor

2.1.1 There are no specific rules concerning the right to information for victim's in detention.

Instead, a general right for injured parties to receive information is laid down in Section 13 a – e and 14 a of the Decree on Preliminary Investigations (*förundersökningskungörelsen* 1947:948).

2.1.2 The injured party should get information about the following *as soon as possible*:

- Damages and criminal injuries compensation by the state.
- The possibility for children who has witnessed crime to receive criminal injuries compensation.
- Restraining orders, special protection measures and the possibility to obtain an injured party council, *if the offence is of the type that make such actions applicable*.
- The possibility to be accompanied by a support person (*stödperson*).
- European restraining orders.
- Mediation.
- Information about what authorities, organisations and other entities that provide support, help and medical service.
- Contact details for communication about their case.
- The proceedings and the injured party's role.
- The right to interpretation and translation.
- The right to reimbursement for costs in connection to interviews and hearings in court.
- Where the injured party could turn for making complains regarding the procedure.
- The possibility to, upon request, receive information about how the case develops.¹¹⁹

- 2.1.3 The officer or prosecutor in charge shall also inform the injured party about the possibility to receive a temporary residence permit, *in cases where the victim may qualify for such permit*.¹²⁰
- 2.1.4 The injured party shall also be asked if he or she wants to be notified of a decision not to initiate a preliminary investigation, to discontinue the investigation or not to prosecute the suspect, the time and place for the trial and the final judgment in the trial.¹²¹ If he or she wishes to receive such information, it should be provided.
- 2.1.5 The injured party shall receive a written acknowledgement of his/her formal complaint. If the injured party does not speak Swedish, he or she shall, upon request, receive the written acknowledgement in a language that he or she understands.¹²²
- 2.1.6 In the Police Authority's system for registration of formal complaints (RAR), it is possible to register what information the Police Authority has given to the victim. Some information is mandatory to fill in, such as if the victim wants to be contacted by victim support organisations and wants information about how their case is proceeding. A document presenting what information the victim has received or wish to receive shall be sent to the victim together with the written acknowledgement of the formal complaint, or, if the Police decide not to open a preliminary investigation or to discontinue it, together with that decision.¹²³ The victim will also receive a brochure, "For you who reported an offence" (*Brottsofferbrev, Till dig som har anmält ett brott*) (appendix 4), with some written information. The brochure is only available in Swedish. According to information from the Police Authority, it is currently being translated to 14 other languages. Initially, they will not be distributed automatically but provided by officers at the Victim and Personal Security Units (*BOPS, brottsoffer och personsäkerhetssektioner*) when needed.¹²⁴

Information from the Swedish Migration Agency

2.1.7 The regulations of the Swedish Migration Agency do not lay down an obligation to provide detainees with information regarding their rights in the specific context of *victims* of violent crime suffered in detention.¹²⁵ Through communication with the Swedish Migration Agency, it has been confirmed that no such information is provided to detainees in any structured way, and no written information on victim's rights is provided.¹²⁶ However, the staff should provide the detainee with contact details to the Police in case of victimization.¹²⁷ The Agency has a guide on how to deal with vulnerable women at the immigration detention centres, that was developed within a project financed by the EU Refugee Fund. Among other things, it refers to information on victims of crime and also instructs staff to inform the detainee of the possibility to file a complaint to the Police and to receive a temporary residence permit in relation to ongoing criminal proceedings.¹²⁸

2.1.8 As stipulated in Chapter 11 Section 1 of the Aliens Act, a detainee shall be informed of his/her rights and responsibilities *as a detainee* in the immigration detention centre, as well as of the house rules in the detention centre. The Swedish Migration Agency's instruction Enrolment and Introduction (*Inskrivning och introduktion, versionsnr: 18-1*) specifies that the detainee shall receive certain information during the introduction meeting (*inskrivningssamtalet*) at the centre. The brochure "The Swedish Migration Agency's detention units" (appendix 1), available in 19 languages,¹²⁹ shall be distributed in all immigration detention centres. It does not contain any information on the detainee's rights as victims. However, it provides some short information on:

- Interpretation
- Contact details to the Swedish Migration Agency's Applicant's Ombudsman
- Contact details to the Parliamentary Ombudsmen
- That threats, violence and sexual harassment directed at staff or other detainees are examples of situations that may lead to confinement or external placement.
- That possession of firearms and drugs or other illegal objects or substances is reported to the Police.

Information from the Swedish Prison and Probation Service

2.1.9 The Act on Detention and the Regulation on Detention (*häktesförordningen* 2010:2011)

do not lay down an obligation to provide detainees with information regarding their rights in the specific context of *victims* of violent crime suffered in detention. Section 2 of the Regulation on Detention (*häktesförordningen* 2010:2011) stipulates that the detainee shall be informed about what the stay in remand prison entails. Moreover, Section 10 and 19 of the Prison and Probation Service's regulations and general advice on detention (*Kriminalvårdens föreskrifter och allmänna råd om häkte*, KVFS 2011:2) states that a detainee shall be informed about his/her rights and have access to the regulations that apply for the stay in remand prison.

2.1.10 Detainees shall receive general as well as local information when arriving to the centre, or as soon as possible. This include information about routines in case of misconduct, where the policy is that all crimes committed in detention shall be reported to the Police (especially if committed against another person). A special information-check-list is used for young detainees.¹³⁰ The detainee shall also be assigned a contact person (member of staff), who will give more detailed information after arriving to the centre and upon request.¹³¹

2.1.11 Although not containing information on victims' rights, the general information material "Information to detained persons" (appendix 2) (available in eight languages) explains, for example:

- The right to public defence counsel
- The right to interpretation
- The right to health care
- The right to inform the native country consulate
- How to make phone calls and send letters

2.1.12 However, the general information material does not include information about the Parliamentary Ombudsmen.

2.1.13 The special information material used in Storboda (appendix 3) states that causing dangers to others (for example violence or threats) will be reported to the Police. It does not contain information about the Parliamentary Ombudsmen.¹³² Such information is not provided in any structured way, but only upon request.¹³³

Access to information through digital platforms etc.

2.1.14 According to information from the Swedish Migration Agency, they provide a telephone free of charge and there is approximately one computer on every two detainees in the detention centres.¹³⁴ Detainees also have a right to have a mobile phone without camera. In pre-trial detention centres, contact with the outside world through electronic equipment is much more limited.¹³⁵ Permission is needed in order to use the telephone, only electronic equipment provided or approved by the Swedish Prison and Probation Service may be used, and mobile phones and computers are prohibited.¹³⁶ Detainees in Storboda (special department for immigration detainees placed in pre-trial detention centres) have access to computers.¹³⁷

2.1.15 Information regarding victim's rights in general can be found on various webpages. However, no site addressing the rights of victims in detention in particular has been found.

The Swedish Police Authority

2.1.16 The Swedish Police Authority provide some information in Swedish, English, French, Dutch, Spanish, Arabic, Bosnian, Farsi and the Swedish minority-languages on their [HYPERLINK "https://polisen.se/en/victims-of-crime/"](https://polisen.se/en/victims-of-crime/) website. Audio, sign language and an Easy Read version are available in Swedish. There is also some information on how the Police can assist persons with impairments.

The Swedish Crime Victim Compensation and Support Authority

2.1.17 The Swedish Crime Victim Compensation and Support Authority (*Brottsoffermyndigheten*) provide information on victim's rights in various languages.

Their [webpage](#) is translated into 14 languages, and brochures in different languages may be downloaded from their site (e.g. “[Information to Crime Victims](#)” in English).

Website for victims being launched in 2019

2.1.18 In 2016, the Government assigned the Swedish Crime Victim Compensation and Support Authority (*Brottsoffermyndigheten*) to investigate victims’ need of support during the criminal proceedings, and to what extent those needs could be met through digital platforms.¹³⁸ In their final report submitted in 2017, the Authority proposed the development of a website with information to victims of crime, collecting all relevant information from all relevant authorities on one place. In 2017, it was granted funding from the EU Internal Security Fund (ISF) to implement the project, and the website will be launched in 2019. It will be possible to adapt the information on the website according to the individual victim’s need, and it will cover the whole legal process. The information should be easy to overview. In order to design the website after the victim’s need, a Life-Event Analysis has been made, and the information will be presented from a Life-Event Perspective.¹³⁹

Court Introduction

2.1.19 As many victims of crime are nervous before a main court hearing, the Swedish Crime Victim Compensation and Support Authority (*Brottsoffermyndigheten*) has developed a digital [Court Introduction](#) School (*Rättegångsskolan*). It is designed to facilitate the absorption of information, and therefore contains animations, photos, short films, texts and a speaker voice. It also offers a longer film, showing how a main court hearing is performed. It is available in Swedish and English.

Information to children

2.1.20 In 2013, the Government assigned the Swedish Crime Victim Compensation and Support Authority (*Brottsoffermyndigheten*) to, together with the Ombudsman for Children in Sweden (*Barnombudsmannen*), produce information and support material adapted for children being victims of crime.¹⁴⁰ The work resulted in the website “[I want to know](#)”

(jag vill veta), where the information is adapted to three different age-groups (4-7, 8-13, 14-17). It is designed to be accessible for children with cognitive impairments. The website is only available in Swedish. However, five different brochures in various languages are accessible on the website. The material was produced in corporation with children.¹⁴¹

Victim Support Sweden

2.1.21 Victim Support Sweden (*Brottsofferjouren*) help and support victims, witnesses and others affected by crime. They have trained volunteers that can help with emotional support, practical help and information on how to apply for crime victim compensation and criminal injuries compensation.¹⁴² They have trained volunteers that may give advice and information to victims in approximately 20 different languages.¹⁴³

2.2 Is there any other type information provided to detained victims beside their rights?

Information from the Swedish Migration Agency

2.2.1 Yes, see above section 1.2.1-1.2.3 and 2.8.1. See also appendix 1.

Information from the Swedish Prison and Probation Service

2.2.2 Yes, see above section 1.2.7-1.2-8 and 2.19-2.1.12. See also appendix 2-3.

2.3 In what format is the information provided

Information from the Police

2.3.1 Part from oral information, victim's reporting a crime to the Police will receive the brochure "For you who reported an offence" (*Brottsofferbrev, "Till dig som har anmält ett brott*), containing basic information about the proceedings,

interpretation, legal aid, protection, compensation and contact details to support authorities and organizations etc. The brochure is available in Swedish but is currently being translated into 14 other languages.¹⁴⁴ For information in other languages, the Police is at present referring to their webpage which contains information in 12 different languages other than Swedish.¹⁴⁵ A document presenting what information the victim has received or wish to receive shall also be sent to the victim together with the written acknowledgement of the formal complaint, or, if the Police decide not to open a preliminary investigation or to discontinue it, together with that decision.¹⁴⁶

Information from the Swedish Migration Agency

2.3.2 As explained above, the Swedish Migration Agency does not provide information concerning detainees' rights as victims. Thus, no such information in writing is available.¹⁴⁷ However, a local information material shall be provided in writing in a language that the detainee understands. The detainee has a right to keep a copy. Other information is given orally.¹⁴⁸

Information from the Swedish Prison and Probation Service

2.3.3 As explained above, the Swedish Prison and Probation Service does not provide information concerning detainees' rights as victims. Thus, no such information in writing is available. Only the general information material "Information for detained persons" and local information is provided in writing. Detainees shall also have access to the regulations that apply for the stay in remand prison. Other information is given orally.¹⁴⁹

2.4 What measures do authorities take, if any, to overcome communications barriers when informing detainees of their rights?

(Is there any adaptation of the notification procedure to the individual case of the detainee?)

2.4.1 For translation and interpretation, see section 2.5 below.

2.4.2 During the last decades, Sweden has pursued work aimed at providing a more accessible language in texts produced by the authorities. It is laid down in Section 11 of the Language Act (*språklagen* 2009:600), that language used in the public sector should be correct, simple and comprehensible. The provision should be interpreted as requiring both written and verbal language to be comprehensible and, as far as possible, adapted so that the recipient can understand.¹⁵⁰

2.4.3 According to the Ordinance on Disability Policy (Responsibility of National Agencies for Implementation) (*Förordningen om de statliga myndigheternas ansvar för genomförande av funktionshinderspolitiken* 2001:526), all government agencies have a responsibility to ensure that persons with disabilities are included in all parts of the society. In particular, government agencies shall work to ensure that their premises, activities and information are available to persons with disabilities. In this work, the UN Convention on the Rights of Persons with Disabilities shall be conductive.

2.4.4 In 2011, the Government presented the Strategy for the implementation of the disability policy 2011-2016 (*Strategi för genomförandet av funktionshinderpolitiken*)¹⁵¹, assigning the Police Authority to strengthen the accessibility, competence and training as well as the internal information on the conditions and needs of people with disabilities. The final results of the assignment, presented in 2016, shows shortcomings in the accessibility for people with disabilities (that is, the possibility to communicate with the Police and to take part of the authority's information and services).¹⁵²

2.4.5 The Police Authority's guidelines concerning victims with special needs lists a number of groups as particularly vulnerable victims. Among those are victims with disabilities, victims that do not have Swedish as their mother tongue and children. Regarding *children*, the guideline emphasize that the officer must take into account the maturity of the child when providing information, and that the information should be

given both orally and in writing in the most concrete way possible. The guidelines also refer to the “I want to know”-material.¹⁵³ Concerning victims with *another mother tongue than Swedish*, the guidelines explain that the language barrier must never affect the decision of the authority and refers to information in easy-read Swedish and other languages. It also states that an interpreter shall be provided when needed, and that it is inappropriate to use a family member or friend for interpretation. The guidelines also refer to Victim Support Sweden and their specially trained volunteers.¹⁵⁴ With reference to victims with *disabilities*, the guidelines give a short description of different kinds of disabilities and how they may affect the way of communicating and understanding information. It also explains that the Police officer must make an assessment of the communication barriers, and that the information provided should be accessible, clear and concrete. If the victim has a personal assistant or an administrator, the Police may turn to them for assistance with providing the information in a way the victim understands. The guidelines also list different technical support tools and stipulates that an interpreter should be hired if the victim has a severe speech- or hearing impairment.¹⁵⁵

2.5 Does the law recognise the right of detained victims who do not understand or speak the language of the criminal proceedings to be provided with interpretation and/or translation?

2.5.1 According to Section 4 and 10 of the Language Act (*språklagen* 2009:600), the language used in courts and by public authorities is Swedish. Section 13 of the Administrative Procedure Act (*förvaltningslagen* 2017:900) lays down a general instruction for authorities, stating that they shall use an interpreter and ensure translation of documents if the individual does not speak Swedish and it is necessary for the individual to be able to assert his/her rights. The same applies if the individual has a disability which severely affects the ability to see, speak or hear. The provision does not imply an

obligation for authorities to provide assistance in communication with individuals with other types of disabilities, which was criticized by the Equality Ombudsman.¹⁵⁶

2.5.2 It is the authority, and not the individual that decides if an interpreter or translator should be provided or not.¹⁵⁷ The Parliamentary Ombudsman has emphasized that the authorities must take the nature and importance of the matter, the extent and nature of the material submitted and the cost for the translation into account when making the decision.¹⁵⁸ The Ombudsman has also underlined that it is inappropriate to use a member of staff as interpreter in cases of a conflict of interest, or perceived conflict of interest, between staff and detainee.¹⁵⁹

2.5.3 According to the internal routines of the Swedish Migration Agency, an interpreter with “other qualification” may be used over phone during the introduction meeting, which is when the detainee is informed of his/her rights as a detainee.¹⁶⁰ This is the lowest qualification, meaning that the interpreter is not registered as a trained interpreter at the Legal, Financial and Administrative Service Agency (*Kammarkollegiet*) responsible for supervision of interpreters in Sweden.¹⁶¹ However, interpreters with “other qualification” shall have passed the recruitment test and the introduction course held by the supplier. The latter is a new requirement that began to apply the 1 of July 2018. The detainee shall also receive a written copy of the local information material in a language that he/she understands.¹⁶²

Right to interpretation and translation during the criminal proceedings

2.5.4 A victim that reports an offence and who does not speak Swedish may request that an interpreter should be appointed and that the written acknowledgement of the reported offence shall be translated to a language that he or she understands.¹⁶³ The Police should, as soon as possible, inform the victim of that right.¹⁶⁴

2.5.5 An interpreter shall also be appointed during the preliminary investigation and in court hearings, if the injured party does not speak Swedish, have a speech impediment or

impaired hearing. An authorized interpreter should be appointed if possible. If that is not possible, “a suitable person” may be provided. Technical equipment may be used instead, if appropriate.¹⁶⁵

2.5.6 The victim may also request to receive a translation of documents connected to their case. Translation of the document, or essential parts of the document, shall be provided if it is considered necessary in order for the victim to access his/her rights. The authority may provide an oral translation if not inappropriate.¹⁶⁶ However, victims do not have a right to a translation of the preliminary enquiry report (*förundersökningsprotokoll*).¹⁶⁷

2.5.7 It is the investigation officer in charge or the prosecutor (*förundersökningsledaren*) who decides if interpretation or translation should be provided during the preliminary investigation.¹⁶⁸ The right to appeal a negative decision is not explicitly regulated. However, a general possibility to ask for review of a prosecutor’s decision may be derived from Chapter 7 Section 2 and 5 of the Code of Judicial Procedure. Victims that does not have Swedish as their mother tongue are listed as a particularly vulnerable group in the Police Authority’s guidelines concerning victims with special needs, which also states that it is inappropriate to use a family member or friend as interpreter.¹⁶⁹

2.5.8 It is the court that decides if interpretation should be provided during the hearing.¹⁷⁰ The court’s decision may only be challenged together with an appeal of the judgment or of a final decision.¹⁷¹ The right to interpretation is not limited to the injured party’s active participation in the hearing.¹⁷²

2.6 Is the procedure for providing information followed in practice?

2.6.1 The Parliamentary Ombudsmen has criticized the detention centres on various occasions for not providing the information regarding rights or local routines in writing. During a Opcat-visit to the detention centre in Gothenburg, Kållerød, in 2017 it was concluded that the written instructions for staff of the Swedish Migration Agency did not clarify that detainees shall receive information about their rights in writing. Even though written material in various languages was available it was not used by the staff.¹⁷³

2.6.2 Also the Swedish Prison and Probation Service has received critique for not providing the information that the detainees have a right to. For example, during an inspection in Gävle in 2017, it was concluded that there were shortcomings in the Instructions for staff regarding how information should be provided, that the information brochure available was not used and that there was no special information material for immigration detainees in pre-trial detention.¹⁷⁴

2.6.3 According to a report from the Swedish National Council for Crime Prevention (*Brå*), the society generally fails to support victims with low trust in the criminal justice system, victims with neuropsychiatric disabilities and victims with another mother tongue than Swedish. It can be assumed that these victims do not turn to the authorities as often as other victims, but also that they do not know their rights to the same extent as other victims.¹⁷⁵

Unable to absorb information

2.6.3 A survey from the Swedish Crime Victim Compensation and Support Authority shows that victims (not detained) experience that they do not receive written information when reporting the crime to the Police. However, they can later often conclude that they did receive such information. A conclusion that can be made of this, is that victims receive information that they are unable to absorb at the time of reporting the crime. It could also be that the information was irrelevant at that time. The informants also stated that

they want to get information on updates in their case and on how long the process will take.¹⁷⁶

Shortcomings regarding interpretation

2.6. A report from the Swedish National Council for Crime Prevention (*Brå*) from 2008 shows that there are severe shortcomings in the handling of language barriers in criminal proceedings. Interviews during the preliminary investigation as well as court hearings were sometimes conducted without an interpreter, even when there was a need of one. In other cases, the quality of the interpretation was low as the interpreter did not have the right training or because the only interpreter available did not speak the mother tongue of the client. This obviously increases the risk for wrongful decisions by the authorities.¹⁷⁷

2.6.5 In 2013, stricter provisions regarding interpretation in criminal proceedings were implemented as a result of Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings. However, according to a study from 2015 made by the Swedish Agency for Public Management (*Statskontoret*), one third of the interpreters used in court hearings were still non-authorized.¹⁷⁸ Limited access to authorized interpreters and lack of knowledge and routines in the courts were listed as some of the reasons behind the shortcomings.

2.6.6 New guidelines regarding interpretation in courts were issued in 2017, but no study indicating if they have resulted in the desired effect in practice have been found. The limited access to authorized interpreters is still listed as a problem in the Swedish National Courts Administration's (*Domstolsverkets*) routines.¹⁷⁹

2.7 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

3 MONITORING OF DETENTION FACILITIES

This section is focused on the existing mechanisms aimed at preventing harm/victimization in detention and at ensuring that detention conditions are adequate.

3.1 Do National Preventive Mechanism (NPM) exist? If not, is there any other mechanism or entity with the mandate to monitor prisons and other places of detention?

3.1.1 Yes. Sweden ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Opcat) on 14 September 2005. In 2010, the Swedish Parliament (*Riksdag*) decided to allocate additional funds to the Parliamentary Ombudspersons to allow them to fulfil the role of a National Preventive Mechanism (NPM) pursuant to the Opcar. An Opcat (NPM) Unit was established within the Office of the Parliamentary Ombudsperson on 1 July 2011.¹⁸⁰

3.1.2 There are also internal monitoring mechanisms within the Migration Agency and the Swedish Prison and Probation Service, that may conduct inspections.

3.2 Are mechanisms, such as NPMs, allowed access to all places of detention (including pre-trial, police and migrant detention centres)?

3.2.1 Yes.

3.3 What is the mandate of the NPM or other similar institutions?

The Parliamentary Ombudsmen and the Opcat-unit

3.3.1 The main task of the Parliamentary Ombudsmen (JO) is to ensure compliance with the law.¹⁸¹ The Ombudsmen are specifically tasked with ensuring that public authorities and courts abide by the provisions of the Instrument of Government concerning impartiality and objectivity and that the public sector does not infringe on the basic freedoms and rights of the citizens. The ombudsmen's supervision includes ensuring that public authorities deal with their cases and in general carry out their tasks in accordance with existing legislation.¹⁸² Those supervised by the Ombudsmen are state and municipal authorities, other individuals whose employment or assignment involves the exercise of public authority, insofar as this aspect of their authority is concerned, officials and those employed by public enterprises where the Government exercises decisive influence.¹⁸³

3.3.2 The Parliamentary Ombudsmen have the authority to:

- Issue statements if the measures taken by a public authority or a public official are in conflict with an existing law or other statute or are incorrect or inappropriate in some other way.
- Issue advisory opinions intended to promote uniform and appropriate application of the law.
- Recommend changes to statutes to either the Parliament (*Riksdag*) or the Government.
- Refer cases to a regular supervisory authority for action.

3.3.3 The Opcat-Unit's mission as NPM is laid down in Section 5 a of the Act with Instructions for Parliamentary Ombudsmen (*lagen med instruktion för Riksdagens Ombudsmän* 1986:765), and further explained in Section 5-8 of the Administrative Directives for the Parliamentary Ombudsmen (*arbetsordningen för Riksdagens ombudsmän*). It aims to prevent that individuals in

detention are subjected to cruel, inhumane or degrading treatment or punishment. The Unit's mandate empowers it to carry out both announced and unannounced visits to places of deprivation of liberty, and to speak with detained persons in private.¹⁸⁴

3.3.4 The Unit shall perform the following tasks:¹⁸⁵

- Conduct inspections, on a regular basis, of places where individuals are deprived of their liberty,
- Present recommendations to authorised authorities to improve the treatment and conditions of individuals deprived of their liberty and prevent torture and other cruel, inhuman and degrading treatment or punishment,
- Introduce suggestions and proposals for legislation in force or proposed legislation concerning the treatment and conditions of individuals deprived of their liberty
- Participate in consultations with authorized authorities, as well as
- Write reports on the operations.

3.3.5 During the period 1 July 2016–30 June 2017, the Opcat-Unit completed 18 inspections, all of them resulting in some kind of critique against the authorities. Among the inspections, 1 was conducted in immigration detention centres.¹⁸⁶

Identified shortcomings

3.3.6 When the Parliamentary Ombudsmen carry out inspections, the activities of the Swedish Migration Agency are evaluated in relation to laws and regulations. A prerequisite for supervision is therefore that there are statutes which the compliance can be controlled against. In the context of detainees suffering violent crime in immigration detention centres, there are no laws or regulations explicitly stipulating the responsibility of the Swedish Migration Agency. The Opcat-unit may of course monitor the situation within closed institution regarding the UN Konvention against torture and other Cruel, Inhuman or Degrading Treatment, but,

so far, the detainee's access to rights as victims of crime does not seem to be examined in any structured way during the visits.

3.3.7 There is no system for obligatory follow-up on the shortcomings identified by the Opcat-Unit in closed institutions. Civil Rights Defenders has recommended the Government to establish such a system, to ensure the accountability for non-compliance with the recommendations.¹⁸⁷

3.3.8 Lastly, the Parliamentary Ombudsmen seems to lack the resources to carry out continuous inspections at the immigration detention centres. Although the Opcat-Unit may inspect the centres more frequently, the scope of the Unit's inspections is limited to the United Nations Convention against Torture. For these reasons, the Swedish Agency for Public Management (*Statskontoret*) has recommended an additional independent monitoring body to be instituted, with a mission to monitor the immigration detention centres from a broader perspective.¹⁸⁸

Internal monitoring mechanisms within the Swedish Migration Board

3.3.9 The Swedish Migration Agency's Supervision Unit (*funktionen för tillsyn*) was instituted in 2014, with the purpose to create a permanent structure for internal control and supervision. It is within the mandate of the Unit to conduct internal investigations in individual cases and when employees are suspected for committing an offence or violating rules and regulations. The Unit may also, in cooperation with the Legal Director, conduct inspections (*verksamhetsgranskningar*).¹⁸⁹ It is not within the mandate of the Supervision Unit to offer any kind of redress for the detainee.

3.3.10 Disciplinary proceedings against officials are regulated in Section 14-19 of the Public Employment Act (*lagen om offentlig anställning* 1994:260), and the Migration Agency's Disciplinary Board (*personalansvarsnämnden*)¹⁹⁰ is obliged by law to report crime that is assumed to result in more than fines for prosecution.¹⁹¹ An enquiry may also be initiated by the Board itself.¹⁹² The Disciplinary Board decide whether the

employee shall be dismissed or suspended from employment, if disciplinary action shall be taken or if the case shall be reported for prosecution.¹⁹³ Thus, the disciplinary proceedings cannot result in compensation for the detainee. According to the protocols from the Disciplinary Board from 2015 to May 2018, one case of violence against a detainee (by staff) has been reported to the Board. The incident was reported for prosecution.¹⁹⁴ Another case reported to the Board concerned the Head of a Detention Unit at an immigration detention centre that failed to act or inform his superior after witnessing violence against a detainee.¹⁹⁵ No action was taken by the Board as, according to the decision, there were contradictory information as to what the Director actually had known about the incident.¹⁹⁶

Internal monitoring mechanisms within the Swedish Prison and Probation Service

3.3.11 The Swedish Prison and Probation Service's Supervision Section (*tillsynssektionen*) was instituted in 2015 and is responsible for carrying out continuous inspections. During 2016-2017, nine inspections were conducted in pre-trial detention centres. The main purpose of the inspections is to improve and develop the work of the authority. The Section may not impose any sanctions but leaves recommendations to the management.¹⁹⁷ The Section for Internal Investigations (*sektionen för särskilda utredningar*), also instituted in 2015, is responsible for carrying out investigations in cases of serious incidents or where there are suspicions that employees have committed crimes or otherwise acted improperly. The Section is responsible for the national coordination of all incident reporting within the Swedish Prison and Probation Service, and it may assist the regions with investigative support for incidents.¹⁹⁸

3.3.12 Just as for the Swedish Migration Agency, disciplinary proceedings against officials are regulated in Section 14-19 of the Public Employment Act (*lagen om offentlig anställning* 1994:260), and the Swedish Prison and Probation Service's Disciplinary Board (*personalansvarsnämnden*)¹⁹⁹ is obliged by law to report crime that is assumed to result in more than fines for prosecution.²⁰⁰ The Disciplinary

Board decide whether the employee shall be dismissed or suspended from employment, if disciplinary action shall be taken or if the case shall be reported for prosecution.²⁰¹ Thus, the disciplinary proceedings cannot result in compensation for the detainee. The Disciplinary Board may also decide that the employee shall not be allowed to work close to interns while the investigation is ongoing.²⁰² As the protocols of the Disciplinary Board are anonymized and only cite the Board's decision, it has not been possible to identify cases of violence (by staff) towards pre-trial detainees by reviewing the protocols.²⁰³

3.4 What is its composition? How are members of the mechanism appointed?

3.4.1 The four Parliamentary Ombudsmen are appointed directly by the Parliament (*Riksdag*).²⁰⁴ They are elected individually for a period of four years.²⁰⁵ In the CPT Report to the Swedish Government on the visit in 2015, it was concluded that the very limited staff resources prevented it from effectively fulfilling its function of carrying out frequent and unannounced visits to all types of locked institutions throughout the country. The Committee therefore invited the Swedish authorities to take steps to increase significantly the financial and human resources made available to the Office of Parliamentary Ombudspersons and, in particular, to its Opcat-unit.²⁰⁶

3.4.2 The internal monitoring mechanisms are composed of employees of the authorities. The Swedish Migration Agency's Disciplinary Board consists of the Director General, the Legal Director, the Director of Human Resources and staff representatives.²⁰⁷ The Prison and Probation Service's Disciplinary Board consists of the Director General, staff representatives and five more members appointed by the Director General.²⁰⁸

3.5 Is it empowered to receive complaints from detainees? If so, what is the procedure for handling and responding to complaints received from detainees? [see also below]

3.5.1 The Opcat-unit does not receive complaints from detainees. However, complaints may be filed to the Parliamentary Ombudsmen (JO). The ombudsmen's enquiries are prompted both by complaints filed by the public or initiated by the ombudsmen themselves.²⁰⁹ The procedure for handling and responding to complaints received is described below (see 4.1.3-4.1.6).

3.5.2 Complaints to the Migration Agency's Supervision Unit may be submitted by anyone (staff, detainee, NGO etc.) and anonymous complaints are accepted.²¹⁰ However, no information regarding the possibility to complain has been found on the Swedish Migration Agency's website, nor in the information brochure distributed to the detainees. A detainee may *not* file a complaint to the Migration Agency's Disciplinary Board.

3.5.3 It is *not* possible to file complaints to the Swedish Prison and Probation Service's Supervision Section (*tillsynssektionen*) or the Section for Internal Investigations (*sektionen för särskilda utredningar*). Nor is it possible for a detainee to file a complaint to the Disciplinary Board.

3.6 Is the monitoring body independent from officials in charge of the detention centre? Please explain your answer.

3.6.1 Yes. The Parliamentary Ombudsmen (JO) are independent in their decisions, directly accountable to the Swedish Parliament (*Riksdag*) and form one pillar of parliamentary control in Sweden.

3.6.2 The Swedish Migration Agency's Supervision Unit is answering directly to the General Director.²¹¹ When their investigation is completed, the Supervision Unit send the report to the relevant Director together with a recommendation if the incident should be considered by the Disciplinary Board or not. The recommendation is not binding. However, if a member of staff commits an offence towards a detainee, the manager must report the incident.²¹² Complaints against staff may only be submitted to the Disciplinary Board by the Head of the Department (*avdelningschefen*) at the Immigration Detention Centre, or his/her superior.²¹³

3.6.3 The Swedish Prison and Probation Service's Supervision Section (*tillsynssektionen*) is placed at the Department for Management Support (*avdelningen för ledningsstöd*) at the Head Office, for a higher level of independence. The Section for Internal Investigations (*sektionen för särskilda utredningar*) is placed at the Security Department at the Head Office.²¹⁴ After an inspection, the Supervision Section will report and leave recommendations to the Detention Centre, the regional Director and the Head of Department. Severe shortcomings will be reported to the Prisons Director (*kriminalvårdschefen*) for further actions. Complaints against staff may only be submitted to the Disciplinary Board by superiors (e.g. the Regional Director, the Director of Pre-trial Detention and the Director of Security), the Chancellor of Justice and the Parliamentary Ombudsmen, sometimes after an investigation by the Section for Internal Investigations.²¹⁵ Managers have a responsibility to file a complaint to the Disciplinary Board and to inform his/her closest manager about incidents that may be subjected to examination by the Disciplinary Board.²¹⁶

3.7 Do local or international civil society organisations have access to places of detention?

Immigration detention centres

3.7.1 Yes. There are several NGOs visiting and arranging activities in the immigration detention centres.²¹⁷

3.7.2 There are no central routines regulating NGO-visits to the immigration detention centres. As a consequence, the routines vary in the different centres. According to information from the Swedish Migration Agency, a national NGO-coordinator was recently appointed and national routines for NGO-visits are currently being developed.²¹⁸

3.7.3 In general terms, the NGO that wants to visit an immigration detention centre must contact the management at the centre. The stated purpose of the visit will be assessed by the Sectional Director responsible for NGOs and a NGO-coordinator. If the NGO is allowed to visit, the NGO-representatives should participate in a short introduction course held by the Swedish Migration Agency.²¹⁹ The visitors will be given the opportunity to meet and talk to the detainees, in group or in private. They may also arrange different activities at the centres.²²⁰ Normally, the NGOs is not allowed to enter the institution, but they are allowed to come to the room for visitors where they can meet the interns.

Pre-trial detention centres

3.7.4 There are several NGOs visiting the detainees in detention centres. National routines for NGO-visits are currently being developed and will probably be implemented from the 1st of September 2018.²²¹ The local manager shall always be involved in decisions regarding NGO-visits. The NGO must share the values of the Swedish Prison and Probation Service and security aspects will be assessed before deciding if the NGO and its representatives may visit.²²² They may not access the rooms of the detainees unless detainees leave their consent.²²³ It would be informative to further examine what access NGOs are given to the premises when visiting the detention centres in the interview-phase of this project.

3.8 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

3.8.1 With regard to NGO-visits, inmates in correctional institutions are not subjected to restrictions as may be the case with detainees in pre-trial detention.

4 COMPLAINTS

This section focuses on the existing regime governing the right to make complaints and the procedure available, if at all, to victims of violent crime suffered in pre-trial and immigration detention. The purpose is to gain an understanding of the means in place to ensure that detainees are able to file formal complaints when they have suffered any physical, mental or emotional harm from whatever party. Please provide as much detail as possible and links to relevant legal and policy documentation as well as other secondary sources of information. While the responses to some of these questions may be available in the public domain, it may be necessary for freedom of information requests to be made to obtain some of the required data. We recommend that any such requests are submitted as soon as possible to leave sufficient time for responses to be received. Please do notify Fair Trials if responses to freedom of information requests are unlikely to be received within the timeframe for this research so that we can agree an extended deadline.

4.1 Do Detained Victims have a right to file a complaint?

(If yes, please describe the complaint procedure, including how to access it, in particular, highlight if there is a separate procedure for Detained Victims to complain about violence in detention?)

Complaints to the Police

4.1.1 Yes, a detainee may report criminal offences to the Police. Either by calling the Police or, if a Police officer arrives to the detention centre, directly to him/her.

Discrimination of victims with foreign background

4.1.2 Very little research has been made on discrimination of victims of crime with foreign background, and even less studies have been made on the situation for victims of crime in immigration detention. According to a report from the Swedish National Council for Crime Prevention (*Brottsförebyggande rådet, Brå*), it occurs that victims with foreign background are treated as suspects by the police officers arriving to the scene. Material from the Equality Ombudsman (DO) shows examples of police officers making comments like “this is Sweden and here Swedish laws apply”, as well as examples of situations when the police do not turn up at all. Other situation which victims’ experiences as discriminatory is when the police listen more to the perpetrator’s version than the victim’s or shows signs of irritation. Thus, the police officers’ efforts at the crime scene does not only affect the ability to investigate the crime but also the risk for secondary victimization by creating a negative experience for the victim.²²⁴ Even if the report only concerns victims with foreign background, it is not unlikely that detainees in immigration detention centres may experience the same kind of treatment when in contact with the police.

Complaints to the Parliamentary Ombudsmen

4.1.3 A complaint to the Parliamentary Ombudsmen (JO) can be made by anybody who feels that he/she or someone else has been treated wrongly or unjustly by a public authority or an official employed by the civil service or local government. No fees are involved, and it is not necessary for a person to be a Swedish citizen or have reached a certain age to be able to lodge a complaint. Thus, a complaint may be filed by the detainee himself/herself, a public counsel etc. However, anonymous complaints are not investigated by the Ombudsmen and a complaint should in principle not concern circumstances that date more than two years prior to the complaint.²²⁵

4.1.4 Complaints should be made in writing (by letter or through a form on the Ombudsmen's webpage). A person who has been deprived of his/her liberty may write to the Ombudsmen, without being prevented by the restrictions on sending letters and other documents which may apply to him or her.²²⁶ When a complaint is received it is registered in Ombudsmen's case handling system and assigned a reference number. The case is then handed over to the department of the Ombudsman who is responsible for the supervision of the public authority which the complaint concerns, and a lawyer is appointed to the case.²²⁷ An Ombudsman shall inform a complainant without delay as to whether his/her complaint has been rejected, filed, referred to some other agency or has been made the subject of an inquiry.²²⁸

4.1.5 About half of the submitted complaints are dismissed after an initial assessment.²²⁹ The complaints not dismissed are investigated. The public authorities are responsible for supplying all the information and materials requested by the Parliamentary Ombudsmen, and no secrecy may be called upon from the authorities' side. If the collected information shows that the case does not need to be investigated further, a decision is issued. Roughly one third of all complaints are dismissed after such a minor investigation. If the complaint needs further investigation, it is referred to the public authority concerned. This means that JO sends a copy of the complaint, including enclosures, to the head of the authority with a request for a written statement and assessment concerning how the case has been handled by the authority. If the case concerns the person who filed the complaint, the authority's written statement is sent to the complainant so he or she has the possibility to comment upon it. When the investigation is concluded, the Ombudsmen makes a decision in the case.²³⁰

4.1.6 The result of an investigation is documented in a decision or protocol. The decisions or protocols include statements by JO that clarify whether the public authority concerned has acted in accordance with the law or not. If the public authority has acted incorrectly, the ombudsman will issue criticism that may be directed against the agency as well as an individual public official. Of all the complaints that are filed each year, about 10 per

cent conclude with some form of criticism. The ombudsmen's decisions are not legally binding, which means that the public authority does not officially have to comply with the ombudsmen's criticism.²³¹

Complaints to the Chancellor of Justice

4.1.7 A detainee may turn to the Chancellor of Justice (JK) with a written complaint regarding wrongful or unjustly treatment by an official authority or an employee of the authority. As the Chancellor of Justice is an “extraordinary supervisory body”, it is not obliged to investigate the complaint. Even if it falls within the mandate of the Chancellor of Justice to act as a “special prosecutor” if an official has committed a crime, the Chancellor will in principle not investigate complaints concerning alleged offences as that falls within the competence of the police.²³² The Chancellor may also report an official to the relevant Disciplinary Board.²³³

4.1.8 A detainee may also turn to the Chancellor of Justice with an application for compensation, if an authority has made a wrongful decision. It falls within the competence of the Chancellor of Justice to reach out of court settlements on behalf of the State in actions for damages (“voluntary settlement of claim” [*statens frivilliga skadereglering*]). The Chancellor of Justice may also award damages for a person who has been deprived of his/her liberty contrary to the law.²³⁴

Complaint mechanisms within the Swedish Migration Agency

4.1.9 As described above, anyone can complain to the Swedish Migration Agency’s Supervision Unit. However, nothing indicating that detainees are informed of this possibility have been found.

Routines in cases of crimes towards detainees

4.1.10 As described above, no general central or local routines that explicitly regulate the Swedish Migration Agency’s responsibilities towards the detainee when he or she becomes a victim of violent crime in detention has been found. The General Guidelines against Violence and Threats (*Migrationsverkets riktlinjer vid våld och hot*), the

Detention Centres' Guidelines against Violence and Threats (*Riktlinjer för arbete mot hot och våld; Förvarsavdelningen*) and the Security Handbook (*Säkerhetshandboken*) exclusively deals with violence against staff.

4.1.11 Moreover, there is no official data on how many incidents of violence or threats against detainees that occur at the detention centres. According to information from the Swedish Migration Agency, this depends on the central system for reporting incidents (RITA). *If members of staff have not been physically affected or felt threatened it should not be reported in the system*, and the system lacks categories such as “violence against detainees”.²³⁵ However, if a member of staff commits an offence towards a detainee, the manager must report the incident.²³⁶ Also, suspected cases of human trafficking shall be reported to the police by using a special form.²³⁷

4.1.12 In an official response from the Swedish Migration Agency, the authority confirms that they do not always report offences committed against detainees to the Police. However, if there are indications that a crime has been committed, the detainee should be asked if he or she wants to report it. According to the Swedish Migration Agency, the staff will first try to stop an ongoing criminal act. The Police may be contacted for assistance if the situation is violent. In dialogue with the detainee, the staff will then try to find out if the detainee wants to pursue his/her case or not. This often depends on the type of the offence and other circumstances (such as if the offence is committed by a member of staff or if it falls under public prosecution).²³⁸ If an offence is reported by a person that does not speak Swedish, the Police should provide an interpreter if the person requests it.²³⁹ If the Swedish Migration Agency assists the detainee with an interpreter seems to vary between the different immigration detention centres, but according to their official response they should assist with interpretation if it is needed in order to report an offence.²⁴⁰

4.1.13 The process of reporting incidents in the Migration Agency's internal system (RITA) is explained in the Instruction for staff, Reporting of incidents

(Instruktion för personal, Rapportering av särskilda händelser och incidenter, version snr 18-1). It defines an incident as an unwanted event that negatively affects or may affect, for example, the safety and security of the staff or the detainees. Incidents shall be classified according to a three-level scale, as: 1) only to a lesser extent affects the safety and security, 2) seriously affects the safety and security and 3) very seriously affects the safety and security. All incidents shall immediately be reported to superiors and the team leader shall register the incident in the internal reporting system RITA within 24 hours. Serious acts of violence or threats, or preparation to commit such acts, shall always be reported (however, as explained above, only if staff has been affected or involved in any way). If classified as a level 3-incident, an incident investigation shall be conducted. If classified as a level 1-2-incident, the Sectional Director (*sektionschef*) together with the Coordinator of Security (*säkerhetssamordnare*) shall decide if an investigation shall be conducted or not. The investigation should contain information from staff, information from detainees (if considered warranted) and an assessment whether the incident should be reported to the Disciplinary Board or not. It should also specify if the incident has been reported to the Police and list other actions that have been taken. The instruction also stipulates that the managers in charge shall make sure that “reports are made to the authorities and boards that the Swedish Migration Agency, according to different regulation, shall report to”. This could for example be to the Supervision Unit.²⁴¹ Except from cases of suspected human trafficking and when staff has committed an offence towards a detainee, no routine stipulating a duty for the Swedish Migration Agency to report crimes to the Police have been found.

Human trafficking

4.1.14 The Swedish Migration Agency has routines for detecting and handling cases of human trafficking. This includes how the dialogue with the potential victim shall be conducted, when a tip shall be given to the Police or when a formal complaint shall be made. Except from a national coordinator, there are both regional and local coordinators within the Swedish Migration Agency that have a close contact with the Police unit

responsible for human trafficking (for example, there are two local coordinators at the detention centre in Märsta). If the Swedish Migration Agency get indications that a person is or has been subjected to trafficking, the potential victim will be informed of all this.²⁴²

Complaints to the Swedish Migration Agency's Applicant's Ombudsman

4.1.15 If staff of the Swedish Migration Agency have treated a person badly or wrong, the person can contact the Applicant's Ombudsman who receives and investigates such reports. The Applicant's Ombudsman can be contacted either using an online form or through telephone. Detainees are informed of this in the brochure "The Swedish Migration Agency's detention units".

Complaint mechanisms within the Swedish Prison and Probation Service

4.1.16 Unlike the Swedish Migration Agency, the Swedish Prison and Probation Service has a policy to always report suspicions of threats and violence to the Police, and violence towards detainees is reported is reported in their internal system for reporting incidents.²⁴³ However, according to a report from the Swedish National Council for Crime Prevention (*Brå*), offences that only may result in fines are dealt with internally.²⁴⁴

4.1.17 Detainees may complaint to the Director of Prisons (*kriminalvårdschefen*), the Regional Office or the Head Office if they have been treated badly or wrongly. Staff must always forward the complaints to the department it is addressed to. However, the department may delegate the responsibility to handle the complaint. Unless the complaint is anonymous, it will always be answered, normally in writing. It is up to the addressed department to decide if any actions shall be taken with regard to the complaint.

4.1.18 Detainees may also appeal decisions of the Swedish Prison and Probation Service, if it concerns their rights according to the Act on Detention. If the Prison and Probation

Service decides not to change the decision in favour of the detainee, it may be appealed to an administrative court.²⁴⁵

4.1.18 The Prison and Probation Service has received a special assignment from the Government (*regeringsuppdrag*) to assess how the situation for detained children can be improved, and its proposals will be presented in August 2018.²⁴⁶ The rapport has not been public when this rapport will be submitted to Fair Trials.

4.2 Are there any fees involved when submitting complaints? Is legal aid available for individuals seeking to make a complaint? What are the conditions, if any, to access legal aid?

4.2.1 Theoretically, there are no fees involved when submitting complaints to the Police, the Parliamentary Ombudsmen or the Chancellor of Justice. However, due to possible language barriers and lack of knowledge about the Swedish legal system, it may be advisable to obtain legal advice or representation. For example, the public counsel's mandate is to assist the person in immigration detention in issues relating to the decision on detention.²⁴⁷ It is therefore unlikely that the counsel will be reimbursed for work relating to other aspects, such as the situation of the detainee in the immigration detention centre.²⁴⁸ In addition, legal cover, legal advice and legal aid is in principle excluded in criminal proceedings and for complaints to the Parliamentary Ombudsmen or the Chancellor of Justice. However, in criminal proceeding an injured party counsel may be provided by the state (see below).

4.2.2 Fees and costs for legal representation may be incurred if the detainee pursues civil action for damages. In order to obtain *legal cover* (*rättsskydd*) in civil proceedings, the individual must have an insurance which includes a legal expenses clause. If the issue of damages is not raised during the criminal proceedings, the insurance company may

reimburse a person for the costs of employing a counsel etc. It is often required that the individual pays part of the cost as excess.²⁴⁹

4.2.3 According to the Legal Aid Act (*rättshjälpslagen* 1996:1619), individuals may be entitled to **legal advice** (maximum of two hours) in return for a fixed fee, that may be reduced depending on the economic situation of the applicant. This may apply if the prosecutor does not provide assistance or if the individual need help in negotiating with an insurance company. If interpretation is needed, the cost will be paid by the state.²⁵⁰

4.2.4 When a person does not have an insurance covering legal expenses and when the case cannot be pursued by receiving legal advice, **legal aid** (*rättshjälp*) may be granted on the basis of an assessment of needs, if it is considered reasonable that the state pays the costs.²⁵¹ For non-nationals that are not residing, or previously have been residing, in Sweden, the criterion for obtaining legal aid is even stricter. If the legal matter is to be dealt with in Sweden, there must be special reasons for granting legal aid. If the legal matter shall be dealt with abroad, legal aid may only be granted if the person is residing in Sweden.²⁵² Special rules apply for EU-residents.²⁵³ Concern about the fact that the right to legal aid is tied to the victims' legal EU residence status was expressed in the study *The Victim's Rights Directive 2012/29/EU, European Implementation Assessment*.²⁵⁴

Injured party counsel in criminal proceedings

4.2.5 For certain types of crime, the injured party is entitled to an injured party counsel (*målsägandebitråde*), which should be appointed when the preliminary investigation is initiated. This applies to sexual offences, violent crime and, if the injured party is in need of a counsel due to personal circumstances, to other offences that may result in a prison sentence.²⁵⁵ The Police shall inform a victim that is entitled to a legal counsel of that right.²⁵⁶ A counsel shall then be appointed by the court if the victim requests it or it otherwise is needed.²⁵⁷ The injured party may direct the request to the prosecutor, the

police officer responsible for the preliminary investigation or directly to the district court.²⁵⁸

4.2.6 The role of the injured party counsel is to look after the victim's interests and give support and assistance during both the preliminary investigation and the court hearing. The counsel may also assist in the prosecution and present the victims case as regards to damages.²⁵⁹ No fees are involved, as the cost will be met by the state.²⁶⁰ The counsel's mandate ceases after the court hearing and does not include help in ensuring receipt of damages or other compensation.²⁶¹

Special children's representative

4.2.7 If a legal guardian is suspected of a crime against his/her child, or if the suspected has a close relationship with the legal guardian, the child may be assigned a special legal representative.²⁶² The special representative shall safeguard the child's right during the preliminary investigation and hearing, and should be "particularly suited" to this role.²⁶³

4.3 What is the name of the competent authority that considers the complaint?

(Is that authority independent from the chain of command of the authority in charge of the relevant detention centre?)

4.31 It depends on the complaint made by the detainee. The Police, the Parliamentary Ombudsmen and the Chancellor of Justice are all independent from the Swedish Migration Agency and the Swedish Prison and Probation Service.

4.3.2 The Swedish Migration Agency's Supervision Unit and Applicant's Ombudsman are units within the authority. For how the Supervision Unit handles complaints, see 3.6.2. Regarding the Ombudsman, Civil Rights Defenders note that despite repeated

attempts to attain information on the mandate of the Ombudsman, the Swedish Migration Agency has not been able to provide such information.

4.3.3 Complaints to the Swedish Prison and Probation Service's Head of Prisons (*kriminalvårdschefen*), Regional Office or Head Office are described in 4.1.17.

4.4 Are the particular circumstance of the victim (language barrier, gender, vulnerability, age, etc.) taken into account in order to facilitate the submission of a complaint to the relevant authority? How does that work?

4.4.1 Section 13 of the Administrative Procedure Act (2017:900) leaves a wide margin or discretion for authorities when deciding if translation shall be provided or not. According to the Parliamentary Ombudsmen, it is possible to make complaints in other languages than Swedish as they usually will be translated. According to the Chancellor of Justice, it depends on the circumstances of the individual case if they will translate a submitted complaint or not.

4.4.2 In order to report violent crime, threats or sexual abuse to the Police, one must call the Police or visit a Police station.²⁶⁴ Swedish and English may always be used when calling the Police. According to Section 13 e of the Decree on Preliminary Investigations (*förundersökningskungörelsen* 1947:948), an interpreter should be provided if the victim that reports the crime does not speak Swedish. Due to lack of female interpreters and interpreters for certain languages, the victim may need to wait for such arrangement to be made. Notwithstanding the basic principle that authorities should make sure that language barriers does not affect its handling of cases or its decisions, a lack of knowledge in the Swedish language may limit the victim's access to and participation in the process.²⁶⁵

4.4.3 See also above section 2.4 (regarding accessibility) and 2.5 (regarding interpretation).

4.5 Does the law recognise the right of victims to submit complaints for abuse that took place in another detention centre different to the one where they are detained (even if in another country)?

4.5.1 Yes, it is possible to make a complaint for abuse that took place in another detention centre different to the one where the victim is detained. The Police Authority is obliged to accept a complaint regarding an offence in another country if

- The offence was committed in another Member State,
- The victim is residing in Sweden, and
- The victim was unable to submit a complaint in the Member State in which the offence was committed or, in the event of a serious offence, as determined by national law of the Member State where the offence was committed, did not wish to report the crime.²⁶⁶

4.5.2 If there is no reason to initiate a preliminary investigation in Sweden, the complaint shall be forwarded to the competent authority in the Member State where the crime was committed.²⁶⁷ The process is described in *Metodstöd, Polisens skyldigheter enligt EU:s brottsofferdirektiv om miniminormer för brottsoffers rättigheter, dnr A.331.899/2016, 2017-02-03*.

4.6 Do complaints normally lead to the opening of investigations of those responsible? Please include any official data, if possible.

4.6.1 There is no official data on complaints to the Police regarding crimes committed in detention, as no such category for crime scene is used.²⁶⁸

4.6.2 In 2017, eight complaints were made to the Parliamentary Ombudsmen concerning ill-treatment in immigration detention centres.²⁶⁹ One is still pending, and the other seven did not result in any statement or criticism from the Ombudsmen.²⁷⁰ In one case, the Ombudsman had taken part of the internal investigation made by the Supervision Unit which had resulted in a change of routines at the centre. In another case, the Ombudsman had decided to conduct an inspection at the detention centre and therefore saw no reason to investigate or issue a statement.

4.7 How often have detention officers been prosecuted for violence committed against Detained Victims? Please provide official data, if possible.

4.7.1 No official data on prosecutions for violence committed by officers against detainees has been found.

4.8 If no investigation and/ or prosecution took place despite allegations of abuse, what are the obstacles preventing such procedures from taking place?

4.8.1 As no official data has been found, it would be informative to further investigate this question in the interview-phase of this project.

4.9 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

5 RIGHT TO PROTECTION

This section focuses on identifying measures available to protect victims and their families from secondary and repeat victimisation, from intimidation and from retaliation, including the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and

when testifying. For example, under the EU Directives, the right to protection includes measures such as avoidance of contact between victims and the offenders within premises, interviews to be conducted promptly and kept to a minimum necessary, victims to be accompanied by a legal representative, etc.

5.1 Does the law in your jurisdiction recognise the rights of detained victims to protection?

Protection in detention

5.1.1 The legislation concerning detention does not directly address or recognize the rights of victims to protection from crime or secondary victimization. Nor does the legislation concerning protection of victims specifically address victims in detention.

5.1.2 According to Chapter 11 Section 7 of the Aliens Act a detainee may be placed in confinement if it is necessary to maintain order or security in the centre or if the detainee constitutes a serious threat for him/herself or others. However, this measure is temporary and for use only in cases of urgency rather than providing long term protection for victims of crime in detention. Also, in pre-trial detention, it is possible to keep a detainee in confinement due to security reasons.²⁷¹

Protection during the preliminary investigation

5.1.3 Children and injured parties considered in need of special protection measures²⁷² shall continuously be interviewed by the same interviewing officer, if it does not impede the work of the authorities or the preliminary investigation. The interview shall be conducted by an officer of a certain sex, if the victim requests it and has a legitimate interest for making such a request.²⁷³ Children ought to be interviewed by an officer with special competence,²⁷⁴ and the number of interviews with children shall be kept to a minimum if in the best interest of the child.²⁷⁵ The injured party may bring a person of choice (*stödperson*) to the interview, as long as it does not impede

the investigation.²⁷⁶ If the injured party has been appointed an injured party counsel, he/she has a right to be present during interviews.²⁷⁷

Protection during the court proceedings

5.1.4 If the individual needs assessment resulted in a conclusion that the injured party is in need of protection measures, this shall be noted in a special document. The document shall be sent to the court, if it may be of importance for the courts dealing with the case.²⁷⁸ This provision was introduced in order to make it possible for the courts to prepare security arrangements for the injured party during the hearing.²⁷⁹

Witness support

5.1.5 The witness support service is a voluntary service, usually carried out by Victim Support Centres (*Brottsofferjouren*). There is a witness support service established at all District Courts and Courts of Appeal in Sweden. The task of a witness support person is to help witnesses and injured parties and offer support before and after the hearing. Their role is to make people feel more comfortable in the public areas of the court, for example in the waiting room, and explain, when necessary, what happens at a hearing. However, the witness support person must not take sides in, or even discuss, the case itself.²⁸⁰

Right to bring a person of choice

5.1.6 The injured party may bring a person of choice to the court hearing.²⁸¹

The court facilities

5.1.7 Most courts have separate waiting rooms. If an injured party or a witness is worried about meeting the defendant, they can wait in a separate room until the court session begins.²⁸²

Listening in

5.1.8 If the injured party finds it difficult to explain what happened while the defendant is in the courtroom, the district court may decide that the defendant should leave the room while the injured party is questioned.²⁸³ The defendant then listens to the questioning via a loudspeaker. This is called listening in. It is important that the injured party is informed about this possibility in good time before the trial, as he or she must contact the court and request “listening in”.

Irrelevant and improper questions

5.1.9 The presiding judge may interrupt irrelevant and improper questions to the injured party, as long as it does not prejudice the defendants right to a fair trial.²⁸⁴

Hearings without the presence of the public

5.1.10 The main rule is that court hearings are open to members of the public. However, if the case in question is of a very sensitive nature – for instance addressing a sexual offence, human trafficking or child pornography – the court may decide that the hearing shall be conducted behind closed doors.²⁸⁵ Furthermore, hearings with persons under 15 years or persons suffering from a mental illness may be held behind closed doors.²⁸⁶

5.2 What measures, if any, can be taken to protect a detainee from secondary harm/reprisal (from fellow inmates/ authorities) for submitting the complaint?

(confidentiality of the complaint procedure; possibility of submitting anonymous information / complaints; relocation; etc)

5.3 What is the procedure to request/adopt those measures taken? Which authority is competent to decide on the appropriateness of the measure of protection?

Confidentiality

5.3.1 A person who has been deprived of his/her liberty may always write to the Parliamentary Ombudsmen, without being prevented by the restrictions on sending letters and other documents which may apply to him or her.²⁸⁷ This applies for both immigration detention centres and pre-trial detention centres. However, anonymous complaints are not accepted.²⁸⁸

5.3.2 Written letters and documents may not be examined by the staff in the immigration detention centres.²⁸⁹ Complaints to the Swedish Migration Agency's Supervision Unit can be made anonymously (however, nothing has been found indicating that detainees are informed of the possibility to file such a complaint).²⁹⁰

5.3.3 Complaints to the Swedish Prison and Probation Service's Head of Prisons (*Kriminalvårdschefen*), Regional Office or Head Office

Relocation

5.3.4 According to information from the Swedish Migration Agency, the action taken will depend on the nature of the crime. Generally, a dialogue will be held with "all involved partners". Thereafter, a decision of placement in solitary confinement, security placement in pre-trial detention or relocation may be made.²⁹¹ Relocation may be used in cases of conflicts that are not momentary.²⁹² Firstly, relocation to another department within the centre will be considered and secondly, to another centre. A request for relocation between centres should be made by at least a team leader, or according to local routines, and will be considered by relocation coordinators (*platssamordnare*).²⁹³ If a member of staff is under investigation for having used violence against a detainee, the Disciplinary Board may decide to suspend the employee while the investigation is ongoing if the closest manager requests it. However, it is more common that the manager reaches an agreement with the employee about changing duties during the investigation period, or on exemption from work (*arbetsbefrielse*).²⁹⁴

5.3.5 Also in pre-trial detention centres, relocation may be used. A detainee that has used violence against another detainee may be placed at a centre with a higher level of security (although, the work with relocations may be hampered by the high occupancy rate [about 95 %]).²⁹⁵ If a member of staff is under investigation for having used violence against a detainee, the Disciplinary Board may decide that he or she should not work close to detainees while the investigation is ongoing.²⁹⁶

Notification if the perpetrator escapes or is released

5.3.6 If a person that is seized, arrested or in pre-trial detention escapes or is released, the injured party shall be informed of this as soon as possible.²⁹⁷

5.4 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

6 INDIVIDUALIZED NEEDS ASSESSMENTS

This section focuses on the right of detained victims to receive a timely and individual assessment to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the criminal proceedings due to their particular vulnerability to secondary and repeat victimisation, to intimidation and retaliation.

6.1 Do authorities carry out a needs assessment due to particular vulnerability (age, gender, disability, the type or nature of the crime, etc.) during their first contact (or later) with victims?

(If yes, please elaborate. If no, how else, if at all, are vulnerabilities taken into account?)

6.1.1 Only the Police Authority carries out a needs assessment with the aim to assess the particular vulnerability of *victims*. The Swedish Migration Agency and the Swedish Prison and Probation Service carry out health examinations of detainees that aims to identify more acute health conditions.

Health examinations in the detention centres

Pre-trial detention

6.1.2 In regards to pre-trial detention, the Swedish Prison and Probation Service's regulations and general advice on detention (KVFS 2011:2) stipulates that an initial safety assessment should be carried out when an accused or suspected person arrives to the detention centre.²⁹⁸ It further regulates that an inmate should be asked about his/her health in connection to being taken into pre-trial detention, and that the intern as soon as possible should be given the opportunity to have his/her health examined by a nurse (however, a doctor, psychiatrist or psychologist can be consulted in a subsequent procedure).²⁹⁹ The examination aims at identifying more acute health conditions and does not focus on vulnerability due to mental disabilities.

6.1.3 A precondition to be able to ensure the rights of detainees who are not able to understand and to effectively assert their rights due to their mental or physical condition or disabilities is knowledge in such a vulnerability exist. Following its visit to Sweden in 2015, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated in its report to the Swedish government that "The procedure for screening newly arrived persons at police detention facilities continue to leave much to be desired." The initial security assessment in police custody and the pre-trial detentions is only a basic and routinely procedure which leads up to identifying more acute health conditions, not an identification of possible vulnerabilities in relation to their rights as detainees or potential victims.

Immigration detention

6.1.4 Detainees in immigration detention should normally be offered a health examination as soon as possible.³⁰⁰ According to the National Board of Health and Welfare's (*Socialstyrelsen*) regulations and general advice (SOSFS 2011:11), the purpose of the examination is to conclude what health care that should be provided according to the Act on Health and Medical Services for Asylum Seekers (*lagen om hälso- och sjukvård åt asylsökande m.fl.*, 2008:344). However, several Opcat-protocols indicate that health examinations are not being offered in connection to being taken into detention.³⁰¹

6.1.5 Questions about the detainee's health should also be asked during the introduction meeting (*inskrivningssamtalet*), for example concerning medicines, health care history and if the detainee wants further to contact with the health care services. Indicators of vulnerability with regard to the stay at the centre should be noted in the protocol, as well as needs of special support.³⁰²

6.1.6 However, since the medical examination that is available in connection immigration detention has no relation to the possibility of the detainees to assert their rights, it does not safeguard the detainees' rights to special protection as victims of crime.

The Police Authority

6.1.7 The Police shall, as soon as possible, conduct an individualized needs assessment in order to determine if the victim is in need of special protection measures. The severity of the offence as well as the personal circumstances of the victim shall be assessed. A victim under the age of 18 shall always be considered in need of protection measures. The individualized needs assessment shall be reviewed when needed.³⁰³

6.1.8 The individualized needs assessment will be based on the results of the initial risk assessment and/or the structured risk assessment described below.³⁰⁴ To make sure that sensitive data is not spread to the defendant, information concerning the needs assessment shall be shared to the prosecutor and the courts through a special

document and not be included in the preliminary enquiry report (*förundersökningsprotokollet*).³⁰⁵ The special document shall also contain information on what information, notifications etc. the victim has requested to receive.³⁰⁶

6.1.9 When the victim is under 18 years old, the requirement of conducting an individualized needs assessment will be considered fulfilled through reporting concerns to the social services according to Chapter 14 Section 1 of the Social Service Act (*socialtjänstlagen 2001:453*).³⁰⁷

Initial risk assessment

6.1.10 A police officer receiving a complaint or reporting an offence shall make an initial assessment of whether there is an immediate risk that the victim will be subjected to further violence or threats. There are certain mandatory questions regarding risk assessment that the officer must answer in order to be able to register the complaint. The purpose of the initial assessment is to assess the acute need of support-or protection measures. It may also indicate that a structured risk assessment needs to be done.³⁰⁸

Acute protection

6.1.11 The investigation officer may decide to provide immediate protection measures if necessary. Such measure could be accommodation in a hotel, a women's shelter or considered appropriate, with relatives.³⁰⁹

Review of the reported complaint

6.1.12 The investigation officer reviewing the reported complaint is responsible for checking that the injured party has received the information he or she is entitled to according to Section 13 a – f of the Decree on Preliminary Investigations (*förundersökningskungörelsen 1947:948*).³¹⁰ However, the internal regulations of the Police Authority do not stipulate a responsibility to check if the injured party has received information concerning the possibility to obtain a temporary residence permit in relation to ongoing criminal proceedings.

Structured risk assessment

6.1.13 If the initial assessment indicates a need for a more thorough analysis, a structured risk assessment will be made by staff with special training at the BOP-units (*brottsoffer och personsäkerhetsgrupper*). A national scale will be used for measuring the level of risk and threat, and there are different structured checklists to use depending on the crime committed. The victim's vulnerability will also be assessed.

Children with neuropsychiatric disabilities

6.1.14 The report Judiciary treatment of children with neuropsychiatric disabilities, from the law faculty of Stockholm University, takes a "holistic approach" to all stages of the process, from pre-trial to judgment, and noted that the number of prosecutions was significantly lower in respect of cases where the victim had a neuropsychiatric disability. This remained true even when the suspect confessed, and even when there were witnesses and clear evidence of the crime. The study looked at the reasons for the low rate of prosecution and found that the notifications of crime when the victim had a neuropsychiatric disability, in general, was treated differently than other notifications. For example, the study concluded that children with neuropsychiatric disabilities were not heard to the same extent as other children. Additionally, information about the child's disability was usually included in the investigation after the child had already been heard, instead of before or during the hearing of the child.

6.2 What arrangements are made to ensure that officials are able to deal with vulnerable detained victims in pre-trial and immigration detention? Do authorities receive training on victims' needs / rights? How/ who provides training?

Immigration detention centres

6.2.1 Officials in immigration detention centres receive training in low arousal response and conflict management.³¹¹ Except from the training regarding human trafficking described below, it has not been possible to identify any arrangements made to ensure that officials receive training on victims' rights or how to identify and deal with vulnerable detained *victims*.

6.2.2 The Detention Centre Department (*förvarsavdelningen*) has recently instituted an Education Unit (*utbildningsenhet*) and a new training concept is currently being developed. It will consist of a 12-week full time program for immigration detention centre staff.

Human trafficking

6.2.3 According to one of the Swedish Migration Agency's regional coordinators against human trafficking, they sometimes train staff at detention centres together with the Police Authority's Unit for International Organized Crime (*polisens enhet mot internationell grov organiserad brottslighet, IGOB*).³¹² Among other things, they go through indicators of trafficking, such as:

- High risk countries
- Age
- Gender
- Educational level
- Poverty
- Luggage (for example, the most vulnerable often carries all their belongings and if sex toys and condoms are found in the luggage, that may be an indication of prostitution or trafficking).

Guide on how to deal with vulnerable women

6.2.4 The Swedish Migration Agency also has a guide on how to deal with vulnerable women at the immigration detention centres, that was developed within a project financed by the EU Refugee Fund.³¹³ Among other things, it contains information on:

- What vulnerability is
 - PTSD and trauma
 - Indicators of trauma and mental illness
- How to deal with vulnerable persons at the detention centre
 - How to be supportive, non-judgemental and respectful
 - How to ask questions
 - Indicators of vulnerability
 - Communication/cooperation barriers and how to overcome them
- What to do in cases of vulnerability
 - Prostitution and human trafficking
 - Violence, abuse and violence in close relationships
 - HBTQ
 - Severe illness
- Conversation-method-support
- Stories of detained women

Pre-trial detention centres

6.2.5 The basic training to work within the Swedish Prison and Probation Service is 20 weeks and contains some information on mental illnesses and health care. The authority also offers about 130 courses for further training, for example on how to deal with young detainees, detainees with ADHD and women in detention. However, there is no course offering training on how to identify or deal with victims of crime. Nor is there any course concerning immigration detainees in pre-trial detention. A new basic training program is currently being developed within the Swedish Prison and Probation Service. It will consist of 1 year and 8 months mix of practical work and theoretical education.³¹⁴

The police authority

6.2.6 It takes two and a half years to become a Police officer in Sweden, including six months of paid workplace practice. After that, further specialist training is offered. The basic program at the police academy contains, among other things, education on human rights, ethics, values, behavioural science, victims' rights and how to deal with victims. There is also specific education regarding violence in close relationships, honour-related crime, hate crime, young victims and indicators of mental illness.

6.2.7 Within the Police Authority, there are specialist groups investigating violence in close relationships, hate crime, crimes against children and prostitution.

6.2.8 The Police identifies the following groups as particularly vulnerable victims (note that detained victims are not included):³¹⁵

- Victims of crime in close relationships
- Victims of honour-related crimes
- Victims of human trafficking
- Victims of hate crime
- Children and young victims
- Victims with another mother tongue than Swedish
- Victims with disabilities

BOPS-units

6.2.9 Within the Police Authority, there are Victim and Personal Security Units (BOPS, *brottsoffer och personsäkerhetssektioner*). The purpose with the BOPS-units is to prevent re-victimization and to make victims of crime feel safe. They are responsible for providing information to victims and, if needed, support and protection. As described above, they will carry out the structured risk assessment if there is a risk that the victim will be subjected to further threats or violence. They will also handle complaints if the victim has requested or might be in need of support from Victim Support Organisations. In the basic course (120 hours) for Police officers within the BOP-units, education on honour-related crime, crime in close relationships, the asylum

process, trauma support, motivational interviewing, victims' rights and how to deal with victims is provided.³¹⁶

6.3 Do detained victims have access to a victim support service? If yes, please explain how including whether such access is confidential and free of charge.

6.3.1 As detainees have access to phone and computer in the immigration detention centres, they may contact the victim support services mentioned above in section 2. If the NGOs visiting the detention centres especially provides support services to the detainees *as victims* may be further examined in the interview-phase of this project.

6.4 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

6.4.1 From the beginning of 2017, routinely screenings for ADHD of convicted prisoners are carried out. The examination of these target groups may be more thorough than in general cases and may identify need of support.

6.4.2 The Swedish Prison and Probation Service's work on placement and relocation of convicted prisoners is more structured than of detainees in pre-trial detention. There is a Handbook on placement in prison (*Kriminalvårdens handbok – om placering i anstalt, 2012:8*), but not for pre-trial detention. Sidbrytning

7 COMPENSATION

This section focusses on the right of detained victims to claim compensation by the offender whilst in pre-trial and immigration detention or later. Please provide as much detail as possible and links to relevant legal and policy documentation as well as other secondary sources of

information. While the responses to some of these questions may be available in the public domain, it may be necessary for freedom of information requests to be made to obtain some of the required data. We recommend that any such requests are submitted as soon as possible to leave sufficient time for responses to be received. Please do notify Fair Trials if responses to freedom of information requests are unlikely to be received within the timeframe for this research so that we can agree an extended deadline.

There are three different kinds of compensation for a person who has been subjected to a crime: damages from the offender, insurance compensation and criminal injuries compensation from the state. In principle, an offender who commits a crime is obligated to pay for the damage or injuries the crime gives rise to. The amount of damages to be paid is determined at the hearing. If the offender cannot pay the damages and the victim has an insurance, part of the damage or injuries suffered may be covered. If the victim does not have insurance that fully covers the injuries, and compensation through damages has not been paid, the victim may be entitled to compensation from the state, known as criminal injuries compensation.³¹⁷

7.1 Does your jurisdiction have a specific legislation establishing a procedure by which victims of violent crime suffered in pre-trial and immigration detention may claim compensation?

(Please provide a citation to the relevant section(s) and a hyperlink where available.)

7.1.1 No, there is no specific legislation establishing a compensation scheme for victims of violent crime suffered in detention.³¹⁸ However, detained victims can benefit from the general provisions and seek damages from the offender.³¹⁹ In theory, it is also possible for a detainee to claim compensation from the state for damages caused by state officials through civil proceedings.³²⁰

Damages

7.1.2 A claim for damages caused by an offence is usually assessed by the court at the same time as the charge of criminal liability.³²¹ The victim should be informed about the right to claim damages and if the victim requests it, the prosecutor must prepare and present the claim for damages at the hearing.³²² The victim may claim compensation for personal injury, violation of integrity and damages to property and pure financial loss.³²³

7.1.3 Together with the verdict, the victim will receive a brochure with information on the process for collecting damages/compensation. As many defendants are unable or unwilling to pay damages³²⁴, a copy of the ruling will also be sent to the Swedish Enforcement Authority (*Kronofogden*) when the judicial process has ended. The Enforcement Authority then sends a letter to the victim with an application form for execution (available in English on the Authority's website³²⁵). The victim must fill in the form and return it to the Enforcement Authority to receive assistance with collecting the damages. The matter remains with the Enforcement Authority until the debt is paid in full. If it comes to light that the party liable for payment is unable to pay, the Enforcement will provide the victim with an investigation report detailing this.³²⁶ A brochure will be attached to the investigation report sent to the victim, informing the victim that he/she may turn to his/her insurance company or to the Crime Victim Compensation and Support Authority (*brottsoffermyndigheten*) for insurance compensation or criminal injuries compensation.

7.1.4 There are no legal obstacles hindering the Swedish Enforcement Authority to collect the damages even if the victim has left Sweden. If the perpetrator has left Sweden (and has no assets in Sweden), the Swedish Enforcement Authority will not be able to collect the damages. In case there is an agreement, stipulating that Swedish judgments may be enforced in the State where the perpetrator resides, the victim may turn to the Enforcement Authority in that country to collect the damages.³²⁷

Insurance compensation

7.1.5 If the defender is unknown or unable to pay the awarded damages, a victim with an insurance may be entitled to compensation from the insurance company (*försäkringsersättning*).³²⁸

Criminal injuries compensation

7.1.6 If the convicted offender is unable to pay the damages and the victim does not have an insurance that fully covers the amount, he or she may be entitled to criminal injuries compensation (*brottskadeersättning*) from the state.³²⁹

7.1.7 In order to receive criminal injuries compensation, the crime must have been reported to the police, or the victim must show legitimate reason for not doing so. In addition, the victim must have contributed to the investigation of the crime to a reasonable extent.³³⁰ If the offender is unknown, there must have been an inquiry, such as a preliminary investigation, which shows that the victim has been subjected to a crime (a brochure explaining that the victim may be entitled to compensation will be attached to a decision to discontinue the preliminary investigation). If the suspect has been identified, a conviction or the summary imposition of a fine is in principle required.

7.1.8 Criminal injuries compensation is paid if the crime was committed in Sweden, regardless of whether the victim is a Swedish resident or not. If the crime was committed abroad and the victim at the time of the offence was a Swedish resident, compensation is paid for personal injury and violation of integrity. Compensation is also paid to a child who has witnessed a crime abroad, if the child was residing in Sweden at the time of the offence.³³¹

7.1.9 If the victim and the crime have such a weak connection to Sweden that it is considered unreasonable that compensation is paid by the State, compensation shall not be paid. That may be the case if the crime is committed abroad against a person who at the time of the offence was a resident, but not citizen, of Sweden and has moved back to

his/her home country.³³² This limitation of the right to compensation does not apply to violent crime committed with intent in Sweden, if the victim at the time of the crime was a citizen or resident of another Member State.³³³

7.1.10 In order to receive criminal injuries compensation, the victim must submit a special application form within three years after the conclusion of legal proceedings.³³⁴ The application form is available in Swedish and English on the Swedish Crime Victim Compensation and Support Authority's website.³³⁵

7.1.11 Criminal injuries compensation is primarily paid out due to personal injuries, which can be both psychological and physical injuries arising from the crime.³³⁶ Some examples of what might be compensated are: expenses for medical treatment, pain and suffering, loss of income, and permanent injuries such as scars of impaired hearing. There are also a number of criminal acts which entitle a person to compensation for violation of personal integrity. This applies when the crime is considered to be a serious violation of the victim's personal integrity, private life and human dignity.³³⁷ Almost all cases of sexual assault entitle a person to such compensation, as well as assault.³³⁸ The chance of receiving compensation for loss of or damages to property or pure financial loss are very limited.³³⁹

7.1.12 Children who have witnessed violence in relationships close to them may be entitled to criminal injuries compensation. To qualify for this, the crime must typically be assumed to have damaged the child's feeling of security and trust in a person close to him or her. In order to obtain compensation, it is important that the Police document the child's observations and reactions at an early stage of the preliminary investigation. According to the General Director of the Swedish Crime Victim Compensation and Support Authority, the lack of documentation is the reason behind 30 % of the rejected cases.³⁴⁰ As a witness to the crime, the child does not have the same right to information as the injured party. Therefore, there is a risk that the child is not informed of the possibility to obtain criminal injuries compensation.³⁴¹

Identified shortcomings

7.1.13 The victim must be very active in the process of collecting damages/compensation. In addition, the process contains many steps and takes a long time. According to a representative of Victim Support Sweden, many of the victims tend to give up and never claim the damages/compensation they may be entitled to.³⁴² It is reasonable to assume that it is even more difficult to undergo the process for victims that does not have Swedish as their mother tongue. In addition, as the process takes a long time, it is possible that the victim or the offender has left the country before damages/compensation is paid.

7.2 Are victims entitled to compensation outside of the framework of court proceedings (e.g. disciplinary proceedings)?

7.2.1 The only way victims may receive compensation outside of the framework of court proceedings is from the Chancellor of Justice. However, the Chancellor will in principle not investigate criminal offences.³⁴³

7.3 Can victims receive compensation even absent the identification of a perpetrator?

7.3.1 Yes, see above. The victim may be entitled to compensation from his/her insurance company or criminal injuries compensation in cases where the offender is unknown. The crime must have been reported to the Police, or the victim must show legitimate reasons for not doing so. There must also be an investigation (e.g. preliminary investigation) clarifying that the injury was caused by an offence and not an accident.

7.4 What is the average amount of compensation awarded per case depending on the harm? (if no overall data available please provide selected examples).

7.4.1 The amount will depend on the circumstances of the particular case. Comparisons are therefore very difficult to make.

Examples of compensation for violation of integrity

7.4.2 However, the Swedish Crime Victim Compensation and Support Authority publish a yearly collection of case law concerning compensation for violation of integrity. In contrast to compensation for personal injury, which is determined by subjective factors, compensation for violation of integrity is decided on more objective grounds.³⁴⁴

Assault/aggravated assault

7.4.3 Assault may include everything from relatively mild violence to violence of serious nature. Circumstances of particular interest in the assessment of the compensation for violation of integrity is the time course, the nature of the violence, if weapons/tools were used, if there were degrading elements and if the crime was devoted to causing serious fear of life or health.

- A man was hit with a closed fist in the face by another man: 5 000 SEK for violation of integrity.
- A man was kicked on his upper body by another man, while lying down at the ground: 10 000 SEK for violation of integrity.
- A man was hit in the head with a bottle, that broke: 20 000 SEK.
- A man was hit with a closed fist and kicked several times, even after falling to the ground. After a couple of minutes, the perpetrator returned and continued the assault. The man was knocked unconscious. The offence had a hate crime motive: 40 000 SEK.

Threats

7.4.4 Verbal threat normally results in 5 000 SEK for violation of integrity. If the perpetrator uses a weapon or an object that is perceived as a weapon, the damages for violation of integrity is usually 10 000 SEK. If there are aggravating circumstances, the amount will be higher.³⁴⁵

Rape

7.4.5 A victim of rape usually receives 100 000 SEK for violation of integrity. If aggravating circumstances, the victim may be entitled to a higher amount.³⁴⁶

Examples of damages awarded for assault in detention centres/police arrest

6. A detainee was hit in the head with a closed fist by another detainee. The offender was a professional boxer and the victim fell to the ground at hit his head on the floor. The assault resulted in four weeks at the hospital, whereof two in intensive care. The defendant was convicted for assault to 8 months in prison (the reason why he was not convicted for aggravated assault was that the court concluded that his intent did not cover the severity of the actual harm that was caused). The victim was awarded 20 000 SEK for violation of integrity, 47 000 SEK for permanent physical injuries, 10 000 SEK for non-permanent psychological and physical injury and 1 500 SEK for medical expenses.³⁴⁷

7. A woman in police arrest was pushed to the floor by staff. The victim was awarded 15 000 SEK for violation of integrity, 2 400 SEK for non-permanent psychological and physical injury and damages for destroyed property.³⁴⁸

7.5 Are there fees involved in case the claim for compensation proved to be unsuccessful?

7.5.1 Not if the claim for damages caused by an offence is assessed by the court at the same time as the charge of criminal liability (criminal proceedings). However, in civil proceedings fees will be involved.

7.6 Does any of the above differ between those held in correctional institutions and those held in pre-trial or immigration detention?

No.

8 RESEARCH AND CASE STUDIES

8.1 What information is publicly available related to the frequency of violent crime

(Please list both the sources of information and summarize the data itself.)

8.1.1 Detention centres are not listed as categories for crime scenes.³⁴⁹ Therefore, the Swedish National Council for Crime Prevention (*Brå*) is not able to present statistics of violent crime committed in detention.

Immigration detention centres

8.1.2 There is no data on violence towards detainees available. The Swedish Migration Agency does not collect data on the frequency of violent incidents towards detainees. According to the authority, this depends on the central system for reporting incidents (RITA). If the Swedish Migration Agency's staff has not been physically affected or felt threatened, the incident should not be reported in the system, and the system lacks categories such as "violence against detainee".³⁵⁰

Pre-trial detention centres

8.1.3 The Swedish National Council for Crime Prevention (*Brå*) has conducted an analysis of crimes committed by inmates serving time in prison (potential time in pre-trial detention before the conviction also included).³⁵¹ The report concludes that the number of incidents of violence and threats has increased over the past years, while the number of prosecutions (*lagföring*) for such acts has not. According to the report, one of the explanations may be that acts of violence and threats are not reported to the

Police.³⁵² Further, it is stated that no survey concerning crimes committed against detainees has been conducted.

Reported cases of threats and violence between detainees

8.1.4 The following data is published by the Swedish Prison and Probation Service:³⁵³

2015 2016 2017

<i>Threats</i>	-	20	14
<i>Violence</i>	-	14	15
Total	46	34	29

Reported cases of threats and violence conducted by staff against detainees

8.1.5 No data related to violent crime conducted by members of the authority against detainees have been found.

Prisons

Reported cases of threats and violence between inmates

8.1.6 The following data is published by the Swedish Prison and Probation Service:³⁵⁴

2015 2016 2017

<i>Threats</i>	-	33	39
<i>Violence</i>	-	67	113
Total	82	100	152

Reported cases of threats and violence conducted by staff against inmates

8.1.7 No data related to violent crime conducted by members of the authority against detainees have been found.

8.2 What research or reporting has been conducted into the regimes covering Detained Victims in your jurisdiction?

8.2.1 Not much research or reporting focusing on detainees as *victims of crime* have been found.

8.2.2 The article *Criminal, Crime Victim, or John Smith? Constructions of Victimhood and Perpetrator ship Among Swedish Probationers* focuses on criminals who are also victims of crime, that is, the victim–offender overlap. The study includes men who have become victims of violent crimes, but who are also perpetrators of such crimes. Sixteen Swedish probationers have been interviewed in depth and asked to describe their victimization and their offences. The interviewees clearly distance themselves from ideas of victimhood and describe the victimhood of others as something shameful. Their own victimization, and their own violence against others, is described in a pared-down and unemotional manner. Victimhood emerges in the study as something so negative that it can be described as shaming in the same way as if the individual is labelled as a criminal. Victimhood and the role of the victim do not constitute alternatives for the interviewees. The role of the criminal, by contrast, is prominent.³⁵⁵

8.2.3 Regarding immigration detention, there has recently been some reporting on how violence and threat increases at the centre in Gothenburg. However, the main focus of the articles is the situation and work environment for staff:

- Dahlin, Ann, Publikt, *Kraftig ökning av hot och våld på förvaret*, 2018-05-16.
- Arbman Hansing, Sanna, ETC Göteborg, *Mer än en polisanmälan i veckan på förvaret*, 2018-03-01.

8.2.4 Also regarding immigration detention, the following regarding the situation for detainees in general have been found:

- The book *Flyktningfångelser, En antologi om Migrationsverkets förvar* is a collection of stories from detainees and people that, through their work or NGO, are in contact with detainees. It also describes the legal framework of immigration detention.
- The documentary *Förvaret*, about the situation for detainees and staff in the immigration detention centre in Flen.
- The report *Förvar under Lupp, en studie av rättssäkerheten för asylsökande i förvar* by the Swedish Red Cross, focuses on the lack of legal safeguards in the immigration detention process.

8.3 What, if any, systemic challenges have been identified in the regimes covering Detained Victims in your jurisdictions?

8.3.1 A conclusion that can be made from the contact with the Swedish Migration Agency is that detainees are not seen as victims or potential victims of crime. The routines that covers violence in detention focuses on the situation and work environment for staff. As the system for reporting incidents does not include an incident-category such as “violence against detainee”, there is no data on the frequency of violence and thus hard to follow up such cases.

8.3.2 The Swedish Migration Agency and the Swedish Prison and Probation Service do not inform detainees of their rights as victims in any structured way and the staff generally does not receive training in rights of victims.

8.4 Have any cases been reported on (in academic research, government or non-governmental reports, or in the media) related to violent crime in detention? If so, can you please summarize each case?

Immigration detention

8.4.1 Not many cases reported on have been found.

The victim is no longer in the country

8.4.2 Two officers from the Swedish Prison and Probation Service were convicted for assault of a detainee that they were transporting from the immigration detention centre in Märsta. The victim could not participate during the preliminary investigation or the court hearing, as he was returned to Sri Lanka. No agreement between Sweden and Sri Lanka that enable corporation between the Police Authorities existed, and the prosecutor had unsuccessfully tried to contact the victim through e-mail. As the victim had applied for asylum in Sweden stating that he was subjected to persecution by the authorities in Sri Lanka, the prosecutor did not try to contact him through Sri Lankan authorities.³⁵⁶

Pre-trial detention

8.4.3 In all the following three cases, staff in pre-trial detention centres used violence against detainees. They were not convicted in Court, but disciplinary sanctions were imposed by the Disciplinary Board:

- <https://www.svt.se/nyheter/lokalt/uppsala/se-filmen-dar-vardaren-slar-intagen-pa-haktet>
- <https://www.aftonbladet.se/nyheter/krim/a/0R8aB/har-far-vardaren-nog--knuffar-intagen-i-hissen>
- <https://www.aftonbladet.se/nyheter/a/jPz8aw/kriminalvardare-far-loneavdrag-efter-vald-mot-intagen>

APPENDIX

1. The Swedish Migration Agency, “The Swedish Migration Agency’s detention units”.
2. The Swedish Prison and Probation Service, “Information for detained persons”.
3. The Swedish Prison and Probation Service, “Information – Detainees Storboda remand prison”.
4. The Swedish Police Authority, “For you who reported a crime” (*Brottsofferbrev, Till dig som anmält ett brott*).

9. INTERVIEWS WITH STAKE HOLDERS

9.1 Research Methods

Civil Rights Defenders has performed 38 individual interviews and two focus groups with stakeholders, (detention facility staff; lawyers; civil society organizations (CSOs); police officers; immigration officials; victims and policy makers), aiming to investigate and discuss the practical axes to rights for victims of crimes in closed institutions. The interviews were performed in various parts of the country, in Stockholm, Märsta, Malmö, Gävle, Flen, Göteborg and Helsingborg.

We found it very difficult to find victims. One reason was the fact the victims in closed institutions are not seen as victims. We found it also especially challenging to find and interview respondents from the Swedish police and CSOs supporting detainees in pre-trial detentions. In Sweden, CSOs are more engaged in immigration detentions than in pre-trial detentions, which made it easier to identify and interview victims in immigration centers. Thanks to our contact network in civil society we were introduced to respondent’s that were of interest for the project. The respondents were chosen either because of their own experiences or because of their perceptions and opinions on victim’s rights. Nonetheless, we found it useful to get their general view of the situation within detention centers. By making interviews with stakeholders but also others such as previous staff in detentions we also received advises on where we could find respondents. This was very important especially concerning the victim’s participation.

The victims already found themselves in a vulnerable situation why we meet them in safe places and with people whom they trust (contact person or family members). Some of the victims were former detainees of crime that could provide the insights necessary for this study.

The immigration detention staff that participated were more prepared and had been given permission by their employer to discuss the issues with us during worktime. However, due to a wish to remain anonymous, we met with staff in pre-trial detention after working hours. As the interview questionnaire was extensive and mainly focused on detained victims, many of the respondents claimed that they lacked experience of observing/working/supporting victims of crime in detention. As the questionnaire was addressing concrete situations of violence, some of the questions became irrelevant.

The interviews followed the structure of the interview guide from Fair Trials. The interview guide were very helpful for us to plan for and to keep the focus during the interviews. At the same time, we felt it was important to not interrupt the interviewee by asking too many questions. It was therefore sometimes more sufficient to let the respondents talk, at least as long they continued to talk about something that were relevant for the result and the goal for the project.

All interviews have been summarized and are included in two separate attachments. The interviews have been translated into English via Google Translator.

9.2 Detention of Migrants

We have conducted interviews with four victims in detention of migrants. All have been in the detention for 5-10 months. None of the respondents perceive that they have been informed of the rights they have if they are exposed to a crime while they are detained. This is confirmed by all stakeholders. At the arrival call, you will receive information about the rules that apply to the repository and the consequences that follow if they do not comply with the rules. They also get information about that they can receive visitors, the reasons for why they have been deprived their freedom of liberty and what other decisions that concerns them. Many inmates find that due to lack of interpretation they find it hard to understand all that is

communicated to them. CSOs say that oral interpreter often works well, but it can still be difficult for people to understand the information, partly because of the psychosocial situation they are in. There are also difficulties with translation of written information. (CSO 1) Several CSOs representatives report that many interns have been beaten by transport staff. This Coe a repeated trauma. Some of those who are on the shelter can be really traumatized. When you come from a civil society organization, saying that you are not from the police, they begin to open up because their trust in the police is damaged. New things therefore emerge afterwards because they did not have the confidence to tell anyone before. (SCO 1)

The detention staff do not say anything about the conditions during transport but have the consensus that the most common risk of interference is between inmates. Victims as well as the detention staff state that the inmates have the opportunity to talk with staff if they are subjected to a crime. At the same time, it appears to be very difficult to get the damage documented. All respondents who have experiences of violent crimes indicate that the staff on the repository have confessed that they have the right to report the incident, but that the staff did not take special action when the crime was noted. For example, injuries have not been documented or doctors have been summoned. The staff did not help them to report what has occurred. The victims of crime have instead been asked to contact their lawyer to help them. However, most detention staff say they will assist the person who is subjected to a crime in various ways and takes steps to prevent the victim from staying with the perpetrator. Detention staff testifies there are no official policy nor routines to protect victims and obtaining their rights as expressed in the victim's directives. (staff 1, staff 4)

Even though several of the interviewed detention staff say they should assist individual offenses, it seldom happens. On the question: Are you aware of any situation where a member of the staff has helped a detainee report something to the police? All detention staff said no.

The normal acting from the staff when there has been any form of fitch between the interns has primarily been to separate them from each other. (staff 1)

The fact that the staff does not assist in the reporting of crimes are also confirmed by the victims, the NGOs as well as the lawyers. Many of the respondents testify that the individual must have contacts outside to be able to get his rights as victims of crime. A lawyer testifies that reporting came from several places: of her, NGOs who met the client on the repository, the client's family. It was a person from an NGO documenting his injuries. The same lawyer (layer 2) tells that a client lacks knowledge about how the community works to make a notification and it was through friends to a client that he received information about the case. It took four days after the event to find out what had happened and before the client meet a doctor for his injuries. It was the agent and contact person who contacted the repository to make them take responsibility.

Several NGO respondents underline it is not uncommon that detainees are unaware of the fact that they have a public counsel, as some counsels never visit the detention centres. Other public counsels only participate over telephone. (NGO 2) NGO-respondents requests a civil society routine on how to act, for example if someone has been exposed and a picture of the damage is taken. This is not currently available. (NGO?). However, one of the respondents who assisted his agent to report a crime tells us that because he has no home address, he never received confirmation of notification or decision about investigation. In case an act has been reported to a police officer, there is also a risk that the crime will not be investigated by the police. One of the lawyers (lawyer 2) testifies to how this week, for a year, the police asked what happened in the investigation. This was the answer that the case is not a priority and that the client should still be expelled. The lawyer got the feeling that the police were waiting for the expulsion. Only after a year's time was held a hearing with the client. When the interview with the client was held, the police investigator did not have the pictures of his injuries, despite the fact that the lawyer sent them to Development Center a year earlier. After the interrogation, the preliminary investigation was resumed.

As regards training for staff, it is clear that all those who work in Forvar receive undergraduate education, including safety and how they deal with physical and verbal violence. The staff learn to defend themselves, both physically defending themselves and conversational

techniques. On the other hand, education is lacking in how to deal with the victims exposed to crime. (staff 1, staff 4)

On the question: “Is there ‘whistle-blowing’ legislation in place that would enable staff of a detention facility to report about abuse committed by other detention staff?” the answer was: Yes, there is, but it’s unclear how up in the ranks the information will get and I don’t know how much we’re allowed to say since we’re bound by confidentiality agreements. (staff 1)

As for Jos Opcat, it is also clear that Sweden's NPM is not particularly focused on the content of the EU directives but that, through this investigation, it is now emphasized that the issue of the victims' rights and rights needs to be lifted in the context of the Opcat reviews. The conclusion is, therefore, that victims of crime have difficulty getting their rights as provided for in the victims' directives. Incidents that are in custody are rarely treated as crimes where there is a victim of crime. There are no routines for how crime victims should be treated in all custody contained in the study. All respondents who are staff say that the individual may come to them if there is anything, but the absolute majority of the interviewees seem to have refused to be a victim of crime if they are subjected to custody. Within all the custody contained in the study there are possibilities to separate those taken, but it is difficult to read for what reason or in what way a move is made because the victim is not treated as a victim of crime that may need to be protected from the perpetrator.

9.3 Pre-trial detention

Since it was extremely difficult to find victims of crimes in pre-trial detentions, there are only two interviews with detainees who have been exposed to a crime when they were in pre-trial detention. Both victims describe how they were exposed of violence by the staff. Both also testify it was very difficult to meet a doctor and have their injuries documented. None of the victims say they have been informed of their rights as a victim. They have only received information about their right to contact a lawyer. Vp2 says the Swedish authorities did not even inform me that we could press charges, my sister had to find out about the procedure by contacting a private lawyer. That the detainees do not receive information on their rights as victims of crimes is confirmed by the staff, for instance prestaff1.

The detention staff confirm there may be violence on the pre-trial detention, but mainly between the inmates. Violation between staff and inmates may occur in cases of movements when the inmate does not listen. In those situations, the staff may have to resort to violence to move the person. Prestaff1 describes that kind of force is done by staff who are trained within it. Prestaff1 however says then there are situations that she thought could be solved without force. “You could talk more, use that tool more before you resort to violence”.

The staff tells us that the personnel receive training to be able to handle violent situations. In order to get a permanent position, you must undergo a basic education and then there is a lot of focus on dealing with violent situations. There is no education in conflict management. The education focus is generally on physical violence. All respondents of the staff say that the focus is on how staff should protect themselves and how to act towards a person who is violent. There is no education in how to deal with a person who have been exposed for a crime while he or she was detained.

There seems to be routines on how employees should handle situations where prisoners have been subjected to a crime. All of the staff say they inform the inmates about how they can report crimes, but they do not assist the individual in making the actual notification. If a violent situation has arisen between the inmates, the public defender will not be connected. The staff on the detention "interrogate" those who have been involved in the trouble. The decision-maker is the officer in charge, but since they have a routine to move people who are fractured, it is the chief of alarm at the site who gets the main responsibility for ensuring that the individual gets a safe environment after a conflict has arisen on the detention. If someone has been involved in a fight, they often end up in the restriction department, where they are considered protected. However, it is unclear whether it is the victim or the perpetrator or both who are put in the isolation cell.

Only internal notifications use to be made by the staff. Violations between interns is normally not reported to the police.

The interviews with the detention Staff, for example prestaff1, show that there is a risk that inmates who need an interpreter get caught up. It takes time to get an interpreter and sometimes it is difficult to understand that the intake asks for an interpreter. Preothers2 emphasizes that access to interpreters differs very much depending on which institution or which detention. The vast majority have good with interpreters, etc. and help people, while others do not attach much importance to it. Because it costs every time you call an interpreter, something that goes on the department's budget, as soon as it is money involved, it affects how you use the available possibilities. Have you noticed this? "Yes, many times". They have said that it takes money to bring in an interpreter each time why they have guidelines for when to do it or not.

One of the staff respondents works in a youth department. The respondent's experiences are much more positive than those from the adult departments. In the youth department, the staff attitudes to the prisoners seems to be better. But neither the staff at the youth departments receive training in victims' rights. And the tendencies to respond to victims are the same, for example, to separate victims from perpetrators, but additional measures related to the victim does neither appear to occur at those detentions. As far as notifications are concerned, lawyers argue that the fact that the inmate cannot turn to external police but must turn to the police who are to interrogate the same for the crime he suspects is liable to lead to the intruder not reporting that this has been exposed for a crime. The inmate is already in a difficult situation and often feels very exposed. It is also not uncommon for the inmates to have no confidence in the police and society at large. The interviewed lawyers confirm that persons who have been subjected to a crime are entitled to a plaintiff counselor, but that they do not know how it works in practice. Prelaw 1 says "One problem is that it is not part of the public defenders' role to help with these issues, if the public defender helps with such issues, it is because they are humane".

Prelaw 2 says that another difficulty is that in detention of migrants, you are in a collective, people can receive calls and make calls. In pre-trial detention, with full restrictions, you do not have contact with anyone other than the detention staff and the public defender. This means that it is often more difficult to find witnesses to crimes that have taken place in the context of a detention.



WE EMPOWER PEOPLE

Prelaw 3 believes that it is the heavy bureaucracy and the inertia of the system that can be strenuous for victims of crime. Prelaw3 describes that clients request phone calls and rights of various kinds, but then it becomes too much for them to go through the sluggish system. Prelaw 3 considers that when victims of a crime request their rights, they are still treated as they were in the institution. There is a culture in the correctional service which, through bureaucracy, keeps people passive. It is about not taking conflicts, not denying rights, but over-bureaucrating everything that causes people to feel powerless. This especially happens when these people are victims of crime.

Several respondents highlight the fact that documents relating to a police report are sent to the address of the public register which means the documents do not arrive to the person who are detained.

There is finally a consensus among the lawyers that crimes against victims who are deprived their freedom of liberty is of very low priority among police officers.