



Justice by privilege? Social inequality in waivers of prosecution among youth.

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ABSTRACT

While equality before the law is a fundamental democratic principle, some disparities in justice delivery are intentional. For example, the sentencing of young offenders has long been the subject of special consideration in the Swedish criminal justice system. This study investigates social inequality based on socioeconomic status in Swedish youths' access to a waiver of prosecution before and after a youth justice reform, which, among other things, aimed to increase waivers of prosecution. It further explores how socioeconomic status, gender and ethnic background interact and how this relates to youths' chances of being processed with minimal intervention. Findings demonstrate that youths with highly educated parents are more likely to have their cases diverted from a sanction. Still, inequality only appeared after the 2007 youth justice reform. While diversion away from penal sanctions increased for all youths after the reform, the increase was more substantial for youths whose parents had higher levels of education. This suggests that justice-response disparities arose as a knock-on effect of the youth policy reform. Furthermore, the findings indicate that the influence of parental socioeconomic status is more substantial for girls and youths with Western backgrounds. These findings are discussed in relation to theories of sentencing decisions, intersectionality and a resource perspective.

1. Introduction

Equality before the law is a fundamental democratic principle entrenched in several international and human rights treaties (see, for example, Articles 2 in UDHR and UN CRC).¹ This implies that individuals involved in similar offences should face equal responses from the state. Yet, research on inequality in sentencing outcomes has been relatively neglected in a European (Lymperopoulou, 2024) and Nordic (SOU, 2005) setting, and the existing evidence is overwhelmingly dominated by research from the United States of America. This body of research has mainly focused on the influence of extra-legal demographic factors, and findings are relatively consistent. Young male defendants from ethnic minority backgrounds are disproportionately subjected to harsher punishments (Doerner & Demuth, 2010; Lymperopoulou, 2024; Steffensmeier et al., 1998). On the contrary, female offenders tend to be treated more leniently than their male peers (Doerner & Demuth, 2010; Öberg, 2017), and individual risk factors and personal circumstances do not mitigate these differences (van Wingerden et al., 2014).

Previous research predominantly draws on a focal concerns

perspective (Steffensmeier, 1980) and typically focuses on adults and serious offences, often using incarceration or sentence length as the primary outcome. This emphasis on the deep end of the judicial system may limit the scope of findings (Engen et al., 2002; Lymperopoulou, 2024). Additionally, socioeconomic status (SES) and how this intersects with demographic factors have not been adequately investigated, leaving critical dimensions of sentencing disparity underexplored. The present study departs from calls for research on the interaction of extra-legal offender characteristics in sentencing decisions (Doerner & Demuth, 2010; Steffensmeier et al., 2016) and the evident research gap on how socioeconomic status taps into this relationship among youths. By drawing on intersectionality and resource perspectives (Burgess-Proctor, 2006; Papalia et al., 2019), alongside the focal concerns framework, the study broadens our understanding of inequalities in sentencing outcomes.

The study aims to assess the presence of inequality relating to socioeconomic status in prosecutors' decisions to waive prosecution among youths while also considering if the influence of socioeconomic status varies depending on sex and ethnic background. In Swedish law,

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¹ United Nations Declaration of Human Rights: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> and Convention on the Rights of the Child: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (retrieved on January 14, 2025).

the main principle is that the prosecutor is obliged to bring charges if there is sufficient evidence. However, in some instances, the prosecutor may refrain from prosecuting even though there is sufficient evidence or the young person has confessed. Even though the offence is registered in the criminal record, waivers entail escaping the authority of the legal system, and the youth does not receive a formal justice sanction (Ståhl, 2020). Therefore, the issue of inequality in waiver decisions is, at its core, a matter of due process.

In 2007, a youth justice reform was implemented that, among other things, aimed to reduce the number of prosecutions among youths, particularly monetary fines in favour of waivers. The legislator's ambitions were largely realised: the use of waivers increased at the expense of monetary fines and has since remained at a higher level than before the reform. However, prosecutors anticipated the reform, and a sharp increase in the use of waivers can be noted already between 2005 and 2006. This development towards fewer young people being prosecuted through the formal justice system is positive from a child rights perspective. Still, the extent to which it benefits all young people equally remains unclear. By covering an extensive period of time, the present study will be able to shed some light on whether potential inequality in youth justice decisions is sensitive to the period observed in general and the specific policy change in particular. It contributes to the sentencing outcome literature by studying young offenders and particularly addressing sentencing disparities relating to socio-economic status. The objective of the study is to answer the following research questions:

- How has the use of waivers developed relative to other sanctions available for youths?
- Is there social inequality in access to a waiver of prosecution by parental socioeconomic status, and has this changed over time among 15–17-year-old Swedish youths?
- Is the association between parental socioeconomic status and waiver decisions moderated by ethnic background and sex?

Administrative data from several register-keeping agencies in Sweden were utilised, including all criminal cases of 15–17-year-olds between 1992 and 2022. Time-fixed effect linear probability models (LPM) and LPM models allowing partial effects to vary over time, between sexes, and individuals with different ethnic backgrounds were estimated.

The article is structured as follows: First, some distinctive characteristics of the Swedish judicial context for youths, particularly the legal requisites for waivers of prosecution, are outlined. Then, previous research and theory on sentencing inequality are reviewed. The following sections are devoted to data and analytical strategies, after which the study's findings are reported. The article closes with a concluding discussion.

2. Minimal intervention through waivers of prosecution in Sweden

The Swedish criminal justice system encompasses several institutions, including the police, prosecutors, courts, and correctional services. According to Swedish law, 15 is the minimum age of criminal responsibility. There is no specific juvenile court. Instead, defendants above 15 are dealt with by regular criminal courts. Youth justice delivery is divided between criminal justice and social services (Lappi-Seppälä, 2018). In cases where the youth is younger than 18, the prosecutor often obtains an opinion from the social services, which is part of the pre-sentencing report and is used as a basis for the decision. Most youth justice decisions either result in a waiver of prosecution, a summary imposition of a fine, or diversion to social care (Lundgren, 2019).

Measures taken within youth social care orders include participation in rehabilitative programs, regular contact with social services, youth service, urine samples and placement in out-of-home care (family foster care or residential care). Other sanctions available for young people but

less frequently applied include conditional sentences, probation and community service (Lundgren, 2019). Depending on the seriousness of the crime, a small portion is placed in special residential homes according to the Secure Youth Care Act (SFS, 1998:603). While placement in out-of-home care is based on social services' assessment of the individual needs of the youth, placement in special residential homes is a criminal law measure where the seriousness of the offence determines the length of the sentence.

The Swedish criminal justice system has long given special consideration to the sentencing and enforcement of sanctions for young offenders (Lappi-Seppälä, 2018). For example, the diversion of offenders from the criminal courts through a waiver of prosecution is more frequently used for young defendants (Westfelt & Olseryd, 2014) because the legal process is thought to be harmful to children. A waiver of prosecution implies that a prosecutor decides not to bring charges, even though there is sufficient evidence or the young person has confessed. In these cases, the offence is registered in the criminal record, but the youth does not receive a formal justice sanction (Ståhl, 2020). The waiver decision cannot be combined with conditions but may be revoked if the youth reoffends within six months.

Most commonly, the prosecutor grants the young person a waiver of prosecution under the Young Offenders Act (SFS, 1964:167), also known as a penalty caution. However, a waiver of prosecution can also be granted under the Code of Judicial Procedure (SFS, 1942:740). Regardless of which law the decision is based on, it implies that no charges are brought, but the Young Offenders Act includes some requisites, particularly considering youthful thoughtlessness. The waiver regulations in the Young Offenders Act take precedence over the rules in the Code of Judicial Procedure and are only applicable to youths under 18. A waiver of prosecution under the Young Offenders Act may be considered in two types of situations. The first applies when the youth is already subject to measures by social services or receives care or support in some other way deemed more appropriate than imposing a penalty. The second situation arises when the prosecutor determines that the offence was committed out of mischief or haste. Mischief refers to youthful immaturity, while haste refers to thoughtlessness, an inability to assess the consequences of the action in the moment. This excludes crimes that are planned or systematic, offences involving cooperation, or that are a repeat offence (*Riksåklagarens riktlinjer [Guidelines of the Prosecutor General]* (RÅR 2006:3), 2025). When deciding whether to waive prosecution, the prosecutor also considers the youth's willingness to compensate the victim. This includes addressing or limiting the harm caused, compensating the victim in other ways, or (since the youth reform in 2007) participating in mediation.

During the early 2000s, fines dominated Sweden's penal responses to youth crime, followed by youth social care orders (Lundgren, 2019). The 2004 Swedish Government Official Report (SOU, 2004:122) proposed that waiving prosecution should be utilised more frequently for youths at the expense of both summary proceedings and convictions. This was followed by a government bill (Prop, n.d./06:165), proposing that special consideration should be given to the youth's willingness to participate in mediation when deciding whether to grant a prosecution waiver. These propositions were later solidified through the youth justice reform introduced in January 2007. The aim was to reduce the number of prosecutions, particularly monetary fines, while increasing the use of mediation. Indeed, the rate of youth cases waived from prosecution increased by about 20 percentage points between 2005 and the end of 2007 (Lundgren, 2019). The reform also established youth service as a standalone sanction and added the requirement of a specific need for care before a youth care order can be imposed (Öberg et al., 2011).

3. Inequality in sentencing outcomes: evidence from research and theory

In empirical research on sentencing outcomes, a demarcation line is

often drawn between legal and extra-legal factors. Legal factors refer to determinants prescribed by law to influence the sentence and choice of penalty. These are usually directly related to the crime in question, such as the seriousness of the offence and any mitigating or aggravating circumstances (Diesen, 2005). However, there are examples of legal factors not directly related to the offence. For instance, youths below 18 are to be sentenced less harshly than adults, and the decision to convert a prison term into one served under electronic monitoring hinges on one's employment and housing conditions (*Swedish Prison and Probation Service, 2025*). Extra-legal factors, on the other hand, include circumstances that should not legally affect the judicial decision, such as ethnicity, sex and socioeconomic status.

A significant body of research has examined the influence of extra-legal factors in justice decision-making, both among adults (Steffensmeier et al., 2016) and youths (Engen et al., 2002; Lehmann et al., 2016; Papalia et al., 2019). The overwhelming focus has been on the impact of demographic factors, suggesting that inequality in sentencing outcomes within the justice system occurs along the lines of ethnicity, gender, and age (Doerner & Demuth, 2010). Female offenders tend to be treated more leniently than their male peers (Doerner & Demuth, 2010, 2014; Öberg, 2017), and young defendants from ethnic minority backgrounds are disproportionately subjected to harsher punishments (Doerner & Demuth, 2010; Lymperopoulou, 2024; Steffensmeier et al., 1998). Research also suggests that individual risk factors and personal circumstances do not mitigate these differences (van Wingerden et al., 2014).

While some research has highlighted the combined influence of demographic factors on sentencing outcomes (Doerner & Demuth, 2010; Steffensmeier et al., 1998; Steffensmeier et al., 2016), previous research is still dominated by investigating single variables. Therefore, scholars have called for studies that take an intersectional perspective and examine the joint effects of several factors. The cumulative disadvantage of several intersecting characteristics may otherwise be obscured (Doerner & Demuth, 2010; Steffensmeier et al., 2016). Though the field is evolving towards more complexity and considering several defendant characteristics, research on the significance of socioeconomic status is notoriously scarce in sentencing research. Recognising the influence of class-based factors is not new (see, for example, D'Alessio & Stolzenberg, 1993; Tonry, 1987), but demographic characteristics remain key determinants in sentencing studies. However, there is a growing acknowledgement of the importance of incorporating socioeconomic status into these analyses (Lehmann et al., 2016; Veiga et al., 2023), and some scholars even argue that social deprivation should be listed as a mitigating factor in sentencing guidelines (Veiga et al., 2023).

In a study by Sandøy et al. (2023), socioeconomic position was the central focus, with the authors examining its relationship to sentencing outcomes for 15–17-year-old drug law offenders in Norway. The authors found that children of parents with high socioeconomic status had a significantly higher probability of receiving a sanction that contained rehabilitative measures. Andersen (2024) incorporated indicators of both educational level and income in his analysis of sentencing to alternative sanctions (Electronic monitoring and community service) among adults in Denmark over the past 30 years. He found that high-resource individuals are disproportionately granted these types of non-custodial alternatives. However, this is intended to some degree because specific requirements, such as stable housing and employment, must be met to be eligible for the alternative sanctions. The author argues that the rise in these types of alternative sanctions, largely relying on the management of recidivism risk and so-called "smart sentencing" (i.e., allocating alternative sentencing to defendants with the lowest deemed risk to breach the conditions), during the past three decades may reinforce social inequalities.

This aligns with research criticising risk-prediction instruments, a common practice within youth justice systems (Starr, 2014; van Eijk, 2016). In this vein of research, it is argued that the inclusion of demographic factors and socioeconomic indicators as proxies for the risk of

reoffending in such assessments reproduces and may compound social inequality because disadvantaged youths are recycled in the justice system (McAra & McVie, 2007).

Research on inequality in sentencing outcomes has a long tradition in the USA. In contrast, it has been comparatively neglected as a research field in the Nordic context (SOU, 2005:56). There are some exceptions (including Andersen, 2024; Holmberg & Kyvsgaard, 2003; Sandøy et al., 2023; SOU, 2006:30; Öberg, 2017), and the findings are broadly consistent with research conducted in a US setting. Importantly, though, sentencing disparities in the youth justice system receive relatively little attention. However, in a report by the Swedish National Council for Crime Prevention, Ståhl (2020) reports that girls are more likely to have their case suspended from prosecution than boys. The results are discussed in terms of stereotypical perceptions of gender, but also in terms of unmeasured differences in the circumstances around the offences or differences in girls' and boys' attitudes towards crucial factors such as guilty pleas and willingness to compensate for the damage.

Sentencing inequality research primarily draws on the focal concerns theory (Steffensmeier, 1980; Steffensmeier et al., 1998). The focal concerns framework posits that judicial bodies base their decisions on three primary considerations: perceived blameworthiness (e.g., culpability and criminal history), community protection (e.g., the perceived risk of reoffending), and practical implications of the decision (e.g., caseload pressures on authorities as well as the social costs of sentencing). According to this perspective, sentencing inequality arises because prosecutors or judges have limited information about a defendant's culpability or potential dangerousness and have to rely on 'perceptual shorthand' (Steffensmeier et al., 1998). Sentencing is thus not a purely rational process (Dhami et al., 2015) and sentencing disparities stem from implicit biases and stereotyping among judicial officials, where phenotypical features, such as darker skin or being male, are used as proxies for focal concerns like dangerousness, criminogenic risks, and culpability (Lymperopoulou, 2024; Steffensmeier et al., 1998). However, the empirical application of focal concerns theory has also faced criticism for inferring judicial professionals' behaviour solely from defendant-level data, treating courts as inhabited institutions (Lynch, 2019).

The resource- or legal literacy approach is a less developed framework in sentencing outcome studies, possibly due to the relatively limited research on the relationship between socioeconomic status and sentencing outcomes. Some researchers have theorised that sentencing disparities may arise from defendants' differing resources to engage in legal processes and adopt strategies such as guilty pleas (Papalia et al., 2019). In a Norwegian study based on interviews with youths enrolled in drug-use programmes, Sandøy (2019) found that parental involvement was crucial not only to adolescents' desistance processes but also to the acceptance of imposed interventions. It has been argued that youths from high socioeconomic backgrounds may have an advantage in the legal process, as their parents have greater cognitive resources to engage actively in their children's legal proceedings (Sandøy et al., 2023). Indeed, some requisites in the Young Offenders Act, such as willingness to compensate the victim, acknowledging the offence committed and participate in mediation and initiate supportive measures outside the judicial or childcare system, may reflect dynamics relating to knowledge about how to navigate the legal system, what strategies to adopt and trust in the legal system (Sternberg Greene, 2016).

In recent decades, feminist criminologists have highlighted the need for scholars to address the direct and interactive effects of social and demographic characteristics, particularly in relation to sentencing outcomes. This approach allows for a more nuanced understanding of associations that cannot be fully captured by examining individual characteristics in isolation (Burgess-Proctor, 2006). Intersectionality, a framework recognising that a group may be advantaged compared to one group but disadvantaged relative to another, is a well-established concept in sociological gender studies. However, it remains comparatively underexplored within criminal justice studies (Gaub & Holtfreter,

2015). A key premise is that ethnicity, class, and gender serve as structuring forces, shaping the opportunities available to individuals and influencing their positioning within the social space (Burgess-Proctor, 2006; Gaub & Holtfreter, 2015).

The primary focus of the present study is sentencing inequality relating to socioeconomic status. However, drawing on an intersectionality approach, the study also considers whether SES affects sentencing outcomes for young people of different ethnic backgrounds and sexes equally. Based on the theoretical premises outlined above, we might expect moderating effects of ethnicity and sex, as differential treatment may be amplified when multiple individual factors are taken into account. The focal concerns perspective suggests that phenotypical features, such as sex or class-based markers, are used as proxies for criminogenic risk and culpability in judicial assessments. For instance, if girls are implicitly perceived as less blameworthy, the influence of parental SES may carry less weight. Conversely, if girls are already at an advantage compared with boys in the justice system, they may more readily employ beneficial strategies and draw greater benefit from their parents' educational resources. Similarly, higher parental education among non-Western descendants, whose families originate from legal systems dissimilar to the Swedish one, may be less advantageous if those educational resources are not readily transferable to the Swedish context.

4. Material and methods

4.1. Study population and design

This study utilised Swedish administrative data from several register-keeping agencies in Sweden. Unique individual identifiers allowed the merging of information across several registries over 31 years. The primary data source for the study was the Swedish National Council for Crime Prevention's data on criminal convictions. The register holds information on all convictions, waiver decisions and summary impositions of fines in Sweden. The register further holds data on the time of the offence, the time of the decision, the type of offence, and the sanction imposed. Criminal cases concerning 15–17-year-olds from 1992 to 2022 were included. The age span is motivated by the age of criminal responsibility (15) and the special treatment of youth below the age of 18 in the criminal justice system. As a proxy for SES, the primary independent variable, we use information about parental educational level (see e.g., Shaw et al., 2017, for a test of the validity of educational level as a proxy for SES). This information was drawn from Statistics Sweden's (SCB, Swedish acronym) Longitudinal Integration Database for Health Insurance and Labour Market Studies. Information on sex, birth year, and country of birth was retrieved from the Total Population Register.

The study population was defined as 15–17-year-olds who committed a crime resulting in a criminal justice decision (conviction, summary imposition of a fine or a waiver) between 1992 and 2022. The study population was defined to obtain as large a sample as possible while ensuring that data on the parental educational level at the time minus one year were available. This variable is available from 1991 to 2021.

The observational units were judicial cases, meaning that individuals with several criminal justice decisions between the ages of 15 and 17 could reappear in the data. This repeat-measurement issue was dealt with by using individual-level cluster-robust standard errors in all regression analyses (Moody & Marvell, 2020). The study population comprised 386,966 events nested in 283,419 individuals. Listwise deletion was applied, and 171 cases (0,04 %) were omitted in the full models due to missing values on any variables.

4.2. Variables and operationalisations

4.2.1. Outcome

The outcome measure is binary and measures whether a case was

waived from prosecution (1) or not (0). According to chapter 20 3§ in the Code of Judicial Procedure, prosecution can be waived if the defendant has committed another offence and, in addition to the penalty for that offence, no additional penal sanction is required. The requisites in these types of waiver cases ($n = 8804$) are qualitatively different from, for example, the requisites of mischief or haste because it is based on the fact that another, more severe sanction is already being imposed. These cases were therefore not included in the sample.

4.2.2. Extra-legal independent variables

Socioeconomic status was operationalised as the parents' highest achieved level of education, the year before the justice decision. The variable is ordinal and has three categories: No upper secondary education, upper secondary education, and post-secondary education. The SCB data also included a category denoting incomplete information about education. This category was kept and included in the regression analyses, but was suppressed from all figures due to the small number of cases. Sex was measured as a binary variable (male/female). Ethnic background was divided into Swedish, Western descendants and non-Western descendants. A Swedish background was defined as being born in Sweden or having at least one parent born in Sweden. The Western descendant category comprised individuals born in or having at least one parent born in Western Europe (except Sweden), Australia, Canada, New Zealand, or the United States. The group operationalised as non-Western descendants included individuals born in or having parents born in any country in the Middle East area, Sub-Saharan Africa, Latin America, Asia, the former Soviet Union, Romania, Bulgaria or the Balkans. In critical research, 'racialization' is central. Racialization is a term used to describe the process that places different groups in certain positions and maintains boundaries between various groups. The concept highlights that race or ethnicity is not static but is created through social practices (Molina, 2005). The distinction between Western and non-Western descendants made in this study is not without limitations. However, to highlight potential inequalities stemming from processes of racialization in the judicial decision process, this division is argued to be more meaningful than the broader categorisation of immigrants versus non-immigrants.

4.2.3. Legal independent variables

To account for differences in sentencing due to criminogenic factors and legal aspects of the circumstances of the offence, a number of variables measuring present and previous criminality were included. The type of offence for the principal crime was detailed in 17 categories: Minor drug offence, drug offence, serious drug offence or trafficking, petty theft, theft, other property offence, driving without a license, drink-driving, other traffic offence, malicious damage, other vandalism, assault, aggravated assault, possession of a knife, other violence, fraud, other offence. Minor drug offences mainly refer to personal use and possession of small amounts of drugs for personal use. Possession of larger quantities of narcotics or transfer of narcotics is more often assessed as a drug offence. Serious drug offences typically pertain to an organised sale of narcotics or involve a particularly large quantity. The number of previous criminal justice cases (convictions, waivers or summary impositions of fines) was measured as an ordinal variable indicating 0, 1 or 2+ previous decisions. Additional offences recorded in the case were controlled for because a criminal justice decision may comprise more than one offence. This variable was divided into the following eight categories: No additional offence, violent offence, property offence, drug offence, traffic offence, vandalism, other offence, fraud and several additional offence types. In addition, the defendant's age (15, 16, or 17) at the time of the offence was also measured. Since it is legally permissible for the defendant's age to influence sentencing decisions, it was considered a legal variable. All these factors were entered as categorical variables in the regression analyses with minor drug offence (Principal offence), 0 (Number of previous convictions), no additional offence (Additional offences in conviction) and 15 (Age at

crime) as reference categories.

4.3. Analytical approach

The analyses were carried out in multiple steps with gradual exploration. As a first step, the trends in youth criminal convictions, including the crime mix, and in penal responses to youth crimes were examined and described by means of area plots. The bivariate relationship between the legal and extra-legal factors included in the study and waiver decision was analysed through cross-tabulation and Chi-square tests. Third, linear probability models (LPM) with time-fixed effects were estimated to assess (a) the crude association between socioeconomic status (SES) and waiver decision, (b) the association adjusted for demographic extra-legal variables and (c) the association adjusted for demographic extra-legal variables and legal variables. LPM models were employed due to the binary feature of the outcome and since they ease interpretability and allow comparisons of parameters across different models, which is an inherent problem in logistic models (Breen et al., 2018). While it has been suggested that logistic regression is preferable for dichotomised outcomes due to the risk of predictions outside the 0–1 interval, misspecification of the functional form and the violation of the homoscedasticity assumption, others dispute these arguments (Hellevik, 2009). Hellevik (2009) argues that the issue of predictions out of range can be dealt with by including appropriate interaction terms. It is furthermore argued that the heteroscedasticity issue is of little practical importance, as empirical comparisons of results from logistic and linear regression return essentially the same results for significance tests (Hellevik, 2009). However, to address the issues discussed above, relevant interaction terms were included in the analysis and robust standard errors were used consistently to deal with the potential threat of heteroscedasticity. The robust standard errors were moreover clustered at the individual level, since some individuals (27 %) have more than one criminal justice decision over the observed period. Furthermore, since the independent variables of interest are nominal or ordinal, misspecification of functional form is less of an issue. Nevertheless, a comparison between the results of linear and logistic models was made for all the analyses, which rendered essentially identical results.

In a fourth step, the partial association between SES and a waiver

decision was allowed to vary over time by including an interaction term between SES and year dummies. This allowed for assessing whether the associations were robust over time or sensitive to the time observed. Finally, an interaction between parental educational level and sex and parental educational level and ethnic background was explored to assess if the influence of socioeconomic status varied by these demographic variables. In these analyses, time was treated as a dichotomous variable and a dummy, indicating if the case was processed before (0) or after (1) the youth justice reform, was included in the interaction terms.

5. Results

5.1. Trends in criminal convictions and sanctions

Fig. 1 shows the conviction rate trend and the crime mix among 15–17-year-olds, 1992–2022. Seen over the whole period, a general downward trend can be noted; a development that has also been observed in several other data sources (for example, Svensson & Oberwittler, 2021) and reflects the so-called crime drop that has been noted in most Western countries since the 1990s (Tonry, 2014). There are apparent fluctuations that deviate from the overall trend, but most important to note for the present study is that there is no sudden shift either in the trend or in the crime mix at the time of the reform in 2007, something that could otherwise have had implications for the interpretation of results. Regarding the crime mix, a significant decline in property crime is evident. This reduction in property crime primarily drives the crime drop in Sweden, an observation many authors before us have highlighted (Nilsson et al., 2016). Violent crime and vandalism also decline over the period, whereas other offence types remain relatively stable. One important exception to these patterns is minor drug offences, which have evolved from being a negligible offence type to becoming one of the most frequent. This is a result of changing legislation (the criminalisation of drug use in 1989 and a legislative change in 1993 allowing the police to take blood and urine samples to test for drug use) and a change in the allocation of police resources towards minor drug crimes (Stenström et al., 2024; Tham, 2022).

Fig. 2 illustrates the distribution of penal responses for the same population over the observed period. Until the year before the reform,

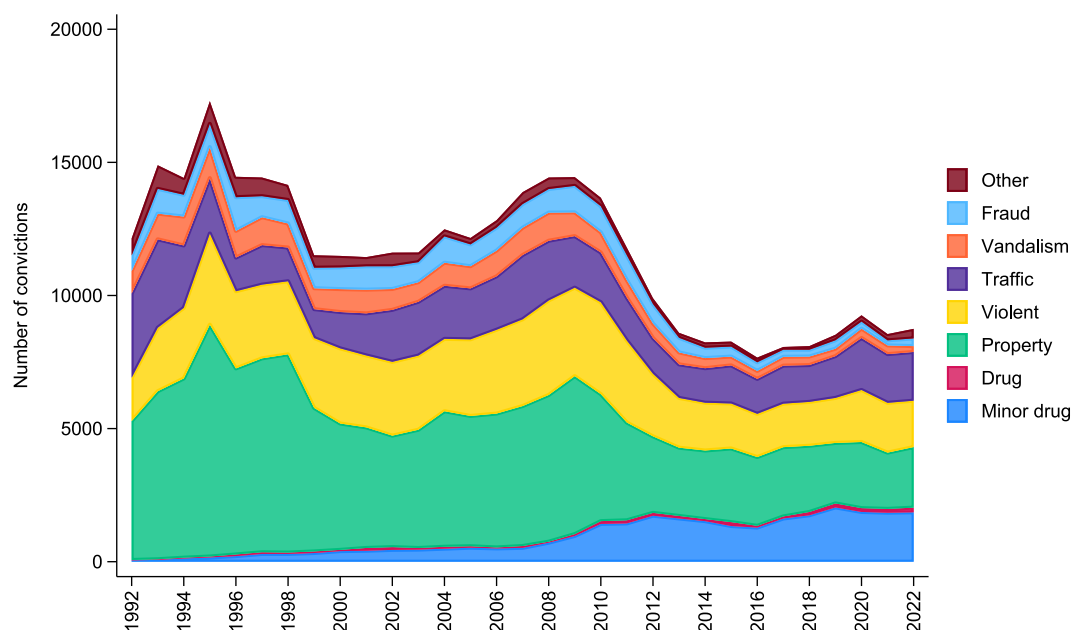


Fig. 1. Area plot of the number of criminal convictions and the crime mix in ages 15–17. Sweden 1992–2022.

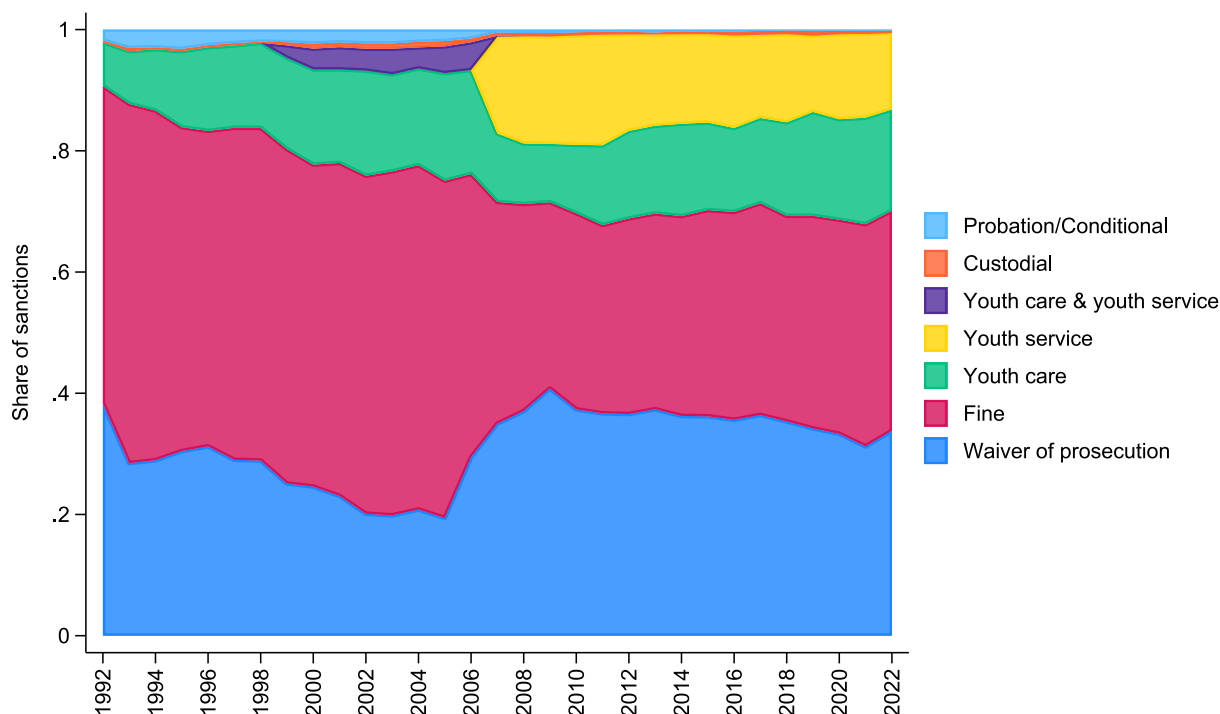


Fig. 2. Area plot of the distribution of sanctions among convicted 15–17-year-olds. Sweden 1992–2022.

the use of waivers declined slightly, after which there was a sharp increase over three years. The proportion of waivers of prosecution then stabilises just below 40 % of the total number of sanctions. Notably, the rise in waivers begins before the actual implementation of the reform, suggesting that prosecutors seized the opportunity once it became apparent that the reform was forthcoming. In line with the legislator's intentions, monetary fines decrease by approximately the same magnitude as the increase in waivers. Additionally, as expected, the presumption of youth service leads to a rise in the use of this sanction, primarily at the expense of youth care.

5.2. Bivariate descriptive results

Table 1 provides descriptive information and shows the percentage of each category in the independent variables that received a waiver of prosecution, averaged over the whole period. Differences in the share that was granted a waiver of prosecution, between the categories in each independent variable, were tested using a chi-square test.

The table reveals that waivers are granted to a larger extent in cases where the parent has a high level of education. Of the cases involving youths whose parents had a post-secondary education, 32 % had their case diverted from a sanction, compared to 23 % of the cases where the parent had no upper secondary education. There is also a sizeable difference between girls and boys, with 45 % of the cases involving girls resulting in a waiver of prosecution, compared to 22 % for boys. The youngest offenders are the most likely to have their cases diverted from a sanction. 34 % of the cases involving 15-year-olds were diverted from a sanction compared to shy of 22 % for 17-year-olds. Swedish descendants received a waiver to a larger extent (29 %) than other West and non-West descendants (around 25 %). Among the offence types, waivers are most commonly granted in cases of petty theft, theft, fraud and

minor drug offences. Cases involving first-time defendants were about twice as likely to be diverted from a sanction as those with a previous justice decision.

5.3. Social inequality in access to a waiver of prosecution over time

Table 2 presents time-fixed regression coefficients from a simple LPM model including parental SES and waiver decisions in model 1. Model 2 presents the coefficients adjusted for sex and ethnic background, and Model 3 presents the coefficients from the full model, also adjusting for the legal variables (see the full Table A1 in the online supplementary Appendix for the coefficients of the legal variables).

When controlling for sex and ethnic background (model 2), the time-fixed coefficient for parental SES decreases. When controlling for the legal factors (model 3), the association is further weakened but remains statistically significant. Model 3 also shows that, averaged over the observed period and controlling for parental SES and the legal variables, non-Western descendant youths display a lower probability of about 4.5 percentage points of having their case waived from prosecution, while the coefficient for the other Western descendant category is negligible and not statistically significant. On the contrary, girls have elevated chances of a waiver decision, corresponding to around 3.6 percentage points, compared to boys.

Fig. 3 displays the predicted probabilities of a waiver decision conditional on the parental educational level between 1992 and 2022. The left-hand graph (A) in Fig. 3 shows the crude association between parental SES and waiver decisions over time. While there seem to be some differences before the reform, these largely disappear after adjusting for the other control variables. Thus, when controlling for legal factors and demographic variables and allowing the partial influence of parental SES to vary over time, the association between parental

Table 1
Descriptive statistics of the association between legal and extra-legal variables and a waiver of prosecution. (Row per cent)

	Waiver of prosecution	
	0	1
Highest parental education at t-1***		
No upper secondary education	76.6	23.4
Upper secondary education	73.0	27.0
Post-secondary education	67.8	32.2
Incomplete data	74.7	25.3
Background***		
Swedish	70.9	29.1
Other West descendant	74.7	25.3
Non-West descendant	75.2	24.8
Sex***		
Boys	78.0	22.0
Girls	53.1	46.9
Age at crime***		
15	65.8	34.2
16	72.8	27.2
17	78.4	21.6
Number of previous convictions***		
0	66.8	33.2
1	84.4	15.6
2+	87.6	12.4
Principal offence in conviction***		
Minor drug offence	67.2	32.8
Drug offence	87.2	12.8
Serious drug offence or trafficking	88.1	11.9
Petty theft	36.9	63.1
Theft	61.2	38.8
Other property offence	70.5	29.5
Driving wo license	99.1	0.9
Drink driving	97.8	2.2
Other traffic offence	97.8	2.2
Malicious damage	80.0	20.0
Other vandalism	88.9	11.1
Assault	95.5	4.5
Aggravated assault	99.2	0.8
Possession of knife	92.5	7.5
Other violence	88.4	11.6
Fraud	59.2	40.8
Other	90.0	10.0
Additional offence(s) in conviction***		
No additional offence	67.5	32.5
Violent offence	92.5	7.5
Property offence	60.8	39.2
Minor drug offence	76.4	23.6
Drug offence	89.4	10.6
Traffic offence	92.0	8.0
Vandalism	84.0	16.0
Fraud	75.2	24.8
Other	97.7	2.3
Several offences	86.4	13.6
Total (n = 386,795)	72.0	28.0

Note: Year dummies suppressed.
* p < 0.05, ** p < 0.01, *** p < 0.001.

socioeconomic status and a waiver decision appeared only after the 2007 youth justice reform, as depicted in the right-hand graph (B) in Fig. 3.

5.4. The moderating role of ethnic background and sex

Fig. 4 displays predicted probabilities from an LPM model including the interaction term between parental SES, sex and whether the case was processed before or after the youth reform while holding other demographic and legal factors constant. Fig. 5 displays the result of the same analysis, but with ethnic background in the interaction term instead of sex. Time is thus treated as a dichotomous variable in these

Table 2
Estimates from LPM models on waiver decisions, main associations (95 % CI in brackets)

	Model 1	Model 2	Model 3
Highest parental education at t-1 (no upper secondary education, ref.)			
Upper secondary education	0.035 [0.031: 0.039]	0.019 [0.014: 0.023]	0.007 [0.003: 0.010]
Post-secondary education	0.084 [0.079: 0.088]	0.060 [0.055: 0.064]	0.022 [0.017: 0.026]
Incomplete data	0.006 [-0.003: 0.016]	0.027 [0.017: 0.036]	-0.013 [-0.021: -0.004]
Background (Swedish, ref.)			
Other West descendant		-0.016 [-0.024: -0.008]	-0.003 [-0.010: 0.003]
Non-west descendant		-0.027 [-0.030: -0.023]	-0.045 [-0.049: -0.042]
Sex (Boys, ref.)			
Girls		0.248 [0.245: 0.252]	0.036 [0.032: 0.039]
Intercept	0.336 [0.327: 0.345]	0.316 [0.307: 0.325]	0.520 [0.510: 0.530]
N	386,798	386,795	386,795
Adjusted R-squared	0,02	0,08	0,30

Notes: Year dummies suppressed, Cluster-robust standard errors at the individual level were used.

analyses, dividing the period into pre- and post-reform (see Table A2 in the online supplementary Appendix for the full models).

Firstly, Fig. 4 illustrates a general increase in the use of waivers after the reform (see Table A2 in the online supplementary appendix for the statistical test of the reform dummy). Still, the difference is more pronounced for girls. Fig. 4 also shows that, before the reform, there was little difference between the SES groups in terms of the chances of a waiver and, if anything, youths with highly educated parents display somewhat lower chances of having their case diverted from a sanction, for both boys and girls. After the reform, the association between parental SES and a waiver decision is positive, and the influence of parental SES is more decisive for girls than for boys. Girls whose parents have a post-secondary education have a predicted probability of approximately 0.48 to have their case waived after the reform, whereas the predicted probability for girls whose parents lacked upper secondary education is around 0.37, an absolute difference of 11 percentage points. For boys whose parents have post-secondary education, the predicted probability of a waiver is about 0.32 after the reform. In contrast, boys whose parents lacked upper secondary education had a predicted probability of 0.28. The influence of high parental education is thus almost three times higher for girls than for boys when calculated as percentage point differences, but the “effect” is also stronger among girls than among boys in terms of risk ratios (0.48/0.37 vs. 0.32/0.28). Note also that before the reform, boys were slightly more likely than girls to get a waiver, while after the reform, the pattern is the opposite.

Fig. 5 shows that before the reform, parental socioeconomic status had little association with a waiver decision for the two non-majority groups, whereas a slight negative association can be observed in the Swedish-descendants group. After the reform, there is a positive relationship between parental SES and waiver decisions in all groups, but it is particularly pronounced in the Swedish and West-descendant groups.

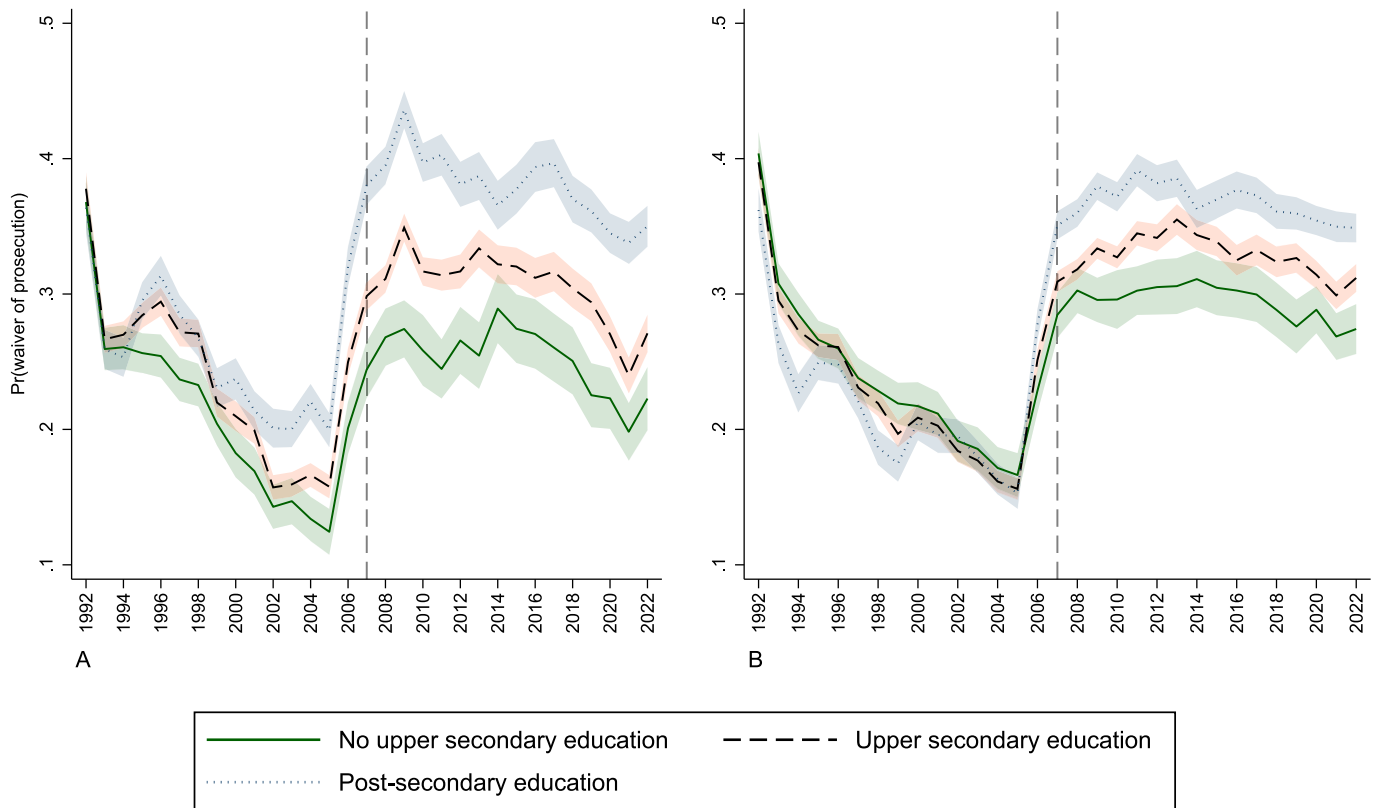


Fig. 3. Socioeconomic gradient in waiver decision over time (predicted probabilities with 95 % CI). A) Simple model, B) Model controlling for sex, ethnic background and legal factors.

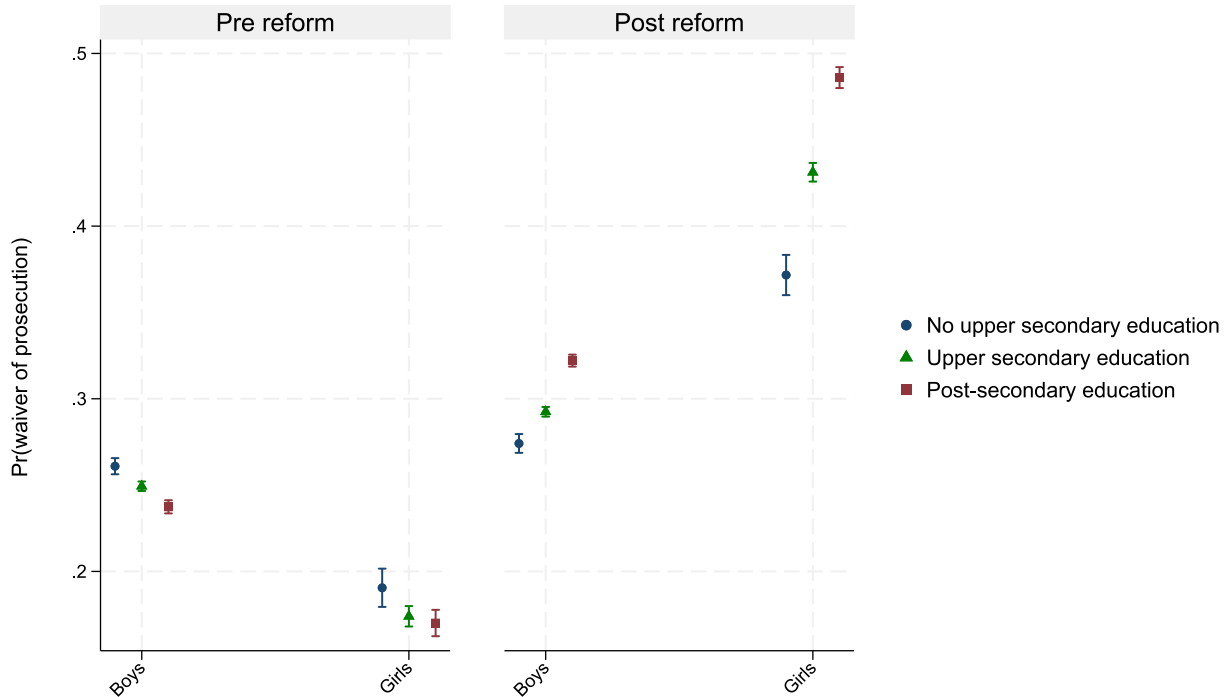


Fig. 4. Interaction between sex and socioeconomic status before and after the youth reform (predicted probabilities with 95 % CI).

Among youths with a Swedish background, there is a difference of about 8 percentage points in the predicted probability of a waiver between youths whose parents had post-secondary education and youths whose parents did not have upper secondary education. Among non-Western descendants, the difference between youths whose parents had post-

secondary education and youths whose parents had no upper secondary education is about 3 percentage points. The benefit of having highly educated parents is thus bigger for Swedish descendant youths, compared to non-Western descendant youths, with a relative difference in the predicted probability of a little more than 2,5.

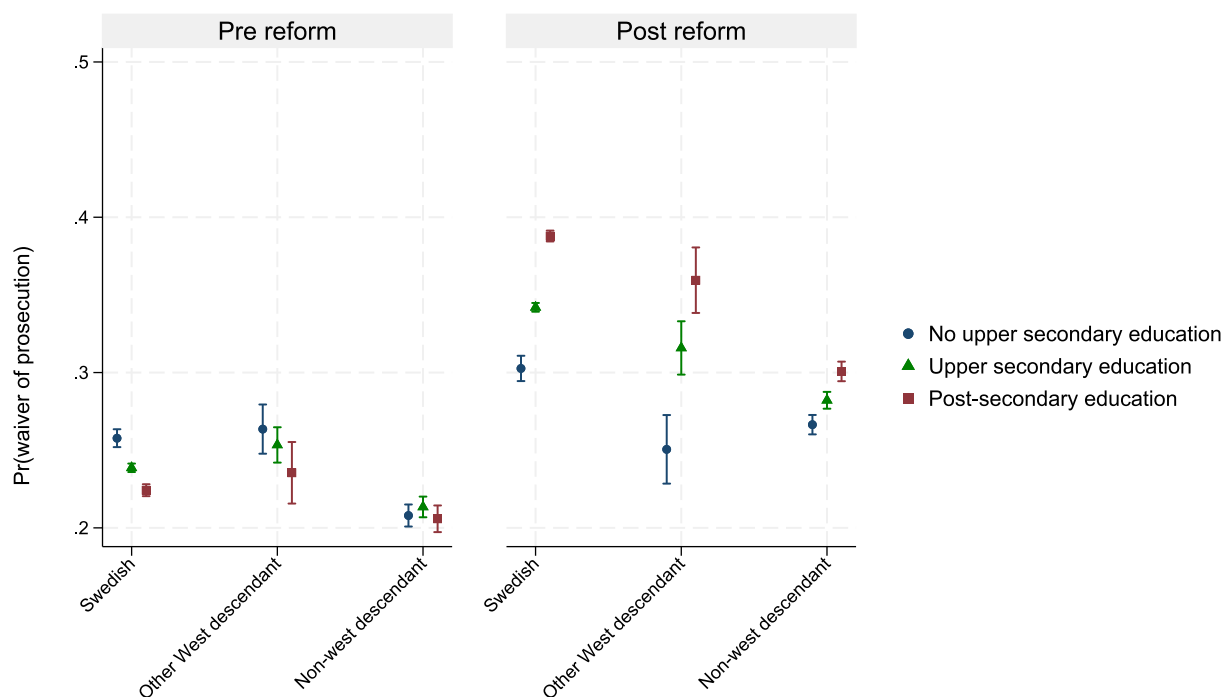


Fig. 5. Interaction between ethnic background and socioeconomic status before and after the youth reform (predicted probabilities with 95 % CI).

6. Discussion

Recognising a significant research gap concerning the influence of socioeconomic status on sentencing outcomes, this study set out to investigate waivers of prosecution among youths. By utilising comprehensive administrative register data on all criminal justice decisions for 15–17-year-olds between 1992 and 2022, it sought to assess social inequality in youths' access to a waiver of prosecution based on their socioeconomic status, independent of legally relevant factors. Additionally, it examined how social inequality in waiver decisions evolved over the observed period, the study spanning 31 years and encompassing a youth justice reform. Finally, the study considered whether the influence of socioeconomic status was moderated by sex and ethnic background.

The findings indicate that the use of waivers increased sharply from just before the reform, while monetary fines decreased by approximately the same magnitude, aligning with the legislator's intentions. During the pre-reform period (1992–2006), differences in access to waivers based on socioeconomic status were minimal or non-existent. However, after the reform, a clear and persistent gap emerged, with youths of highly educated parents being significantly more likely to have their cases diverted from a sanction. The findings further suggest that both sex and ethnic background moderated the influence of socioeconomic status; girls and youths with a Swedish or Western background benefited more from having parents with higher levels of education than boys and youths with a non-Western background.

These findings align with the tenets of focal concerns theory (Steffensmeier, 1980; Steffensmeier et al., 1998). This has been discussed in numerous studies, particularly in terms of ethnic inequality (see, for example, Holmberg & Kyvsgaard, 2003; Lehmann et al., 2016; Lymperopoulou, 2024; Papalia et al., 2019), suggesting that some groups face disadvantage in sentencing because judicial decision makers rely on perceptual shorthand. While implicit bias may contribute to inequalities in sentencing outcomes related to ethnicity, sex, and SES, the findings suggest that the observed differences are not time-constant. This raises the question of why disparities in sentencing would suddenly intensify, particularly in connection with the youth justice reform.

The resource- or legal literacy approach is a less developed

framework in sentencing outcome studies, but offers another way of understanding these mechanisms. A waiver of prosecution may be granted if the youth receives care or support through means deemed more appropriate than a penalty or if the offence is considered to have been committed out of mischief or haste. The youth's willingness to address or mitigate the harm caused, compensate the victim in other ways, or, since the 2007 youth justice reform, participate in mediation, is also considered. The legal text thus grants prosecutors considerable discretion in assessing these criteria while leaving some room for youths and their parents to adopt different strategies. Parents with higher levels of education may have greater cognitive resources to engage with their child's case in general and a better understanding of the legal system, enabling them to employ strategies such as entering guilty pleas, arranging support measures outside the justice system, or encouraging their child to compensate the victim or participate in mediation, thereby increasing the likelihood of a waiver.

It is important to note that while parental education is used as an indicator of resources, this does not fully capture all dimensions of socioeconomic status. In addition, sentencing outcome inequality relating to socioeconomic status does not rule out implicit bias as a contributing mechanism, just as ethnic disparities in sentencing outcomes do not contradict a resource perspective. Cultural markers of socioeconomic status, such as vocabulary or appearance-based attributes (Nichols, 2023), can shape perceptions of a youth's blameworthiness or reoffending risk and, in turn, influence how the circumstances of the offence are assessed. Both resource-related mechanisms and bias among judicial decision-makers may have been exacerbated by the youth justice reform, which encouraged the use of waivers and thereby expanded the range of cases eligible for diversion from sanctions. Put differently, broader prosecutorial discretion following the reform may have made outcomes more contingent on both individuals' traits or behaviour and prosecutorial judgment. Youths from high-SES families, particularly Western youths and girls, disproportionately benefited from the general push for waivers. Thus, the most essential aspect of the SES-concept in this context is precisely that which educational level captures, i.e., the human capital dimension, which we may assume is of most importance when it comes to those skills that help navigate the legal system.

The scarcity of sentencing studies focusing on socioeconomic status

means there are few previous findings to juxtapose with these results. However, using Norwegian data, Sandøy et al. (2023) found a positive social gradient in sentences involving a conditional waiver of prosecution, which includes a rehabilitative requirement. Additionally, girls and youths born outside Norway had a higher probability of a waiver without such a condition. To some extent, these findings contradict those of the present study, as youths from high socioeconomic backgrounds and those born in Norway were less likely to receive minimal intervention. However, two key differences should be considered. First, according to Swedish law, conditions of rehabilitation cannot be attached to a waiver decision. Second, the study by Sandøy et al. (2023) focused exclusively on minor drug offences, which may be a specific case because it typically involves the use of illicit drugs, and parents may have a vested interest in the rehabilitation opportunities made available through such sanctions.

The findings of this study highlight a social gradient in waiver decisions, but these sentencing disparities were not neutral to gender or ethnic background. Instead, they suggest a cumulative disadvantage for males from non-Western backgrounds, aligning with previous studies that adopt an intersectionality perspective (Doerner & Demuth, 2010; Steffensmeier et al., 1998; Steffensmeier et al., 2016). Ethnic background may also obscure unmeasured resource differences, such as familiarity with the Swedish legal system, which could shape perceived options and strategies within the legal process. However, this would not explain the interaction between gender and socioeconomic status, indicating that differential treatment may still be a factor. In simple terms, the resource perspective does not cancel out prosecutor bias as a potential explanation, and the observed disparities are likely influenced by complex dynamics that administrative data cannot fully capture. Veiga et al. (2023) argue that ethnic discrimination occurs indirectly, as socio-economically disadvantaged individuals, who are disproportionately from minority groups, often lack the resources to, for example, avoid remand and pretrial detention. This, in turn, leads to harsher sentencing. Crucially, whether or not sentencing disparities arise directly from discriminatory practices, an expansion of alternative sanctions could exacerbate inequality in sentencing outcomes, creating a bifurcated sentencing regime, where the broader use of alternatives benefits some groups disproportionately.

The present study used comprehensive register data, covering all criminal cases involving 15–17-year-olds spanning more than 30 years. However, there are several limitations to consider. Most notably, observational data imply that the independent variable cannot be manipulated, which limits the ability to draw causal conclusions. Similarly, there was no exogenous factor, such as the random allocation of prosecutors, to rely on. Furthermore, the study cannot account for the youth's attitude towards the offence, which may influence sentencing outcomes in waiver cases. Similarly, it cannot be ruled out that sentencing disparities are, at least in part, driven by some unmeasured legal factor or case-specific circumstance. However, the fact that the observed social inequalities are not time-constant but emerge in immediate connection with the youth justice reform helps alleviate this concern because it is reasonable to assume that such unmeasured factors do not suddenly appear. A critique of studies informed by focal concerns theory is that they infer judicial behaviour from defendant-level data (Lynch, 2019), and this is true for the present study as well. Nevertheless, the objective was not to establish the presence or absence of bias among prosecutors, but to explore how inequality in youth sentencing outcomes may emerge and evolve.

From a long-term and broader perspective, the findings of the present study suggest that a more equal distribution of resources is necessary to reduce inequality, not only in general, but also in sentencing outcomes specifically. Since criminological research tends to indicate

that lenient sanctions render more favourable outcomes (Al Weswasi, 2025), especially among youth (Alm, 2024), the findings of the study should not be understood as a reason to avoid such reforms. However, although the implementations of so-called smart sentences may be desirable from both a child rights, a crime-prevention and a fiscal perspective, they most likely increase risks of reinforcing inequalities (see also Andersen, 2024). This points to the need for measures to improve legal awareness among youths and their parents, particularly within families with lower levels of education and those from non-Swedish or dissimilar legal backgrounds. Equality before the law is fundamental, and the findings presented here put pressure on authorities to uphold this principle. Since legal counsel is usually not available for defendants in cases of petty crimes, such as those that may render a waiver of prosecution, the responsibility for ensuring the legal awareness among defendants (and parents of defendants), irrespective of socio-demographic background, should probably lie at the prosecutor's office.

To gain a deeper understanding of the mechanisms at play and to differentiate between direct bias and resource-related mechanisms, future research should employ designs that allow stronger conclusions about judicial decision-makers' behaviour, such as through the use of vignettes. Given the sentencing outcome disparities reported in this study, future research should also evaluate the impact of waiver decisions on young people's recidivism and life chances. Moreover, scholars should expand the scope of youth sentencing inequality studies, examining sentencing outcomes at various levels of the legal system, from social services recommendations to the sentencing of the most serious crimes. Finally, a take-home message from this study is that, when implementing policy reforms, even those that appear beneficial from a child rights perspective, policymakers need to remain mindful of potential adverse knock-on effects of these reforms.

CRedit authorship contribution statement

Anna Kahlmeter: Writing – review & editing, Writing – original draft, Visualization, Validation, Resources, Project administration, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Olof Bäckman:** Writing – review & editing, Visualization, Validation, Supervision, Methodology, Investigation, Funding acquisition, Conceptualization.

Ethical approval

This research was approved by the Swedish Ethical Review Authority (no 2021–00213 with the amendment 2023–05950-02).

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Declaration of competing interest

The authors have no competing interests to declare.

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Appendix A. Supplementary data

Supplementary data to this article can be found online at <https://doi.org/10.1016/j.jcrimjus.2025.102497>.

Data availability

Due to the sensitive nature of register data and the strict ethical review rules regulating who can access the data, the data supporting this study cannot be shared.

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