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Recidivism of Juvenile Offenders**

In recent years, the phenomenon of youth crime has attracted increasing attention among criminologists, psychologists, and educators. This is a difficult social problem, described in criminology as a ‘social pathology’¹. The increasingly young age of perpetrators and the gravity of their crimes are becoming noticeable factors. In addition, over the last few years there has been a significant increase in crimes committed by juvenile inmates of educational and reformatory institutions². According to the laws in force, non-adults are only subject to legal measures if they commit a ‘punishable act’ or show signs of antisocial and delinquent behaviour. The purpose of this paper is twofold. On the one hand, it aims to outline certain issues related to youth crime. On the other hand, the authors present the findings of a recent study concerning the history of juvenile delinquency among a group who subsequently acquired the status of state witness. Until recently, no such studies had been carried out, and the conclusions from the study may prove useful for policies formulated to tackle crime.

Pursuant to the Juvenile Justice Act³, a juvenile is defined as a person who:

1. is under the age of 18 (this age limit is used for the purposes of prevention and addressing antisocial and delinquent behaviour);
2. attained the age of 13 but is under 17 (the limit used for procedural purposes in cases brought against juvenile offenders, or ‘perpetrators of punishable acts’);
3. is under the age of 21 (this age limit is used for the purposes of the execution of reformatory or corrective measures)⁴.

The status of a juvenile appearing before a criminal justice authority is, to an extent, similar to that of a suspect in pre-trial criminal proceedings (‘preliminary

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¹ K. Tsirigotis, E. Lewik-Tsirigotis, B. Baster, *Przestępczość nieletnich – główne teorie wyjaśniające zjawisko*, *Pedagogika Rodziny* 2–3(2012), 83–84, www.profnet.org.pl (accessed on 12 February 2019).

² R. Mysior, *Przestępczość nieletnich jako problem społeczny – cz. II*, *Remedium* 8(2013).

³ Juvenile Justice Act of 26 October 1982 (consolidated text: Polish journal of laws Dz.U. 2018, item 969, ‘JJA’).

⁴ Art. 1(1) JJA.

proceedings⁵), or that of a defendant in proceedings before a criminal court ('judicial proceedings')⁵. There is no doubt, however, that the juvenile's liability is much more limited when compared to the liability imposed in criminal proceedings. Under the Polish criminal law, criminal liability may be imputed to perpetrators who had attained the age of 17 at the time they committed a prohibited act⁶. A perpetrator who has not reached that age is a juvenile offender⁷. Such a perpetrator may be held criminally liable only exceptionally, if a competent court so decides⁸. The above rule is subject to an explicit legislative proviso according to which criminal liability may be imputed to a juvenile only if the juvenile has attained 15 years of age and only in cases of the offences enumerated in Article 10(2) CC, namely:

1. an attempt on the life of the President of Poland (Article 134 CC);
2. manslaughter (Article 148(1)–(3) CC);
3. grievous bodily harm (Article 156(1) or (3) CC);
4. causing a dangerous mass event (Article 163(1)–(3) CC);
5. piracy (Article 166 CC);
6. offences against traffic safety (Article 173(1) or (3) CC);
7. rape (Article 197(3) or (4) CC);
8. physical assault (Article 223(2) CC);
9. hostage taking (Article 252(1) or (2) CC);
10. robbery (Article 280 CC)⁹.

It should be noted at this point that there is controversy related to divergent interpretations of whether or not the rules of the Criminal Code provide sufficient grounds for holding a juvenile criminally responsible for instigating, aiding and abetting in, directing or instructing the commission of the offence defined in Article 148(1) CC. Ł. Pohl notes this problem and has attempted to analyse it in a structured way, proposing the introduction of legal measures that would eliminate these discrepancies¹⁰.

⁵ P. Czarnecki, *Status nieletniego w postępowaniu w sprawach nieletnich*, Przegląd Sądowy 51–52(2016).

⁶ Art. 10(1) of the Criminal Code of 6 June 1997 (consolidated text Dz.U. 2018, item 1600, as amended, 'CC').

⁷ M. Budyn-Kulig [in:] M. Budyn-Kulik, P. Kozłowska-Kalisz, M. Kulik, M. Mozgawa (eds.), *Kodeks karny. Komentarz aktualizowany*, LEX/el. 2018.

⁸ M. Budyn-Kulig [in:] *Kodeks karny...*

⁹ Art. 10(1) CC.

¹⁰ Ł. Pohl, *Zakres odpowiedzialności karnej nieletniego w Kodeksie karnym z 1997 r. (O konieczności pilnej zmiany art. 10 § 2 k.k. – problem form popełnienia czynu zabronionego)*, Prawo w Działaniu 30(2017), 7–18. In the above article, Pohl proposes two options for amending Art. 1(2) CC.

Option one: 'A juvenile who, after reaching 15 years of age, commits a prohibited act contrary to Article 134 CC, Article 148(1)–(3) CC, Article 156(1) or (3) CC, Article 163(1) or (3) CC, Article 166 CC, Article 173(1) or (3) CC, Article 197(3) or (4) CC, Article 223(2) CC, Article 252(1) or (2) CC or Article 280 CC or a prohibited act that contributes to the perpetration of a prohibited act in question, may be held responsible pursuant to the rules laid down in the Criminal Code, if the circumstances of the case and the level of the offender's developmental maturity, their features and personal conditions warrant holding the juvenile criminally responsible, and in particular where the reformatory and/or corrective measures previously taken have proven ineffective'.

Option two: 'A juvenile who, after reaching 15 years of age, commits a prohibited act contrary to Article 134 CC, Article 148(1)–(3) CC, Article 156(1) or (3) CC, Article 163(1) or (3) CC, Article 166 CC, Article 173(1) or (3) CC, Article 197(3) or (4) CC, Article 223(2) CC, Article 252(1) or (2) CC or Article 280 CC or a prohibited act that contributes to the perpetration of a prohibited act defined in the above provisions, may be held responsible pursuant to the rules laid down in the Criminal Code, if the circumstances of the case and the level of the offender's developmental maturity, their features and personal conditions warrant holding the juvenile criminally responsible, and in particular where the reformatory and/or corrective measures previously taken have proven ineffective'.

R. Stefański, among others, presents a different position on the subject of juveniles' liability for non-direct forms of perpetration, see R. Stefański, *Obrona obligatoryjna w polskim procesie karnym*, Warszawa, 2012.

Furthermore, as far as crime management policies are concerned, it is important to determine whether the level of an offender's developmental maturity, their features and personal conditions can be reconciled with the imposition of a custodial sentence provided for these offences. The juvenile's previous behaviour is also an important factor, especially if any reformatory or corrective measures applied to the juvenile have proved to be insufficient (ineffective). However, some scholars, including M. Budyn-Kulig, argue that this is not a necessary condition¹¹. Where measures of this kind have been applied and have not produced the expected results, more severe measures (i.e. an appropriate penalty) should be taken against the juvenile. Yet, the ineffectiveness of the measures taken should not automatically lead to the imposition of criminal liability¹². Notably, B. Stańdo-Kawecka draws attention to the 'blended sentencing' doctrine applied in the adjudication of juvenile cases by courts in the United States. Under this doctrine, courts may impose both delinquency (juvenile) sentences and adult criminal sentences on juvenile offenders. However, the 'blended sentencing' system has been criticised for 'the absence of a consistent philosophical approach to juvenile justice proceedings'¹³.

The reasons for juvenile recidivism should be seen primarily in inadequate social environments and poor family relations. A key factor is the environment in which a young person lives after leaving a young offenders' institution or another juvenile facility. The main causes of re-offending include contact with a peer group that replicates negative patterns and the desire to catch up with others and gain recognition within the group¹⁴. The rules and relationships within the family home have an additional impact. Disrupted relationships among the closest family members and poor life prospects may contribute to the belief that only illegal activities can bring any benefit¹⁵. Against the background of such a family setting, school becomes a place to let out negative emotions, and compulsory education carries no value. As A. Chudzyńska rightly asserts, it is the family that is the primary educational environment for the child and it is the family that plays a 'decisive role in shaping the personality of a young person, their world of values and mental resilience to failures'¹⁶. At the same time, it is the school's duty to cooperate with the juvenile's family and to foster a sense of security in order to prevent a difficult situation and halt the process of the juvenile's descent into social deviance.

According to A. Biskupska, that process may appear in three stages¹⁷. The first one can be associated with frustration, a feeling of rejection, and a propensity to respond inadequately to events. This stage also manifests itself in an inability to focus and impatience. The second stage involves aggressive responses towards parents and persons outside the family, e.g. teachers. Already at this stage juveniles become inclined to meet their needs outside the family environment, staying in the

¹¹ M. Budyn-Kulig, n. 7 *supra*.

¹² J. Lachowski [in:] V. Konarska-Wrzošek, A. Lach, T. Oczkowski, I. Zgoliński, A. Ziółkowska (eds.), *Kodeks karny. Komentarz*, LEX/el. 2018.

¹³ B. Stańdo-Kawecka, *Prawo karne nieletnich. Od opieki do odpowiedzialności*, Warszawa, 2007, 350.

¹⁴ R. Mysior, n. 2 *supra*.

¹⁵ R. Mysior, n. 2 *supra*.

¹⁶ A. Chudzyńska, *Sytuacja szkolna dziecka osoby skazanej, odbywającej karę pozbawienia wolności* [in:] Z.B. Gaś (ed.), *Profesjonalna profilaktyka w szkole: nowe wyzwania*, Lublin, 2011, 111.

¹⁷ A. Biskupska, *Przestępczość nieletnich. Przyczyny przestępczego wykołajenia i rodzaje czynów przestępczych*, http://www.wsia.edu.pl/images/old/inne/zeszyty_nr3/61-65.pdf (accessed on 4 November 2018).

wrong company, committing petty crimes. The third stage entails participation in leisure activities or a criminal gang. At that point, juveniles commit burglary, theft and violent crimes against health and life¹⁸.

However, their involvement in criminal activities is not always a consequence of the absence of parental acceptance and affection. Evidence in support of this conclusion is provided, for instance, by G. Ociecek, who describes a case based on the findings of a criminal investigation¹⁹. In this case, a crime was committed against the backdrop of a regular, functional family in which both parents were working and expressed interest in their children. Despite this, the older of two brothers, aged 16, caused the death of his 13-year-old sibling, inflicting 30 stab wounds throughout the victim's body. According to the parents, there had never been any serious conflicts between the brothers. The 13-year-old did not have any behavioural issues, unlike the older brother, who ran into conflicts with the law. Eventually, a psychiatric assessment determined that the 16-year-old had had full mental capacity at the time of committing the act. The court sentenced the juvenile to an unconditional prison term of 12 years. G. Ociecek proposes involving the convicted juvenile in the following rehabilitation activities: an aggression and violence prevention programme and the social skills training including interpersonal communication and self-presentation²⁰.

The case mentioned above is an example of the fact that juveniles' choice of engaging in crime is not always determined by family dysfunctions. Another relevant study, performed by M. Kolejwa, shows that children of re-offending parents (including those with addictions) are more likely to commit punishable acts than children brought up in families where parents break the law less frequently²¹.

- B. Hołyst names the following most frequent causes of juvenile delinquency:
- a desire to impress others,
 - a desire to gain money,
 - a desire to fulfil oneself in one's own environment,
 - a sense of impunity for past criminal activities,
 - replication of environmental patterns, mainly those originating from one's family home²².

According to published court statistics, since 2010 there has been a noticeable decrease in the percentage of final judgments against juvenile perpetrators of punishable acts (from 58.5% in 2010 to 42.8% in 2016). A reverse trend can be observed in statistics concerning antisocial and delinquent behaviour, which in 2010 accounted for 41.5% of decisions; there has been an upward trend in this category of cases in the following years. In absolute numbers, there were 15,189 (57.2%) final judgments made against juveniles in antisocial and delinquent behaviour cases. The above figures show that in the period between 2010 and 2016 the total percentage

¹⁸ A. Biskupska, *Przestępczość nieletnich...*

¹⁹ G. Ociecek, *Przestępczość młodzieży w perspektywie penitencjarnej*, Humanistyczne Zeszyty Naukowe – Prawa Człowieka 1(20)/(2017), 190–191.

²⁰ G. Ociecek, *Przestępczość młodzieży...*, 191.

²¹ M. Kolejwa, *Rodzinne uwarunkowania zachowań przestępczych*, Warszawa, 1988.

²² B. Hołyst, *Kryminologia*, Warszawa, 2001, 450.

of juvenile sentences decreased significantly from around 17% to 11.4%. The largest number of juvenile delinquents came from the Silesia and Mazovia regions²³.

Table 1 presents statistics from the National Police Headquarters concerning prohibited acts committed by juveniles in 2011–2013. These data indicate that during this period, the offences most frequently perpetrated by juveniles were: extortion, robbery, and theft (in particular, theft with burglary). In 2011–2012, an increase in the number of these offences was observed. Another class of juvenile offences consisted of inflicting serious injury or taking part in a beating or a brawl. Manslaughter and rape were the offences least frequently committed by juveniles.

Year	2011	2012	2013
Manslaughter	6	4	4
Inflicting bodily harm	5,496	3,289	2,617
Taking part in a brawl or beating	3,580	3,289	2,219
Rape	126	181	106
Theft with violence, robbery or extortion	12,438	12,237	8,845
Theft with burglary	9,329	7,796	6,205

Source: National Police Headquarters statistics.

The figures from the Statistics Poland shown in Table 2 highlight the high level of juvenile involvement in drug-related crime. At the same time, there was a significant decrease in juvenile delinquency in the remaining categories of prohibited acts – the most noticeable is the drop in the number of robberies, which decreased by more than 50% between 2010 (1,116) and 2016 (389). The number of thefts with burglaries, thefts of property, and thefts with violence committed by juveniles also decreased.

The above statistics show the relatively high (though decreasing) crime rates among young people. The very phenomenon of deviation is strongly rooted in interpersonal relations, often in the economic situation, and personality disorders. Failure to take appropriate rehabilitation measures in respect of juvenile offenders facilitates their return to a criminogenic environment in which they feel accepted by their peer group. In the case of recidivism, it is much more difficult to use the criterion of biological conditions. This is because the phenomenon of re-offending is evaluated from the perspective of the efficiency of therapeutic programmes, social rehabilitation, and the work of specialists in this area²⁴. To a large extent, recidivism appears in former inmates of young offenders' institutions, who tend to perpetrate more violent crimes as they put to use their new 'skills' acquired during their time spent in the facility²⁵.

²³ Court statistics from the Ministry of Justice, Statistical Management Information Unit in the Department of Strategic Policy and European Funds, *Sprawy nieletnich. Prawomocne orzeczenia w latach 2010–2016* (2nd ed. Warszawa, ISWS, 2017), <https://isws.ms.gov.pl/baza-statystyczna/publikacje/download,2779,15.html> (accessed on 16 August 2018).

²⁴ K. Drapała, R. Kulma, *Powrotność do przestępstwa nieletnich opuszczających zakłady poprawcze (raport z badań)*, *Prawo w Działaniu* 9(2014), 205.

²⁵ K. Drapała, R. Kulma, *Powrotność do przestępstwa...*, 227.

Table 2.
Juvenile delinquency broken down into categories of offences

Offence	2010	2015	2016
Manslaughter – Article 148 CC	7	3	11
Inflicting bodily harm – Articles 156 and 157 CC	1,534	831	831
Taking part in a brawl or beating – Articles 158 and 159 CC	2,345	845	795
Offences under the Drug Abuse Prevention Act	1,086	1,325	1,194
Rape – Article 197 CC	56	45	49
Having sexual intercourse with a minor under 15 years of age – Article 200(1) CC	138	140	153
Theft of property – Article 278 CC	2,792	1,024	866
Theft with burglary – Article 279 CC	1,776	744	610
Robbery – Article 280 CC	1,116	427	389
Theft with violence – Article 281 CC	47	31	28
Criminal extortion – Article 282 CC	520	198	172

Source: The Statistical Yearbook of the Republic of Poland (Rocznik statystyczny RP) 2017.

According to the 2013 statistics from the National Police Headquarters presented in Table 3 below, juveniles perpetrated 6.6% of all confirmed crimes, much less than in previous years. According to Statistics Poland's figures, in 2016 the Police and the Prosecution Service completed preliminary proceedings in cases involving a total of 757,374 confirmed crimes; the figure for 2015 was 809,929²⁶. It should be noted that since 2015 the statistics on confirmed crimes have not included punishable acts committed by juveniles. According to the current methodology, punishable acts committed by juveniles are recorded in court proceedings after the Police transfer the files of a juvenile case to the family court. The numbers of cases concerning punishable acts committed by juveniles in 2015 and 2016 were 12,368 and 12,360, respectively, while as many as 18,362 such cases were recorded in 2017, as shown in Table 4. It is also noteworthy that juvenile violence is slowly but steadily expanding to the circle of closest family members: according to the 2017 statistics from the National Police Headquarters, 293 juveniles were named suspects in cases of domestic violence; 27 of these suspects acted under the influence of alcohol.

Table 3.
Rates of juvenile delinquency in 2011–2013

Year	2011	2012	2013
Confirmed crimes	1,159,554	1,119,802	1,061,239
of which, punishable acts committed by minors	101,026	94,186	70,452
Percentage of juvenile crimes	8.7	8.4	6.6
Suspects, total	504,403	500,539	438,524
of which, juvenile suspects	49,654	43,847	25,167
Percentage of juvenile suspects	9.8	8.8	5.7

Source: statistics from the National Police Headquarters.

²⁶ Source: Statistics Poland (GUS).

Confirmed crimes	2015	2016	2017
Total	822,297	769,734	782,892
of which punishable acts committed by juveniles	12,368	12,360	18,362

Source: The Small Statistical Yearbook of the Republic of Poland (*Mały Rocznik Statystyczny RP*) 2017, 2018.

Adolescents' propensity to commit criminal acts depends on biological and environmental factors, and family ties. It happens, however, that callous acts are committed in two-parent families without any substance dependency problems. This means that where a juvenile commits any of the serious and major offences listed in Article 10(2) CC, it is highly likely that he or she acts with considerable premeditation and cruelty. In these circumstances, the sentence imposed by the court may be much more severe, and the phenomenon of repeat offending will not appear because at the time of their release from prison the juvenile offender will most likely already be a young adult. Legally speaking, the commission of any new crime by the then-juvenile will not be considered re-offending and the perpetrator will be held liable as an adult. For the above reasons, it is important to carry out the psychiatric, psychological, and personality evaluation of a juvenile, which should at least determine the extent of their depravity, as well as their intelligence. An appropriate assessment report, offering a judge an overview of the juvenile offender's attitude, may be the primary tool useful in this regard. Pursuant to the Code of Criminal Procedure, an expert's opinion is all the more desirable if it is to be used to determine circumstances which are of great importance for the adjudication of the case²⁷.

The Court of Appeal in Wrocław emphasized that it is the court's duty to make findings of fact, while the assessment of the opinions of experts issued in the case cannot be limited to just quoting such opinions²⁸. A similar conclusion was made by the Court of Appeal in Krakow in its decision of 5 November 2008: 'The application of Article 10(2) CC requires an evaluation of the personal characteristics of the perpetrator, hence determining the causes and degree of the perpetrator's depravity.... In order to determine the degree of the perpetrator's depravity, rather than merely referring to the circumstances of the case, one should make a general assessment of the juvenile perpetrator's conduct. The above factors relevant to sentencing purposes should be determined based on, among other things, a psychological assessment report that should not avoid the aforementioned aspects of the evaluation'²⁹. In addition, a note should also be made of the judgment of the Court of Appeal in Katowice of 27 September 2006, according to which the 'distinctive traits of a juvenile, in particular those expressed by the level of their mental development, high intelligence quotient, considerable degree of depravity as well as personal circumstances, as confirmed by psychological and personal evaluations, should be considered as grounds for the application of the responsibility regime envisaged in Article 10(2) of the Criminal Code'³⁰.

²⁷ Art. 193(1) of the Code of Criminal Procedure (consolidated text Dz.U. 2018, item 1914).

²⁸ Judgment of the Court of Appeal in Wrocław of 21 October 2015, II AKa 262/15, LEX No. 1927499.

²⁹ Judgment of the Court of Appeal in Krakow of 5 November 2008, II AKa 87/07, LEX No. 493917.

³⁰ Judgment of the Court of Appeal in Katowice of 27 September 2006, II AKa 224/06, LEX No. 217115.

A survey conducted by the Institute of Justice on 257 juvenile cases show that 70 of these cases (27%) were transferred to criminal courts pursuant to Article 10(2) CC, while the remaining 187 (73%) were heard by family courts³¹. A review of these cases carried out to determine the impact of assessment reports led to the conclusion that such reports provide highly relevant information. In as many as 66% of the cases, the courts decided to subject juveniles to the same influence measures as those suggested in the report. The most comprehensive social rehabilitation assessment reports were prepared by family diagnostic and consulting centres and diagnostic teams at youth detention centres. Reports compiled by these facilities contained the highest number of detailed characteristics of the assessed juveniles. Based on the above findings, it may reasonably be argued that an assessment report that fully captures the individualized picture of the juvenile and contains specific proposals on how to proceed with the juvenile in question may contribute to proper socialization of the juvenile and thus prevent their relapse into crime.

There is another consequence of an expert's evaluation expressed in this form: it allows for it to be shown that a juvenile offender does not deserve a more lenient punishment for committing a prohibited act. A negative criminological prognosis for a juvenile is therefore conducive to the conclusion that the juvenile may be held criminally responsible as a repeat offender. When imposing a punishment on the juvenile, the court should take into account their age and the reformatory purpose of the sentence. For this reason, a juvenile may not receive the penalty of life imprisonment if they have not attained 18 years of age at the time of committing a crime (Article 54(2) CC). It is obvious that in such a case the juvenile needs to commit another offence from the list contained in Article 10(2) CC or a similar offence, because Article 10(2) CC is the only provision that allows a juvenile offender to be held liable under criminal law. Re-offending juveniles, on the one hand, may be eligible for extraordinary mitigation of a penalty due to their age. However, on the other hand, recidivism may be invoked as an aggravating circumstance. It is crucial to determine whether any measures have already been applied in respect of the re-offending juvenile and whether they have manifested any problems with abiding by the law. An escalation of delinquent behaviour may lead to more severe punishment. The first-time re-offending that satisfies the criteria of what is defined in Polish criminal law as 'regular special recidivism' does not entail the obligatory imposition of a more severe penalty³²: it is for the court to decide whether or not the adolescent defendant should receive a harsher sanction.

The Court of Appeal in Katowice correctly ruled that a young age cannot automatically justify the imposition of a more lenient sanction for a given offence, not least because sentencing directives provide no basis for the more lenient treatment of juvenile (or young adult) offenders³³. Therefore, if a juvenile perpetrator

³¹ P. Ostaszewski, *Opinie diagnostyczne w sprawach nieletnich*, Instytut Wymiaru Sprawiedliwości, 2010, https://www.iws.org.pl/pliki/files/TWS_Ostaszewski%20P_145_Nieletni%20opinie%20diagnostyczne.pdf (accessed on 17 August 2018).

³² M. Budyn-Kulik, n. 7 *supra*.

³³ Judgment of the Court of Appeal in Katowice of 20 October 2014, II AKa 313/14.

re-offends, they should be held criminally liable as an adult. This was the conclusion of a decision of the Regional Court in Piotrków Trybunalski, which noted that the obligation resulting from Article 54(1) CC should not be interpreted as an absolute directive for the liberal treatment of young adult offenders of serious crimes based exclusively on the fact that they have not reached an age specified by the Criminal Code³⁴.

At this point, it is appropriate to present the most recent results of a study conducted in 2017 on a representative group of 52 state witnesses, which constituted 60% of the then-current population of state witnesses in Poland. The vast majority of the state witnesses participating in the study were aged between 31 and 50, and the full age range of state witnesses was from 26 to 60. Two-thirds of the state witnesses had completed education at the basic or vocational level. All the state witnesses surveyed were male. At the time of the study, the total number of state witnesses was 88. A decisive majority of the surveyed (43 persons) had lived in the state witness protection programme for a period longer than 5 years.

The purpose of this study was to determine whether state witnesses had a history of juvenile delinquency and had therefore been punished by Juvenile Courts. In addition, an attempt was made to determine the family situation of state witnesses, i.e. to establish if they had grown up in a two-parent family and if their closest family members had broken the law previously and had been convicted by a final court judgment.

A total of 35 survey questions were asked to the state witnesses participating in the study. Given the purpose of this paper, we will focus on several of these questions only, namely those concerning the respondents' history of juvenile delinquency. The interviewers – officers of the State Witness Protection Directorate of the Central Bureau of Investigations of the Police – received pre-survey instructions, according to which each interview was to include the following elements:

1. Greeting the respondent;
2. Informing the respondent that there was no time limit for completing the survey;
3. Informing the respondents that the survey was anonymous;
4. Instructing the respondents that, due to the anonymous nature of the study, personal data should not be entered, except for age, gender and education;
5. Informing the respondents that their participation in the survey was fully voluntary;
6. Informing the respondents that their participation in the survey and the conduct and outcomes of the survey had no impact whatsoever on their participation in the State Witness Protection Programme, and that it did not affect their current status as a state witness;
7. Informing the respondents that the test and survey had been developed exclusively for research purposes.

³⁴ Judgment of the Regional Court in Piotrków Trybunalski of 14 October 2014, IV Ka 546/14.

Despite receiving this information from witness protection officers, some respondents reportedly approached the study with extreme distrust, which was evidenced by, among other things, the absence of answers to certain questions asked in the survey. The state witnesses completed a paper-and-pencil questionnaire in the presence of witness protection officers in Warsaw.

Tables 5–8 below show the answers given to the questions asked to the surveyed state witnesses in the questionnaire.

Table 5. Have you been sentenced by a Juvenile Court?	
Yes	15
No	34

Source: own study.

Table 6. Have you been detained in a young offenders' institution or a reformatory facility?	
Yes	10
No	39

Source: own study.

Table 7. Have your closest family members (father, mother, siblings) ever come into conflict with the law (been finally convicted for a criminal offence)?	
Yes	10
No	37

Source: own study.

Table 8. Were you raised in a two-parent family?	
Yes	34
No	15

Source: own study.

Based on the results of the above study, one may reasonably conclude that as many as 30% of the respondent state witnesses had a history of juvenile delinquency. Among this group, 20% had been detained in a young offenders' institution or reformatory facility. Moreover, 30% of the group in question grew up in an incomplete family, which may have been a cause of their subsequent dysfunctional behaviour and inability to abide by universally accepted social rules, especially given the fact that in 20% of the cases state witnesses' parents and other family members also had a criminal record.

Certainly, as is shown by previous studies, state witnesses belong to the category of offenders who have committed the most serious crimes. In addition, a significant number of state witnesses received sentences from juvenile and/or criminal courts in the past.

The phenomenology of recidivism among juveniles and young adults is a controversial issue. The available statistics provide little basis for defining any clear and precise causes of juvenile recidivism. There is also a scarcity of research into the effectiveness of efforts made to combat social maladjustment and deviation. For juveniles, affiliation with a specific criminal group becomes an attractive prospect, a way of entering adulthood and impressing others³⁵. For persons under 18 years of age, there is the additional advantage of being subject to a less stringent regime of liability. In light of the above, the court plays an important role by selecting appropriate corrective mechanisms for a juvenile offender. In making such a decision, the court should rely on evidence and reports that provide such information as: the mental and physical health of the juvenile, the level of their intellectual development, personality characteristics or factors such as the norms and values they adhere to. Pronouncement of a punishment capable of reforming a juvenile in an appropriate way requires an accurate diagnosis and assessment of the offender's degree of social deviancy, as well as cooperation between the court and the relevant institutions. For juvenile perpetrators of acts punishable under the Criminal Code, especially if they re-offend, their young age should not be considered a mitigating factor for sentencing purposes. Notably, juveniles may be held criminally liable if previous measures used to correct their delinquent behaviour have proved ineffective. This means that a given juvenile offender is especially prone to depravity and manifests reluctance to comply with the rules. By re-offending, the juvenile leaves the legal system no choice but to impose harsher measures.

Unsurprisingly, some juvenile justice scholars propose extending the option of applying the regime of 'adult' criminal liability to juveniles in respect of all types of criminal or petty offences³⁶. 'An excessively lenient penalty, one which does not cause any real and direct discomfort to the accused and has been imposed on an accused who has already been engaged in antisocial and delinquent behaviour, fails to achieve its reformatory purposes and does not teach the accused to respect the legal order'³⁷.

As the Court of Appeal in Wrocław rightly noted, such a penalty, subjectively viewed by the accused as no penalty at all, reinforces their feeling of impunity and the conviction that the legal system does not work. Such a penalty not only fails to prevent the juvenile offender from committing crimes, but even encourages them to commit new crimes. Therefore, an excessively lenient sentence does not bring the expected benefits to the convicted person, but contributes to negative changes in their personality by creating a false system of values. It is certainly necessary to take an individualised approach to the criminal responsibility of juvenile offenders, but this should be combined with a more in-depth assessment of the personal development of the offender, which, in adolescence, is usually extremely turbulent. It is true that a juvenile's choice of a life in crime or their return

³⁵ M. Kowalczyk-Ludzia, *Demoralizacja sprawców przestępstw w świetle prawnokarnej oceny czynu zabronionego* [in:] T. Grzegorzczak, R. Olszewski (eds.), *Verba volant, scripta manent. Proces karny, prawo karne skarbowe i prawo wykroczeń po zmianach z lat 2015–2016. Księga pamiątkowa poświęcona Profesor Monice Zbrojewskiej*, LEX/el. 2017.

³⁶ A. Herzog, *Prokurator a odpowiedzialność karna nieletnich*, *Prokuratura i Prawo* 9(2017), 145.

³⁷ Judgment of the Court of Appeal in Wrocław of 23 February 2006, II AKa 17/06, LEX No. 176531.

to crime is usually not an accidental decision, as shown, for example, by the state witnesses study. This is why it is vital, from a criminological perspective, to take action aimed at the general prevention of juvenile delinquency, which will certainly contribute to reducing the level of youth crime principles rules of criminal law. It is the environment in which a young person is raised and lives that plays an essential role in defining their further life choices. If this environment does not meet the juvenile's needs because of certain deficits or because there is too much pressure on the juvenile, they may present what is known as socially unacceptable or even criminal behaviour. It seems that whenever visible parenting deficits occur, it is the school community that should take over the role of the juvenile's 'parent-like educator' and take appropriate remedial measures with regard to the parents or guardians of the minor.

Abstract

Grzegorz Ociecek, Paula Sambor, *Recidivism of Juvenile Offenders*

This paper aims to address a number of aspects related to juvenile delinquency, in particular the causes of criminal behaviour among minors, as well as the phenomenon of juvenile re-offending. In addition, it presents the latest scientific findings concerning the history of juvenile delinquency among the population of state witnesses.

Keywords: *juvenile, criminality, state witness, re-offending (recidivism)*

Streszczenie

Grzegorz Ociecek, Paula Sambor, *Powrót do przestępstwa wśród młodzieży*

Niniejszy artykuł ma na celu przybliżenie kwestii związanych z przestępczością wśród młodzieży, a w szczególności zarówno przyczyn ich przestępczego zachowania, jak i powrotu do przestępczej aktywności. Dodatkowo w publikacji zostały zaprezentowane najnowsze wyniki badań dotyczące popełnienia przez świadków koronnych czynów karalnych jako osoby nieletnie.

Słowa kluczowe: *nieletni, przestępczość, świadek koronny, recydywa*

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