

MIND THE GAP!

DOSKONALENIE DZIAŁAŃ INTERWENCYJNYCH W PRZYPADKU PRZEMOCY

**WOBEC KOBIET W STARSZYM WIEKU
W ZWIĄZKU MAŁŻEŃSKIM/PARTNERSKIM**

A close-up, profile view of a woman's face, looking to the right. The image is monochromatic with an orange tint. Overlaid on the face are several white, irregular outlines that resemble puzzle pieces, suggesting a fragmented or incomplete understanding of the subject matter.

**It is never
too late...**

Summary of the Polish case file analysis

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1. The Polish legal system

In the Polish legal system there are two ways police can react to being notified of domestic violence. These two approaches can be taken regardless of (against) the will of the victim, but also as a result of her decision (with her consent).

1.1 Method one – the Blue Card procedure. It is always initiated, without the need for the victim's consent. It is initiated when the victim reports her case to the police or when the police intervene in the household, where there is a violent situation. Police interventions are performed by prevention service patrols, which have the task of providing immediate help (temporary solution and prevention in a given situation). They are the ones who open up the Blue Card procedure. Initiating the procedure requires a police officer to fill a form describing the act of violence, its victims, perpetrators, injuries etc. The form is completed first by the intervening police officer and later turned over to the chairman of the Interdisciplinary Team, one of which is attached to every Social Aid Center in Poland. The team includes: a social worker, a police constable, a school pedagogue, a health service worker, possibly a probation officer. Having received a Blue Card form, the chairman assembles the Team and together its members decide how to proceed with a given case. The goal of the team is to perform tasks, which can help the victim deal with her situation. The Team tries to choose help measures appropriate to the victim's situation, monitors a given case, the behavior of the perpetrator and, if there are reasons to do so, tries to convince the victim to take legal action. If the victim does not



agree to this measure, members of the Team, having gathered enough evidence while monitoring the case, can open a penal case, by notifying the authorities of a crime.

1.2 Method two – penal proceedings – if a victim of violence approaches the police with adequate evidence (such as the results of a physical examination), a penal procedure is automatically opened. Similarly, if the intervening police officers confirm that the victim had been beaten, i.e. that a crime had been perpetrated, a legal procedure is automatically started, with evidence being gathered during further proceedings. Evidence, in the form of witness testimonies, is gathered by the police. A given case is conducted by a police officer with experience in such cases. Therefore, it is not the same officer as the one present during the intervention. This experienced officer gathers evidence, particularly witness testimonies. His work is supervised by a prosecutor. Having gathered the evidence, this officer appeals to the prosecutor's office to either open or dismiss the case. This means, that it is the police, who classify a given action as a crime of domestic violence and asks for a case to be opened or dismissed. The police may also suggest certain protective measures. All the case files are transferred to the prosecutor's office. After analyzing the files, the prosecutor decides whether to open the case or not. If the case is opened, the perpetrator is presented with charges – he is summoned by the police, the charges are read to him and he becomes a suspect in the case. At this point preventive measures can be implemented, such as a restraining order. The prosecutor decides whether to use these measures. Having decided to open the case the prosecutor has the police gather additional evidence, conduct further interrogations in order to complete the earlier evidence. The police gather the information for the prosecutor's office. If the prosecutor decides to dismiss the case, the police are informed of the fact, as is the person who reported the crime (the victim). In this case, if the victim does not agree with the case being

dismissed, she has the right to appeal to the prosecutor's office within seven days. If the case is being continued and the evidence has been gathered, the case is moved to court. At this point the police stop receiving any information concerning the progress or outcome of the case. The court may sentence the suspect to incarceration in a penitentiary institution. The sentence may also be suspended – the perpetrator remains free, but must fulfill certain conditions of probation. The case may also be dismissed – in that case there is no verdict. The perpetrator may also be fined or obliged to receive treatment.

Additional information:

- The Polish law includes a group of crimes classified as crimes against family and care. Art. 207 of the penal code, which criminalizes domestic abuse, is most frequently in use. Furthermore, crimes against the family may be prosecuted as other charges, such as crimes against life and health.
- The police can detain a perpetrator of violence for up to 48 hours, especially if his behavior endangers the victim during the intervention. During this time the police have to request for preventive measures to be ordered by the prosecutor, such as arresting the perpetrator. In this case a penal case is automatically opened. If the intervening officers discover that the victim had been beaten, a penal case is automatically opened, without the need to request for preventive measures to be ordered by the prosecutor.
- The witnesses receive written summons to appear for hearings. They are obliged to appear to a hearing, which takes place at the police station. They are obliged to reveal the truth about the case. Only the closest relatives, due to

familial connections, may refuse to testify, if they do not want the suspect to face legal consequences.

- During an intervention or a meeting at the police station, the police inform the victim where she can apply for help.
- A case is most often dismissed by the prosecution due to lack of evidence. One example may be a superficial interrogation, which does not provide sufficient evidence against the perpetrator. Thus a case may not be opened.
- A case may be conditionally extinguished in court, which means that the court ends its proceedings without reaching a verdict. This may happen if the suspect and victim reached an agreement and the court may in this case conditionally extinguish the case. At the same time, the court sets a probationary period (e.g. five years) and places certain obligations on the perpetrator, which he has to fulfill. If, during the set probationary period, the perpetrator does not act violently and meets the conditions set by the court, the case will not be taken up again. However, if the perpetrator does not meet the conditions of the agreement during this period, the case will be taken up again and a sentence will be made.
- A suspended sentence means that the court finds the suspect guilty of the crime, but suspends the execution of the sentence. The perpetrator remains free, but is obliged to meet certain conditions. If, during the probationary period, the culprit perpetrates the crime again, then his sentence will be executed, which means that he is immediately placed in a penitentiary institutions.



2. Description of the Sample

The documents analyzed by the Polish partner for the „Mind the gap” project came from the District Court in Białystok. In search of files for analysis, we went back to 2001. We used files from 2001-2010. The digital registry, which allowed us to quickly find cases of interest included cases from 2008-2010. It is only accessible for court employees and they were the ones who searched out cases for us at our request. All the other years, i.e. 2001-2007 are not included in the digital registry, which means that researching cases of intimate partner violence against women over 60, required us to browse through all files from 2001-2007. We were able to find and analyze 70 cases of intimate partner violence against elderly women. They were all available in paper form, which allowed for an in-depth reading. We read the files in court and took notes. We were not allowed to take them out of the building. Because there were few cases of violence against people over 60, it was necessary to go back to 2001. As a result there is little room for various selection criteria. In our case, the basic assumption was to find cases of victims aged 60 or more, who suffered violence from an intimate partner and all such cases were analyzed. In almost all cases the subject of analysis was the latest, most recent, incident.

All the files we read were concerned with cases from the Podlasie region, which lies in the north-eastern part of Poland. This region is sometimes referred to as part of Poland B, the part of the country, which is significantly poorer and less developed than western Poland. Most of the cases were reported by the elderly from urban areas (53 cases, which is 75.7%), less frequently from rural areas (17 cases, which is 24.3%).

At the time when the incident was reported to the police, the age of the female victims of intimate partner violence was between 60 and 81. Most of the victims were 50 – almost 51.4%. There were also quite a few women aged 62 or 64 (7.1%).

In 30 cases the file contained also other material concerning the same perpetrator (the number of other cases in the file was between 1 and 5). These other documents included information gathered during the Blue Card procedure, information about the victim's and perpetrator's health, earlier sentences, sometimes probation. In most cases all documents in the file were concerned with one pair – the victim and perpetrator were always the same people. Nevertheless, all files contained the full case history, so we could find out when the first incident took place, how it was handled by the police, how many interventions there were and how the whole case ended.

However, it should be noted that we only accessed cases where the police referred the case to the prosecutor, who referred it to court. It is impossible to assess how many cases, where the police asked for prosecution did not reach the court – perhaps the prosecutor decided there was insufficient evidence for a court case. The prosecutor's office does not grant access to any data, therefore it is impossible to assess how many of the cases referred from the police stop at this point. Neither does the police have such data.



3. Results from the quantitative analysis

The number of cases of violence against elderly women, from their intimate partners, in Poland, is growing. Compared to other European countries Poles are a religious nation, therefore, it is very

rear to find elderly women over 60, who live in an informal relationship or formal concubinage. Therefore, in Poland, these are mostly cases of violence from a husband. Most cases, which we have analysed, were of women in their sixties. Many of them have been experiencing violence since the very start of their marriages, so these were mostly cases of long-term violence, although there were also other situations (e.g. a widow who remarried and was abused by her second husband). There were also cases where violence was the result of a traumatic experience, such as the death of a loved one.

In Poland alcoholism is a major problem connected with violence against elderly women. It is symptomatic, that 100% of the perpetrators in the court files we analysed were under the influence of alcohol at the time of the incident. The culprit is usually a retired person aged 59-65. The main form of violence in the cases we analysed was psychological abuse, but there were also cases of physical violence. Economic abuse was less frequent and sexual violence was rare. It should be stressed that in our cases there were no younger culprits. In singular cases one could observe that disability, somatic disease or mental disorders were connected to violence.

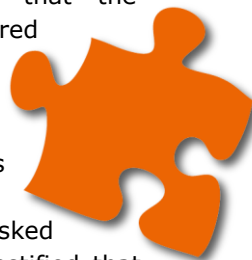
It seems that in many cases the scenario follows a characteristic pattern: for many years the victim suffers abuse and physical violence from her husband, finally deciding to call the police, who open the "Blue Card" procedure. The next stage is testifying before the prosecutor and the resulting court case. However, some victims decided to take back their accusations during the proceedings, explaining that their husband had changed, that they only wanted to scare him. In the cases which were finalized in court, the court found the accused guilty as charged and usually sentenced him to a suspended prison sentence under and placed under the supervision of a probationary officer. However, some perpetrators were incarcerated. It should be noted that in many cases the sentence

changed nothing in the culprit's behavior and violence continued. This is because even after a divorce the couple had to remain in the same household. This is connected to inadequate regulations in Polish law, which make difficult to evict the perpetrator. Although the law changed recently in favor of the victim, but in fact they are difficult to put into practice.

4. Typology of police-recorded cases of domestic violence against older women

4.1 Victims who do not want to press charges – this happened in two cases, and was caused by their belief in an improvement in their husbands' behavior.

4.2 Violence in a relationship where one of the partners suffers from dementia or mental illness – one of the perpetrators was diagnosed with mental disorder, which his mother had suffered from in the past. Many men suffered from Alcohol-Related Psychosis. Analysis showed that the victims (and occasionally perpetrators) suffered from depression. The offenders were often diagnosed with personality disorders. Only in one case can it be observed that a victim suffered from dementia, but the case was remitted, because of the victim's death. During the proceedings the perpetrator and his son asked for the case to be dismissed, because they testified that before her death the victim was reconciled with her husband.



4.3 History of (intensive) one-sided violence – in 9 cases there was an attempt to solve the victims' situation in court, but they withdrew their accusations, because they claimed that

their husbands' behavior had improved (which later turned out not to be true). In seven other cases the husbands had received earlier sentences for domestic violence, but after probation ended, they went back to being abusive.

4.4 Mutual violence – in one case the woman wanted to force her husband out of the house where they lived, which she had inherited from her parents. Therefore, she made cohabitation difficult for the perpetrator, to which he responded with violence, as he had no wish to move out. In another case the husband was the first to file a complaint against his supposedly abusive wife. A few days later, she testified that it was her, who was the victim. In the end, the testimonies of the family proved that it was the husband, who initiated the conflict and was violent. There was also one case where the police officers admitted that the man was not entirely to blame for the instances of domestic violence. The woman had a tendency to cause conflicts, not only with her husband, but also neighbors, which the police officers saw as a factor fostering domestic violence. In this case the role of the husband as a perpetrator is not entirely clear.

4.5 Violence and somatic diseases – There was one case of a woman suffering violence from her husband, who had a brain tumor and was bad tempered and aggressive because of the medicine he was taking and at the same time did not fear consequences, because he was dying anyway. Another woman was the victim of violence from her husband who had to have dialysis and therefore could not drink alcohol. Alcohol withdrawal caused him to be aggressive.



4.6 Violence and drug/alcohol abuse – all perpetrators were alcoholics, which made the victims codependent (often unwittingly). There is a clear relation between alcohol abuse and violence. In all the analyzed files the perpetrators were addicted to alcohol, which was the reason behind the acts of violence against elderly women.

4.7 Young perpetrator – older victim – There was one case of a woman, who lived in an informal relationship with a man 22 years younger than her, who became violent when he found out that she was leaving her house and plot to her daughter, not to him.

4.8 Playing for time (manipulation by the perpetrator – a NEW category found in our documents) – victims who agree to have the case remitted on probation, because the behavior of the perpetrator improved, or withdraw their accusations after some time, because his behavior had already improve

5. Conclusions

Polish law contains regulations governing the prosecution of perpetrators of violence and their further handling. It provides the Police with two ways of prosecuting them (the Blue Card procedure and ex-officio prosecution). The course of the preliminary and court procedures ending in a sentence is regulated by the code of criminal procedure, while the penal codes dictates what acts, including domestic abuse, constitute violence.

The project involved adequately prepared and conducted quantitative and qualitative research. Analysis of the court files concerning cases ending with final judgment from par. 207 of the penal code – domestic abuse – allowed us to identify the mechanisms of violence, features of the perpetrators (husbands/partners) and victims (women aged more than 60). Furthermore it provided information on the activities of various services/bodies/institutions and the evidence used by the court to determine the cycle of violence and the scope of the perpetrator's violent behaviors, which were the basis for issuing the sentence and often punishment.

The research also helped us to create a profile or even typology of the victims. It showed the motivations of the perpetrators and the forms of violence used by them, as well as the way of the victim towards freeing herself from the perpetrator's power.

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