ACCOUNTABLE OR NOT ACCOUNTABLE?

SOCIAL WORKERS’ VIEWS ON MENTALLY DISORDERED PERSONS’ LEGAL STATUS

Linda Verngren

2013

Examensarbete, Grundnivå (yrkesexamen), 15 hp
Socialt arbete
Degree Project
Social work, Specialisation in International Social Work

Handledare: Inger Linblad
Examinator: Sam Larsson
ABSTRACT

The aim of this thesis was to describe how mentally disordered offenders would be affected by reintroducing the accountability requirement within Swedish legislation, based on social workers’ preconceptions. Mental illness creates a number of issues within criminal justice systems. Almost all countries worldwide have an insanity defense in order to obtain de-criminalization of mentally disordered offenders. However, mentally disordered offenders are criminalized within Sweden’s current legislation. Therefore, the government is proposing a legislative reform. The reform suggests that the accountability requirement will be reintroduced within Swedish legislation. Within this inquiry semi-structured face-to-face interviews were conducted with six forensic social investigators. In light of Becker’s labeling theory and Goffman’s theory of stigma the results reveal social, psychological and behavioral consequences of the new legislation. The participants believe that, de-criminalization provides social and psychological advantages for mentally ill persons. Nevertheless, excusing people from responsibility might produce irresponsible behavior. Since responsibility is an essential part in rehabilitation as well as preventing criminal recidivism.

Keywords: Accountability · criminal responsibility · mentally disordered offenders · labeling · stigma
First of all, I would like to thank the forensic social investigators who participated in this study, both for the hospitality and willingness to help me throughout this experience. The provided help and information will contribute to the development of my future professional role as a social worker and for this I am grateful. Secondly, I would like to thank my family for letting me stay with them during my degree project. Lastly, I want to give special thanks to my supervisor Inger Linblad for the help, support and valuable advice.
TABLE OF CONTENTS

1. INTRODUCTION 6

1.1 THE IMPORTANCE OF ACCOUNTABILITY 6
1.2 CONNECTION TO SOCIAL WORK 7
1.3 PURPOSE AND MOTIVATION 8
1.4 AIM 8
1.5 RESEARCH QUESTION 8
1.6 CENTRAL CONCEPTS 8
1.7 DISPOSITION 9

2. EARLIER RESEARCH 10

2.1 LITERATURE SEARCH 10
2.2 SECONDARY DATA 10
2.3 CRIMINAL ACCOUNTABILITY IN SWEDISH LEGISLATION 11
  2.3.1 THE SWEDISH PENAL CODE 12
  2.3.2 GOVERNMENT OFFICIAL REPORT, SOU 2002:3 12
  2.3.3 GOVERNMENT OFFICIAL REPORT, SOU 2012:17 13
2.4 CRIMINAL RESPONSIBILITY IN INTERNATIONAL LEGISLATION 14
  2.4.1 THE M’NAGHTEN RULES 14
  2.4.2 THE INSANITY DEFENSE 15
2.5 LABELING OF MENTALLY DISORDERED OFFENDERS 17
2.6 THE RELEVANCE OF EARLIER RESEARCH 19

3. THEORETICAL FRAMEWORK 20

3.1 MAIN THEORETICAL PERSPECTIVE 22
3.2 CHOICE OF SUBTHEORIES 20
3.3 LABELING THEORY 22
3.4 STIGMA 23
3.5 THEORETICAL DISCUSSION 24

4. METHODOLOGY 25

4.1 RESEARCH DESIGN 25
4.2 RESEARCH POPULATION AND SAMPLING 26
4.3 FACE-TO-FACE INTERVIEWS 27
4.4 DATA TRANSCRIPTION 27
4.5 DATA ANALYSIS 28
4.6 ESSAY CREDIBILITY 29
  4.6.1 RELIABILITY 29
  4.6.2 VALIDITY 29
4.6.3 GENERALIZABILITY 30
4.7 ETHICAL CONSIDERATIONS 30
4.8 LIMITATIONS OF STUDY 30

5. RESULTS AND ANALYSIS 32
1. INTRODUCTION

Chapter one introduces the issue of accountability. Why mental illness and criminality is a concern for social work are explained within the second paragraph. Thereafter the purpose and motivation of the study is stressed. Additionally, the research aim and research question is presented. This proceeds by explanations of central concepts. The first chapter is concluded by a presentation of the essay disposition.

1.1 The importance of accountability

Sweden is one of few countries in the world that does not have a requirement of accountability as a prerequisite for crime. For instance, every country within the European Union apart from Sweden has a demand that all offenders must be assessed as accountable to be convicted of any crime (SOU 2012:530). In almost all other countries mentally disordered offenders are given special treatment in regards to their legal responsibility. In order to be accountable, persons must have insight and understanding of the consequences of their actions. Without accountability the person cannot be convicted and is thereby free from penalties (Svennerlind et al, 2010:224). Nevertheless, compulsory psychiatric care might be necessary in such cases. Especially, if the offender is in need of care or public protection measures are needed (SOU, 2012:599).

To regard this target group as accountable has gained a lot of criticism. The issue in focus within this thesis is that Sweden is one of few countries worldwide which criminalize mentally ill offenders. Proposals have been made to reintroduce the concept criminal accountability within Swedish law (SOU 2012:521). Stigmatization of mentally disordered persons is a global issue. This issue will be studied from a metacognitive perspective, in light of Becker’s labeling theory and Goffman’s theory of stigma. Since the law causes negative labeling of mentally disordered offenders through convictions. This target group faces discrimination and stigmatizing because they are labeled as either insane or criminal (Winick, 1995a:9).

From a social work perspective this thesis analyzes possible consequences a new legislation would pose on mentally disordered offenders, at the background of social workers’ metacognitions. Earlier research presents both positive and negative consequences of changing the Swedish system. On the one hand, it could be argued that the current system prevents the risk for stigmatization and discrimination of mentally disordered offenders (SOU, 2012:534).
On the other hand, criminalization of mentally disordered offenders cause further social disadvantages and reduced well-being (Winick, 1995a:20). This thesis will present the importance of evaluating the consequences legislation might have on vulnerable target groups. In order to limit the research aim the research question focus on descriptions of social workers’ metacognitions about mentally disordered offenders if the law would be changed.

1.2 Connection to social work
According to Hugman (2010:14) social work is change management which is conducted at various levels of society. For instance, micro-level social work is affected by macro-level policies. From an international perspective, this thesis analyzes how legislative changes might influence persons at an individual level, based on social workers’ meta-beliefs.

Practical social work involves a wide variety of professional fields (Hugman, 2010:72). A major theme in social work is to work with vulnerable groups. Social workers are employed within both mental health clinics and correctional facilities. People suffering from mental illness face numerous problems in their daily life. Economy, housing and employment could be extremely difficult while suffering from mental health problems. Crime creates an even more difficult life for these people. Mentally disabled offenders are a vulnerable group and in need of social support. Social workers are often involved in the process of providing social support to marginalized groups. Working against discrimination and reintegrating stigmatized groups in society (Hugman, 2010:85). Accountability is a legitimate concern for social work since criminal convictions has an influence on people’s well-being (Winick, 1995a:9). Criminalization of mentally ill persons increases their stigmatization. Social work aims at minimizing harm inflicted by the state. Criminal accountability and people's legal position are connected to human rights. Within social work’s code of ethics all human beings should have equal rights as well as equal responsibilities (NASW, 2008).

This paper provides relevant knowledge for social work. First, descriptions are provided of how mentally disordered offenders would be affected by a legislative change, according to social workers’ metacognitions. Second, this thesis provides reflections about how an accountability requirement would create improvements and difficulties for this target group. It is important for social workers to have this insight so they can support mentally disordered offenders in the best way possible (IFSW, 2012).
1.3 Purpose and Motivation
The research field was chosen because of pure curiosity. The author’s purpose and motivation for conducting this thesis began by working with persons suffering from mental illness. Additional interest awoke during the author’s field practice in Sweden. The field placement was at a health center which provides psycho-social support to the inhabitants of that area. During this period the author gained a deeper understanding of how mental illness impacts people’s daily life. The issue of criminal behavior became apparent as well. Mental illness in connection to criminality creates a complex and multilayered issue. The law poses a number of consequences for these individuals. Mentally disordered persons legal position is thereby important, especially in terms of involuntary treatment. As a result, social work approaches to this issue is essential.

1.4 Aim
The aim with this study is to describe consequences of reintroducting the accountability requirement for mentally disordered offenders, at the background of social workers’ metacognitive preconceptions/beliefs.

1.5 Research question
What kind of metacognitive descriptions/beliefs can be made of a small sample of social workers’ cognitive images, fantasies and perceptions about how mentally disordered offenders would be affected in their psychological experiences (cognitions, emotions including social behavior) by a change in the law so that they would not be accountable of their actions? (de-criminalization).

1.6 Central concepts
Central concepts used within this thesis will be described in the section below.
1. Accountability: In this thesis accountability is connected to legal responsibility, criminal liability, blameworthiness and guilt. Severe mental disorders might cause diminished responsibility. To be accountable one must be able to distinguish right from wrong and to understand the consequences of one’s actions (Penney, 2012:99).
2. Severe mental disorder: Since 1992 the Swedish Penal Code demands a serious mental disorder in order to sentence a person to forensic psychiatric care. The word severe refers to what kind of psychiatric disorder an offender may suffer from, but also the level of severity of the specific disorder (Svennerlind et al, 2010:221).
3. Cognition: The concept of cognition represents the thoughts, memories, reflections, fantasies, beliefs, intentions and decisions within our consciousness (Stevens, 1996:23).


1.7 Disposition
Chapter one introduces the issue of accountability. Why mental illness and criminality is a concern for social work are also explained. Thereafter the purpose, research aim and research question are presented. The first chapter is concluded with explanations of central concepts. The second chapter presents scientific knowledge from previous research. As such the Swedish Penal Code, governmental official reports and criminal liability within an international context. Thereafter the theoretical framework of the metacognitive approach, labeling theory and stigma are described in chapter three. The fourth chapter explains the research design and methodology used within this thesis. Results and analysis are presented in light of labeling theory and in connection to earlier research in chapter five. The findings are categorized into themes in order to fulfill the research aim and answer the research question. These themes include social, psychological and behavioral consequences. The last chapter entails a discussion. A brief discussion of the results is displayed in connection to the research aim. This is preceded by a discussion concerning the methodology and theoretical framework of the thesis. Suggestions for further research, the reference list and the interview guide conclude the thesis.
2. EARLIER RESEARCH

This chapter presents journal articles in connection to the research topic. The chapter begins with a literature search and secondary data. The articles contain information of criminal accountability within a Swedish and international context. The history of accountability within Swedish law, the Swedish Penal Code and two Government Official Reports are presented. Additionally, criminal responsibility within an international context is stressed. Such articles discuss the M’Naghten rules and the Insanity Defense.

2.1 Literature search

Table 1.1 Literature search

<table>
<thead>
<tr>
<th>Search engine: Discovery</th>
<th>Keyword: Criminal responsibility</th>
<th>Date: 2013-04-16</th>
<th>Criminal responsibility AND mental disorder</th>
<th>Hits</th>
<th>Used</th>
</tr>
</thead>
</table>

Search engine: Science Direct
Keyword: Legal accountability (within International Journal of Law and Psychiatry)
Date: 2013-04-16

<table>
<thead>
<tr>
<th>Criminal responsibility AND mental disorder</th>
<th>Hits</th>
<th>Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>557</td>
<td>11</td>
<td></td>
</tr>
</tbody>
</table>

After the use of Discovery and Google Scholar it became apparent that the most suitable articles were published in the International Journal of Law and Psychiatry. Therefore the search engine Science Direct was used and the search was limited to journal articles within the International Journal of Law and Psychiatry. One of the aims of the literature search was to find the most recent research as possible.

2.2 Secondary data

Secondary sources of data have been applied to complement primary interview data. As presented in the literature search, various web databases were used to find relevant articles about criminal responsibility and mental disorders. Some of these databases include; Discovery, Google Scholar and Science Direct. Considerations were made to utilize scientific, peer reviewed and current articles. Literature regarding labeling theory was also collected. Legal documents such as Government Official Reports were found on the Swedish government’s webpage. Additional literature in regards to the research topic and theoretical framework were found at the University of Gävle. Student literature was used within the methodology chapter.
2.3 Criminal Accountability in Swedish legislation

Previously, mentally disordered persons who had committed a crime were not considered accountable. These persons were not sanctioned in Sweden and were therefore not forced to take responsibility for their actions. In 1945 there was a change of accountability provision in the Criminal Code (Svennerlind et al, 2010:221). This alteration implied that in order to obtain impunity a causal relationship between mental state and the offense was required. In 1965 another change of the Criminal Code resulted in abolishment of the accountability concept (Svennerlind et al, 2010:222). It was at that time clear that both mentally disordered offenders as healthy could act in circumstances over which they had no control. Following that thought it could no longer be entitled to differentiate between these groups for the assessment of responsibility. Thereafter it would be a difference in the choice of sanction and not responsibility. Furthermore, the prohibition of imprisonment of mentally ill offenders was introduced (Dahlin et al, 2009:378). Instead, the sanction was called submission to psychiatric care. The accountability concept had been moved from offense level to the level of sanction. All persons were able to commit crimes; only sanction separated the mentally disordered from those considered healthy (Svennerlind et al, 2010:220).

Nowadays, mentally disabled offenders are viewed as criminally accountable and held responsible for their actions (Penal Code, 1962:700). People are basically convicted of what they have done. A criminal act is viewed as crime regardless of mental illness (Juth & Lorentzon, 2010:3). The term unaccountability was long ago omitted from the Swedish legislation. Criminal accountability has been discussed widely ever since the term was erased from the Swedish Penal Code (Dahlin et al, 2009:378). Instead, when an offender is found to suffer from a severe mental disorder, involuntary psychiatric treatment replaces prison as sanction (Svennerlind et al, 2010:220). Therefore criminal accountability is not relevant in the process of conviction. However, mentally disordered offenders are primarily sentenced to psychiatric care. The issue in focus within this degree project is that mentally disordered offenders might not have the capability to take responsibility for their own actions. Additionally, to regard this target group as accountable has gained a lot of criticism (Penney, 2012:99). Proposals have been made to reintroduce accountability as a requisite for criminal convictions within Swedish law (Juth & Lorentzon, 2010:6; Svennerlind et al, 2010:224). One demand is that all offenders must be assessed as accountable to be convicted of any crime. Such assessments are made in Finland, Norway and Denmark (SOU 2012:504).
2.3.1 The Swedish Penal Code

Almost all nations’ legal systems allow acquittal on the grounds of reduced accountability, except from Sweden, Greenland, Idaho, Montana and Utah (Dahlin et al, 2009:377; Svennerlind et al, 2010:220). Sweden’s legislation only allows acquittal on the grounds of reduced intent. Ch. 1, 2 § of the current Penal Code entails a definition of crime. An action should only be regarded as crime if it is committed with intent. An act should be considered as crime regardless of self-inflicted intoxication or mental impairment (Penal Code, 1962:700).

In May 2008 the Swedish parliament voted for an alteration to the legislation at that time. The new presumption allows prison sentences in case of severe crimes regardless of mental disorder. If the offender himself has caused the disorder by intoxication or there is a limited need for psychiatric care, a prison sentence is allowed (Penal Code, 1962:700). However, Ch. 30 § 6 states that offenders who “lacked the capacity to realize the nature of the deed or adjust their actions according to such knowledge” due to a severe mental disorder cannot be sentenced to imprisonment (Penney, 2012:99). This principle is similar to the international definition of accountability even though the actual word ‘accountability’ is not used. Nevertheless, the lack of accountability only restricts the form of sanction. The law prohibits imprisonment but unaccountable offenders are still punished (Svennerlind et al, 2010:224). It could be argued that the notion of accountability was already introduced in 2008. Svennerlind et al (2010:224) claims that the 2008 revision of the Penal Code is only the first step of a radical reformation of the Swedish legislation on mentally disordered offenders.

2.3.2 Government Official Report, SOU 2002:3

In 2002 a radical reform was proposed by a commission of inquiry (Svennerlind et al, 2010:224). The main argument of the report is that accountability should be reintroduced as a requirement for criminal liability. The accountability factor is narrowly formulated and will therefore include a smaller target group in comparison to the prison prohibition. This report suggests a new definition of crime. Not only intent should reduce accountability. An offender should be discharged from liability if he or she; “/.../ as a result of a severe mental disorder /.../ lacked the ability to understand the meaning of his act or to adapt his actions in accordance with such an understanding” (SOU, 2002:37). Similarly to the current legislation; an act should still be regarded as crime if the person’s lack of capacity had been caused by self-inflicted intoxication (SOU, 2002:37).
As a consequence of the introduction of the accountability prerequisite, forensic psychiatric care would cease to be a form of sanction. The prohibition of imprisonment would also be abolished (Svennerlind et al, 2010:224). Whoever committed the act under the influence of a serious mental disorder and is in need of care should be transferred to psychiatric care in special cases. The decision should be made by the Criminal Court and the need for care should normally be met by the general healthcare legislation, Healthcare Act (1982:763) and the Act (1991:1128) on compulsory psychiatric treatment. The healthcare should be subject to special restrictions on discharge, if needed to uphold public protection. No one should be able to remain in psychiatric care that no longer has a need for inpatient psychiatric care. Discharge assessment in its present form is therefore proposed to be erased (SOU, 2002:82).

2.3.3 Government Official Report, SOU 2012:17

Ten years later another commission of inquiry published a new report. This report is based on the previous report SOU, 2002; however some alterations have been made. Svennerlind et al (2010:224) argues that the government intends to implement most proposals made in SOU, 2002:3. The proposals in the 2002 report were radical. Therefore, it will take a lot of time to change the basis of the entire Swedish Penal Code. The main suggestion within this report is also that accountability will once again be a requirement for an act to constitute as crime. The suggested alteration within the Penal Code states; “an act should not constitute as a crime if committed by someone as a result of a serious mental illness, a temporary mental confusion, severe mental retardation, or a serious condition of dementia, lacked capacity to understand the meaning of the act in the situation in which he or she was in. Nor shall an act constitute crimes if the offender had such ability, but due to a serious mental illness a temporary mental confusion, severe mental retardation, or a serious condition of dementia lacked the ability to adapt his or her behavior accordingly. In order for an act not to constitute as a crime because of insanity, requires that the offender has not himself caused his lack of ability by intoxication or otherwise in connection with the offense” (SOU, 2012:538).

As mentioned earlier, chapter 30, 6 § Penal Code cease to apply, which contains a presumption of a sanction other than prison and in some cases a ban on prison for severely mentally disordered offenders (SOU, 2012:538). A number of articles claim that the accountability requirement will in fact be reintroduced within Swedish legislation (Juth & Lorentzon, 2010:6; Svennerlind et al, 2010:224). Sweden’s current
system conflicts with the Hawaii declaration and several other international agreements. The Hawaii declaration states that a psychiatrist may not participate in compulsive care of people who are no longer in need of care (SOU, 2012:510). Svennerlind et al. (2010:225) mentions that Sweden has signed the Rome Statue of the international criminal court, which states that accountability is a demand for legal responsibility. Likewise, there is a requirement for accountability in the United Nations Convention on the establishment of an international criminal court to which Sweden has acceded as well (SOU, 2012:30). On the contrary, the government official report (SOU, 2012:534) states some negative aspects of reintroducing the concept of accountability. First, the present system in Sweden counteracts discrimination and stigmatization of mentally disordered offenders. Second, some research suggests that health-related penalties have a certain crime preventive effect (SOU, 2012:533).

2.4 Criminal Responsibility in international legislation

The Greek philosopher Aristotle argued that one must have common sense and a free will in order to be morally responsible for one’s actions. Creatures which were considered to lack common sense, such as animals, children and the mentally ill, could not therefore be considered responsible for their actions (Radovic, 2009:20). The perception of mental illness at that time was these people’s lack of normal human reason. This deficiency was the main reason why the insane were not considered to be accountable for their actions (Radovic, 2009:21).

As stated above, philosophic discussions concerning criminal responsibility has been conducted ever since the four hundred century BC (Radovic, 2009:20). Nowadays, almost all civilized modern societies have the possibility to excuse mentally disordered offenders from criminal responsibility (Svennerlind et al, 2010:220). Most states have a form of insanity defense. One has to be responsible in order to be legally held responsible (Dahlin et al, 2009:378; Juth & Lorentzon, 2010:3). A brief overview of the historical background of the insanity defense will be conducted and examples of different countries’ jurisdiction will be presented.

2.4.1 The M’Naghten Rules

In 1843 Daniel M’Naghten attempted to assassinate then Prime Minister Sir Robert Peel in Britain. He did, however, find the wrong person and instead killed Peel's secretary Drummond (Kelly, 2009:363). In his defense M'Naghten explained that he was persecuted by Peel's party colleague and the defense argued that M'Naghten was insane
and therefore not responsible for his actions. The prosecutor argued on the other hand that M'Naghten tried to evade responsibility for murder by blaming insanity. M'Naghten was eventually transferred to the hospital in Broadmoor and thereby escaped the death penalty (Kelly, 2009:366).

The trial of M'Naghten led to a more intellectual approach to accountability. It became crucial whether the accused was able to distinguish between right and wrong. Also if he could understand if an act was illegal or not (Kelly, 2009:366). Most penal codes demand accountability in order for a person to be considered legally responsible for his or her actions (Höglund et al, 2009:355). Almost all of the world's legal systems recognize the M'Naghten rules as a base for criminal responsibility (Kelly, 2009:366). Meynen (2012:299) claims that the M'Naghten rules have been the most influential guidelines for developing the so-called insanity defense within various Anglo-American Penal Codes. According to the M'Naghten rules the offender must have known what he was doing and appreciate the wrongfulness of the action, in order to be responsible (Penney, 2012:99). The M’Naghten rules are commonly mentioned within articles connected to the area of criminal responsibility (Höglund et al, 2009; Kelly, 2009; Meynen, 2012; Penney, 2012). Some countries have developed this even further by applying the Durham Rule. This rule claims that an illegal act has to be the product of a mental decease or defect in order to be excused from responsibility (Meynen, 2012:302).

2.4.2 The Insanity Defense

“The insanity defense is not about people being sane or insane but about the possible influence of a mental disorder for a specific act” (Meynen, 2012:302). As mentioned earlier, the Swedish Penal system is fairly unique when it comes to criminal responsibility (Höglund et al, 2009:355; Juth & Lorentzon, 2010:1). Furthermore, some examples of different countries insanity defenses are presented below.

Within the United States, persons who suffer from mental disorders can plead; not guilty by reason of insanity or guilty but mentally ill (18 USC § 4243-4244, 2008). Not guilty by reason of insanity implies that the offender is not held accountable for the crime he or she has committed. Because the offender lacks the ability to separate right from wrong and is unable to understand the consequences of his or her actions. This state of mind must be at the time of the crime (18 USC § 4243, 2008). Guilty but mentally ill; this plea is similar to not guilty by reason of insanity. However, the offender presents a greater understanding of his or her actions but is in need of
psychiatric care due to mental illness. After receiving psychiatric treatment and recovering from the mental illness, the offender has to serve the remaining time of the sentence in prison (18 USC § 4244, 2008). Within American law the Model Penal Code states: “A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or mental defect, he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of the law” (Meynen, 2012:302). Similarly, Canada’s Criminal Code entails that: “No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong” (Höglund et al, 2009:355).

In addition, within the German Penal Code legal responsibility resumes minimal rationality, knowing right from wrong and being in control of oneself (Schleim, 2012:106). Articles within a number of different disciplines have researched criminal responsibility. As stated within the German Penal Code self-control becomes relevant to discuss. It has been highlighted within neuroscience that even though offenders appreciate the wrongfulness of their actions, they may be incapable of resisting an impulse to commit them. The terms irresistible impulse and self-control are recognized in some countries’ Penal Codes (Juth & Lorentzon, 2010:3; Penney, 2012:100). Penney (2012:100) argues that persons suffering from neuropsychiatric disorders may have limited to diminished abilities to suppress impulse behavior. Persons who totally lack self-control may not be blameworthy (Juth & Lorentzon, 2010:3). Aggression control is also shown to be limited for persons with impulse control disorders (Penney, 2012:100). The criminal courts in Ireland, France, South Africa, Russia, Spain and Argentina utilize control tests when assessing accountability (Penney, 2012:101). Moreover, Finland’s Penal Code states: “The offender is not criminally responsible if at the time of the act, due to mental illness, severe mental deficiency or a serious mental disturbance or a serious disturbance of consciousness, he/she is not able to understand the factual nature or unlawfulness of his/her act, or his/her ability to control his/her behavior is decisively weakened” (Höglund et al, 2009:355). Additionally, severe cases of Tourette’s syndrome, insomnia and kleptomania could render a person without control, will or consciousness. Schizophrenia is commonly mentioned when speaking of severe mental illness. This mental illness could cause hallucinations and delusions (Meynen, 2012:301). Schizophrenia could cause cognitive impairments and thereby limit the person’s ability to distinguish between right and wrong (Juth & Lorentzon, 2010:3;
Penney, 2012:101). Lindgren (1987:110) argues that “those who suffer from more significant handicaps must, regrettably, make more significant sacrifices in order to stay within the law” (Lindgren, 1987:110). Nevertheless, it could be disputed that limited intelligence and insight would prohibit persons from understanding their own limits and make necessary sacrifices (Meynen, 2012:301).

2.5 Labeling of mentally disordered offenders

Relevant literature was found in connection to the research topic. For instance, Winick’s (1995a) article ‘The side effects of incompetency labeling and the implications for mental health law’. This article provides a detailed assessment of how mentally ill persons are affected by incompetency labeling. The social, psychological and behavioral side effects of legislative stigma are presented in reference to the labeling theory (Winick, 1995a). Furthermore, it is mentioned in the government official report (SOU, 2012:533) that the present system in Sweden counteracts discrimination and stigmatization. The current regime prevents the risk for negative treatment and discrimination of mentally disordered offenders. An accountability requirement could label and stigmatize all mentally disordered offenders as irresponsible and their rights would be adversely affected (SOU, 2012:534).

Similarly, the insanity defense and unaccountability verdicts occasionally labels mentally ill individuals as incompetent. To label individuals as unaccountable could impact their rights and freedoms. The right to vote, marry and to own property. Incompetency verdicts could in fact pose greater social disadvantages in comparison to a criminal conviction. However a criminal label has its own stigmatizing effects. The insanity defense could deprive the individual’s human rights and liberties. Unaccountability verdicts such as the insanity defense could brand individuals and cause significant harm (Winick, 1995a:3). Firstly, social effects of an incompetency label may involve marginalization, stigmatization and social exclusion. Categorizing mentally ill as unaccountable may produce lasting stigma that influence the way others regard and interact with them and the way they view themselves (Winick, 1995a:10). Owing to stigmatization, individuals could be excluded from participating in society. Additionally, stigmatizing labels may cause deprivation of social, educational and occupational opportunities (Winick, 1995a:12). Social exclusion can in turn cause difficulties in obtaining employment and housing (Winick, 1995a:11).

In addition to social exclusion, a label may have negative impact on psychological well-being. A person’s self-esteem, identity and self-image are highly influenced of
how the person is viewed and treated by others. “The mental illness label locks the individuals into behavior patterns that result from the way others perceive and respond to them and the way the label alters their view of themselves” (Winick, 1995a:9). In this manner, labeling individuals as unaccountable can produce the self-fulfilling prophecy (Winick, 1995a:10). According to the prophecy, people act in accordance to their labels. If someone is viewed as criminal it will produce criminal behavior (Becker, 2008:12). Likewise, if someone is regarded as unaccountable it will produce irresponsible behavior. Furthermore, the unaccountability verdict implies that unaccountability is not only a legal status, but rather a character trait. This could be particularly damaging to the individual’s self-concept and cause self-stigmatization (Winick, 1995a:12). Self-determination is a basic human need and could be diminished by an unaccountability label (Winick, 1995a:21). Individuals lose the ability to make decisions for themselves since an accountability label causes loss of control (Winick, 1995a:13). Earlier research on the adverse effects of labeling focuses on psychological impact. For instance, learned helplessness may result from loss of control and self-efficacy. Individuals are labeled as unable to exercise self-control. An incompetency label would produce feelings of depression and worthlessness (Winick, 1995a:23).

Learned helplessness is when people generalize negative feelings to other situations. This will in fact create behavioral implications (Winick, 1995a:17). The stigma brand could impact the person’s motivation for behavior change (Winick, 1995a:3). “Deviancy labeling serves to marginalize those labeled causing them to internalize a deviant self-image, and sometimes as a result, engage in acts of secondary deviance” (Winick, 1995a:9). Self-determination is important in order to have motivation for behavior change. Denial of opportunity to be self-determining undermines motivation, learning and well-being (Winick, 1995a:21). Imposed uncontrollability causes depression and less persistence in goal attainment. When people are labeled insane or unaccountable they experience feelings of hopelessness, helplessness and lack of motivation (Winick, 1995a:21). Generalization of lack of control produces a lack of responsibility. Since the person believes everything is beyond his control (Winick, 1995a:17). Learned helplessness is connected to self-handicapping. Individuals become passive in order to avoid potential failure (Winick, 1995a:18). To summarize, people have a need for self-determination which also have an impact on their self-esteem. Control over one’s own life and decision-making are important for persons’ well-being (Winick, 1995a:20). The unaccountability verdict may cause a number of negative
consequences. Individuals may perceive that they are incompetent and thereby result in subsequent behavior and prolong their mental difficulties (Winick, 1995a:13).

2.6 The relevance of earlier research
The presented previous research is relevant to this thesis because it provides background knowledge of accountability. An international and historical comparison is conducted within earlier research. New insight is gained by regarding an issue from an international perspective. It is of importance to discuss why Sweden’s legislation is fairly unique. However limited research has been conducted concerning consequences of accountability legislation. Hence, it is of importance to research this issue within this thesis.
3. THEORETICAL FRAMEWORK

Chapter three includes the theoretical framework used in this report. The chapter begins to present the theoretical perspective and choice of sub-theories. The labeling and stigma theory are presented as well as literature incorporating these theories with the research subject. A theoretical discussion concludes the third chapter.

3.1 Main theoretical perspective

Cognition and metacognition were chosen as the main theoretical perspective. The concept of cognition represents thoughts, memories, reflections, fantasies, beliefs, intentions and decisions that lie within our consciousness. Our memory gives us a sense of continuity of our experiences. We seek for patterns and we strive to make sense of our experiences. Our consciousness constitutes of and is influenced by our cognitions, namely how we think and perceive our experiences (Stevens, 1996:23). Cognition can be viewed as a constant flow of information. A special quality of our consciousness is our ability to reflect. Part of the capacity for reflection is that we can imagine alternative outcomes or events. That the current situation can change in different ways. As a result, our cognition makes it possible for us to engage in reflective thinking and problem solving (Stevens, 1996:25). Fantasy and imagination are important aspects of our cognitive abilities and internal dialog. Stevens (1996:196) believes that fantasy and imagination form our ability to create and reflect upon images, events and feelings within our consciousness. For example, people’s experiences are not only dependent on the recollections of past events, but also by the ability to imagine future events. Imagining future scenarios contributes to the multidimensional nature of our consciousness. Reflexivity provides the ability to imagine how other people perceive us, as well as our ability to be aware of our own consciousness (Stevens, 1996:197).

In addition to reflect on our experiences, we also have the ability to reflect and think about our own cognition. This is called metacognition. It involves a capacity for mental reflection of one’s own cognitive and emotional processes. Metacognition is a process of self-awareness, to be aware of our own consciousness (Larsson, von Braun & Lilja, 2012:155). The difference between cognition and metacognition could be confusing. Nevertheless, cognition is a direct perspective such as a person’s view of x. In comparison, metacognition is a meta-perspective such as a person’s view of another person’s view of x. Metacognition means thinking and being aware of different cognitive processes such as remembering, understanding and solving problems (Antaki & Lewis, 1986:32). One important concept in metacognition is the actor - observer
paradox. This entails that observers interpret an individual's behavior in a different way than the individual himself. The interpretation of our internal state of mind can influence our perception of other people and how we behave towards them. As observers, it is common that we try to explain the actor’s behavior based on our own assumptions about his personality. The actor interprets in turn their behavior based on factors relating to the current situation (Lalljee, 1996:124). Metacognition could entail an individual's beliefs about their own beliefs, but it can also entail a belief an individual creates about another persons’ beliefs. According to Antaki and Lewis (1986:19) these are called meta-beliefs. Moreover, they argue that one can use the concept mental mirrors as a metaphor for the reflexivity of our consciousness. They claim that our brain is a mirror that sees its own content; we know things about the world and we know that we have knowledge. The brain reflects; we know things about people and guess that they know things about us as well (Antaki & Lewis, 1986:1).

3.2 Choice of sub-theories

In this thesis, two connected sociological theories were chosen to theoretically analyze the social workers’ metacognitions. The first selected theory was Howard Becker’s labeling theory. The second was Erving Goffman’s theory of stigma. Stigma is a contribution to labeling theory. These theories were relevant to this inquiry because the target group is mentally disordered offenders. Both criminality and mental illness might be viewed as deviant behavior. The law responds to deviant behavior by labeling individuals as unaccountable or criminal. Labeling theory is applied in order to analyze the participants’ metacognitions in reference to legislation’s influence in the labeling process of mentally disordered offenders. Stigma theory was applied to complement labeling theory. The theory of stigma provides important insight of the stigmatizing process and its effects on mentally disordered offenders.

Theorizing seeks to provide support and explanations to research findings. The labeling and stigma theory are the most useful theories for highlighting the results for several reasons. Firstly, legislation may produce negative consequences for individuals. It is thereby of importance to evaluate such consequences in order to minimize individual harm posed by the state (Winick, 1995a:4). The theoretical framework was implemented in order to identify side effects of a specific change of legislation. The labeling theory provides relevant insight to detect labeling, stigmatization and discrimination of individuals. Winick (1995a:7) argues that “the law sometimes labels people as incompetent in order to achieve certain consequences considered to be
desirable” (Winick, 1995a:10). Such labels could in turn cause stigma and a number of social disadvantages (Goffman, 2009:8).

3.3 Labeling Theory

Labeling theory stems from symbolic interactionism and is one of the most well-known sociological theories within criminology and social work (Sjöberg, 1981:14). Labeling theory argues that what is abnormal for a person does not need be abnormal for another (Becker, 2008:2). Society consists of several different groups. Every group has its own rules. These rules are called social rules and include what actions are considered as correct or incorrect (Becker, 2008:16). People can be included in multiple groups simultaneously. This can lead a person to violate a rule of one group to comply with another group's rules. The different rules can have different character. They can be formally adopted as law but also as informal agreements. These rules are preserved by various unofficial sanctions (Becker, 2008:2). Becker (2008:1) views deviation as a failure to abide by the rules. A person who does not live according to these established rules is regarded as an outsider. Becker (2008:2) believes that deviance is created by social groups. Since groups enforce rules that people transgress. In turn the rule-breakers are regarded as deviant (Becker, 2008:9). Whether an act is deviant or not depends on how others react to the action. It is the nature of the action and how others view it that determines whether it is abnormal or not (Becker, 2008:10). The extent to which an act counts as deviant depends on how much reactions it gains from the surrounding (Becker, 2008:18). Deviant behavior is thereby the result of people's reactions. Behavior is not abnormal until someone marks it as deviant (Becker, 2008:9). A social reaction against someone’s deviant behavior can lead to a lasting deviation as the individual begins to perceive himself as deviant. Radically, it is argued that the existence of social control produces deviant behavior (Becker, 2008:61). Crime can be seen as a result of the legal system. Labeling then causes recidivism (Sjöberg, 1981:15).

The self-fulfilling prophecy is a theoretical concept within labeling theory (Becker, 2008:35). If a person is regarded as criminal the person becomes criminal. For example a prison sentence would create a self-fulfilling prophecy. Since social control causes deviant behavior (Sjöberg, 1981:15). Winick (1995a:10) explains the phenomenon; “labeling adolescents as juvenile delinquents may set in motion forces that lead them to behave in ways that fulfill the assigned deviant image” (Winick, 1995a:11). According to the prophecy, people act in accordance to their labels. If someone is viewed as criminal it will produce criminal behavior (Becker, 2008:12). Likewise, if someone is
regarded as unaccountable it will produce irresponsible behavior (Winick, 1995b:605). This phenomenon has been researched earlier. Young (1971:182) calls it crime amplification (Young, 1971:182). Lemert (2000:3) uses the concept secondary deviance to explain this phenomenon (Lemert, 2000:3).

3.4 Stigma

The theory of stigma has a strong connection to labeling theory. Erving Goffman explains stigma as; “the process by which the reaction of others, spoils normal identity” (Nettleton, 2006:95). Stigma is an exceptionally degrading, offensive and patronizing character trait (Winick, 1995a:10). The concept of stigma is used in relation to exclusion and humiliation (Goffman, 2009:3). According to Erving Goffman (2009:2) each social group has a definition of what is considered normal. Each group has adopted social codes which construct rules how an individual should behave. Unknown behavior creates uncertainty and fear. The uncertainty is created when people meet individuals from a group to which different social codes apply. People categorize individuals they encounter based on their first impression. Goffman (2009:2) believes that first impressions create normative expectations. An individual from another group might be viewed as an outsider if the person holds features that are regarded as different (Becker, 2008:1). The individual will be stigmatized as a result (Goffman, 2009:4). According to Goffman (2009:139) there are three different types of stigma; physical, characteristic and group stigma. The stigma is not created by such characteristics. Instead, stigma is created in regards to society’s norms. Goffman (2009:115) states that based on these norms the stigmatized individual is not perceived as fully human and thereby discriminated. Discrimination could in turn diminish various social opportunities.

Goffman (2009:12) mentions several strategies that individuals can use to avoid stigmatization. People can distance themselves from those who stigmatize. Awareness of the undesirable features often entails that individuals struggle to create a picture of themselves where this negative characteristic does not exist. However it may result in the contrary. The stigmatized individual incorporates society’s expectations into his or her self-image. The person thereby behaves in the way that society expects him or her to behave. Stigma can lead to feelings of shame, self-hatred and even self-stigmatization (Goffman, 2009:7). Another approach is that the individual recognizes the deviant behavior. But Goffman (2009:42) argues that the use of this strategy may result in that the individual exaggerates the deviant behavior. Similarly, the stigma creates an image of how the individual should behave and as a result the stigmatized individual behaves
in accordance to society’s expectations. In conclusion, this explanation is similar to the self-fulfilling prophecy within labeling theory. It states that people act in accordance to their labels (Becker, 2008:35).

3.5 Theoretical discussion
In order to fulfill the research aim and question, social, psychological and behavioral consequences were identified within the participants’ metacognitions. Thereafter these themes were analyzed in connection to three theoretical concepts. These concepts include stigma, labeling and the self-fulfilling prophecy. The metacognitive theoretical perspective is highly relevant since the aim of this study is to describe social workers’ preconceptions. In specific, the social workers’ metacognitions about mentally disordered offenders’ cognitions, emotions and social behavior if the law would change are in focus within this study. In addition, there is also a strong connection between metacognitions and labeling and stigma. For instance, labeling and stigma theory emphasize people’s thoughts, beliefs and preconceptions about other people’s thoughts and behavior. In order to explore this area in a scientific manner, cognitive and metacognitive perspective was applied as well.

Secondly, critics of labeling theory argue that psychiatric diagnosis may not necessarily cause a negative label (Winick, 1995a:12). A mental illness diagnosis may provide insight and understanding for people. It could be therapeutic if other people are aware of a person’s difficulties. Thereby insults or confusion could be avoided and the person might feel more accepted in society. Labels could help people to accept their own difficulties and take necessary precautions as a result (Winick, 1995a:12). Several investigations have tried to falsify the self-fulfilling prophecy. For instance, some research suggests that health-related penalties have a certain crime prevention effect. This implies that the prophecy is in fact not accurate (SOU, 2012:533). Alternative interpretations of the results were regarded in this thesis. This strategy counteracts theoretical bias.
4. METHODOLOGY

The fourth chapter presents the methodology within this thesis. Firstly, the chapter begins with an explanation of the research design, population and sampling. Secondly, data collection procedures are presented, concerning interviews and secondary data. Thereafter, two paragraphs include the methods of data transcription and analysis. Next, a presentation of the essay’s credibility are conducted, such as reliability, validity and generalization. The last two sections consider ethical considerations and limitations of the study.

4.1 Research design

An empirical study was conducted within this thesis in order to answer the research question. There are several reasons why this research design was chosen. A great deal of literature has been found in regards to accountability. Nevertheless, there is limited previous research on how mentally disordered offenders might be affected by such legislation, especially from a metacognitive perspective. As shown in chapter two, earlier research provides information about why mental disorders could impact legal responsibility. Why the majority of countries have an insanity defense and accountability requirement for crime is also presented within previous research. However such research was conducted within other disciplines than social work, law and psychiatry for instance. Limited research on this issue is conducted within the discipline of social work. It is thereby of importance to research this issue from a social work perspective.

The empirical study incorporated interviews of social workers. The interviews were semi-structured with the use of an interview guide. It provides the possibility to gather subjective information of the social workers views. The interview guide provided structure without limiting the interview answers. This study was qualitative in nature, with an inductive approach. A qualitative approach was chosen since it was most useful in answering the research question (Frankfort-Nachmias & Nachmiyas, 2008:488). A qualitative approach to research does not seek to quantify collected data; rather produce nuanced descriptions of people’s views and opinions (Kvale & Brinkmann, 2009:28). In spite of the overall subjective nature of the investigation, law and the theoretical framework provided objectivity.
4.2 Research population and sampling

The empirical population within this thesis consisted of sixteen forensic social investigators. This professional title was used since all social workers who are employed within the Swedish Board of Forensic Medicine is called forensic social investigator (RMV, 2013). The Swedish Board of Forensic Medicine is a judicial state agency which is responsible for psychiatric assessment of persons who have committed serious crimes. The criminal court requests the agency to conduct evaluations within team. The team is required to include a doctor, psychologist, forensic social investigator and nursing staff. Forensic social investigators are responsible for the social investigation of the offender. This research population was selected since these social workers have specific insight of how mentally disordered offenders might be affected by this possible change in law. Höglund et al (2009:356) claims that it is likely that forensic team will be responsible of assessing accountability if the new proposal is accepted (Höglund et al, 2009:356).

Table 1.2 Number of forensic social investigators April 2013, Sweden

<table>
<thead>
<tr>
<th>Research population</th>
<th>Total</th>
<th>Sample</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forensic social investigators*</td>
<td>16</td>
<td>6</td>
<td>38</td>
</tr>
</tbody>
</table>

* Social workers who are employed within the Swedish Board of Forensic Medicine 2013-04-29
Source: RMV, 2013

As seen in the table above, there were in total sixteen social workers employed within the Swedish Board of Forensic Medicine. All sixteen; the entire research population were contacted by email or phone and asked to participate in this study. Six persons agreed to participate in interviews. The sample size within this inquiry consists of six forensic social investigators. The sample is 38 percent of the research population. Nevertheless, the persons who participated in the study were not randomly selected. This has a negative influence on representability and generalizability of findings. However, the aim with sampling was to interview a sufficient number of persons in order to reach variability and meaningful analysis. Hence, six interview participants
were sufficient to achieve the sampling aim. The limited time frame was also taken into consideration. The sample size was suitable owing to the fact that this thesis has been conducted single handedly. The sampling approach was appropriate since this study do not aim at a representable sample, rather a sample with maximum variability (Robson, 2007:99).

4.3 Face-to-face interviews
Six face-to-face interviews with forensic social investigators were conducted. In order to gather information, open-ended questions were asked in semi-structured interviews. The interviews were 30-60 minutes each. During this time frame in-depth knowledge was gathered. An interview guide was used to bring structure to the interviews (Kvale & Brinkmann, 2009:132). This method was used because: “In a qualitative research interview, knowledge is produced socially in the interaction of interviewer and interviewee” (Kvale & Brinkmann, 2009:82). This method made it possible to collect subjective descriptions of how mentally disordered offenders might be affected of a new legislation. The interview participants were given time to speak freely about their views on the research topic. The interview guide was developed in reference to the aim. Questions were asked to provide metacognitive descriptions of social, psychological and behavioral consequences on mentally disordered offenders if the law would be changed. The theoretical framework was also considered while developing the interview guide. However, theoretical bias was avoided. Therefore theoretical concepts were excluded from the interview questions. Probing and interpreting questions were asked to clarify the responses given by the interviewees. Similar questions were included within the interview guide to check the consistency of the answers. This increases the level of validity and reliability.

4.4 Data transcription
The interviews were recorded with the use of an audio recorder. This method provided the opportunity to interpret the social interaction of the interview. Even though transcription of audio recording was time-consuming it offered rich and nuanced data. Additionally, recordings allow the researcher to concentrate fully on the interview itself instead of note taking (Kvale & Brinkmann, 2009:179). Before the interviews were conducted a test recording was done in order to avoid technical or human error. All interview recordings had high quality sound and no material was lost. Furthermore, a summary of what the interview had contained were made in the end of each interview. The interview recordings were transcribed and then read through several times. The
audio recordings were transcribed in detail word by word. Ethical considerations were conducted. The recordings were as a result given codenames such as Social Worker 1, 2, 3 etc. The interview participants’ identities were thereby protected. The transcripts were emailed to the participants and checked for validation.

4.5 Data analysis

The analysis within this inquiry focused on meaning. Therefore meaning coding, condensation and interpretation were used. The coding for this analysis was both concept-driven as well as data-driven. In other words, themes were formed both before and after the interviews (Kvale & Brinkmann, 2009:202). The concept-driven codes were developed in order to specify the research question. These themes included social, psychological and behavioral consequences of reintroducing the accountability requirement, inspired by Winick (1995a). Additional thematizing was conducted after reading the interview transcripts. Codes were short and precise and able to capture the richness of the interview descriptions (Kvale & Brinkmann, 2009:203). The interview transcripts were coded by attaching one or two keywords to statements. The purpose of meaning condensation was to create concise expressions from the interviewees’ statements. It involved reformulating longer and more detailed interview statements to shorter and more summarized formulations (Kvale & Brinkmann, 2009:205).

Meaning interpretation was in focus within this thesis. The hermeneutic circle was used in order to analyze the interview data. Hermeneutics is a perspective which seeks to understand and interpret the meaning of qualitative interviews. The hermeneutic circle aims at a deeper interpretation of meaning. This circle entails a back-and-forth process of analyzing parts of the text separately and then analyzing the text as a whole (Kvale & Brinkmann, 2009:210). Firstly, the themes social, psychological and behavioral consequences were analyzed separately. Thereafter the three themes were analyzed together through a holistic analysis. During meaning interpretation the interview data was interpreted in light of a metacognitive perspective and the interview persons’ metacognitive assumptions where then analyzed by the aid of labeling and stigma theories. The metacognitive perspective was used in order to place emphasis on the social workers’ cognitive images, fantasies, preconceptions, beliefs and meta-beliefs. Thereafter, three theoretical concepts were used while analyzing the social workers’ metacognitions, these included; stigma, labeling and the self-fulfilling prophecy. During analysis these concepts were interpreted in reference to social, psychological and behavioral consequences respectively. The theoretical concepts
contributed to the description of consequences mentally disordered offenders might face owing to reintroduction of the accountability requirement, based on social workers’ metacognitions. Therefore the theoretical framework contributed to achieving the research aim. The theoretical concepts were relevant since labeling causes stigmatization, which in turn causes discrimination and social disadvantages. This technique also provided structure and direction of the analysis. The concept stigma was used to interpret social consequences of reintroducing the accountability requirement. Labeling theory was particularly useful in order to emphasize the results. Since labeling has a psychological effect on persons’ well-being. Behavioral consequences were emphasized with the use of the self-fulfilling prophecy. This was interpreted in regards to recidivism, thus relapse into criminal behavior.

4.6 Essay credibility
The quality and trustworthiness of research is connected to reliability, validity and generalization (Kvale & Brinkmann, 2009:241). Moreover, these three factors are explained below and how they were secured in this paper.

4.6.1 Reliability
Reliability is connected to replicability, since the same findings should be found by replicating the research using the same method (Kvale & Brinkmann, 2009:327). Therefore, this factor has been considered during the interviews by asking similar questions and checking for consistency in answers. Probing questions and direct questions were also used for this reason. The experience of the researcher affected reliability (Kvale & Brinkmann, 2009:245). As a consequence, the author of this Bachelor thesis has limited experience in interviewing and may not as easily detect inconsistency in responses. However, the author has transcribed, translated and interpreted the data single handedly. This is positive for reliability since everything has been done in a consistent manner. However, analyst triangulation would have strengthened the results. That another researcher would also analyze the same material (Patton, 2002:561). Triangulation was not conducted owing to time limitation and one single author of this paper.

4.6.2 Validity
Validity in qualitative research refers to whether a method captures what it intends to capture and the accuracy of findings (Kvale & Brinkmann, 2009:327). Validity in
qualitative research purports to create a clear picture of the phenomenon being studied through the descriptions, categorizations and interpretations the researcher presents (Kvale & Brinkmann, 2009:246). Valid findings are trustworthy, reliable and accurate. Kvale & Brinkmann (2009:247) argues that validity is linked to the investigator's craftsmanship. This means that validity is dependent on the researcher's ability to control, question and theoretically analyze the results (Kvale & Brinkmann, 2009:248). As a result, during the interviews validating and interpreting questions were asked in order to gain as rich and detailed responses as possible. The interviewer made a summary in the end of interviews to ensure that the answers had been understood correctly. The transcripts were emailed to the participants and checked for validation. This method creates the opportunity for interview participants to change their statements. Additionally, one important aspect of validity was to uphold the connection to the aim and research question during the entire inquiry (Kvale & Brinkmann, 2009:249). Lastly, the interviews were single handedly translated by the author which could be a source of invalidity.

4.6.3 Generalizability
Owing to the small sample size, the aim within this inquiry was not to produce generalizable results. General conclusions cannot be drawn based on such a limited sample and lack of representability. Nonetheless, important insight and inspiration for further research were provided within this inquiry. This inquiry aimed at naturalistic generalization rather than statistical generalization (Kvale & Brinkmann, 2009:262). Naturalistic generalization creates the possibility to make careful generalizations from interview studies. Such generalizations can be drawn within similar inquiries to strengthen the research findings, since this thesis provides rich and nuanced descriptions of the interview participants’ metacognitions (Kvale & Brinkmann, 2009:262). In order to use this method the researcher needs to provide contextual descriptions of the research findings.

4.7 Ethical considerations
Ethical considerations were protected within this study by directing the research towards professionals instead of clients. Furthermore, valid research should produce beneficial knowledge without conflicting harm (Kvale & Brinkmann, 2009:249). Additionally, the participants’ identity, anonymity and confidentiality were secured throughout the entire research project (Robson, 2007:103). Only the author read the
interview transcripts. It should be mentioned that the interview transcripts were named interview 1, 2, 3 etc. Therefore the participants’ real names were never used. Informed consent provided information to the interview participants. This information involved the research purpose and the possible benefits and risks of participating. The aim of informed consent was to obtain a written permission that the interviewee is participating voluntary (Kvale & Brinkmann, 2009:70). An informed consent letter was created based on The Swedish Research Council’s ethical principles, see appendix 2 (Vetenskapsrådet, 2002). In addition, informed consent includes information of confidentiality. That the participant would be anonymous and statements that could identify the interviewees were erased and excluded from the results (Kvale & Brinkmann, 2009:71). Lastly, the transcripts were destroyed after finishing the inquiry as well as the recorded interviews (Vetenskapsrådet, 2002:14).

4.8 Limitations of study

There were some limitations of this study. One possible limitation to the study was that the interviewed professionals may have to represent the institution they are employed in. Even though freedom of speech is present in Sweden, it could be sensitive to express critical views. Additionally, social constructivism presents a critical perspective of interview data. Discourse analysis argues that interview data are not reliable since people do not express what they actually think. Statements are contextually dependent (Alvesson & Sköldberg, 2009:231). However, the participants were informed of how the research findings would be used. The interviews included neutral questions in order to avoid confrontation and irritation.
5. RESULTS AND ANALYSIS

Chapter five presents the results which have been drawn from empirical interviews. The findings are coupled to earlier research and analyzed from a metacognitive perspective by the aid of labeling and stigma theories. Consequences of reintroducing the accountability requirement for mentally disordered offenders were divided into three main themes and several subthemes. The themes are social, psychological and behavioral consequences.

5.1 Theme 1: Social consequences

5.1.1 Who is unaccountable?

One major consequence of reintroducing the accountability requirement would be the new definition of crime. Persons who have committed an unlawful deed could be found unaccountable owing to their mental status (SOU, 2012:510). The interview subjects are asked under what circumstances they believe a person could be legally unaccountable. All participants mention that a person could be viewed as unaccountable due to a severe mental disorder. One interviewee explains:

“It is serious mental disorder, severe dementia, severe mental retardation and temporary insanity that are the general criteria for which one can judge or by which one can judge whether a person is potentially accountable or unaccountable” (SW1).

My interpretation in reference to the current legislation, offenders can only be convicted to forensic psychiatric care on the grounds of a serious mental disorder. Occasionally, offenders who suffer from a profound mental retardation are also given psychiatric care as a sanction. Additionally, psychotic illnesses could diminish a person’s ability to understand the consequences of his or her actions. For instance, schizophrenia, bipolarity, and major depression could include psychosis (SOU, 2012:510). Similarly, earlier research states that schizophrenia could cause cognitive impairments and thereby limit the person’s ability to distinguish between right and wrong (Juth & Lorentzon, 2010:3; Penney, 2012:101). Lack of metacognitive abilities compromises normal functioning, for example to be able to interpret one’s own thoughts as false. To understand other people’s beliefs are essential for social interaction. This also has an impact on people’s ability to solve problems and conflicts (Antaki & Lewis, 1986:32).
5.1.2 De-criminalization

The current system criminalizes mentally ill persons. Even though mentally ill persons are sentenced to forensic psychiatric care, they are in fact sentenced (SOU, 2012:510). The participants express different views of whether sick persons should have impunity or not. Several interview subjects are positive towards the proposal and believe that severely sick persons should have impunity. For instance:

“It is partly a crime to beat someone but it may also be a consequence of a symptom /.../ and then you should receive care rather than punishment” (SW1).

My interpretation in connection to cognitive theory, mentally disordered persons might have cognitive impairments which influence their ability to make conscious decisions (Stevens, 1996:197). Another interviewee expresses her thoughts:

“I absolutely believe that there are disorders that cause people not to fully see the consequences of their actions /.../ I do not think we should punish those who are unaccountable, as we do today” (SW4).

According to my interpretation of the participant’s belief based on a cognitive perspective, is that it is not justified to punish sick people (Stevens, 1996:197). A social worker shares her views concerning the blameworthiness of persons suffering from mental disorders:

“I think that from a legal perspective, I think it is reasonable that you should not be held accountable for actions that one could not be blamed for” (SW2).

Another participant states her preconceptions:

“In essence, I think it is positive to introduce unaccountability /.../ there are several of these people that I actually think is free from blame” (SW3).

In reference to my understanding, one participant gives concrete examples where offenders were acquitted of crime because of mental illness. At the time of the crime the offenders suffered from severe depression with delusions and delusional disorder with hallucinations. The two persons who were given acquittal were instead given coercive psychiatric care through the Act (1991:1128) on compulsory psychiatric treatment. The
offenders were given compulsory treatment instead of forensic psychiatric care and thereby not criminalized as in ordinary cases.

“There are two good examples from last year. The court actually judged that those persons did not have the intent to commit the acts. But this has been extremely rare before this proposal, so I would say that they actually meant that they were not accountable” (SW3).

My interpretation in connection to earlier research, Svennerlind et al (2010:224) argues that the government intends to conduct a radical reform of the Swedish penal code. In contrast, most interview participants mention that the legislative proposal will not be implemented any time soon. Since the reform would be extensive and pose financial difficulties. For now the courts make use of legislative loopholes.

**A practical example**

In case of death caused by another person, the court can sometimes consider abstention from prosecution. Instead of sentencing to either manslaughter or causing another person’s death, the prosecution could be withdrawn. The interviewees share some thoughts about their experiences:

“I think of this man, it's so awful with this two-year old boy who he had forgotten in his car. They consider abstention of prosecution because they cannot substantiate the crime” (SW6).

In my interpretation, similar to the two examples from last year, if there is lack of intent the court cannot convict this man. However, this has not been exercised as frequently in the past. An interview subject explains how such cases are ordinarily handled.

“There are these extreme cases, we had a case with a mother who was extremely psychotic and killed her child /.../ she is definitely a person who was sentenced to psychiatric care. But I think the verdict resulted in manslaughter” (SW6).

From a metacognitive perspective, I believe there is a difference between negligence and actions caused by mental illness. However, to have caused the death of one’s child might be punishment enough. Therefore there is no reason to place further blame on these individuals such as a manslaughter verdict. Nevertheless, psychiatric care must be provided in order to meet the person’s need of care (See Antaki & Lewis, 1986:24).
**Positive views of the current system**

According to my interpretation, on the other hand, a few participants believe that the current system is humane. The Swedish Penal system is built upon criminal care and not punishment. It is argued by one participant that care should be provided regardless weather a person is sentenced to psychiatric care or prison.

“/.../ I think that the treatment concept actually has sympatric features. As a negative consequence of reintroducing the accountability concept would then be abandoning the treatment concept” (SW1).

My interpretation of the interviewees’ meta-belief from a metacognitive perspective is that it is not fair that some persons are relieved from guilt and some are not. The Swedish system should not be based upon guilt, but rather care according to the participants. There is still an element of mental illness even for those offenders who are not extremely sick. Their problems are a handicap which they have suffered from their entire lives and this is not taken into consideration (See Antaki & Lewis, 1986:32).

**Alcohol and drug abuse**

According to my interpretation, research show that long term substance abuse can cause psychotic illnesses. Such issues could diminish insight of one’s actions as well. However the law states that substance abuse is self-inflicted (Brottsbalken, 1962:700). Therefore no consideration is given in such cases. An example is provided by a participant:

“Is there any difference between someone who has been drinking for 40 years, and the brain is barely intact or someone who has paranoid schizophrenia? One of them goes to prison and the other one receives care. Are not both worthy of /.../ or better served by care and the body of society as a whole is also better served by providing healthcare” (SW1).

Based on the metacognitive perspective, my interpretation is that from this point of view society as a whole would benefit from providing care instead of punishment. However, alcohol and substance abuse hinders the investigation significantly (See Antaki & Lewis, 1986:41). For instance one participant said:

“/.../ is he insane because he abuses drugs, or is he abusing drugs because he is insane?” (SW4).
In reference to cognitive theory, self-medication is based on the belief that alcohol or drugs are needed to control thoughts, feelings or behavior. As mentioned earlier, mental illness could diminish people’s metacognitive abilities. As such, the capability to reflect on our cognitive processes is important in order to cope with negative thoughts (Antaki & Lewis, 1986:32).

**Only extremely sick would be considered unaccountable**

According to the proposal, unaccountability and thereby impunity would incorporate a limited group of people. The term severe mental disorder incorporates a larger group. The unaccountable persons would be the sickest persons within the group of severely mentally disordered persons (SOU, 2012:510). One participant states her reflections about the future scenario;

“/.../ according to the legislative proposal, it is believed that it will be very few, it is somehow the extremes /.../ far from everyone that is considered severely mentally disordered today would be assessed as unaccountable. It's a much smaller, much tougher selected group” (SW2).

According to my understanding, the participants express different assumptions. Some believe that this would be an improvement. For instance one interviewee shares his speculations:

“It would perhaps be a little better, as we move towards a smaller group but I am not sure it is just an idea I have. It is a bit easier to distinguish between 30-40 people than 250 people” (SW3).

Nowadays, approximately 250 people are sentenced to forensic psychiatric care every year. Therefore the term serious mental disorder incorporates a great deal of people, which are sick to various degrees (SOU, 2012:510). A participant adds;

“There are numerous who have been sentenced to psychiatric care that was not psychotic at the time of the crime” (SW3).

In light of the metacognitive perspective, I believe that it could become easier to evaluate a limited number of people and that this group would only include the sickest offenders. Nevertheless, even though offenders are suffering from serious mental disorders, they might have committed the crime for the same reasons as anyone else
(Antaki & Lewis, 1986:41). A participant gives his preconception about the offenders’ cognitive abilities:

“I do not like the concept of serious mental disorder because there are many persons who have a serious mental illness but actually understand what they have done” (SW3).

According to my understanding based on a metacognitive perspective, the reasons for crime could be profit or other benefits. The crime might not be related to the mental illness (Antaki & Lewis, 1986:24). One interviewee believes that there should be a causal connection between the mental illness and the crime. This is addressed by another interviewee:

“If there is no direct connection to the crime, then /.../ ‘I am mentally ill, so I can do whatever I want’ it is no excuse” (SW4).

In comparison, the Durham rule is included in some countries legislation. According to this rule, an illegal act has to be the product of a mental decease or defect in order to be excused from responsibility (Meynen, 2012:302). However, a causal connection between mental illness and the crime is no longer a legal demand to be sentenced to psychiatric care in Sweden (Svennerlind et al, 2010:221).

5.1.3 Discrimination

A number of participants argue that mentally ill persons should not be regarded as criminally liable. For instance one participant states his preconceptions and meta-beliefs:

“I believe that these people should be given special treatment, the same way as we give special treatment to those who are very intellectually disabled or children for example. I actually think this is on the same basis. They do not understand their actions /.../ children cannot comprehend that what they are doing is wrong and that it will bring about those consequences which follows” (SW3).

On the other hand, some participants mention negative views of the proposed legislation. Some interviewees believe that persons who suffer from intellectual disabilities or mental disorders should not be legally discriminated. It would be discriminating to declare some persons unaccountable. For example:
“At the same time one might think that everyone should have the right to be sentenced, that it is also somehow an equality principle and that in fact we are all equal before the law /.../ it is a kind of human right to actually be able to be punished too, that we are equal citizens” (SW6).

Similarly, Winick (1995a:3) argues that the insanity defense and unaccountability verdicts occasionally labels mentally ill individuals as incompetent. To label individuals as unaccountable might impact their rights and freedoms. For instance, the right to vote, marry and own property. Incompetency labeling could in fact pose greater social disadvantages in comparison to a criminal conviction (Winick, 1995a:3).

**Intellectually disabled people in prison**

As previously mentioned, persons suffering from severe intellectual disabilities would also be viewed as unaccountable according to the new legislation. This would conflict with the normalization reform during the 90-ties. The reform entailed de-institutionalization, that all mental hospitals and similar institutions were closed. The reason for this was to integrate mentally ill and mentally disabled persons into society. In order to reinforce their rights, the Act concerning Support and Service for Disabled persons was established in 1994. After the reform everyone had the right to an own apartment and a normal life. Persons were no longer declared legally incompetent. Thereafter, everyone was legally responsible persons (SOU, 2012:510). This reform is mentioned by an interview subject in relation to intellectually disabled offenders:

“/.../ it is connected to another law that occurred long ago when they wanted to normalize this group and other groups as well. One did not think there was any reason for them to be legally discriminated. But the big picture was not regarded and neither that they would suffer in prison” (SW1).

According to my interpretation, nowadays, persons who suffer from moderate intellectual disabilities are imprisoned for severe crimes. This is a great problem within the criminal justice system. It is not uncommon that persons who commit crimes have a mixture of psychiatric diagnosis and intellectual difficulties. The proposed reform would create opportunities to provide psychiatric care to imprisoned persons. Care would be provided regardless whether an inmate’s mental disorder is severe or not (SOU, 2012:510). In fact, 70% of all incarcerated persons in Sweden suffer from a personality disorder and 25% are diagnosed with ADHD (Kriminalvården, 2012). This is a great issue internationally as well. Unfortunately, the situation in the United States is fairly similar. According to the National Alliance on Mental Illness, US prisons could
be viewed as mental institutions. It could be argued that both the Swedish and American society fail to take responsibility for persons with serious mental illnesses (Kaplan, 2008:1). With the proposed reform it would be possible to provide psychiatric care to imprisoned persons. When the person no longer is in need of care the remaining sentence is served in prison (SOU, 2012:585). This proposal has a strong similarity to the United States’ criminal justice system. The American verdict ‘Guilty but mentally ill’, convicts the offender. However, mental healthcare is provided before the person serves his or her prison sentence (18 USC § 4244, 2008).

An interviewee her thoughts about how intellectually disabled persons cope in prison:

“One do not think it is appropriate to place these people in prison because they are not sufficiently, how should I say, they are not good enough at understanding the social implications” (SW5).

A similar assumption is expressed by another participant:

“They would not cope; the environment in prison is too harsh for them” (SW6).

**Special needs**

From the metacognitive perspective, my understanding of the statement above is that mental illness creates cognitive and social impairments as well. Therefor these individuals often have special needs. There are limited resources in both prisons and forensic psychiatric clinics to meet their special needs (Antaki & Lewis, 1986:24). One participant is negative towards introducing the accountability requirement. However, this person mentions that a specific part of the proposal was positive.

“/.../ something that we can possibly think is good is this closed support unit which is something that should be imposed. Because sometimes we meet people that we think fall a bit through the cracks” (SW6).

According to my interpretation, owing to the fact that their needs are not met within the current system, closed support units would be more adjusted to their needs (SOU, 2012:510). This is claimed by another participant as well. These units would be special departments within prisons;
“which adapts to these people’s needs with more staff and fewer inmates. One can think that everyone should have it like that, but it is especially these people who are abused in prison” (SW5).

According to my understanding, the interviews conclude that legal discrimination is negative in reference to human rights. I view this meta-belief as an argument against reintroduction of the accountability requirement. Since it would discriminate persons regarded as unaccountable. At the same time this target group is especially exposed in prison, due to the harsh social climate. As mentioned earlier, closed support units might be a solution to this issue.

5.1.4 Internationalization
Another reason for reintroducing the accountability requirement is that Sweden has such a unique legislation. Almost all other countries provide a defense from responsibility on the grounds of mental illness (Höglund et al, 2009:355). A number of opinions are expressed concerning internationalization. Some participants believe that the current system is functioning quite well. For example one participant explains:

“I think the legislation that we have is rather humane anyway, with psychiatric care for those offenders who need it” (SW6).

On the other hand, some believe it would be a great benefit to have an internationally corresponding legislation. One interviewee states her assumptions:

“I think it would be mostly beneficial to become a little more like other countries in the world” (SW4).

For instance, I believe it would be possible to share and make use of international research. Sweden conducts a lot of research, although it is not possible to compare with other countries’ research (Svennerlind et al, 2010:224). The same participant continues:

“We cannot get help from other countries’ laws or practices because we do not have the same concepts. It is like comparing apples and oranges. So it would also be a great advantage to qualify in a larger group /.../ we limit ourselves when we have such a unique system” (SW4).

According to my interpretation of this preconception from a metacognitive perspective, is that it is also difficult to acquire knowledge about rehabilitation from other countries. This has negative impact on mentally ill offenders. Since Sweden miss out on
rehabilitation methods for instance. Effective rehabilitation methods are important in order to prevent recidivism (Antaki & Lewis, 1986:32).

5.1.5 Proportionality

The penalty one is sentenced to should be in proportionality to the crime one has committed. Nevertheless, there is a lack of proportionality in regard to the period of time offenders are given forensic psychiatric care. Some are discharged after a short period of time. Others receive psychiatric care for extremely long periods of time for minor offenses (SOU, 2012:967). This negative aspect of the current legal system is mentioned by all participants:

“The current system is not considered to be completely justified because persons are given very long periods of hospitalization /.../ disproportionately long periods of care in relation to the penal value of the crime one has committed. The average care period is longer than the average prison sentence” (SW2).

According to my interpretation, the interviews conclude that a homicide can render the offender 40 years in psychiatric care if they are regarded as dangerous. Substance abuse and risk of recidivism are the main reasons for long periods of care. At the same time, some offenders who are sentenced to forensic psychiatric care are able to influence the discharge process. These persons have personal resources to understand and influence the system. This issue is stressed by an interview subject.

“If they have a very favorable social network around them and a lot of resources, they have a great possibility to influence their discharge and be discharged a great deal earlier” (SW3).

As a consequence, I believe some offenders can profit from being sentenced to forensic psychiatry instead of prison. In case of murder, offenders who are sentenced to care can be discharged after 2-3 years. In comparison, those offenders who are assessed as healthy could be sentenced to life imprisonment. It is mentioned by several participants that reintroduction of the accountability requirement could be useful while addressing this issue. One interviewee argues that the demand of accountability would be helpful. Since 250 persons are sentenced to forensic psychiatry every year within the current system. Only 30-40 people would be assessed as unaccountable within the new system.

“I believe the current system is ineffective since it includes so many /.../ I think it would be positive if we discriminated a minimum of people and give them support and rehabilitation” (SW3).
According to the legislative proposal, few persons would be assessed as unaccountable. The majority of offenders would be sentenced to prison. As a result, the risk would be minimized that someone could exploit or take advantage of the system. In fact, forensic psychiatric care would cease to apply as a penalty. Persons assessed as unaccountable would be transferred to involuntary psychiatric care. Then it would be the degree and nature of the mental state which will render long or short periods of care (SOU, 2012:510). Another explanation is given by a participant.

"/.../ to some extent the concept of accountability could redress the lack of proportionality. Because then everyone assessed as accountable would be sentenced to prison which is mostly fixed term” (SW1).

According to my understanding, almost all offenders of severe crimes would be given fixed term prison sentences according to the proposal. Therefore the risk of someone receiving involuntary psychiatric care for 40 years would be significantly reduced. Extensive periods of care within forensic psychiatry conflict with the Hawaii declaration. The Hawaii declaration states that a psychiatrist cannot participate in compulsive psychiatric care of people who are no longer in need of care (SOU, 2012:510). A participant provides his preconceptions of this severe problem.

"/.../ I have been working in forensic psychiatry, offenders had been there between 20 to 40 years for one or two murders. Other persons had been there more than 25 years for assault” (SW3).

5.1.6 Public protection
The proposed legislation includes measures of public protection. Such measures are said to make the system more transparent. The lack of proportionality is because of public protection. Offenders who are sentenced to forensic psychiatric care are sometimes considered a danger to society. Therefore the offenders’ length of care is extended year after year because no one knows how to deal with them (SOU, 2012:599). One participant’s opinion is expressed concerning this issue.

"The current system is actually terrible. Sweden is one of the few countries in the world that does not acknowledge that they have public protection embedded in the system. We do not call it public protection, but that is exactly what we have. If the offender has a high risk of relapsing into addiction or criminal activity the person cannot be discharged, even though a severe mental disorder is not present” (SW3).
According to my interpretation, similar preconceptions are stated by all participants in reference to this issue. Yet, according to my interpretation public protection is already a great issue within the Swedish system. Some mentally disordered offenders are involuntarily given psychiatric care for 40 years. Other efforts must be provided instead of psychiatric care. The problem within the current system is that Sweden does not recognize public protection within the system. There is a need for transparency and honesty in order to make improvements. A number of patient organizations are particularly critical towards the proposal. Since the offenders’ human rights are threatened by measures of public protection. At the same time, if there is an imminent risk of criminal recidivism, society needs to be protected. Some mentally ill persons may not be able to take responsibility for their actions and learn from their mistakes. It can be necessary for the state to take responsibility for persons in order to avoid recidivism according to labeling theory (Becker, 2008:12). One participant states her reflections:

“How should we handle people who are not sentenced but still regarded as dangerous? How should society deal with them? I think this is a more complicated matter for the parliament than the question of accountability” (SW2).

According to my interpretation in connection to stigma theory, it is also pointed out that mentally ill persons are not necessarily the most dangerous criminals. For instance, gang criminals or organized criminals might be more likely to relapse into criminal activity. Stigma of mentally disordered offenders could be one reason for this prejudice (Goffman, 2009:3). Besides, only mentally ill offenders may be subjected to public protection measures in current legislation (SOU, 2012:510). The reason for this is that this group should be as limited as possible. Yet, there are some sick offenders who should not walk unattended in society because they are not fit to do so. Another interview subject mentions her thoughts:

“I do not think they should be punished. However it is not okay that they should be able to do the same crime a week later when they have sickened again” (SW3).

In light of the metacognitive perspective, I believe that criminal recidivism must be prevented, although the problem is that people are given forensic psychiatric care without having the need for it (Lalljee, 1996:106). Instead, compulsory support should be given. Closed support units and probation for instance.
5.1.7 Labeling and stigmatization

Criminal liability is connected to guilt, blameworthiness and stigma. Michelle (2003:101) mentions that, “one important consequence of being found insane by a criminal court of law should be the label not guilty” (Michelle, 2003:101). For instance the ‘not guilty by reason of insane’ verdict in the United States, incorrectly describe those receiving the verdict as insane. Additionally, the Model Penal Code briefly states that the purpose of the insanity defense is to free mentally ill persons from stigma, guilt and moral blame which accompany conviction. Since persons who suffer from mental disorders may not have been capable of adjusting their behavior in accordance to the law (Michelle, 2003:101). In addition, Winick (1996:163) claims: “Associating mental illness with incompetence increases the stigma of mental illness” (Winick, 1996:163).

Criminalization

Below, the interview participant explains how mentally ill persons might be influenced by an unaccountability assessment. Mentally disordered persons would not be criminalized, which have positive consequences. An interviewee stresses this issue:

“Today we actually sentence people. With unaccountability it is not a crime and it is a more humane way to regard it /.../ it is labeling to convict even though they are sentenced to care. One does not judge, I think it is a rather big difference of how you view human beings” (SW4).

According to my interpretation based on the metacognitive perspective, mentally ill persons are negatively affected by society’s preconceptions and attitude of mental illness. Persons who would be assessed as unaccountable would not be labeled as criminal; nevertheless they would be labeled as mentally ill (Lalljee, 1996:124).

Positive and negative effects of forensic psychiatry

Positive and negative beliefs of being sentenced to forensic psychiatric care are explained by one participant.

“/.../ they will not go to prison and they will not be labeled as criminals, although it is perhaps not positive to be labeled mentally ill either” (SW4).

As a result, I believe there are both positive and negative aspects of the unaccountable label according to the social workers’ metacognitive assumptions.
“In a way, I believe that the introduction of accountability would reduce stigma /.../ because they were so ill when they committed these crimes, therefore it would be easier to understand these people” (SW3).

From a metacognitive perspective, my understanding of the statement above is that it would perhaps be easier for society to have empathy for these individuals. Since few persons would be assessed as unaccountable. Nonetheless, unaccountable persons could also be further stigmatized for the same reason. A limited number of persons would be given special treatment and thereby free from prosecution. It could be viewed by society that they escape punishment (Lalljee, 1996:106). A participant believes that one reason of the legislative proposal is that sentencing offenders to care is not punishment enough. This is the public sense of justice. Since unaccountability would cover fewer people and most offenders would be placed in prison. Another participant adds her belief:

“I actually believe that society has demanded stricter penalties for many years” (SW6).

In line with this statement, I believe society will be pleased to have stricter penalties and less people escaping punishment through psychiatric care.

Stigma

Nowadays, to be sentenced to forensic psychiatric care is somehow a proof that one suffers from a severe mental disorder. A participant describes her preconceptions about this phenomenon;

“/.../ it is not a merit to be sentenced to psychiatric care. It is not something positive in any social context. Contrary to popular belief, most offenders want to appear to be as healthy as possible, regardless of how insane they might be. Therefore, attempts to manipulate the investigation team are in the direction that they are very sick but try to seem healthy” (SW1).

Based on the participants’ metacognitive assumptions, I believe offenders might be afraid of being labeled as mentally disordered. It could be particularly stigmatizing to be labeled as mentally ill if one is criminally identified. It occurs rarely that organized gang criminals are sentenced to psychiatric care. If that were to happen against all odds an interviewee describes how this would impact these persons:

“Receiving psychiatric care would be social suicide” (SW1).
According to my interpretation of this meta-belief from a metacognitive perspective, the social worker believes that criminally identified individuals do not want to have anything to do with the psychiatry. Since their experiences of psychiatry are so negative. Perhaps experiences of being medicated against their will. Some offenders would rather spend 10 to 12 years in prison just to avoid submitting to psychiatric care. Most persons who engaged in criminal activity has early been stigmatized and raised in a marginalized environment. They have experienced difficulties in school and faced obstacles throughout their childhood. These difficulties manifest in adult life (Antaki & Lewis, 1986:32). A participant expresses her opinion about punishment:

“All adults must take responsibility for their own actions and their own lives /.../ but is it that functional to punish them once again?” (SW1).

In reference to labeling theory, I believe prison sentences may in fact cause relapse into criminal behavior. Since criminals are not seen as deviant in prison and therefore has no reason to change their profitable lifestyle (Becker, 2008:12).

**Labeling and its social consequences**

That mentally ill persons are stigmatized and labeled in society is stated by several participants. One interviewee expresses her thoughts about this;

“/.../ of course it is a label, even though it is fairly socially acceptable nowadays it is still not totally acceptable to be mentally ill. I believe it is a group of people that are labeled to some extent” (SW4).

My interpretation of this belief is that being labeled as mentally ill has negative consequences. An example is made by a participant:

“If ordinary people cannot get employment then one would absolutely not become employed with a psychiatric diagnosis. If someone has special needs it easily results in sheltered workshop, which becomes labeling. This causes stigma of being mentally ill as well” (SW4).

According to one participant, almost all of her clients claim that no one listens to them, they never get help and that no one understands them.

“They can certainly describe that they are suffering from being different and treated differently” (SW4).
Another interviewee describes her understanding of why mentally ill people face stigmatization.

“Because there is a stereotyped image of the mentally ill that they are not only less wealthy but stupid and dumb. A mentally ill person is someone who cannot be trusted, who cannot offer anything and who lacks resources in all areas of life” (SW1).

In my interpretation it is difficult to counteract society’s prejudice and preconception of mental illness. Since they are actively ignored and their social network is diminished. Mentally ill persons are thereby not given a chance to be socially included in society. Labeling causes people to be excluded from societal participation (Winick, 1995a:3).

5.1.8 Criminal record

In the current system mentally ill offenders are registered in the criminal record. The crime which they have committed and the penalty they received are registered (Svennerlind et al, 2010:221). As a consequence, they are both criminalized and labeled as severely mentally disordered. One participant gives an example of the current legislation. An extremely psychotic mother killed her child and was convicted of manslaughter. The participant claims:

“One might think that it is not right that such a sick person should have this tragic event registered in the criminal record” (SW6).

In some countries, I believe persons assessed as unaccountable are not registered in the criminal record. However, it is unclear how this would be handled in Sweden if an accountability requisite would be introduced (SOU, 2012:599). Most interviewees argue that it would bring several possibilities if unaccountable offenders would not be registered in the criminal record. A participant expresses some thoughts:

“The request of criminal records is increasing. Generally I do not think it should be visible in the criminal record. It would increase the rehabilitation opportunities for this target group. The possibility of getting a job and apartment would significantly increase” (SW3).

According to my interpretation, after rehabilitation unaccountable persons would be given a second chance to integrate into society. Without being registered as neither insane nor a criminal would reduce stigmatization to same extent (Winick, 1995a:3).
Comments
The participants’ metacognitions about how mentally disordered offenders would be affected socially by de-criminalization are analyzed below. In reference to earlier research, I believe that to gain employment, housing and a social network is difficult for mentally ill persons (Winick, 1995a:10). This target group is commonly excluded from both the labor market and the housing market. Unemployment is common amongst people who suffer from mental illness. This has an impact on their financial situation as well. Consequently, mentally ill persons are often forced to live in disadvantaged neighborhoods. All of these factors amplify their marginalization. Categorizing people as mentally ill might produce lasting stigma. That influence the way others regard and interact with them and the way they regard themselves. Stigmatizing labels may cause deprivation of social, educational and occupational opportunities (Winick, 1995a:12).

5.2 Theme 2: Psychological consequences
In addition to social exclusion, labeling has negative impact on psychological well-being. A person’s self-esteem, identity and self-image are highly influenced of how the person is viewed and treated by others (Winick, 1995a:9).

Moreover, the participants express metacognitive assumptions on how mentally ill persons are regarded in society. An interviewee states that the general public regards mentally ill persons as dangerous. Mass media is partly to blame for this prejudice. Mental illness is often brought up in connection to heinous crimes. One participant believes that it is worse to be regarded as mentally ill, than being labeled as a criminal.

“I also believe that belonging is very important, especially when you are younger. It is much cooler to be regarded as a criminal than being viewed as mentally ill” (SW5).

Another participant states her meta-beliefs:

“I think many people think it is a little creepy and a little weird to be mentally ill and that they are rather invisible. It is a group that society actively chooses to ignore” (SW2).

According to my interpretation, persons who suffer from mental illness are not that different to healthy people. They have the same needs as anyone else. The participant continues:
“I think the greatest problem that mentally ill people face is social isolation. Their lack of a social network, they are alone and experience problems with employment. So I believe that if there was a greater place for them in society, it would improve their lives in many ways” (SW2).

According to Becker (2008:109) labeling and stigmatization of mentally ill persons have negative effects on their psychological well-being. Labeled individuals are socially isolated and their basic needs are not met. Everyone has a need of social support, friends and a meaningful occupation. Marginalization hinders people to fully participate in society. Since stigma might cause unemployment, poverty, poor housing and loneliness. All of these factors additionally deteriorate their mental illness.

Unaccountability verdicts brand individuals and might cause significant harm (Winick, 1995a:3). The label could be mistaken for a character trait, whereas the person includes the label within his or her identity. In case of incompetency verdicts or insanity defenses, the offenders might view themselves as incompetent, unaccountable or insane. This could be particularly damaging of the individual’s self-esteem and cause self-stigmatization (Winick, 1995a:12). Individuals internalize other people’s negative views and treatment of them. The internalization spoils their identity (Goffman, 2009:3). On the other hand, the process of labeling is extensive. Mental illness is often a life-long stigma. These people might have experienced stigmatization during their entire lives. One participant argues that being assessed as unaccountable would not have significant influence:

“...to be assessed as unaccountable is only the tip of the iceberg, because they have already been judged as unaccountable 23,000 times, in people's minds, attitudes and way of treating them” (SW1).

In regards to the metacognitive perspective, my interpretation of this statement is that the accountability assessment would be conducted so late in life. These persons have already been discriminated and looked upon differently their entire lives. Lifelong stigmatization because of mental illness is much more damaging, than once again being labeled as unaccountable (Lalljee, 1996:126).

**Incompetency verdicts**

Nevertheless, incompetency verdicts diminish persons’ self-determination, self-efficacy and self-control. People lose the ability to make their own decisions. They are thereby treated as children or secondary citizens. Winick (1995a:12) argues that incompetency labeling cause depression. Since control over one’s own life is a basic human need and
individuals are labeled as incapable of exercising self-control (Winick, 1995a:23). The concept of powerlessness is mentioned by an interviewee:

“Most people we meet experience a diffuse or apparent powerlessness” (SW2).

From my point of view, mentally ill offenders feel powerless since stigma causes significant limitation of people's lives. In regards to cognitive theory, mentally ill persons may not have the metacognitive ability to process negative feelings and to possess self-awareness (Larsson, von Braun & Lilja, 2012:155). Unemployment, poverty and addiction create a horrific existence, especially while suffering from mental illness. A participant explains people’s need for structure:

“I believe that all people whether they are mentally ill or not, need structure. To have something meaningful to do that makes it worth getting up in the morning and be awake during the day instead of at night, someone to talk to, get out and get fresh air, exercise, eat at regular times. But mentally ill people are in greater need of the external structure, which helps them with the inner. If you have a lot of inner chaos it is difficult to deal with external chaos” (SW2).

Comments
The participants’ metacognitions about how mentally disordered offenders’ psychological well-being would be affected by de-criminalization are analyzed below. In connection to labeling theory, I believe this could be one reason why outsiders are sometimes forced to find power and control beyond legal boundaries. Substance abuse and criminality may be the only way for these individuals to earn money and have power and control over their own lives. A sense of belonging can be found amongst persons who have similar issues. Criminality could provide belonging in social groups, where they do not feel like outsiders. Their deviance is what brings them together. Deviants are thereby drawn together to form their own excluded groups. Nevertheless, this could in turn amplify their stereotyped self-image (Becker, 2008:12). In reference to earlier research, Winick (1995a:12) argues that incompetency labeling cause depression. If mentally disorder offenders are considered incapable to be accountable of crimes they have committed this could cause learned helplessness. Denial of self-determination produces feelings of worthlessness, helplessness and powerlessness (Winick, 1995a:23). Stigmatization and marginalization makes it more difficult for offenders to recover from depression. Since their social network and contact with the community might be limited (Winick, 1995a:12).
5.3 Theme 3: Behavioral consequences

Labeling causes learned helplessness; people generalize feelings of helplessness to other situations. This will in fact create behavioral implications (Winick, 1995a:17). For instance, self-stigmatization causes people to socially exclude and isolate themselves. People avoid social situations in order to avoid rejection and discrimination. “The mental illness label locks the individuals into behavior patterns that result from the way others perceive and respond to them and the way the label alters their view of themselves” (Winick, 1995a:9). Changing one’s behavior becomes even more difficult if people are totally isolated without a social support system.

Additionally, an unaccountability verdict might cause denial of opportunity to be self-efficient. Lack of self-determination undermines motivation, learning and well-being. Learned helplessness could also cause depression and less persistence in goal attainment (Winick, 1995a:21). People become passive in order to avoid potential failure (Winick, 1995a:18). Mental illness could become the norm within marginalized social groups. As a consequence, behavior which is regarded as deviant in society becomes habitual and accepted within such groups. This causes reinforcement of negative behavior (Becker, 2008:7).

5.3.1 Self-fulfilling prophecy

According to Becker’s (2008:35) theory of self-fulfilling prophecy the spoiled identity causes people to act in accordance to their labels. “Deviancy labeling serves to marginalize those labeled causing them to internalize a deviant self-image, and sometimes as a result, engage in acts of secondary deviance” (Winick, 1995a:9). In addition: “The label produces a damaged self-concept that then perpetuates deviant behavior, launching the individual on a career of chronic mental disability. In short, the label can and often does produce a self-fulfilling prophecy” (Winick, 1996:162). This theory has been researched previously in reference to criminality and the behavioral effects of criminal convictions. If persons are regarded as criminals, they view themselves as criminals. In turn, behavior is highly dependent on one’s self-image. Therefore, a criminal identity amplifies criminal behavior (Young, 1971:182).

Incompetency labeling such as the insanity defense and unaccountability verdicts may in fact produce irresponsible behavior. Since people are labeled as incompetent and incapable of taking responsibility of their own actions. Winick (1995b:603) states that; “treating people as irresponsible may breed irresponsibility, but treating them as responsible may produce responsible behavior” (Winick, 1995b:603). A few
participants state opinions which correspond with the self-fulfilling prophecy. For instance, one participant reflects on her own thoughts:

“I believe that self-image controls all human behavior very much. More than we might think. If you are a person who feels that you fail all the time, of course it also affects how you behave” (SW2).

Another interview subject gives an example how a person’s self-image affects behavior:

“I actually think it has a pretty strong effect. I think if a person lives in an environment where mentally illness is resented; it will naturally influence one's self-image and well-being. Then it is perhaps difficult to accept that one is sick and less able to accept treatment” (SW5).

According to cognitive theory, I believe people try to explain other people’s behavior based on their own assumptions about this person’s personality. The actor interprets in turn their behavior based on factors relating to the current situation (Lalljee, 1996:126). In addition, self-awareness and consciousness of one’s mental illness is crucial in order to accept treatment. Lindgren (1987:110) argues that “those who suffer from more significant handicaps must, regrettably, make more significant sacrifices in order to stay within the law” (Lindgren, 1987:110). Nevertheless, it could be disputed that mental illness prohibits people from understanding their own limits and make necessary sacrifices (Meynen, 2012:301). Self-medication is common amongst mentally ill persons. Disease symptoms could be relieved by narcotics. Drugs could be the only way to control unwanted thoughts (Antaki & Lewis, 1986:32). However, this causes criminalization and labeling mentally ill as junkies. Substance abuse might amplify criminal behavior as well (Winick, 1995b:603). Additionally, if someone is always regarded as a troublemaker and that one benefits from that behavior it will be included into one’s self-image. Just as if one is regarded as extremely talented and good in school it also has effect on behavior. Generalization of powerlessness produces lack of responsibility. Since the person believes that everything is beyond his or her control (Winick, 1995a:17). Another participant mentions that mental illness could sometimes be used as an excuse.

“Nowadays it is popular to say; yes but I probably have ADHD /.../ But I think that is a common explanation for why many have failed in school, why they have failed in many different areas” (SW2).
According to my understanding, a psychiatric diagnosis could in some cases provide an excuse not to take responsibility for one’s actions. However, this participant continues by stating:

“I think you must consider that change is difficult and mankind is not especially good at taking full responsibility for one's life and actions” (SW2).

My interpretation of her preconceptions is that everyone makes excuses to one’s behavior, although moral blame is more often placed on mentally ill persons. The interview subjects express difference views in connection to amplified criminality. Sometimes a prison sentence will strengthen offenders’ criminal identity. Adolescents who are sentenced to institutional care might find solidarity within the criminal context. Young people are particularly sensitive of group pressure. The only way to survive within a harsh climate might be to behave like everyone else. Every social group has its own social rules. Within prisons and forensic psychiatry other social codes apply than in society. Deviant behavior is no longer considered as deviant, since this behavior is what unites all outsiders (Becker, 2008:10).

On the other hand, some research suggests that health-related penalties have a certain crime prevention effect. This implies that the prophecy is not accurate since the person is in fact criminalized but it does not produce criminal behavior (SOU, 2012:533).

5.3.2 Criminal recidivism
The unaccountable brand could create irresponsible behavior and impact the person’s motivation for behavior change (Winick, 1995a:3). Mentally disordered offenders’ behavior is related to relapse into criminal behavior, thus criminal recidivism. Mentally disordered offenders’ behavior could also be a result from their feelings of powerlessness. One participant states her meta-beliefs:

“It is also a way to look at oneself, whether one has control over one’s life and behavior. Most people we meet experience a diffuse or apparent powerlessness. They believe that it is everyone else’s faults and it is hard for them to see and take responsibility for their actions” (SW2).

My interpretation is that some people never learn from their mistakes because they do not have the abilities to do so. According to Becker (2008:35) de-criminalization of mentally disordered offenders might reduce criminal behavior. Mentally ill persons already face discrimination without being viewed as a criminal as well. Nevertheless,
unaccountability verdicts may produce a lack of responsibility. As a consequence, criminalization may have positive behavioral effects. Taking responsibility for one’s actions might be an important factor in terms of avoiding recidivism (Winick, 1995b:604). One participant mentions that it could be something positive about punishment. The offenders pay a price for the crime they have committed. Repaid a debt to society and been given a second chance.

Additionally, some mentally ill offenders never confess the crime they have committed. This creates obstacles, to confess one’s crime could be an essential factor in order to prevent it from happening again. At times, the mental illness or disorder becomes an excuse not to take responsibility, especially within forensic psychiatry. The offender is victimized by the mental illness. Responsibility is an essential part of rehabilitation and treatment outcomes. A participant states:

“Responsibility is important in both a risk perspective and a rehabilitation perspective. I believe this is an issue within forensic psychiatric care. There is only a focus on psychiatric care and not criminal processing, which becomes a problem in a risk perspective” (SW3).

Comments

The participants’ metacognitions about how mentally disordered offenders’ behavior would be affected by de-criminalization are analyzed below. In connection to cognitive theory, I believe mentally disordered offenders might need to train their metacognitive abilities. Healthy social interaction requires certain cognitive and metacognitive capacities. For instance, people need to possess an understanding of other people’s feelings and cognitions, to a certain degree (Stevens, 1996:197). Crime possessing is a method of crime prevention mentioned in the statement above. This method entails that the crime is discussed either in a group or individually. The offender explains the actions that occurred and what factors caused the event. The offender’s responsibility of the crime is also discussed and what strategies could be used to avoid it in the future. If the offenders are aware of their responsibility of the crime it gives them motivation. It could be a motivational factor to take their medication and make necessary sacrifices in order to avoid relapse into criminal behavior. Crime processing might be an effective method to promote self-awareness, empathy and consciousness of the offenders’ own responsibility (Antaki & Lewis, 1986:32).

In conclusion, Winick (1995b:603) argues that the aim of criminal punishment is to reinforce responsible behavior. If mentally ill offenders are excused from punishment it
could cause the opposite effect. This could label them as unable to exercise self-control (Winick, 1998:538). Therefore, mentally ill offenders should be treated as responsible adults. This will encourage responsibility and self-controlling behavior (Winick, 1995b:604).

5.4 Holistic analysis

Within the following section the participants’ metacognitions about how mentally disordered offenders would be socially, psychologically and behaviorally affected by de-criminalization are analyzed as a whole. Some of the social workers believe that a legislative change would legally discriminate mentally disordered offenders, while others believe that this group of people should not be held accountable of a crime since they are not capable of taking responsibility. Even though the new legislation would de-criminalize mentally disordered offenders, this would go against the Swedish equality principle. Since a few social workers thought that everyone should be equal before the law. The social workers’ statements contained categorizing, labeling and stigmatizing metacognitions (Lalljee, 1996:126). The participants argued that society regard mentally ill persons as stupid, dangerous, irresponsible and unreliable. Labeled individuals are socially excluded which causes isolation. Society’s stereotyped image of mental illness is amplified due to criminalization (Becker, 2008:35). Based on the social workers’ meta-beliefs these individuals face exclusion from the labor and housing market. According to the participants’ metacognitions, if mentally disordered offenders were assessed as unaccountable it could both increase and decrease stigma. On the first hand, unaccountable persons would not have a criminal record which would increase their chances of reintegrating in society. This would help them to get employment and housing. On the other hand, an unaccountable verdict could increase stigma since it could be viewed as an escape from punishment. In reference to the social workers’ assumptions, people actively ignore individuals who act deviant according to social norms (Lalljee, 1996:126). Social isolation has negative impact on people’s psychological well-being. Decreased well-being and limited contact with healthy people amplifies their mental illness. All of these factors cause mentally disordered offenders to view themselves as deviant (Goffman, 2009:3). Some of the social workers believed that this will have behavioral consequence as well. Since some participants argued that people act in accordance to their labels. If persons are viewed and treated as outsiders, their deviant behavior will increase (Winick, 1995a:17). An unaccountability assessment could bring negative behavioral consequences. The person might not take
responsibility of their own actions if they are labeled as irresponsible. The mental illness or defect could be used as an excuse not to take personal responsibility. In order to avoid recidivism, the offenders must acknowledge their responsibility. Since motivation is needed for behavior change. Therefore, according to some participants it is important to focus on crime processing within forensic psychiatry and not only treatment of mental illness. Crime processing is a crime preventive method where the offenders’ responsibility is stressed. Crime processing promotes self-awareness, empathy and consciousness of the offenders’ own responsibility. Strategies which could be used to prevent recidivism are discussed as well. In conclusion, even though criminalization has negative consequences on mentally disordered offenders it might be an essential aspect of rehabilitation (Winick, 1995b:604).
6. DISCUSSION

Chapter six begins with a discussion of results in connection to research questions and aim. Furthermore, theoretical interpretation of results connected to earlier research is discussed. Methodological discussion and suggestions for further research are also incorporated.

6.1 Summary of results in connection to research aim

The aim with this study was to describe consequences of reintroducing the accountability requirement for mentally disordered offenders, at the background of social workers’ preconceptions. The main answer to the research question is the social workers’ most important metacognitive descriptions of how mentally disordered offenders would be affected by de-criminalization. Socially, the social workers believed that de-criminalization could both decrease and increase stigmatization and marginalization of mentally disordered offenders. Psychologically and emotionally, de-criminalization might cause learned helplessness and depression according to the social workers’ meta-beliefs. Behaviorally, the social workers believed that de-criminalization might be negative in reference to behavioral consequences. Since de-criminalization could result in lack of responsible behavior.

6.2 Discussion of results in connection to earlier research

The findings within this research correspond to earlier research. Similarities could be found within quantitative research as well as qualitative research. For instance, Högglund et al (2009) article; ‘Accountability and psychiatric disorders: How do forensic psychiatric professionals think?’ Mixed methods were applied within the article. The quantitative findings of that research correspond with the findings within this thesis. Forensic psychiatric professionals claim that psychosis severely diminishes accountability (Högglund et al, 2009:356). This has been shown in this thesis as well. Also, the majority of persons who are sentenced to psychiatric care suffer from psychotic illnesses (Svennerlind et al, 2010:223). However, within the article psychopathy is believed to impact accountability. This is not expressed by the participants within this thesis. Högglund et al (2009:357) states that substance abuse and self-medication could impact accountability, similar preconceptions are shown in this thesis. The qualitative findings of the article show that forensic professionals believe that severely mentally disordered persons are not blameworthy and should not be held
accountable for their actions (Höglund et al, 2009:357). Such opinions are revealed in this thesis as well, even though impulse control is not stressed.

Furthermore, Svennerlind et al (2010:221) mentions the remaining retributivist attitudes within the Swedish legal system, in the article ‘mentally disordered criminal offenders in the Swedish criminal system’. Such views are also presented within this thesis, that there is a societal demand for harsher punishment. The article addresses the ethical dilemma when an offender within forensic psychiatry no longer has a need for care but cannot be discharged because of public protection (Svennerlind et al, 2010:223). The problem is discussed within this thesis as well.

In contrast, differences with earlier research are also shown. Some earlier research claims that the accountability requirement will in fact be reintroduced within Swedish law (Svennerlind et al, 2010:224). However, almost all interview participants argue the opposite within this research. Because of financial and practical issues the legislative proposal will not be accepted within the Swedish parliament. Thereby, the participants do not believe that the law will be changed any time soon.

From a metacognitive perspective, interpretation of findings in light of labeling and stigma theory contributes to the process of fulfilling the research aim. The point with the theoretical perspective is not to verify or falsify the labeling or stigma theories. Rather, to analyze the consistency of the social workers’ statements in connection to the theories. The theoretical perspective gives the findings support and explanation. When analyzing the interview persons’ metacognitive assumptions the theories gave focus and direction. Winick’s (1995a) article; ‘The side effects of incompetency labeling and the implications for mental health law’, shows particularly similar results as in this thesis. Labeling and stigma theories are used in Winick’s (1995a) article as well as in this thesis. It could be argued that the reason for the consistency is the same theoretical framework. However, there is limited research concerning the labeling effects of an unaccountability verdict. Therefore, the consequences of the accountability requisite are compared to research with other theoretical perspectives. It should also be mentioned that the interview participants express a variety of views. Some opinions correspond with the theoretical framework and some do not. Nevertheless, different views are shown in the results.

6.3 Methodological discussion
There are both benefits and limitations of the chosen method. Firstly, there are some important benefits of using a metacognitive approach. In order to discuss future changes
in law or policy it is essential to reflect upon possible future scenarios. Metacognitive research is conducted before legislative changes as a means to avoid future negative consequences. For instance, the governmental official reports give recommendations of legislative changes based on evaluation of current legislation and speculations about future legislation (SOU, 2012:534). Rich data has been gained by exploring the social workers’ preconceptions, fantasies and imaginations about future scenarios if the law is changed.

Nevertheless, there are certainly a number of limitations of research which focuses on metacognitive beliefs about future events. It is important to mention that the findings of this inquiry should not be viewed as “objective” facts. Since results based on metacognitive statements are highly subjective and difficult to test. The hypothetical nature of the social workers’ statements is another factor which makes the results highly subjective. Consequently, the statements constitute of metacognitive assumptions about how a specific group of people might be affected in the future. However, we do not know if the social workers’ metacognitive descriptions are true or not. Regardless, the aim of this inquiry was to describe social workers’ metacognitions of mentally disordered offenders’ cognitions, emotions and behavior, and the aim has been fulfilled. Therefore, the study has a high level of validity when considering the metacognitive descriptions of the interview persons.

The majority of the previous research concerning mentally disordered persons’ legal status is conducted within other disciplines than social work. As such, law, psychiatry, philosophy and medicine. Since most relevant articles are published within the international journal of law and psychiatry. Within these fields quantitative research and positivist approaches are common. Yet, mixed methods are also used within earlier research. The sample size within earlier research is significantly greater which impacts the credibility of small studies. This inquiry is based on social workers’ metacognitive assumptions on how a specific change in legislation might impact mentally disordered offenders. The validity and credibility is increased by comparing results from this study with quantitative findings from earlier research. The qualitative results of this study presented consistency in comparison to quantitative research.

The theoretical framework was not revealed to the interview participants. The interview guide is neutral to any concepts related to stigma or labeling theory. The theoretical framework within this thesis was decided upon before developing the research questions. Therefore a theoretical reading of the transcripts was conducted. There are both advantages and disadvantages of this technique (Kvale & Brinkmann,
New dimensions, themes and perspectives could emerge when reading interview transcripts in the light of a theory (Kvale & Brinkmann, 2009:238). However, biased subjectivity might also occur. As such, the researcher only pays attention to those patterns and interpretations which support the chosen theory. On the other hand, some valuable interpretations could be lost by applying a theoretical perspective during the analysis. Kvale & Brinkmann (2009:238) gives different suggestions to counteract these issues. The researcher should be aware of his or her own presuppositions regarding the inquiry’s subject matter. In order to avoid theoretical bias the researcher could analyze alternative interpretations from different perspectives. The author of this thesis tried to avoid theoretical bias as much as possible and instead aim at perspectival subjectivity. As conducted above, this thesis has a critical stance to all interpretations. Alternative interpretations are discussed as a method of avoiding theoretical bias (Kvale & Brinkmann, 2009:238).

6.4 Suggestions for further research

As mentioned earlier, legislation impact persons’ lives at a number of different levels. Clients as well as professionals are influenced by law. This thesis provided descriptions of social workers’ meta-beliefs regarding mentally disordered offenders’ legal status. Because of the national and international perspectives, a lot can be learned from different countries jurisdiction. Persons who suffer from mental disorders are a vulnerable client group. Their vulnerability is additionally increased in case of criminal behavior. As such, it is up to authorities, jurisdiction and social workers to prevent further criminalization. Nowadays, several Swedish policies criminalize mentally ill persons instead of providing necessary support and care. Further research should be conducted on how criminalization of mentally disordered persons could be avoided. Mental health within the criminal justice system is a worldwide issue which is in need of further research.
7. Reference list


RMV (2013). "Rättssmedicinalverket" (Swedish Board of Forensic Medicine). [http://www.rmv.se/?id=29](http://www.rmv.se/?id=29) [Accessed 080613]


8. Appendix 1: Interview guide

1. Under what circumstances can an adult be legally unaccountable?

2. Do you see positive or negative consequences of reintroducing the requirement of accountability?

3. For what reasons do you believe that severely mentally disordered persons should have impunity?

4. For what reasons do you believe that severely mentally disordered persons should have criminal responsibility?

5. How do you think society would regard a person who has been prosecuted as unaccountable because of a serious mental disorder?

6. How do you think the surrounding views on the individual would affect his or her self-image? Self-esteem? Psychiatric mood?

7. How do you think assessment as unaccountable affects the individual within a short and long term perspective?

8. How do you think people's self-image can affect their behavior?

9. Is there anything else you would like to add?
9. Appendix 2: Letter of consent

Letter of consent

The aim with this study is to describe consequences of reintroducing the accountability requirement for mentally disordered offenders, at the background of social workers’ metacognitions.

Participation is voluntary and you will remain confidential throughout the process. Your anonymity will be guaranteed. The contact information provided will be used only for possible contact after the interview for clarification or validation.

You may at any time terminate the interview without reason. Your name will not be used for commercial purposes or made public, but is required only for valid participation. The interview data will only be used in this study and then destroyed once the work is completed.

I hereby authorize Linda Verngren to have access to the material obtained during this interview

YES □

NO □

Furthermore, I also give my permission that the interview is recorded and that notes are taken

Date

Email

__________________________________  ___________________________________

Signature interview participant

Name clarification

__________________________________  ___________________________________

Signature interviewer

Name clarification

__________________________________  ___________________________________