

Probation, Parole & Penitentiary Law Class 5

*Juveniles, minors,
young offenders in prison
Juvenile Crime, Juvenile Justice*



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KATEDRA PRAWA KARNEGO WYKONAWCZEGO

Introduction

In Poland - prisons are for adults only !

According to the polish Criminal Code:

Juvenile (*nieletni*) = a person not yet considered as adult in criminal law (before turning 17)

Minor (*młodociany*)- a person before turning 21 years old (in first instance court verdict before turning 24 years old)

According to the polish Executive Penal Code:

Young offender- young prisoner in prison for adults (*młodociany w kkw*)

- aged from 17 years old to 21 years old (in case of serious crime even from 15 years old)

- * In Polish law, people are criminally responsible after they turn 17. They can be held responsible when they turn 15 only in cases of committing most serious crimes.
- * For prisoners who turned 17 years old (exceptionally 15) there are special types of **prisons called for young offenders**.
- * Persons aged from 13 to 17 years old who have committed a serious crime are placed in:

“YOUTH DETENTION CENTRES” or so called **„HOUSES OF CORRECTION”**

- * which are the equivalent, completely independent from institutions for adults (article 10 of the Polish Executive Penal Code).
- * There are other (temporary) detention establishments for juveniles like: **a juvenile shelter, a hostel, a police establishment for children, a juvenile educational centre, a psychiatric establishment (juvenile ward) or a specialised social care home**. - (these are remand centres for them)

Juveniles and minors statistics

Number of incarcerated minors: 214

Percentage of incarcerated minors: 0.29%

Number of juvenile prisoners (including pre-trial detainees): 958 juveniles in Correctional Facilities (prisons for juveniles) and 358 in Shelters for Juveniles (remand centres)

Number (and % of all juvenile inmates) of juvenile detainees serving a final sentence (i.e. excluding pre-trial detainees): 958 / 73%

Total capacity of juvenile penal institutions (with reference to legal criteria): In Polish correctional facilities and remand centers for juveniles, there are 1.769 places (492 places in remand centres and 1.277 in prisons for juveniles).

Date : 2020

Source : The Prison Service statistics



Young offenders in prisons

- * There are specific establishments, units or cells reserved for young offenders.
- * As a rule, such young prisoners are being kept separately from the older ones. However, if there is an educational reason, the Executive Penal Code permits the placement of a young prisoner with an adult one.
- * **Young offenders can not be housed in individual cells.**



Age of criminal liability

According to the polish Criminal Code

A person under the age of 17 who has committed an offence is generally recognized not to be able to incur criminal liability or be imprisoned.

In case of severe crimes (murder, group rape, and deprivation of liberty), the minimum age of criminal responsibility might be set at the age of 15 years. In such cases, a family court decides whether a juvenile might be tried as an adult.

Children who have committed an offence before their 17th birthday (in some cases 15th), may face educational measures, including deprivation of liberty for educational purposes and correctional measure – placement in a correctional facility. In case of educational measures there is no minimum age.

Such measures have been applied towards children as young as 6 years old. Correctional measures might, however, be applied only towards children who were at least 13 years old while committing an offence. Juvenile offenders are held in penitentiary units designed for young prisoners (those who are younger than 21 years old).

Young offenders in prisons

- * Young offenders have access to education in most establishments.
- * According to article **66 of the Juvenile Justice Act**, a general and vocational training must be provided for all minors in detention and re-education centres.
- * Education is compulsory until 18 years old, including for incarcerated juveniles.
- * Places of detention established by the “Act on proceedings in juvenile cases” like correctional facilities, shelters and youth educational center are generally adapted to the needs and the situation of minors.
- * Alternative sentences exist to avoid imprisonment of young offenders— Restrictions of liberty are preferred to a prison sentence, that should only be used as a last resort.
- * Young offenders can also be placed in centers specialized in the reintegration into the city life.

- * Young offenders are allowed to have one extra visit per month in each type of prison!

Prison Systems

- Prisoners are sorted into one of three systems (art. 81 Executive Penal Code):
 - 1) the programe system (or *so- called* the program ward)
 - 2) therapeutic system (or *so- called* therapeutic ward)
 - 3) regular system (or *so- called* regular ward)
- The programe system is mandatory for young offenders (even without young offender's consent)- polish legislator follows the rule that young offenders are more capable of change than older prisoners (it is also easier to raise them and shape).



The program system

- The program system - guides prisoners in “structured activities”.
- A prisoner in cooperation with his tutor maps out a plan.
- It is considered as the most effective and rehabilitative system
- A program includes:
 - A. types of employment and education available for convicted persons
 - B. ways of communication between convicted persons and other persons, in particular their family and other people nearest to them
 - C. ways of spending the time reserved for work
 - D. possibilities of fulfilling duties of the prisoner
 - E. other undertakings necessary to prepare prisoners to return to the societyPerformance of programs of interaction is subjected to periodical assessments.

Ban on life sentence

In Poland offenders under 18 years old can't be sentenced for life sentence!

- For a person who was under the age of 18 at the time of any offense (when they committed cruel crime like murder with cruelty where the maximum penalty is life imprisonment), the maximum penalty is a term of 25 years' imprisonment.
- Again it is because polish legislator follows the rule that young offenders are more capable of change than older prisoners (it is also easier to raise them and shape).
 - ➔ But there is such option in many countries - for instance USA even allow to sentence offenders under the age of 18 for life sentence without a parole

Project for former young offenders in Poland

After serving a prison sentence, returning to normal life can be very challenging.

- ▶ The Postis Association, supported by the European Social Fund, helps those that have left penal institutions and remand centres to re-build their life outside these facilities. It focuses on finding work for young former prisoners to help young people find their feet and prepare them for their future.
- ▶ The re-socialisation project assists former prisoners under 29 years of age, designed in collaboration with the Prison Service in Poland. It starts by preparing inmates in penal institutions or remand prisons, serving their first sentence to participate in the rehabilitation. Once they are ready, a mentor accompanies them on a long walk, covering up to 900 km. They then undergo training to gain professional qualifications that will help them to gain employment when they start searching for a job.
- ▶ During the three editions of the project, which ran from May 2012 to June 2022, 68 former inmates from penitentiary units in Poland participated in the nation-wide project. Many went on to find employment.

Inside juvenile detention



What makes juvenile offenders different from adult offenders?

Historically, children in criminal justice proceedings were treated much the same as adults and subject to the same criminal justice processes as adults.

- Until the early twentieth century, children were even subjected to the same penalties as adults, including hard labour and corporal and capital punishment
- Until the mid-nineteenth century, there was no separate category of 'juvenile offender' in Western legal systems and children as young as six years of age were incarcerated in prisons of many countries

Nowadays Juvenile crimes are universal phenomenon, studied by criminologists worldwide

What makes juvenile offenders different from adult offenders?

It is widely acknowledged today, that juveniles should be subject to a system of criminal justice that is separate from the adult system and that recognises their inexperience and immaturity.

According to the United Nations' *Standard Minimum Rules for the Administration of Juvenile Justice*

- ▶ Until a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed to meet the varying needs of juvenile offenders, while protecting their basic rights.
- ➔ Certain types of offences (such as graffiti, vandalism, shoplifting and pickpocketing) are typical for young people. Very serious offences (such as murder and sexual offences) are rarely perpetrated by juveniles.
- ➔ In addition, offences such as white collar crimes (fraud, VAT refund fraud, money laundering, bankruptcy of the company) are also committed rarely by juveniles, as they are incompatible with juveniles' developmental characteristics and life circumstances.

What makes juvenile offenders different from adult offenders?

All in all, juveniles are more frequently apprehended by police in relation to offences they commit **(more often against property than offences against the person and human life).**

Juveniles are more likely than adults to come to the attention of police, for a variety of reasons:

- ▶ They are less experienced at committing offences;
- ▶ Often they commit offences in groups
- ▶ They commit offences in public areas such as on public transport or in shopping centres;
- ▶ They commit offences close to where they live.

In addition, by comparison with adults, juveniles tend to commit offences that are:

- ▶ attention-seeking, public and
- ▶ episodic, unplanned and opportunistic

What makes juvenile offenders different from adult offenders?

In addition, some behaviours (such as underage drinking) are illegal because of the minority status of the perpetrator.

- ➔ It is clear that the characteristics of juvenile offending are different from those of adult offending in a variety of ways.
- ➔ Adolescents engage in riskier behaviour than adults (such as drug and alcohol use, unsafe sexual activity, dangerous driving and/or delinquent behaviour) despite understanding the risks involved
- ➔ Not only does sensation seeking encourage attraction to exciting experiences, it also leads adolescents to seek friends with similar interests. These peers further encourage risk taking behaviors
- ➔ It has been recognised that young people are more at risk of a range of problems conducive to offending—including mental health problems, alcohol and other drug use and peer pressure—than adults, due to their immaturity and heavy reliance on peer networks.

Juvenile Delinquency: Two Types of Criminal Careers



Young people as crime victims

Young people are not only disproportionately the *perpetrators* of crime; they are also disproportionately the *victims* of crime

➔ **Because of their age, juveniles are often more vulnerable to certain crimes.** Minors may face physical or sexual abuse at home and have no way to escape or prevent the abuse and may be reluctant to report the crimes that are occurring at home.

They are in high risk of becoming victims of following crimes:

- child sexual exploitation
- child abuse
- violent crime
- gang-related crime
- domestic abuse
- robbery/theft

➔ Young people aged 15 to 24 years are at a higher risk of assault than any other age group

➔ It is also important to recognise that juveniles are frequently the victims of offences committed by other juveniles

➤ The high rate of victimisation of juveniles may turn into a offending pathway for some young people.

The challenge of responding to juvenile crime

Although juvenile crime is typically less serious and less costly in economic terms than adult offending, juvenile offenders often require more intensive and more costly interventions than adult offenders, for a range of reasons.

➔ Preventing juveniles from having repeated contacts with the criminal justice system and intervening to support juveniles desist from crime are therefore critical policy issues. Assisting juveniles to grow out of crime—that is, to minimise juvenile recidivism and to help juveniles become ‘desisters’—are key policy areas for building safer communities.

-Juvenile offenders have complex needs-

* Although many of these problems (substance abuse, mental illness and/or cognitive disability) also characterise adult criminal justice populations- we have to remember that they can cause greater problems among young people **who are more exposed—physically, emotionally and socially—to them.**

The challenge of responding to juvenile crime

Juvenile offenders require a higher duty of care than adult offenders.

➔ For instance that's why incarcerated juveniles of school age are required to participate in education (mandatory)

-Juveniles may grow out of crime-

- * Many juveniles can grow out of crime and adopt law-abiding lifestyles as young adults
- * Many juveniles who have contact with the criminal justice system are therefore not 'lost causes' who will continue offending over their lifetime.

➔ That's why in Poland there are such provisions like ban on life sentence for juveniles or mandatory programme system for juveniles

The challenge of responding to juvenile crime

It is not only the responsibility of the child that he/she has committed such serious crime

but it is also the responsibility of society has not been able to provide a proper and healthy childhood.



➡ Juveniles of Today, may turn into the Criminals of Tomorrow

Causes of juvenile

➔ No one is a born criminal. Circumstances make him so. Socio-cultural environment, both inside and outside of home, plays significant role in shaping one's life and overall personality.

Problems related to juveniles'

- ➔ substance abuse,
- ➔ mental health problems,
- ➔ educational/ or employment
- ➔ or family problems.

Prevention

- ➔ Education
- ➔ Recreation
- ➔ Community involvement
- ➔ Creation of special programs

Youth policing programs, for example, often focus on increasing juvenile offenders' engagement with education, family or therapy

Addressing juveniles' criminogenic needs

-Environment factors-

- Poverty
- Broken homes (family)
- Drug abuse
- Racial discrimination
- Role of

-Family Factors - Includes parental criminality and a variety of psychological problems in the family of origin:

- ▶ Low levels of affection, caring and cohesiveness
- ▶ Poor parental practices
 - Recognition of antisocial behaviors
 - Parental supervision
 - Discipline (none or too much)
 - Neglect and abuse

Childhood- backgrounds

- ▶ Family environments provide the breeding grounds for sexual offending:

The potential sexual offender in childhood develops problems in social functioning (e.g., mistrust, hostility, and insecure attachment) that, in turn, are associated with social rejection, loneliness, negative peer associations and delinquent behavior.

MacDonald Triad:

The MacDonald triad posits that animal cruelty, fire setting, and bed wetting in childhood is indicative of later aggressive and violent behavior in adults.

The Macdonald triad refers to the idea that this three signs can indicate whether someone will grow up to be a serial killer or other kind of violent criminal:

1. being cruel or abusive to animals, especially pets (animal = „practice” for killing people)
2. setting fire to objects or otherwise committing minor acts of arson (pyromania often sexually stimulating activity for future killers)
3. regulary wetting the bed, persistent after the age of five

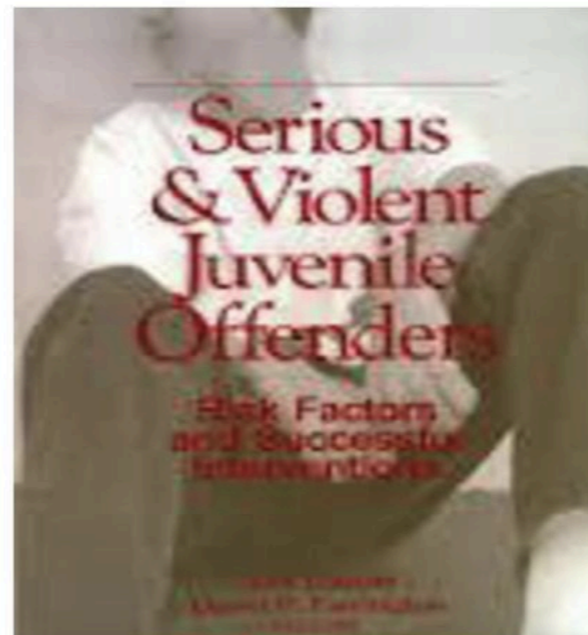
Addressing juveniles' criminogenic needs

Addressing Family Factors (focusing on):

- ▶ Family counseling to repair relationships
- ▶ Teach to recognize antisocial behavior
- ▶ Enhance supervision practices
- ▶ Enhance disciplinary practices



Childhood risk factors of juvenile delinquency: Family factors



- Parenting
- Maltreatment
- Family violence
- Divorce
- Parental psychopathology
- Familial antisocial behaviours
- Teenage parenthood
- Family structure
- Large family size

Addressing juveniles' criminogenic needs

Substance Abuse- Activity is illegal itself (remember that adults may be punished for buying or providing under-aged juveniles with alcohol / or drugs)

- ▶ Use may lead to other criminal behaviors
 - Theft/robbery to get drugs
 - Lower inhibitions beer muscles
- ▶ Buying drugs puts a person in contact with criminal others
- ▶ Selling/buying drugs usually creates an environment that is conducive to other criminal behaviors



Juvenile Life Without Parole

The United States stands alone as the only nation that sentences people to life without parole for crimes committed before turning 18.

- ▶ The life experiences of those sentenced to life as juveniles varies, but they are often marked by very difficult upbringings with frequent exposure to violence; they were often victims of abuse themselves

In 2012, The Sentencing Project released findings from a survey of people sentenced to life in prison as juveniles and found the defendants in the above cases were not unusual

- 79% witnessed violence in their homes regularly
- 32% grew up in public housing
- Fewer than half were attending school at the time of their offense
- 47% were physically abused
- 80% of girls reported histories of physical abuse and 77% of girls reported histories of sexual abuse

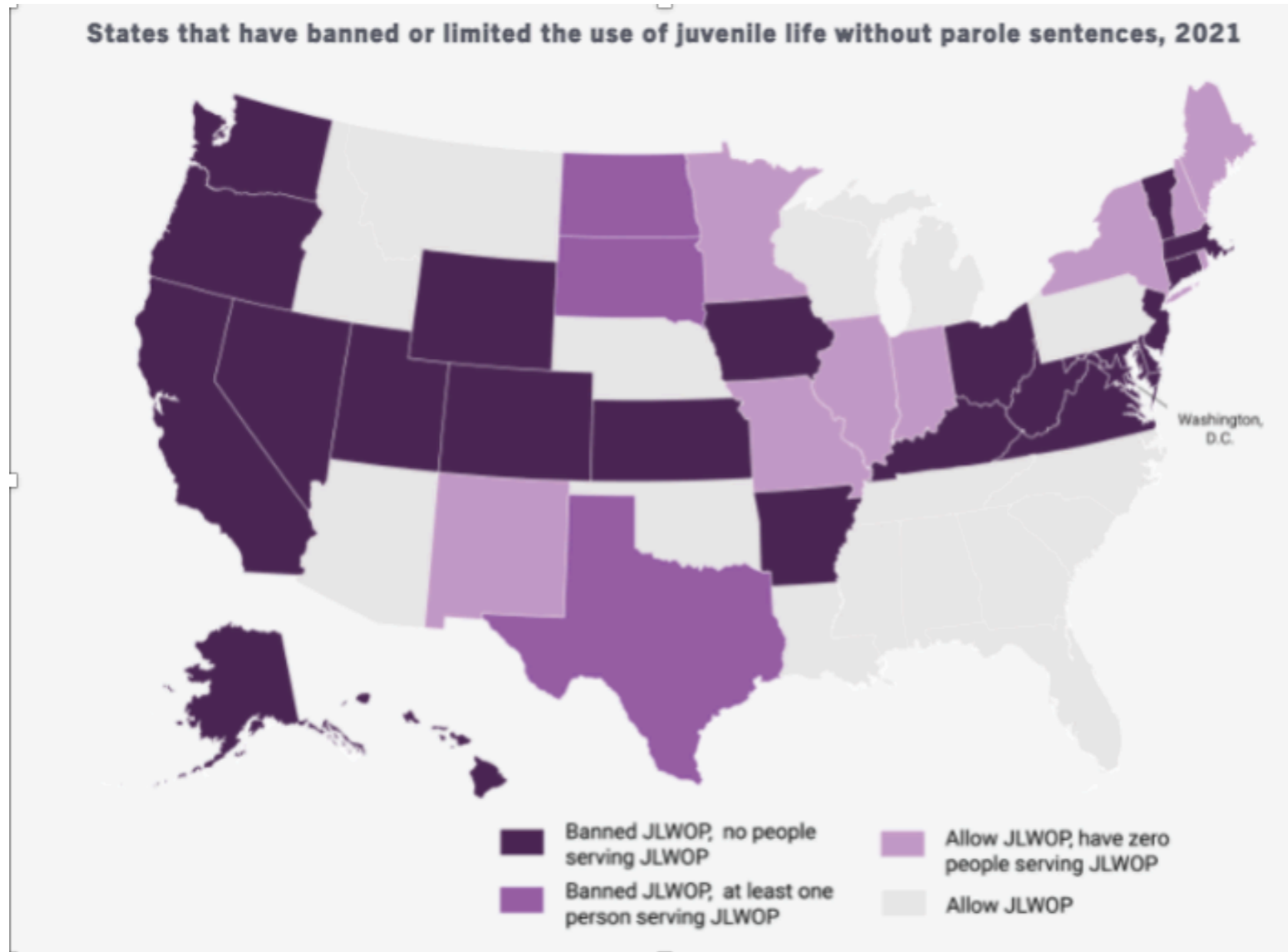
Juvenile Life Without Parole

The United States stands alone as the only nation that sentences people to life without parole for crimes committed before turning 18.

- ▶ A life sentence issued to a juvenile is designed to last longer than a life sentence issued to an older defendant.
- ▶ Sentencing children to die in prison is [condemned by international law](#).
- ▶ For children or adults, a sentence of life without parole is cruel, inhumane, and denies the individual's humanity.

Approximately 2,600 inmates in USA serve life without parole sentences for crimes they committed as juveniles

Juvenile Life Without Parole



- ▶ 25 states and DC ban juvenile life sentence without parole
- ▶ 7 states allow life without parole for children but currently do not have anyone serving the sentence:
- ▶ **19 states** have not banned life without parole for children and currently have at least one person serving the sentence:

Juveniles of Today, are the Criminals of Tomorrow

