



Copyright © 2021 International Journal of Criminal Justice Sciences (IJCJS) – Official Journal of the South Asian Society of Criminology and Victimology (SASCV) - Publisher & Editor-in-Chief – K. Jaishankar ISSN: 0973-5089 January – June 2021. Vol. 16 (1): 201–216. DOI: 10.5281/zenodo.4764509 / IJCJS is a Diamond Open Access (Authors / Readers No Pay Journal). Indexed in Scopus and Emerging Sources Citation Index (Web of Science).

This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.



Determinants of the Judicial Response to Juvenile Delinquency

Justyna Włodarczyk-Madejska¹
Polish Academy of Sciences, Poland

Paweł Ostaszewski²
University of Warsaw, Poland

Abstract

The article identifies the determinants of the judicial response to juvenile delinquency which is a subject of interest to practitioners and theoreticians of law, criminology and other academic disciplines. Special attention is given to two of the harshest custodial measures for juveniles in the Polish legal system, viz. placement in a youth educational centre or in a correctional centre. The analysis was conducted on the basis of material collected during the course of research made at the Institute of Justice in 2015–2016 on a sample of 370 court case files on 457 juveniles. It attempts to determine which factors influence judicial decisions on juveniles, and whether judicial practice is consistent with the procedural rules adopted for dealing with this category of offender. The article is divided into three parts: the distinctive features of the Polish framework for dealing with juveniles, a review of the studies conducted to date and a description of the results of the authors' own studies.

Keywords: Risk factors, Juvenile, Juvenile delinquency, Juvenile courts, Judicial response on juveniles.

Introduction

Juvenile delinquency is a subject of interest to practitioners and theoreticians of law, criminology and other academic disciplines. Particular attention has been devoted to the response to this category of the offender (Burke, 2016; Minor, Hartmann, & Terry, 1997; Sanborn, 1996; Rzeplińska, 2012). Neither the research results nor the proposed solutions are consistent and coherent, and the models that have been formulated for dealing with

¹ Assistant Professor, Department of Criminology, Institute of Law Studies, Polish Academy of Sciences, wlodarczyk.madejska@gmail.com

² Assistant Professor, Department of Criminology and Criminal Policy, University of Warsaw, Poland, pawel.ostaszewski@uw.edu.pl

juvenile are many and varied, ranging from the participatory model to the crime control model (Winterdyk, 2015). The literature stresses that a child who has committed an offence is a person who has not had a proper upbringing, i.e. one in which ethical principles and the rules for living in society would have been taught and basic needs satisfied (Mogilnicki, 1925). A delinquent juvenile should, therefore, be seen first as a child in need of assistance and support, and second as a person who has broken the law (Smith, 2005).

There are many criminological theories focused on explaining the causes of juvenile delinquency. Among them, we can find biopsychological and sociological theories. The first of them focus on the relationship between certain personal features and the formation of anti-social behaviour (e.g., anthropological theories, the concept of inheriting the tendency to antisocial behaviour, concepts of incorrect personality). The second theories are about the influence of social factors on human behaviour (e.g., ecological concepts, structural, cultural diversity, learning criminal behaviour and control theories) (Siemaszko, 1993; Błachut, Gaberle, Krajewski, 2007). One of them is particularly important for our article – Sutherland Differential Association inscribing in learning criminal behaviour theories. Everyone is a participant in social contacts, gets to know different cultures and different ways of dealing with identical situations. While these assumptions were known at the beginning of ecological theories development, Sutherland attempted to describe the mechanism of choosing a particular behaviour. In accordance with this theory, criminal behaviour is learned. It is a result of interaction mainly in close personal groups. A person becomes a criminal if he/she has more patterns, rules, behaviours which are favourable to breaking the law than others (Sutherland, 1947; Siemaszko, 1993). The family in which the juvenile is brought up – in accordance with this theory – will be crucial for the juvenile to enter to crime route or not.

The issue of juvenile delinquency – as opposed to dealing with adult offenders – does not come down to affirming specific behaviour, but attempting to answer the following three fundamental questions: (i) Who is the person who came into conflict with the law? (ii) What were the reasons for that person's behaviour? (iii) What response(s) will prevent that person from committing another offence? (Grisso & Schwartz, 2000). Extensive information on not only the offence, but also the juvenile's personality, level of development, and educational background, should, therefore, be gathered before proceeding to judgement. Only then a just and appropriate decision can be guaranteed (Czajka, 1991; Grisso & Schwartz, 2000).

Aim of the study

This article attempts to determine the factors that influence the way(s) in which the juvenile courts respond to juvenile delinquency. The first part of the article contains a synthetic description of the framework for dealing with juveniles in Poland, the second reviews the studies conducted to date, and the third presents the results of the authors' own studies.

The framework for dealing with juveniles in Poland

The Polish framework for dealing with juveniles implements the concept of care and education (Konarska-Wrzošek, 2013). This was regulated in the Act on Proceedings in

Juvenile Cases (1982), which was the outcome of a compromise of a dispute between those who advocated bringing juveniles to justice (which they considered to be a component of just retribution) and those who advocated education (Czarnecka-Działuk, 1993).

In Poland, a juvenile is a person: aged 13–16 who has committed a criminal offence (a felony or serious misdemeanour); under 18 years of age, who exhibits symptoms of demoralization (defective socialisation); or under 21 years of age and subject to educational and/or corrective measures. The basis for initiating juvenile proceedings can, therefore, be committing a criminal offence and/or exhibiting the symptoms of an incompletely specified social maladjustment.

The abovementioned Act specifies four main aims in responding to juvenile: (i) counteracting demoralization and delinquency; (ii) resocialization; (iii) reinforcing custodial and educational functionality; (iv) and making parents more responsible in raising children. These aims should be realized in line with the primary directive of *The Child Welfare*, according to which any dealings with juvenile should be directed towards his/her good.

It is not so important to bring the juvenile to justice, as to resolve the problem, bring about beneficial changes in his/her personality and behaviour, and apply the most supportive measures in the given situation. The legislature has identified the factors that the courts take into account when dealing with juveniles, viz. age, health, psychological and physical development, character traits, behaviour, the causes and extent of the demoralization, and the nature of the environment and the educational conditions in which the juvenile has been brought up (Bojarski, Kruk, & Skreńtowski, 2016).

The Polish model for dealing with juvenile differs considerably from that for dealing with adults. The ultimate goal is to raise the juvenile as a conscious and honest citizen. This must proceed in accordance with recommendations of science and educational experience. To juveniles are applied educational and corrective measures, a penalty is the measure of *ultima ratio*. The catalogue of available measures contains some that apply to the juvenile alone, some that apply to the juvenile but where the parents are liable for their execution, and some that are directly addressed to the parents. Another distinction is to non-custodial (e.g., admonition, mandatory injunctions, increased parental supervision, supervision of a particular organisation or a probation officer, referral to a probation centre etc.) and custodial (placing the juvenile in a youth educational centre or a correctional centre) measures (Konarska-Wrzonek, 2013). Three things stand out from an analysis of the statistical data on the sentencing of the juvenile courts: (i) non-custodial measures are the most common measures for juveniles (89.6% of all final judgements); (ii) of these, probation and admonition are the most common (60% combined); and (iii) custodial measures are very rarely applied (5.3% of all cases, including approx. 25% of the harshest – placing in a correctional centre). Each of these categories aims to educate the juvenile (Bojarski et al., 2016).

A correctional centre is an educational place for highly depraved juvenile offenders who require educational interaction under increased supervision, discipline and security in order to prevent their getting away (Konarska-Wrzonek, 2013). The possibility of applying this measure is sanctioned to specific conditions. Circumstances that have to be considered include whether the offender is at least 13 years old, whether the offence is a felony, the

nature and kind of the offence (and whether they indicate a negative attitude towards social norms and values), and the level of demoralization. Circumstances that may optionally be considered include the ineffectuality of previously applied measures and a negative prediction in the case of using other measures. An order for placement in a correctional centre can be conditionally suspended while educational measures are being applied, provided the court is satisfied that the attributes, and the personal and environmental circumstances of the perpetrator, and the nature of circumstances of the offence warrant the assumption that the educational aims can be achieved without placement in a correctional centre.

A review selected studies conducted to date

As stated above, getting to know the juvenile is a necessary precondition for ordering to his or her educational or correctional measures. It is therefore imperative that information on both the juvenile and his or her family environment be collected. The juvenile courts are tasked with identifying the cause(s) of the behaviour underlying the offence being investigated.

Many studies have been conducted on the causes of juvenile delinquency. Especially serious delinquency is considered to be the result of an accumulation of risk factors combined with a deficiency of protective factors (Van der Laan, Blom, & Kleemans, 2009; Farrington, 2005; Loeber & Farrington, 2012; Żabczyńska, 1983; Bartkiewicz, 2013). Risk factors increase the likelihood of criminal attitudes and behaviour, while protective factors offer protection from them (Carlson & Sarnecki 2016; Ribeaud & Eisner, 2010). It is not without significance that the importance of their accumulation, and therefore, the simultaneous occurrence of many factors, is stressed. As a single factor is not a sufficient cause (Rutter, 2010), its influence on serious juvenile delinquency is qualified as weak (Van der Laan et al., 2009). It can, therefore, be stated that, as a rule, juvenile delinquent behaviour is a prelude to going astray. This does not mean, however, that people who have not gone down this path do not engage in unlawful activities, although they usually commit few unlawful acts. The literature defines these as incidental crimes that do not fit the general characteristics of juvenile delinquency (Pospiszyl & Żabczyńska, 1980).

A review of the literature enables the risk and protective factors that influence juvenile delinquency to be identified. Despite there being considerable knowledge in this area, it has to be said that the catalogue of factors discussed is neither uniform nor self-contained. There may be several reasons for this state of affairs, e.g., the application of different research methodologies and techniques, new developments and types of conduct, the difficulty of making international comparisons, etc.

Not every research methodology enables the two groups of factors to be analysed to the same extent. Studies based on official, judicial or registered data only provide information about actions and/or behaviour that have been reported and which are therefore subject to social control (Farrington, 2015; Van der Laan et al., 2009; Stattin, Kerr, & Bergman, 2010; Burke, 2016). Information on unregistered delinquency, i.e., the dark figure of crime, comes from e.g., self-report studies. For example, the surveys that comprised Poland's contribution to the ISRD-2, conducted on a sample of 2114 junior high school students in 2006, found that one in three respondents had committed at least one offence during his or her life (Czabański, Gruszczyńska, Marczewski, & Siemaszko,

2010). The results of this kind of survey, however, largely depend on the attitude of the respondents, i.e., their willingness to participate in the survey and their inclination to answer truthfully (Burke, 2016).

Questionnaire surveys enable long-term factors to be identified, but they do not allow any claims regarding causal connection to be made, all the more so as they most frequently examine a particular issue over a relatively short period, e.g., the previous 12 months (Van der Laan et al., 2009). Cultural context, the number of examined cases, and the number of issues amenable to examination are all additional limitations (Burke, 2016). Moreover, it is seldom possible to fully compare data from official statistics with data from self-report studies (due to e.g., different time periods). Comparing data from different countries with dissimilar laws, procedures and justice systems (Farrington, 2015), languages, terminologies, means of control, intervention, prevention etc. (Winterdyk, 2015) is likewise problematic. Despite these difficulties, however, it would seem that the essential factors can be identified. This has been confirmed by longitudinal studies conducted in London (1961-62) on a sample of 411 male juveniles, and in Pittsburgh (1987-1988) on a sample of 508 male juveniles (Farrington, 2015). These studies were aimed at ascertaining those childhood risk factors that might predict delinquency in adolescence. The measurement was obtained using a list comprising 21 factors. The results of the two studies were fairly consistent. Twelve factors were statistically relevant in the English studies and nine in the American. It should be noted that what they most had in common was large families, low economic status, and weak parental control. It can, therefore, be assumed that the same factors would produce similar results regardless of when and where they appeared (Farrington, 2015), and that many different life paths lead to this same goal (Rutter, 2010).

Altogether, four groups of risk factors can be distinguished: (i) individual; (ii) family; (iii) neighbourhood; and (iv) school (Van der Laan et al., 2009; Ribeaud & Eisner, 2010). Another categorisation, devised by Farrington, distinguishes individual (high impulsiveness and low achievement), family (young and antisocial parents), socio-economic (large family and low economic status), and educational (lax control and strict discipline) factors (2015).

Juvenile delinquency is mainly explained by the occurrence and accumulation of chronic risk factors that affect the behaviour of a particular person over a relatively long period. These include issues with prosocial behaviour, inadequate parental control, and poor scholarly achievement (Van der Laan et al., 2009), family structure and socio-professional status, abnormal emotional ties between individual family members, an adverse moral and educational atmosphere, often associated with alcohol abuse on the part of one or both parents, and failure at school in the form of poor grades and behavioural disorders (Kołakowska-Przełomiec & Wójcik, 1990), drug use, a negative attitude to learning, associating with people who have a negative view of society and/or who are in conflict with the law, and frequently loitering in public places (Flood-Page, Campbell, Harington & Miller, 2000), being raised in a broken home, low socioeconomic status, and addiction(s) (Carlson & Sarnecki, 2016).

Special significance is attributed to family factors, as these influence the present and future behaviour of young people (Carlson & Sarnecki, 2016; Kiliszek, 2013; Klaus 2009; Rzeplińska, 2009; Woźniakowska-Fajst, 2010). The connection between adverse childhood circumstances and subsequent outcomes, including delinquency, has been

plainly stated (Skardhamar, 2009; Kołakowska-Przełomiec, 1990; Pospiszyl & Żabczyńska, 1980; Czabański et al., 2010).

Most analyses fail to account for short-term, or situational, factors, even though they increase the likelihood of committing an offence in a particular situation. These factors include aiding and abetting, the influence of alcohol and drugs, a lack of effective guardian supervision, and the risk of being caught. It should also be stressed that an exhaustive explanation of the causes of a given action is only possible when both short-term and long-term factors are considered (Van der Laan et al., 2009). In addition to these factors, it is also worth pointing out other variables correlated with juvenile delinquency, such as socioeconomic status (e.g., income, educational attainment, financial security, subjective perceptions of social status and social class) (Kurlychek et al., 2012), negative neighbourhood characteristics and victimization history. These variables were deliberately omitted in the article.

These sorts of detailed analyses have not been conducted on protective factors. One of the reasons for this is that researchers are more inclined to focus on threats and negative aspects than on positive aspects. This tendency is readily apparent in the studies conducted to date, e.g., in studies aimed at identifying the risk and protective factors of drug use, delinquency and other youth issues, conducted by Arthur et al., only 9 of the 32 factors considered were defined as protective (Arthur, Hawkins, Pollar, Catalano & Baglioni 2002). This approach results in sufficiently detailed knowledge of harmful factors, but rather limited knowledge of supportive ones (Bartkowicz, 2013). The protective factors so far identified are positive reinforcement of an individual's prosocial attitudes in his or her family, school and peer environments, social skills that help build suitable relationships with other people, problem-solving skills, religious activity, and a sense of purpose and independence (Bartkowicz, 2013), above-average intelligence, membership of a family having above-average socioeconomic status, good academic grades, contact with people having a positive social attitude, a lack of violence in his or her neighbourhood (Farrington, 1995), involvement in prosocial activities, clear ethical standards, a positive self-image, high self-esteem, a negative attitude towards unlawful activities, positively formed relationships with adults, good social skills, and high ambitions in life (Gaś, 2008). Some of these factors can be further distinguished as directly protective, while others are protective in the sense of acting as a buffer. These latter decrease the likelihood that existing risk factors will have a negative effect (Losel & Farrington, 2012).

To recapitulate, juvenile delinquency depends on the individual, as well as social or environmental, factors. This would seem to make it essential to investigate which of these has the most bearing on the decisions of the juvenile courts, i.e., their response to this delinquency. Based on the studies conducted to date, the factors that shape court decisions fall into the categories of legal and extra-legal (Minor et al., 1997). Others mention administrative and social factors as well (Sanborn, 1996). The courts take all of these into account to varying degrees. The strength of the connection between the decision can only be spoken of in reference to the type of offence and the prior conditioning and inclination of the offender. Such variables as race, sex, age, social class, and social background have a minor, if not downright weak connection. There are also claims that the juvenile courts are more and more frequently failing to consider the best interests of juveniles (Minor et al., 1997). Surveys conducted by Sanborn et al. in 1992 on a sample of 100 staff members

of three courts (city, suburban, and rural) made similar findings. Respondents were asked to indicate those factors which, in their opinion, the courts should take into consideration when judging a particular juvenile. The most frequent responses included family (81%), prior contact with law enforcement agencies and the justice system (70%), the offence committed (63%), problems at school (56%), and previous inclinations and conditioning (52%). The character of the offender was indicated by 39% of respondents, age by 22%, and alcohol consumption and/or drug use by 13%. The respondents commented on some of these factors during the surveys. For example, they stressed that primary importance should not be placed on the family structure in which the juvenile is being raised, but on whether that family can be defined as dysfunctional. As for prior contact with law enforcement agencies and the justice system, on the other hand, the nature of the offence was not considered to be as important as when the offender first began to engage in unlawful conduct or the time that had elapsed between the particular offences. The respondents were asked to rank the 15 factors that in their opinion should influence court decisions (Group I) and those that actually do influence them (Group II). Although the responses differed from court to court, the first six places in Group I were the offence committed, prior contact with the justice system, the necessity of education, previous dispositions and conditioning, family, and problems at school. The Group II respondents were in agreement as to the two main factors indicated, viz. the offence itself and prior contact with the justice system. It is worth comparing these designations with what juvenile sentencing measures are meant to achieve. Everyone put resocialization and education in the first place. Moreover, 40% of the respondents emphasised the importance of taking the juvenile's character into account, as this could influence resocialization (inclination to change behaviour), attitude towards the offence, and respect for the courts and the state (1996).

Methodology

The analysis conducted by the authors made use of the results of a study of the two harshest juvenile delinquency measures applied by Polish judges in response to juvenile delinquency, viz. placement in a youth educational centre or a correctional centre. This study was conducted in 2015–2016 in the Institute of Justice as part of the project “Application of an educational measure in the form of placement in youth educational centres and a corrective measure by family and juvenile courts in the light of statistical data and case files research”. The article presents only some of the analyses carried out. The scope of the project was much broader and included, among others, issues about proceedings in juvenile cases or prepared evidences.

The sample comprised a total of 370 case files on 457 juvenile and was drawn from a sampling frame of juvenile case files from 2014 in which one of these measures was ordered in the final judgement. The study did not involve any interaction with human and therefore did not require the approval of the Institutional Review Board or its equivalent. When considering the statistical data mention in the introduction, it should be noted that the group under examination only comprised a small percentage of all juveniles. Subjecting it to rigorous analysis, however, can be considered justifiable in view of the isolating nature of the measures employed against it. The sample also contained juveniles for whom the courts had ordered stays of proceedings or non-custodial

educational measures. This made it possible to compare those factors that had some bearing on the various responses of the courts towards juvenile delinquency. The following questions were posed: (i) What factors determine the decisions of the courts? (ii) What variables increase the likelihood of custodial measures being ordered? (iii) Does sentencing, in practice, comply with the principles and underlying assumptions of the binding framework?

Based on the theoretical analysis and the results of this study, the dependent variable were determined to be the kind of measure actually ordered against the juvenile. Six groups of factors that have the potential to influence the judicial response to juvenile delinquency were selected, viz. demographic, short-term individual, long-term individual, family, school, and environmental. An independent binomial variable was defined for each of these groups. One protective factor (likewise binomial), viz. favourable family circumstances, was additionally selected. The two-dimensional associations between the variables was examined using cross-tables and selected statistical measure V Kramer's. A multinomial logistic regression model was constructed using the relevant factors.

Results

Demographic factors. Two variables can be distinguished under this heading, viz. sex and age (in the categories “up to 15 years of age” and “over 15 years of age”). Sex had a considerable impact on the type of custodial measure ordered. Girls were most frequently placed in a youth educational centre, whereas boys were most frequently placed in a correctional centre (cf. Table 1).

The group was fairly diverse in terms of age. The courts ordered that, on average, every second juvenile under the age of 15 be placed in a youth educational centre and every third in a correctional centre. Juveniles over 15 years of age were mostly sent to a correctional centre.

Short-term individual factors. Two variables can be distinguished under this heading, viz. the aggressive nature of the offence and the influence of alcohol, drugs, and designer drugs during its commission. Robbery, extortion, violent offences, offences against freedom and liberty, offences against sexual freedom and morality, offences against the family and custody were all considered to be aggressive offences. Theft (with or without breaking and entering), property offences, and other grounds for initiating court proceedings were defined as non-aggressive.

Each of these variables has to be considered significant to the kind of measure ordered. The harshest measure, viz. placement in a correctional centre, was more frequently ordered for perpetrators of violent offences and perpetrators under the influence of psychoactive substances. The courts more frequently ordered non-custodial measures or placement in a youth educational centre for juveniles who exhibited neither of these variables.

Long-term individual factors. Certified addiction to, and/or abuse of, alcohol and/or other psychoactive substances, mental retardation and/or mental disorders, prior offences, and previous displays of aggressive behaviour are the long-term individual factors that could be identified. An analysis of the data in Table 1 reveals that the presence of any of these factors (apart from mental retardation/disorders) constituted a significant risk factor that made an order for placement in a correctional centre more likely. This measure was

ordered for 73% of juveniles certified as addicted to, or abusers of, the abovementioned substances, as well as 57% of juveniles who had previously offended and/or behaved aggressively. The courts more frequently applied the remaining measures to juveniles in whom none of these symptoms had been observed. It should be noted that non-custodial measures were ordered for 28.6% of juveniles who had not previously committed offences and who had not previously displayed aggressive behaviour, but only for 4% who had done either or both.

Family factors. This heading contains variables characterised by serious functionality problems: mothers, fathers, siblings, and juveniles runaways. Alcoholism, drug addiction, delinquency, domestic violence, mental illness and mental retardation are all considered to be serious problems. The courts most frequently ordered that juveniles raised in families in which the father and the siblings were found to have these problems be placed in a correctional centre. Non-custodial measures were most frequently applied to juveniles raised in families that did not have these problems. Running away from home increased the risk of being placed in either a youth educational centre or a correctional centre. This behaviour also had some bearing on whether non-custodial measures were ordered, as the courts more frequently applied them to juveniles where problems of this kind were not evident.

School factors. School factors included truancy and having to repeat at least one class, and the presence of either influenced the kind of measure applied. Custodial measures (i.e., placement in a youth educational centre or a correctional centre) were ordered for 94.6% of the juvenile who had had to repeat at least one class, and for 91.6% who had skipped classes. Whatever significance the “having to repeat at least one class” variable had on the kind of isolation measure ordered (55.4% were sent to a youth educational centre, and 39.2% to a correctional centre), similar differences were not observed with respect to the “truancy” variable (47.6% and 44.3% respectively). An absence of school problems influenced whether the courts decided to order non-custodial measures. These measures were applied to 25.1% of the juvenile who had not had to repeat a class and 27.3% who had not skipped classes.

Environmental factors. Spending time in the company of people who have a negative social opinion or who are in conflict with the law, being raised in an institution, and prior contact with the justice system are all defined as environmental factors.

These variables (apart from being raised in an institution, which was found to be statistically insignificant) influenced the decisions of the courts. Being placed in a correctional centre was ordered against 56.2% of the juvenile who had spent time in the “bad company”, compared with 40.2% for whom this variable was not present. While this variable did not distinguish juvenile sent to a youth educational centre, it had a significant influence on whether non-custodial measures were ordered (4.5% of juvenile offenders for whom this factor was present, compared with 19.9% for whom it was not).

The greatest difference among all the factors can be observed with respect to the “prior contact with the justice system” variable. This corrective measure was ordered against 52.3% of the juvenile who had prior experience with the justice system, and against 18.8% who were being investigated for the first time. The absence of this variable increased the likelihood of either a non-custodial measure or a custodial youth educational measure being ordered.

Protective factors. It has been established that the protective factor against juvenile delinquency and harsher judicial responses is a positive family situation. This is defined as including the following variables: a complete family; at least one parent gainfully employed; and no problems attributable to the family risk factors described above. However, no significant dependence was observed regarding this issue.

Table 1. The measure ordered against the juvenile offender, and the presence of the protective factor and one or more risk factors.

Variable	Category	Type of measure applied			V Kramer's
		Non-custodial measures	Youth educational centre	Correctional centre	
Demographic factors					
Sex	Female	10.3%	66.7%	23.0%	0.272 ^a
	Male	13.8%	33.2%	53.0%	
Age	Under 16 years	13.0%	51.4%	35.6%	0.410 ^a
	16 years and above	13.7%	9.2%	77.1%	
Short-term individual factors					
Offence	Non-aggressive	8.2%	24.5%	67.3%	0.367 ^a
	Aggressive	17.3%	52.2%	30.5%	
Committed under the influence of alcohol, drugs or designer drugs	No	14.9%	42.3%	42.8%	0.235 ^a
	Yes	1.7%	21.7%	76.7%	
Long-term individual factors					
Confirmed as addicted to, or abusive of, alcohol and/or other psychoactive substances	No	15.1%	42.6%	42.3%	0.233 ^a
	Yes	2.7%	24.3%	73.0%	
Mental retardation/disorder	No	14.2%	40.3%	45.5%	0.090
	Yes	7.8%	36.4%	55.8%	
Prior offences and aggressive behaviour	No	28.6%	42.2%	29.2%	0.371 ^a
	Yes	4.7%	38.2%	57.1%	
Family factors					
Serious problems with the mother	No	15.6%	38.5%	45.8%	0.091
	Yes	9.3%	41.2%	49.5%	
Serious problems with the father	No	20.7%	39.9%	39.4%	0.200 ^a
	Yes	7.8%	39.4%	52.8%	
Serious problems with siblings	No	15.5%	41.7%	42.9%	0.161 ^a
	Yes	6.6%	33.9%	59.5%	
Run away from home	No	21.8%	38.1%	40.1%	0.297 ^a

	Yes	2.0%	41.5%	56.5%	
School factors					
Having to repeat at least one class	No	25.1%	40.2%	34.6%	0.304 ^a
	Yes	5.4%	39.2%	55.4%	
Truancy	No	27.3%	26.4%	46.3%	0.266 ^a
	Yes	8.0%	44.3%	47.6%	
Environmental factors					
Contact with people who have negative social opinion or who are in conflict with the law	No	19.9%	39.8%	40.2%	0.241 ^a
	Yes	4.5%	39.3%	56.2%	
Raised in an institution	No	14.7%	39.1%	46.2%	0.105
	Yes	5.3%	42.1%	52.6%	
Prior contact with the justice system	No	34.8%	46.4%	18.8%	0.310 ^a
	Yes	9.3%	38.4%	52.3%	
Protective factor					
Positive family situation	No	12.0%	39.8%	48.2%	0.054
	Yes	16.0%	39.2%	44.8%	

^a $p < .05$.

Source: own study.

Multidimensional model

Multinomial regression logistic analysis was the method used to examine the nature of the relationships between the dependent and independent variables under consideration. The forward stepwise method was applied. Which assumes incorporation into the model the most important of the independent variables under consideration. The only variables considered were those in the two-dimensional analyses presented above that exhibited a significant statistical correlation with the independent variable. This method allowed a precise examination of the variables that actually determine the specified judicial orders against juveniles. Only 13 of the 17 independent variables examined in the two-dimensional analyses were found to be significantly correlated and therefore selected for the multi-dimensional analyses. Ten of them made the final multi-dimensional model. Variables characterising the existence of serious behavioural problems in the juvenile's siblings, the type of offence (aggressive or non-aggressive), and any finding of addiction to, and/or abuse of, alcohol and other psychoactive substances during the court case, were not factored into the model. The following variables were inserted into the model in consecutive steps: age; prior commission of offences and displays of aggressive behaviour; having to repeat at least one year in school; sex; running away from home; whether the offence was committed under the influence of alcohol and/or other psychoactive substances; truancy; prior contact with the justice system; whether the father had serious functional problems (alcohol, drugs, delinquency, violence, mental illness); and contact with people who had a negative opinion of society and/or who were in conflict with the law. The model thereby created is reasonably good at explaining judicial decisions as

applying a particular educational or correctional measure to the juvenile (Cox & Snell pseudo R square = 0.484, Nagelkerke pseudo R square = 0.562; cf. Table 2).

The most important determinants of judicial decisions to place a juvenile in a youth educational centre or a correctional centre (as opposed to decisions to apply non-custodial measures) are whether the offence was committed under the influence of alcohol and/or other psychoactive substances and/or stupeficients (the risk of being sent to a youth educational centre is increased 19 times, and to a correctional centre 60 times), and whether the offender has previously run away from home (the risk of being sent to a youth educational centre is increased nine times, and to a correctional centre 17 times). The risk of these measures being ordered is increased also by such factors as whether the offender has committed a prior offence and exhibited aggressive behaviour (the odds ratio is 2.4 for a youth educational centre and 5 for a correctional centre), has had to repeat at least one year in school (odds ratio 2.7 for a youth educational centre and 5 for a correctional centre), and having a father who exhibits serious dysfunction (odds ratio 2.6 for both measures). Juveniles aged 16 and above were two and a half times more likely to be sent to a correctional centre and 78% less likely to be placed in a youth educational centre.

Of the remaining variables factored into the model, the following are especially noteworthy: truancy, as this significantly increases the risk of being placed in a youth educational centre (but not in a correctional centre); being male and maintaining contact with people who have a negative social opinion and/or who are in conflict with the law; and prior contact with the justice system (these last two factors significantly increase the risk of incurring the harshest penalties provided for the Act on Proceedings In Juvenile Cases).

Table 2. Multinomial logistic regression model summary

Variable	Youth Educational Centre			Correctional Centre		
	B	Wald	<i>Odds ratio</i>	B	Wald	<i>Odds ratio</i>
Demographic factors						
Sex – male	0.330	0.363	1.391	1.820	8.929 ^b	6.172
Age – 16 and above	-1.495	8.884 ^b	0.224	0.980	4.542 ^a	2.665
Short-term individual factors						
Offence committed under the influence of alcohol, drugs or designer drugs – Yes	2.969	5.387 ^a	19.482	4.106	10.154 ^c	60.714
Long-term individual factors						
Prior offences and aggressive behaviour – Yes	0.889	4.865 ^a	2.433	1.617	14.230 ^c	5.036
Family factors						
Serious problems with the father – Yes	0.940	6.014 ^a	2.560	1.001	6.104 ^a	2.722

Run away from home – Yes	2.199	11.608 ^c	9.020	2.826	18.209 ^c	16.877
School factors						
Having to repeat a class – Yes	1.005	6.087 ^a	2.733	1.591	13.731 ^c	4.911
Truancy – Yes	1.176	8.261 ^b	3.242	0.469	1.197	1.599
Environmental factors						
Contact with people who have negative social opinion or who are in conflict with the law – Yes	0.820	3.142	2.272	1.128	5.532 ^a	3.090
Prior contact with the justice system – Yes	0.701	2.518	2.015	1.592	8.972 ^b	4.912
Model summary						
- 2 Log Likelihood	520.320					
Cox & Snell R square	0.484					
Nagelkerke R square	0.562					

^a p < .05.

^b p < .01.

^c p < .001.

Source: own study.

Conclusion

The purpose of this article was to identify those factors that influenced judicial rulings on juvenile. The determinations in this area were made on the basis of a review of the extant literature and an analysis of the findings of the authors' own research. It can be confirmed, on the basis of the analysis, that the factors that influenced judicial decisions are basically identical with the issues identified in the second part of the article as juvenile delinquency risk factors. Being under the influence of alcohol, drugs and/or designer drugs while committing the offence, being addicted to, or abusive of, alcohol and other psychoactive substances, having committed prior offences and exhibited aggressive behaviour, serious problems with the juvenile's father and siblings, having run away from home, truancy, having had to repeat at least one class at school, and being in contact with people who have a negative opinion of society and prior contact with the justice system are all worth mentioning here. Demographic variables, such as age, sex and the violent nature of the offence, also come into play.

Multinomial logistic regression enabled those variables that increased the likelihood of custodial measures, i.e., placement in a youth educational centre or a correctional centre (as opposed to non-custodial measures), being ordered against juvenile to be determined. The major variables here were committing the offence under the influence of alcohol, other psychoactive substances and/or narcotics, and having previously run away from home. The former increased the risk of being sent to a youth educational centre by more than 19 times, and to a correctional centre 60 times, while the corresponding figures for

the latter were nine and 17. The remaining variables that influenced the kind of measure ordered were having committed prior offences and having exhibited aggressive behaviour (this increased the risk of being sent to a youth educational centre and a correctional centre by 2.4 and 5 times respectively), having to repeat at least one class at school (2.7 and 5 times), having a father exhibiting serious dysfunction (2.6 and 2.7 times), and being aged 16 or above (2.7 times). Being male increased the likelihood of corrective measures being ordered by six times, although this was no doubt affected by the sex imbalance in the sample (less than 20% female). Skipping classes (truancy) was the only factor that created a greater risk of being placed in a youth educational centre than in a correctional centre.

The foregoing results simultaneously confirm that the judicial response to juvenile delinquency complies with the paradigm adopted by the Act on Proceedings in Juvenile Cases. This is not merely a penal response imported into the administration of justice as the consequence of an offence having been committed, but is based on identifying the variables that conditioned the behaviour for which the case is being conducted. A lot of factors concerning the nature and circumstances of the offence, the behaviour of the juvenile, and his/her home and school environments are taken into consideration. It, therefore, needs to be stated that the determinants of the judicial response to juvenile delinquency, although varied, comply with the legislation in force, which requires that such variables as the age, health, level of physical and mental development, character traits, and behaviour of the juvenile, along with the cause(s) and extent of his/her depravity, the nature of his/her environment, and the conditions in which he/she has been raised all be taken into account in juvenile proceedings. In conclusion, it should be stated that the family environment has a significant influence on a “quality” of variables taken into account by the courts in the judicial process. The family is responsible for the health of the child, but also for the learned behaviour. Characteristic of the environments where the juveniles grew up let us suppose that in these environments was an excess of patterns, principles, behaviour favourable to breaking the law, which Sutherland wrote about.

References

- Arthur, A. W., Hawkins, J. D., Pollar, J. A., Catalano, R. F., & Baglioni, A. J. (2002). Measuring risk and protective factors for substance use, delinquency, and other adolescent problem behavior. *Evaluation Review. A Journal of Applied Social Research*, 26(6), 575-601.
- Bartkowicz, Z. (2013). *Agresywność, kompetencje społeczne i samoocena resocjalizowanych nieletnich a ich przestępczość w okresie dorosłości*, Lublin: Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej.
- Bojarski, T., Kruk, E., & Skrętowicz, E. (2016). *Postępowanie w sprawach nieletnich. Komentarz*. Warsaw: Wolters Kluwer.
- Burke, R.H. (2016). *Young People, Crime and Justice*. London: Routledge.
- Carlsson, C., & Sarnecki, J. (2016). *An introduction to life-course criminology*. Los Angeles: Sage Publications.
- Czabański, J., Gruszczyńska, B., Marczewski, M., & Siemaszko, A. (2010). Poland. In: J. Junger-Tas, I.H. Marshall, D. Enzmann, M. Killias, M. Steketee, B. Gruszczyńska

- (Ed.), *Juvenile Delinquency in Europe and Beyond. Results of the Second International Self-Report Delinquency Study* (pp. 279-292). New York: Springer,
- Czajka W. (1991). Badanie osobowości nieletnich i młodocianych w świetle ustawy i praktyki wymiaru sprawiedliwości. *Studia kryminologiczne, kryminalistyczne i penitencjarne*, 21, 145-183.
- Czarnecka-Działuk, B. (1993). *Nieletni sprawcy czynów karalnych przed sądem rodzinnym. Zagadnienia procesowe*. Warsaw: Instytut Nauk Prawnych Polskiej Akademii Nauk.
- Farrington, D. P. (2015). Cross-national comparative research on criminal careers, risk factors, crime and punishment. *European Journal of Criminology*, 12(4), 386-396.
- Farrington, D. P. (1995). The development of offending and antisocial behavior from childhood: key findings from the Cambridge Study in Delinquent Development. *Journal of Child Psychology and Psychiatry*, 36(6), 929-956.
- Flood-Page, C., Campbell, S., Harington, V., Miller, J. (Ed.), (2000). *Youth Crime: Findings from the 1998/99 Youth Lifestyles Survey*. Home Office Research, Development and Statistics Directorate, Crime and Criminal Justice Unit.
- Gaś, Z.B., Charakterystyka projektu badawczego (2008). In: Z.B. Gaś, (Ed.), *Efektywność instytucjonalnych form pomocy na rzecz młodzieży zagrożonej wykluczeniem społecznym* (pp. 6-15). Lublin: Pracownia Wydawnicza Fundacji „Masz Szansę”,
- Grisso, T., & Schwartz, R. G. (Ed.), (2000). *Youth on Trial. A Developmental perspective on juvenile justice*. Chicago, London: The University of Chicago Press.
- Loeber, R., & Farrington, D. P. (2012). *Juvenile delinquency to adult crime*. Oxford: Oxford University Press.
- Klaus, W. (2009). *Dziecko przed sądem*. Warsaw: Wydawnictwo Akademickie i Profesjonalne.
- Kołąkowska-Przełomiec, H. (1990). *Nieletni sprawcy zbrodni (początki kariery przestępczej)*. Warsaw: IPSIR UW.
- Kołąkowska-Przełomiec, H., Wójcik, D. (1990). *Selekcja nieletnich przestępców w sądach rodzinnych*. Warsaw: Ossolineum.
- Konarska-Wrzosek, V. (2013). *Prawny system postępowania z nieletnimi w Polsce*. Warsaw: Wolters Kluwer.
- Kurlychek, M. C., Krohn, M. D., Dong, B., Hall, G. P., & Lizotte, A. J. (2012). Protection from risk: an exploration of when and how neighborhood-level factors can reduce violent youth outcomes. *Youth Violence and Juvenile Justice*, 10(1), 83-106.
- Lösel, F., & Farrington, D. P. (2012). Direct protective and buffering protective factors in the development of youth violence. *American Journal of Preventive Medicine*, 43(2), 8-19.
- Rutter, M. (2012). *Causes of offending and antisocial behavior*. In: D. Smith (Ed.), *A New Response to Youth Crime*. (pp. 180-200). London: Routledge.
- Minor, K. I., Hartmann, D. J., & Terry, S. (1997). Predictors of Juvenile Court Actions and Recidivism. *Crime and Delinquency*, 43(3), 328-342.
- Mogilnicki, A. (1925). *Dziecko i przestępstwo*. Warsaw: Wydawnictwo Arcta.

- Pospiszył, K., & Żabczyńska, E. (1980). *Psychologia dziecka niedostosowanego społecznie*. Warsaw: Wydawnictwo PWN.
- Ribeaud, D., & Eisner, M. (2010). Risk factors for aggression in pre-adolescence: Risk domains, cumulative risk and gender differences – Result from a prospective longitudinal study in a multi-ethnic urban sample. *European Journal of Criminology*, 7(6), 460-490.
- Rzeplińska, I. (2012). Nieletni i reakcja na ich czyn. In: A. Adamski, J. Bojarski, P. Chrzczonowicz, M. Leciak (Ed.), *Nauki penalne wobec szybkich przemian socjokulturowych. Księga Jubileuszowa Prof. Mariana Filara*. (pp: 531-538). Toruń: Wydawnictwo Adam Marszałek.
- Rzeplińska, I. (2009). Sylwetki społeczne nieletnich – późniejszych dorosłych sprawców przestępstw. *Archiwum Kryminologii*, 29-30, 409-415.
- Sanborn, J. B. (1996). Factors Perceived to Affect Delinquent Dispositions in Juvenile Court: Putting the Sentencing Decision into Context. *Crime and Delinquency*, 42(1), 99-112.
- Siemaszko, A. (1993). *Granice tolerancji. O teoriach zachowań dewiacyjnych*. Warsaw: Wydawnictwo PWN.
- Smith, D. (2005). The effectiveness of the juvenile system. *Criminal Justice*, 5(2), 181-194.
- Stattin, H., Kerr, M., & Bergman, L. R. (2010). On the utility of Moffitt's typology trajectories in long-term perspective. *European Journal of Criminology*, 7(6), 521-542.
- Statystyki Ministerstwa Sprawiedliwości: „Nieletni według wieku i płci – prawomocne orzeczenia w latach 2008-2015”. <https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/>. Accessed 1 April 2017.
- Sutherland, E. H. (1947). *Principles of Criminology*, 4 ed., Philadelphia: J. B. Lippincott Co.
- Van der Laan, A. M., Blom, M., & Kleemans, E. R. (2009). Exploring Long-Term and Short-Term Risk Factors for Serious Delinquency. *European Journal of Criminology*, 6(5), 419-434.
- Winterdyk, J.A. (Ed.), (2015). *Juvenile Justice. International Perspectives, Models, and Trends*, Boca Raton: CRC Press.
- Włodarczyk-Madejska, J. (2016). Stosowanie środka wychowawczego w postaci umieszczenia w młodzieżowych ośrodkach wychowawczych oraz środka poprawczego przez sądy rodzinne i nieletnich w świetle danych statystycznych i badań aktowych. https://www.iws.org.pl/pliki/files/W%C5%82odarczyk-Madejska%20J_Stosowanie%20%C5%9Brodka%20wychowawczego.pdf. Accessed 10 July 2018.
- Woźniakowska-Fajst, D. (2010). *Nieletnie. Niebezpieczne, niegrzeczne, niegroźne?* Warsaw: Wydawnictwo Akademickie i Profesjonalne.
- Żabczyńska, E. (1983). *Przestępczość dzieci*. Warsaw: Wydawnictwo PWN.

© 2021. This work is published under

<https://creativecommons.org/licenses/by-nc-sa/4.0/>(the “License”).

Notwithstanding the ProQuest Terms and Conditions, you may use this content
in accordance with the terms of the License.