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PREDICTING THE RISK OF AGGRESSIVE RECIDIVISM A CRIMINOLOGICAL AND PSYCHOLOGICAL PERSPECTIVE

Introduction

One of the fundamental tasks faced by both state services and the institutions of the judicial system is to protect society from the threats posed by recidivist crime. Among numerous types of criminal acts, the so-called violent contact crimes deserve special attention in this respect. These crimes - also referred to as violent crimes - are considered to be among the most dangerous from a social-interest perspective. Therefore, monitoring, anticipating and preventing the occurrence of criminal violence are priority actions in the state's penal policy. Minimising the risk of a violent crime being committed repeatedly requires not only systemic cooperation between

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the police, judiciary, penitentiary institutions and the appropriate legal regulations. The effective preventive practice also implies the need to refer to the scientific achievements of contemporary criminology and forensic psychology, both in the context of the theories explaining the phenomenon of crime and the methods designed to assess the threat of violence.

The aim of this study is to present the issue of violent recidivism as a complex research problem requiring a broad discussion involving both representatives of various forensic sciences and practitioners dealing with rehabilitation or crime prevention. It has been assumed that the use of an interdisciplinary perspective and the application of a two-track analysis (criminological and psychological approach) will enable the multidimensionality³ and multifaceted nature of this extremely important matter for penal policy to be demonstrated. The assumption of the complexity of the problem of the risk of re-offending was verified on the basis of a review of the relevant literature, statistical data and a case study approach.

A criminological perspective of violent crime

Crimes of violence or violent crimes are criminological terms that are not explicitly defined in the text of the legislation. The Polish Penal Code⁴ contains a chapter "Crimes against life and health", but this is not the only chapter in which such violent behaviour appears. The offences of robbery and abuse also involve the use of violence, although they are contained in other chapters of the Code⁵. Furthermore, there are also prohibited acts described in other laws containing criminal provisions penalising the use of violence, such as the Law on the Protection of Animals⁶. Although violence and violent crime are among the most frequently addressed research questions, it must be stressed that the widespread use of the concept of aggression or violence in relation to crime is not linked to a precise explanation of these concepts⁷. In colloquial language, they are also frequently used, while their interpretation and the meaning attributed to them may be different than in the legal context. Violent crime is a colloquial term, often understood in a social rather than a legal/criminal sense.

³ The necessity to apply an interdisciplinary approach to the analysis of crime is indicated by many researchers. See: Filipkowski W, Pływaczewski E, Rau Z (Eds), *Wybrane prawne, kryminologiczne i kryminalistyczne aspekty badań nad przestępczością w Polsce*, [in:] *Przestępczość w XXI wieku. Zapobieganie i zwalczanie. Problemy prawno-kryminologiczne*. Warsaw, 2015, p. 30.

⁴ Act of 6 June 1997 – Penal Code (Dz.U., 1997, No. 88, item 553 as amended; hereinafter: the Penal Code).

⁵ Gardocki L, *Prawo karne*. Warsaw, 2017, p. 239.

⁶ Act of 21 August 1997 on the protection of animals (consolidated text, Dz.U., 2020, item 63).

⁷ Błachut J, Gaberle A, Krajewski K, *Kryminologia*. Gdańsk, 2007, p. 259; Holyst B, *Kryminologia*. Warsaw, 2016, p. 725.

In the criminological analysis of these concepts, the type of the behaviour (physical, psychological, sexual, economic violence), intentionality (the offender's intention, which appears in the case of intentional offences), motive (the purpose of the action) and instrumentality (in cases when, for example, aggressive behaviour towards an object or animal is intended to psychologically injure or intimidate a person) are indicated, while the question of assessing the motivation of a criminal act is often a task of an expert witness⁸. There is also the question of assessing the aggressive behaviour itself: is it to be assessed subjectively by what the perpetrator wanted to achieve? Or objectively – by the effect produced?⁹ This is particularly relevant in the situation when there is the victim's consent to violent behaviour or a lack of the awareness of becoming a victim (*e.g.* in cases of consensual sexual behaviour, culturally accepted violence or when the victim is not aware in a legal sense that they have been subjected to violence or tries to justify the perpetrator).

Causes of violent crime

Anticipating, preventing and effectively punishing criminal behaviour requires gaining an awareness of its origins. When considering crime, therefore, the reasons why crimes are committed in the first place are analysed¹⁰. There are many criminological theories that attempt to answer the general question of why a person violates legal norms¹¹. Also the so-called 'middle-range' theories explain the mechanisms of specific antisocial behaviour, such as violent crime. These include the theories based on biological factors, which search for genetic predispositions to violence¹², and situational theories, such as those related to urban planning, according to which cities should be designed in such a way as to prevent crime by avoiding opportunities for theft, robbery¹³ and terrorist attacks¹⁴.

In general the causes of crime can be divided into those which are related to human characteristics (*e.g.* mental disorders, high levels of

⁸ Jaśkiewicz-Obydzińska T, Psychologiczna ocena osoby sprawcy czynu zabronionego, [in:] Gierowski J.K, Jaśkiewicz-Obydzińska T, Najda M, Psychologia w postępowaniu karnym. Warsaw, 2010, p. 345.

⁹ Kuć M, Wiktyologia. Warsaw, 2015, p. 73; Hołyst B, Wiktyologia. Warsaw, 2011, p. 843.

¹⁰ Hołyst B, Kryminologia..., *op. cit.*, p. 819.

¹¹ An example of such a general theory of delinquency is T.W. Hirschi's concept of social control as presented in his work *Causes of delinquency*, Berkeley 1969.

¹² Gottschalk M, Ellis L, Evolutionary and Genetic Explanations of Violent Crime, [in:] Ferguson C.J, Violent crime: Clinical and social implications. New York, 2010, pp. 57–74.

¹³ See: Czapska J (Ed.), Zapobieganie przestępczości przez kształtowanie przestrzeni. Teoria - badania - praktyka. Krakow, 2012.

¹⁴ Jasiński A, Architektura w czasach terroryzmu. Miasto - przestrzeń publiczna - budynek. Warsaw, 2013.

psychopathic traits and aggressiveness), the influence of the environment in which the person functions (e.g. previous criminal record of the parents, joining a criminal subculture, living in a large city), the opportunity to commit a crime (e.g. an unattended thing that is potentially the object of theft) and situational factors (e.g. alcohol intoxication, stress caused by the behaviour of another person). Such factors rarely occur independently. It is also difficult to separate the influence of one factor from the other, which is the reason why modern criminological analysis requires the study of their configuration rather than examining each factor individually. In the aetiology of crime, it is also necessary to consider the perpetrator–victim–offence interaction, as well as the analysis of motive. There are some crimes, including violent crimes, in which the role of the victim is very important. This role may consist in facilitating the commission of the offence or failing to react to it, which may lead the offender to the conviction that their behaviour is unpunished or “legalised”. This in turn leads to the so-called “dark number” of crimes¹⁵. The search for the determinants of crime – and violent crime in particular – therefore requires the analysis not only of the factors related to the perpetrator, but also concerning the victim and with regard to the presence of characteristics that lead to the victimisation of the person concerned¹⁶.

Changes in penal policy – towards the prevention of criminal violence

Predicting the risk of violent re-offending and developing methods for effective diagnosis and prevention of violent crime is one of the fundamental challenges facing contemporary crime policy¹⁷. The emphasis on assessing the risk of criminal violence derives directly from the assumptions of the so-called new penology. According to this approach, the priority task of the judiciary is considered to be the protection of society from crime (especially recidivism), ensuring safety and reducing the damage resulting from the violation of legal norms. Consequently, it is assumed that the state penal policy should focus on identifying the risk groups of offenders and minimising, monitoring and managing the risk of recidivism¹⁸.

¹⁵ Gwóźdź K, I żyją długo i “szczęśliwie”, czyli gdy ofiara nie chce pomocy, [in:] Stojer-Polańska J (Ed.), *Przypadki kryminalne. Ciemna liczba przestępstw przeciwko kobietom*. Poznań, 2019, p. 202.

¹⁶ Hołyst B, *Wiktymologia...*, *op. cit.*, p. 47; Bienkowska E, *Wiktymologia*. Warsaw, 2018, p. 51–63.

¹⁷ In the Polish legislation, the necessity to conduct an assessment of the threat of a recidivism of violence results, *inter alia*, from the provisions of the Act on dealing with the people with mental disorders posing a threat to the life, health or sexual freedom of others of 2013. (Dz.U., 2014, item 24 as amended), in which Article 1 refers to “a high probability of committing a criminal act with violence or the threat of violence against life, health or sexual freedom”.

¹⁸ Wójcik D, *Stosowanie w postępowaniu karnym narzędzi diagnostyczno-prognostycznych służących oszacowaniu ryzyka powrotności do przestępstwa*.

In turn, the need to develop effective, objective and reliable methods to assess the risk of recidivism arose in the context of an approach known as evidence-based criminal policy, which emerged in the 1970s. This approach pointed to the need for systematic scientific research to evaluate the effectiveness of particular interventions or penitentiary, correctional and rehabilitation programmes¹⁹. According to the evidence-based crime policy, the estimation of the risk of re-offending should also meet scientific standards and refer to empirical research data.

Risk and protective factors of criminal violence

The demands resulting from the changing direction of the risk assessment of re-offending have led to the emergence – as if in response – of a strand referred to as risk assessment. The primary aim of this approach is to develop procedures, methods and tools designed to estimate the probability of violent, aggressive and victim-directed behaviour. The key to such a risk assessment of criminal violence is to identify the risk factors²⁰ which increase the risk of a person being subjected to criminal violence. The risk factors have different origins – they are related to the assessed person themselves (e.g. their personality traits, attitudes, history and life-style, mental disorders) as well as located in their social and family environment, where they will potentially reside after leaving the isolation institution. Traditionally a distinction is made between risk factors of a static and dynamic nature²¹. The first group includes all of the risk factors which are distinguished by their relative stability and invariability and by their association with an individual's previous criminal history, criminal record and life experiences. Such risk factors may include, for example, an early age at the first offence or a previous criminal record. The dynamic risk factors, by contrast, relate more to the offender's current situation. It is also assumed that the severity of the aggressive behaviour may be variable which may be weakened by institutional interventions. An example of a dynamic risk factor would be the offender's perceptions of other people and of their crime victims, or their motivation to change their behaviour.

Prawo w Działaniu, 2013, Vol. 16, pp. 60–62.

¹⁹ Stańdo-Kawecka B, O koncepcji resocjalizacji w polskiej literaturze naukowej polemicznie. *Probacja*, 2010, Vol. 1, pp. 114–118. See: Wójcik D, Stosowanie..., *op. cit.*, p. 60.

²⁰ The concept of risk factors itself has a much broader application and is used, among others, in medicine or psychopathology to denote various types and origins of factors which increase the likelihood of an individual developing a disease or disorder – see: Butcher J.N, Hooley J.M, Mineka S, *Psychology of disorders*. DSM-5, transl. Pikiel S, Sawicka-Chrapkiewicz A, Sopot, 2017, p. 191.

²¹ Brennan T, Dieterich W, Ehret B, Evaluating the predictive validity of the COMPAS risk and needs assessment system. *Criminal Justice and Behavior*, 2009, Vol. 36, No. 1, pp. 21–40. See: Wójcik C, Stosowanie..., *op. cit.*, p. 63; Stańdo-Kawecka B, O koncepcji..., *op. cit.*, pp. 119–122. Brennan T, Dieterich W, Ehret B, Evaluating the predictive validity of the COMPAS risk and needs assessment system. *Criminal Justice and Behavior*, 2009, Vol. 36, No. 1, pp. 21–40. See: Wójcik D, Stosowanie..., *op. cit.*, p. 63; Stańdo-Kawecka B, O koncepcji..., *op. cit.*, pp. 119–122.

The literature increasingly emphasises that – in addition to risk factors – the assessment of the risk of violent acts should take into account the occurrence of protective factors. The protective factors reduce the likelihood of the occurrence of unwanted violent behaviour, thereby inhibiting or reducing the negative impact of risk factors²². Such protective factors can, similarly to the risk factors, have both a subjective, intrinsic and individual character (*e.g.* high intelligence, ability to cope with stress) and come from the social environment of the individual (*e.g.* informal social control in the place of residence, absence of violent acts in the neighbourhood, maintaining relationships with non-demoralised and well-adjusted people). The inclusion of the protective factors in the overall assessment of the risk of criminal violence enables a more multifaceted diagnosis to be carried out, including data on potential strengths and undisturbed areas of functioning of the perpetrator. This element of the so-called positive diagnosis seems to be important not only in estimating the risk of violence, but also in the context of better tailoring of correctional and re-socialisation measures and programmes – especially with regard to minors or juveniles²³.

Methods of risk assessment for criminal violence

In the risk assessment approach, risk factors – and associated protective factors – provide the benchmarks against which the probability of violent crime recurring is assessed. Diagnostic and predictive tools constructed on the basis of this model belong to the two main approaches in violence risk assessment: the actuarial and the Structured Professional Judgement (hereafter: SPJ). In addition to empirical methods (the actuarial and SPJ approaches), a third, chronologically primary approach is also present in the diagnostic practice, which is clinical assessment by a professional based on clinical methods, knowledge and professional practice²⁴. The clinical assessment, actuarial and structured methods together provide a framework for estimating the likelihood of criminal violence.

²² Lösel F, Farrington D.P, Direct protective and buffering protective factors in the development of youth violence. *American Journal of Preventive Medicine*, 2012, Vol. 43 (2S1), p. 9.

²³ See: Nowakowski K, Banasik M, Protective factors: theoretical assumptions, measurement tools and diagnostic efficacy of the construct in risk assessment of violence in youth. *Problems of Forensic Sciences*, 2017, Vol. 109 (CIX), p. 46.

²⁴ Modrzejewska-Wójcik D, Mącznik G, Zarządzanie ryzykiem — prawne, kliniczne i praktyczne kryteria oceny zagrożenia popełnienia kolejnego czynu zabronionego przez niepoczytalnego sprawcę, [in:] Gulla B, Niewiadomska I, Wysocka-Pleczyk M (Eds), *Białe plamy w psychologii sądowej*. Krakow 2010, pp. 279–280; Gierowski J.K, Uwagi psychologa sądowego o możliwości opiniowania o stopniu zagrożenia u osób objętych ustawą z 22 listopada 2013. *Przegląd Więziennictwa Polskiego*, 2014, Vol. 82, pp. 26–27.

The actuarial methods are the scales composed of the risk factors that correlate with aggressive antisocial behaviour. The prediction made on the basis of actuarial methods usually refers to static, historical factors, related to the past of the assessed person. Examples of such tools are as follows:

- STATIC-99²⁵ – a 10-item diagnostic tool designed to assess the risk of sexual recidivism in adult male sex offenders; the risk factors correlated with sexual recidivism relate to the demographic characteristics, prior criminal record and victim characteristics, the assessment considers both contact and non-contact sexual offences.
- VRAG²⁶ (*Violence Risk Appraisal Guide*) – an assessment scale to predict recidivism for violent crime; prediction of violent criminal recidivism is based on demographic and social factors and criminal history.

Due to their approachability, clear coding rules, objectivity and rootedness in empirical data, the actuarial methods seemed to be a promising tool in correctional practice, eliminating the weaknesses of clinical assessment – highly dependent on the level of knowledge and experience of the assessor. However, the focus on the unchanging, historical data, as well as the failure to capture individual changes in the behaviour of the diagnosed person and the severity of risk factors, has led to a cautious approach to the idea of replacing clinical assessment with actuarial tools²⁷.

The criticism of the actuarial methods²⁸ has led to the development of an alternative to actuarial methods for measuring violent crime risk – the SPJ. Originating in Canada, the SPJ combines the attention given to the methodological standards of the actuarial approach with the flexibility and individualisation offered by the clinical assessment²⁹. The risk of re-offending is considered here to be time-varying, of varying severity, dynamic in nature and dependent on situational context and circumstances³⁰. The estimation of the probability of a violent act occurring is made in the SPJ stream on the basis of tools containing lists of empirically verified risk factors, both static and dynamic. The diagnostic and prognostic methods constructed in this approach allow for the inclusion in the assessment of

²⁵ A Polish-language version of the manual for STATIC-99R is available online on the website of the Polish Society of Sexology – see: Harris A *et al.*, Principles of coding STATIC-99. Corrected – 2003, Polish translation and adaptation to the Polish criminal justice system by Filip Szumski. *Electronic source*: www.static99.org/pdfdocs/Polish_coding_manual.pdf, accessed: 13 November 2020.

²⁶ Quinsey V.L *et al.*, *Violent offenders: Appraising and managing risk*. Washington DC, 1998.

²⁷ See: Gierowski J.K, Uwagi..., *op. cit.*, p. 31.

²⁸ Sreenivasan S *et al.*, Actuarial Risk Assessment Models: A Review of Critical Issues Related to Violence and Sex-Offender Recidivism Assessments. *The Journal of the American Academy of Psychiatry and Law*, 2000, Vol. 28, pp.438–448.

²⁹ Modrzejewska-Wójcik D, Mącznik G, Zarządzanie..., *op. cit.*, p. 281.

³⁰ Gierowski J.K, Czynniki ryzyka przemocy i psychopatyczne zaburzenia osobowości u sprawców przestępstw seksualnych. *Przegląd Więziennictwa Polskiego*, 2009, Vol. 64/65, p. 22.

the data related to the changes occurring as a result of therapy or treatment, and enable the determination of the structure of risk factors, their differentiated weight, intensity and links between them.

Among the tools belonging to the SPJ stream, the most commonly used in diagnostic practice can be identified as:

- HCR-20 (*Historical/Clinical Risk*³¹) – one of the first measurement scales to assess the risk of recidivism of violent behaviour in adult offenders and forensic psychiatric patients; it contains 20 diagnostic items that are the risk factors for violence, grouped into three categories: historical/H, clinical/C and future risk/R factors. The Dutch SAPROF (*Structured Assessment of Protective Factors*; further referred to as: SAPROF)³² designed to measure protective factors (intrinsic, motivational and extrinsic) in combination with the HCR-20 enables the assessment of the risk of criminal violence in an integrated and more comprehensive manner.
- SVR-20 (*Sexual Violence Risk*³³) – a structured risk assessment tool for sexual violence among sex offenders; it consists of 20 items placed in three diagnostic areas: 1) psychosocial adjustment, 2) sexual offences, 3) future plans.

Both psychiatry and forensic psychology share the view that predicting the recurrence of violent behaviour in violation of legal norms is one of the most difficult tasks for expert witnesses³⁴. Despite the progress that has been made in the risk assessment methods, the predictive capabilities regarding violent crime – and thus also risk management – still remain subject to numerous limitations. Nevertheless, it seems that at present the SPJ stream is shaping the development perspective in the area of risk assessment. Despite some shortcomings (related, for example, to the theoretical foundation of the tools), structured assessment methods seem to be the most useful in estimating the risk of violence performed in forensic and clinical settings. They are the tools offering wide diagnostic and prognostic potential, designed for different risk groups (adult violent and sexual offenders, juveniles, forensic psychiatric patients, female offenders), with the prospect of being used in both penitentiary practice and the application of protective measures. Compared to the actuarial methods, which are relatively effective in predicting the likelihood of recidivism within a given time frame for a given category of offenders³⁵, the SPJ allows the diagnosis to be individualised and the assessment to be

³¹ Webster C.D *et al.*, *HCR-20. Assessing the risk of violence. Version 2*. British Columbia, 1997.

³² V. de Vogel *et al.*, *SAPROF — wytyczne do oceny czynników ochronnych dotyczących ryzyka przemocy*, tłum. M. Nowopolski *et al.*, Utrecht 2016.

³³ Boer D.P *et al.*, *Manual for the Sexual Violence Risk — 20: Professional guidelines for assessing risk of sexual violence*. Vancouver, 1997.

³⁴ Gierowski J.K, Uwagi..., *op. cit.*, p. 21.

³⁵ Craig L.A, Browne K.D, *Metody oceny ryzyka recydywy przestępstw seksualnych. Dziecko krzywdzone. Teoria-Badania-Praktyka*, 2007, Vol. 6, No. 1, pp. 26–28.

tailored to the changes occurring at the time of prison or medical institutionalisation. Such an assessment not only provides an estimate of the level of probability of a violent act in terms of low–medium–high, but also provides a basis for monitoring and risk management activities concerning violence³⁶. Recent research evidence suggests that the SPJ tools are more accurate than the actuarial methods in predicting the risk of violence³⁷. The SPJ approach relatively accurately reflects the contemporary understanding of the term ‘risk’ as dynamic, variable in intensity and context-dependent³⁸. By including protective factors (such as SAPROF) in the assessment process, the risk prediction as well as specific preventive, corrective and curative/therapeutic actions appear to be much more holistic and individually relevant³⁹.

Recidivism in violent crime – scale

In addition to the improvement of methods and tools designed to assess the risk of criminal violence, an effective state policy in this area also requires ongoing monitoring of changes in the recidivism rate of violent crimes. The risk of violent re-offending should be considered in a broader context: as an issue concerning the problem of recidivism in general. It is worth recalling that the Polish Penal Code defines the concept of recidivism as follows (Article 64 of the Criminal Code):

“§ 1. If a perpetrator sentenced to the penalty of deprivation of liberty for an offence committed with intent, during the 5 year period after having served at least 6 months of the penalty, commits an intentional offence similar to the offence for which he had been sentenced, the court may impose the penalty of deprivation of liberty, prescribed for the offence committed, within the statutory limits, up to the highest statutory penalty further increased by a half.

§ 2. If a perpetrator previously convicted under the conditions specified in § 1, who has served the total of at least one year’s deprivation of liberty and in the period of 5 years after having served the last penalty in full or in part, again commits an intentional offence against life or health, or rape, robbery, housebreaking or burglary, or other offence against property, committed with the use of violence or the threat of violence, the court shall impose the penalty of deprivation of liberty, prescribed for the offence committed, exceeding the lower statutory limit, or may impose a penalty up to the highest statutory penalty further increased by a half.

³⁶ Gierowski J.K, Uwagi..., *op. cit.*, pp. 37–38.

³⁷ Cartwright J.K *et al.*, Predictive validity of HCR-20, START, and static-99R assessments in predicting institutional aggression among sexual offenders. *Law and Human Behavior*, 2018, Vol. 42, No. 1, pp. 13–25.

³⁸ Gierowski J.K, Czynniki..., *op. cit.*, p. 22.

³⁹ It can be expected that due to the appearance of translations of tools such as HCR-20 v.3 and SAPROF, they will also be increasingly used in the risk assessments performed in Polish judicial, clinical and penitentiary practice.

§ 3. The raising of the highest statutory penalty under § 1 or 2 shall not be applied to crimes.”

This regulation is thus concerned with increasing the severity of punishment in a specific situation as described above. The Polish Criminal Code does not deal with the reoccurrence of a criminal act in any other aspect, it only informs about the consequences of a specific behaviour of a person. Nevertheless, it is worth noting that the quoted provisions on the criminal sanctions related to recidivism increase their severity in the case of a repeat offence if it occurred with the use of violence.

The data on the scale of recidivism are made available by the Prison Service in annual reports. A statistical summary for 2018 relating to the number of inmates who are serving their prison sentence for the second and next time is provided in Table 1.

Table 1

Population of repeat offenders in prison in Poland in 2017–2018

| | | Total | | Under Article 64 of the Criminal Code | | | Other | | |
|---|------------------|---------------|---------------|---------------------------------------|------------|-----------|---------------|------------|-----------|
| | | | | total | including | | Total | including | |
| | | 2017 | 2018 | | women | juveniles | | women | juveniles |
| Total | | 37,597 | 36,833 | 22,653 | 359 | 8 | 14,180 | 455 | 86 |
| including | art.64(1) | 18,244 | 17,762 | 17,762 | 318 | 7 | 0 | 0 | 0 |
| | art. 64(2) | 4965 | 4891 | 4891 | 41 | 1 | 0 | 0 | 0 |
| convicts serving their basic sentence for the first time | second | 21,296 | 21,107 | 11,392 | 191 | 7 | 9715 | 322 | 77 |
| | third | 9321 | 9086 | 6236 | 85 | 1 | 2850 | 91 | 7 |
| | fourth | 4097 | 3908 | 2932 | 42 | 0 | 976 | 24 | 1 |
| | fifth | 1528 | 1463 | 1118 | 15 | 0 | 345 | 7 | 0 |
| | sixth | 692 | 671 | 519 | 13 | 0 | 152 | 4 | 0 |
| | seventh and next | 663 | 598 | 456 | 13 | 0 | 142 | 7 | 1 |

Source: CZSW Office of Information and Statistics, *Annual statistical information for 2018*, p. 23, <<https://www.sw.gov.pl/strona/statystyka-roczna>>, accessed: 26 November 2020

The statistical study shows a slight decrease in recidivism in 2018 compared to 2017. In turn, the data obtained from the spokesperson of the General Director of the Prison Service shows that out of the total number of recidivists (representing approximately 34% of the inmate population), 25% recidivate within one year of release from a penitentiary unit, while 58% recidivate between one and five years (data for 31 October 2019.)

The statistics do not reflect the extent of recidivism in terms of the type of offence, including recidivism for violent offences. At this point, it should

be noted that it is very difficult to calculate recidivism in the context of recidivism for a specific crime, as there are convictions for several crimes – both violent and non-violent – and it happens that it is only in the course of an investigation or only in the course of a criminal trial that crimes committed prior to the main crime under investigation are discovered, detected and tried. For example: a case is pending for the murder committed by Mr X in 2014, but during the proceedings it is discovered that in 2011 he committed a robbery and attempted murder, which have remained undisclosed so far. Therefore, it is a case of recidivism, but in the social sense, not in the criminal sense, since he has not been punished for his previous acts.

Attempting to answer the question about the scale of the problem of recidivist violent crime, it seems that in this respect the analysis should not be based only on statistical data compiled by uniformed services such as the Police or the Prison Service, but should also take into account the existence of a dark number of crimes, also committed repeatedly by the same perpetrators.

The ‘dark number’ problem in predicting violent re-offending

In the context of assessing the risk level of both first and re-offending criminal violence, the problem of unreported crime often arises. This means that some violent acts remain unreported crimes that are not counted in crime statistics, including when calculating the so-called recidivism rate⁴⁰. In this way, alongside recorded criminal violence – the prevalence of which is revealed by statistics – there is a parallel so-called “dark number” of crimes. Thus, it is not the law enforcement authorities that are aware of unreported violent crimes, but only the perpetrator and the victim, if the victim survived the incident, since homicides are also included in the dark number⁴¹. The phenomenon of the dark number also applies to situations in which a particular person is aware of his or her relatives’ propensity for violence, or even becomes a victim of violence, and yet refrains from reporting it.

Many people experience violence, often repeatedly, during their lives. Judicial practice and case studies show that in cases where violent perpetrators are convicted, it is often not necessarily for violent acts. It can be that crimes against property are easier to prove than domestic violence⁴²,

⁴⁰ See the case study described above, where the problem of a lack of prior reporting and the limitation of the offence arose when the victim reported the act many years later, having learned that the perpetrator was still committing offences against other people — Kocaj O, *Przestępstwa seksualne – problemy wykrywczo-dowodowe*, [in:] Stojer-Polańska J (Ed.), *Przypadki kryminalne. Ciemna liczba przestępstw jako problem interdyscyplinarny*. Poznań, 2018, p. 177.

⁴¹ Piniewska-Róg D, Stojer-Polańska J, Michalec B, *Różne oblicza ciemnej liczby zabójstw*, [in:] Stojer-Polańska J (Ed.), *Przypadki kryminalne. Współpraca interdyscyplinarna przy badaniu ciemnej liczby przestępstw*. Poznań, 2016, p. 68.

⁴² On the procedural difficulties of conviction for domestic violence see:

and psychological violence and sexual violence are also difficult to prove⁴³. In the field of sexual violence, many crimes remain unreported for reasons such as the victim's sense of shame, lack of the awareness of having been harmed, or the failure of law enforcement agencies to receive reports of sexual offences, which may be related to the fear of secondary victimisation.

Public perception of the risk of violent crime

The "dark number" problem can be considered from a very broad perspective – as a phenomenon linked to the social perception of the crime risk. The assessment of the crime risk translates into the social expectations concerning the prevention of crime and the expectations related to the provision of security⁴⁴. The level of social fear of violent crime is linked to the expectations of an efficient state in this respect and a sense of security provided "systemically". Both the sense of security and the actual (systemic) security thus influence individual behaviour⁴⁵ and its risk of victimisation.

Gavin de Becker, author of the MOSAIC risk analysis system⁴⁶, in his book *The Gift of Fear*, argues that people are able to predict the risks of crime⁴⁷. The aim is to anticipate threats of violence that directly affect them and that usually occur in the people they know. However, the instruments which enable a potential victim to assess how real the threat of violence from a particular person is – such as MOSAIC – are only one of the elements necessary to create a sense of security in society. It is

Gwóźdź K, I żyją długo i "szczęśliwie", czyli gdy ofiara nie chce pomocy, [in:] Stojer-Polańska J (Ed.), *Przypadki kryminalne. Ciemna liczba przestępstw przeciwko kobietom...*, *op. cit.*, pp. 204 ff.

⁴³ Wach E, Specyfika przestępstw seksualnych z wykorzystaniem tzw. pigułek gwałtu, [in:] *Ibid.*, pp. 94 ff.

⁴⁴ Czapska J, Realistyczna triada, czyli jak można badać koordynację lokalnych działań na rzecz bezpieczeństwa, [in:] Czapska J (Ed.), *Koordinacja działań lokalnych na rzecz bezpieczeństwa*. Krakow, 2014, p. 9.

⁴⁵ Sessar K, Podstawowe założenia projektu Insecurities in European Cities z punktu widzenia kryminologii oraz socjologii miast, [in:] Krajewski K (Ed.), *Poczucie bezpieczeństwa mieszkańców wielkich miast. Kraków na tle innych miast europejskich*. Krakow, 2008, p. 27.

⁴⁶ The victim perspective in violence risk analysis is taken into account by the MOSAIC analysis system (description and principles of the method available at MOSAIC threat assessment systems. *Electronic source*: <https://www.mosaicmethod.com/>, accessed: 26 November 2020). In the context of this evaluation system, it is particularly worth considering the use of tests concerning domestic violence, as it is one of the more frequently committed crimes in Poland, which, however, is not reflected in crime statistics. The method has been adapted to American conditions, in which it is successfully used. Its use in other socio-legal conditions requires cultural adaptation (e.g. questions about the presence of weapons in the home are relevant to risk assessment, but the tools used in violent crimes in Poland are most often objects other than firearms available at home).

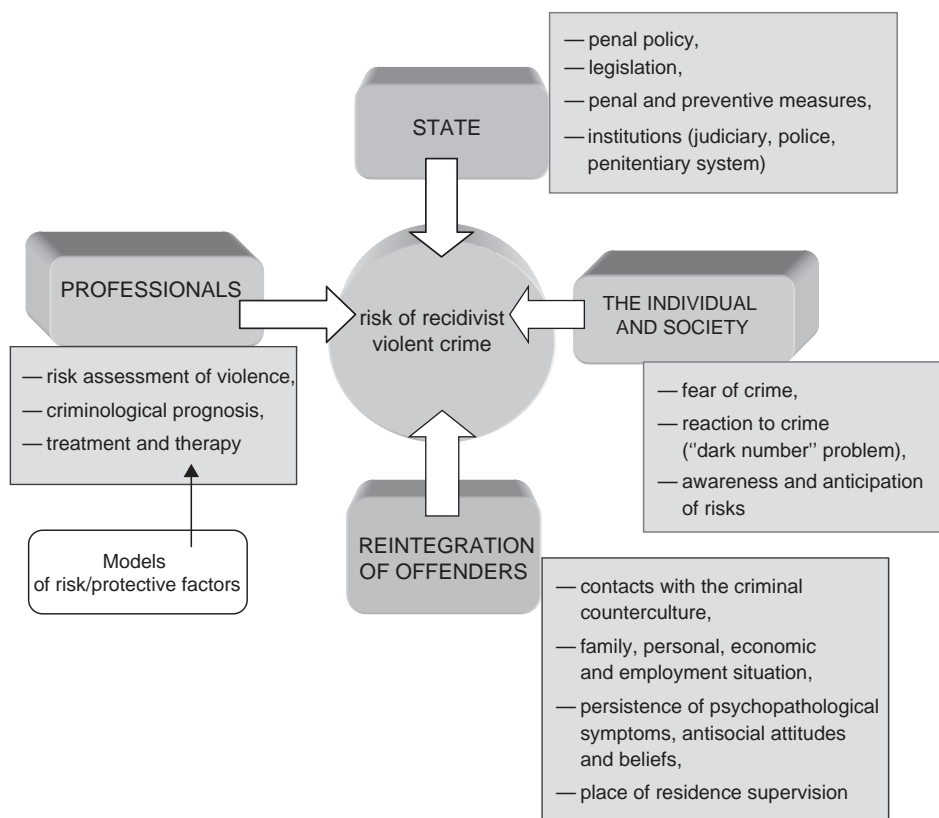
⁴⁷ G. de Becker, *The Gift of Fear*. Boston, 1997.

only when the other elements of the system operate effectively (including the prevention of crime through preventive, prophylactic and operational-search activities undertaken by the police) that the threat of violent crime can be reduced, thus contributing to a greater sense of security.

Factors contributing to the level of risk of violent re-offending

Criminal policy aimed at the prevention of violent crime, methods of assessing the risk of the recurrence of violent crime, the extent of recidivism among violent offenders and the social context of the phenomenon are just a few selected aspects of the problem of the risk of violent crime recurring. It should be noted that the area of issues related to this type of crime is much broader. From the perspective of effective, systemic preventive actions in this area, it seems crucial to determine the factors determining the level of risk of re-offending. These factors are presented in a working way in Figure 1:

Figure 1
Main factors contributing to the level of risk of recidivist criminal aggression



Source: Authors' own study

According to the assumptions of modern criminology, it can be assumed that the level of the risk of violent recidivism is a resultant of several inter-related groups of factors. On the one hand, these are the factors related to the activities of the state, its institutions and the penal policy pursued. Their direct aim is to protect society and reduce the risk of recidivism among the perpetrators of violent acts. On the other hand, the risk of recidivism depends to a large extent on factors (not discussed in this study) related to the perpetrator themselves, the quality of their social reintegration process and the effectiveness of the penitentiary, therapeutic or curative measures taken against them. The level of risk also seems to be influenced by the factors related to the social perception and reception of the phenomenon of crime. These factors affect the behaviour of specific individuals, their response to danger signals and the victimisation potential⁴⁸. It should be assumed that in order to strengthen the effectiveness of interventions aimed at prevention and at reducing the risk of recidivism, it is necessary to take into account both the factors from each of the levels mentioned (state institutions, experts, the individual and society, reintegration of the perpetrator) and the correlations between them.

Summary and conclusions

The presented review of the main research areas concerning aggressive recidivism confirms the assumption that this phenomenon is complex and multifaceted. Summing up the discussed problem, it can be concluded that using an interdisciplinary approach with regard to this category of criminal acts seems to be the most appropriate solution. Looking beyond the perspective of analysis of only the legal sciences provides an opportunity to use expertise from other fields (such as forensic psychology) to develop more effective legislative and institutional solutions. Another conclusion to be drawn from this study relates to the specificity of preventive action. The risk of re-offending is the result of many coexisting factors. It therefore seems that the effective monitoring and, consequently, minimisation of the risk of criminal violence also requires a systemic approach. An approach that seeks to minimise the risk factors at each of their levels of influence: individual – related to the perpetrator, the institutions of justice and the public perception of risk.

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Ustawa o postępowaniu wobec osób z zaburzeniami psychicznymi stwarzających zagrożenie życia, zdrowia lub wolności seksualnej innych osób z 2013 (Dz.U., 2014, item 24 as amended).

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Keywords: aggressive crime, recidivism, risk assessment, violence, criminal policy

Summary: Aggressive delinquency is recognized as a one of the most serious threats for the society. Although criminal violence is often considered in the field of criminology, the issues of recurrence of criminal violence are less often undertaken. The article focuses on that important area of interest in criminology, including risk assessment for recurrence of criminal violence in particular. Changes in the penal policy as well as the main assumptions of risk assessment approach were characterised from dual perspective – criminology and forensic psychology. Moreover, the risk factors and protective factors model, diagnostic methods and current directions for predicting violent recidivism were discussed. Besides, threat of criminal aggression was revealed at a broad, social context, including the problem of the “dark number of crimes”. Limitations connected with measuring extent of recurrent aggressive delinquency were also discussed. At the end of the review, authors presented theoretical model included key factors influencing at the general level of criminal violence treat. This model consists of four categories: 1) institutions and the legal rules, 2) professional risk assessment, 3) effectiveness of former prisoners adaptation in society, 4) social perception and social attitudes toward risk of harm caused by aggressive crime. Presented article might be useful in discussion around the issue of effective criminal violence prevention.