

dr Paweł Ostaszewski,

*Instytut Profilaktyki Społecznej i Resocjalizacji Uniwersytetu Warszawskiego
Instytut Wymiaru Sprawiedliwości*

Justice statistics in the public service. Courts efficiency and public criminology¹

ABSTRAKT

Czy statystyki wymiaru sprawiedliwości to statystyki kryminologiczne? Na ile przydatne mogą być dane statystyczne dotyczące efektywności sądów? W jaki sposób mogą być one wykorzystane przez administrację publiczną, opinię publiczną i/lub kryminologię publiczną? Artykuł koncentruje się na problemie gromadzenia, przetwarzania i prezentacji danych statystycznych dotyczących wymiaru sprawiedliwości dla celów samego systemu, a także dla kryminologii. Omawia on pokrótce pięć kwestii: nurt kryminologii publicznej i tak zwane standardowe statystyki kryminologiczne, dotyczące m.in. zarejestrowanych przestępstw, podejrzanych, skazanych, kar, więźniów, itp., statystyki Ministerstwa Sprawiedliwości oraz wybrane wyniki najnowszych badań Sekcji Analiz Ekonomicznych Wymiaru Sprawiedliwości Instytutu Wymiaru Sprawiedliwości. Szczególnym przedmiotem zainteresowania pozostają możliwości i sposoby wykorzystania statystyk sądowych w kryminologii i polityce kryminalnej oraz debacie publicznej i mediach.

Introduction

Inspiration to this paper was my study on the topic of public criminology² and my work in Polish Institute of Justice at different data concerning polish courts and justice system, especially one recent project focused on trends in numbers of court cases. It was interesting to me how official statistics concerning courts efficiency are used and maybe abused in public debates, in criminology, criminal policy, and public media.

I want to focus here on five issues. Main theoretical perspective is a (1) public criminology. I will not write much about so called (2) standard criminological statistic (such as recorded crime, suspect, convicted, penalties, penal measures, prisoners etc.) but will focus on (3) Polish Ministry of Justice statistics, if they are criminological or not or which of them could be interesting for criminologist. Then I will shortly present some results of (4) current research of Economic Analysis of Justice Unit in Polish Institute of Justice and (5) finally summarize.

¹ Article is a modified version of a paper under the same title delivered during the 18th annual conference of the European Society of Criminology "Crimes Against Humans and Crimes Against Humanity. Implications for Modern Criminology", which took place on August 29 - September 1, 2018, in Sarajevo (Bosnia and Herzegovina).

² Compare: P. Ostaszewski, *Kryminologia publiczna*, (w:) *Wybrane nowe kierunki współczesnej kryminologii*, E. Drzazga, M. Grzyb (red.). Warszawa 2018 (w druku).

Public criminology and public statistics

Public criminology is one of relatively new, intensively developing, but also intensely criticized currents of contemporary criminology³. It calls for such criminological research and criminological education that engage the public sphere and are engaged in the public sphere, rather than just speaking and writing to other criminologists. This call comes from the observation that, despite the fact that the number of criminologists, criminological research and publications is increasing, it seems that the role of criminology in shaping the policy, for example criminal policy and public opinion for example about crime, and justice system is decreasing.

Edwin Sutherland, in one of the classic definitions of the criminology research area, wrote that criminology is about “the making a laws, breaking the laws and the society reaction to the breaking of laws”⁴. Therefore, crime is not just a private matter between the perpetrator and the victim. The public sphere, understood as political, social and criminal-policy processes of creating and reacting to crime, should be an equally important object of reflection and research as criminals, victims and the crime itself. Or differently, the subject of criminological consideration and research should be the point of contact of crimes, offenders, victims, politics, criminal policy, practices of crime prevention and reactions to crime (together with law enforcement agencies and the judiciary), public opinion (including institutions and processes that shape it), such as the media, social moods, etc.

This is also the point of view of public criminology. But, as it stem from so-called “So what criminology?” it also question some of the theses considered to be certain and undisputed and asking to resubmitted some basic questions. Questions that can and should be asked, are for example: What is behind criminological and judicial statistics? Who does it? How? Who do they serve and for what? How useful they are and could be?

Public statistics, such as crime statistics or courts efficiency data, are part of the state management system, an element of state power, politics and a direct result of the work often focused on limiting, controlling and counteracting or just managing phenomena that are counted and presented in these statistics. That’s why there can be real interests in presenting specific values, data, indicators and not presenting others, etc. Police and courts can show in statistics how good work they do – that is their efficiency or preventive effect. But also they can show how many additional funds or new employees they need, that is for example how crime or number of incoming court cases rise.

All these issues cause reasonable doubts as to the reliability of statistical data. Such doubts of course may also be extended to data developed not only by strictly public services, but also by researchers – for example as part of research directly or indirectly financed from the budget of various public agencies.

³ Compare: I. Loader, R. Sparks, *Public Criminology?*, Routledge 2010.

⁴ T. Newburn, *Introduction*, (w:) *Key Readings in Criminology*, T. Newburn (red.), William Publishing 2009.

Polish Ministry of Justice statistics

Even the very name of the department of Polish Ministry of Justice responsible for collecting, processing and presenting statistical data on justice system is very symbolic and not so easy to translate – it is “Department of management statistics”, or better “Department of statistics that manage”. So it is first clue – they primary purpose is not to inform, but to manage.

There are several main types of data prepared by this department, such as those from different courts departments (eg. Department of Civil Law, of Criminal Law, of Family Law, and etc.) and different courts support institutions (eg. probation officers, notaries, consultative teams of court expert) which concern numbers of incoming and resolved cases in particular matters (eg. divorce), disposition time, types of judgments and many other detailed issues. It is of course important in management for example in human resources management to know such things to better adjust resources. But of course It is also very interesting to different researchers. In short, these are very extensive tables of this type.

Figure 1. Example of annual statistical report of the Ministry of Justice

MS-SSR 18.01.2018

| Dział 1.2.2. Liczba odbytych sesji i załatwionych spraw | | | | | | | | | | | | | | | | | |
|---|-----|---|--|---------------------------------|-----------------------------------|---|----------------------------|--|-------------|---------------------------|------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| SPRAWY według repertoriów i wykazów | Lp. | Liczba odbytych sesji (rozprawy i wyroki) | Liczba dni w których odbyły się sesje i wyroki | Załatwienie ogółem (kol. 4, 15) | Załatwienie spraw (kol. 5, 6, 14) | Sprawy z wyjątkiem spraw o charakterze karnym (kol. 10, 11) | Sprawy karny (kol. 12, 13) | Liczba załatwionych spraw na rozprawie, dotyczy: | | | | | | | | | |
| | | | | | | | | prezesa | wiceprezesa | przewodniczącego wydziału | zastępcę przewodniczącego wydziału | innych sędziów | innych sędziów | innych sędziów | innych sędziów | innych sędziów | innych sędziów |
| 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | | | |
| Ogółem sprawy karny i wykroczenia (kol. 15, 16, 17, 18, 19) | | 317 048 | 1 110 410 | 2 063 998 | 206 323 | 137 491 | 68 151 | 8 931 | 6 600 | 24 178 | 20 323 | 5 527 | 848 | 1 744 | 681 | | |
| K | | | | 355 795 | 155 336 | 103 377 | 51 546 | 7 142 | 5 341 | 18 246 | 15 350 | 3 646 | 720 | 1 101 | 413 | | |
| z tego | | | | 121 074 | 25 054 | 16 913 | 8 095 | 1 204 | 819 | 3 021 | 2 121 | 691 | 121 | 208 | 46 | | |
| z tego | | | | 4 976 | 3 432 | 2 355 | 1 040 | 104 | 95 | 318 | 363 | 105 | 30 | 25 | 37 | | |
| z tego | | | | 1 795 | 18 | 14 | 4 | 1 | 1 | 1 | 1 | 1 | | | | | |
| z tego | | | | 40 211 | 21 366 | 14 401 | 6 905 | 978 | 748 | 2 424 | 2 093 | 500 | 88 | 94 | 40 | | |
| z tego | | | | 6 655 | 589 | 419 | 170 | 24 | 16 | 56 | 48 | 21 | 3 | 2 | | | |
| z tego | | | | 3 596 | 178 | 118 | 60 | 10 | 11 | 15 | 17 | 6 | | 1 | | | |
| z tego | | | | 404 | 4 | 3 | 1 | | | 1 | | | | | | | |
| z tego | | | | 1 356 | 43 | 25 | 18 | | | 2 | 7 | 9 | | | | | |
| z tego | | | | | | | | | | | | | | | | | |
| z tego | | | | 16 | 5 | 3 | 2 | 1 | | | 1 | | | | | | |
| z tego | | | | 788 | 62 | 43 | 18 | | | 3 | 7 | 6 | 2 | | 1 | | |
| z tego | | | | | | | | | | | | | | | | | |
| z tego | | | | 470 | 10 | 9 | 1 | | | | 1 | | | | | | |
| z tego | | | | 19 | 6 | 3 | 3 | | | | 1 | 2 | | | | | |
| z tego | | | | | | | | | | | | | | | | | |
| z tego | | | | 4 603 | | | | | | | | | | | | | |
| z tego | | | | | | | | | | | | | | | | | |
| z tego | | | | | | | | | | | | | | | | | |
| z tego | | | | 340 | 11 | 8 | 3 | | | 3 | | | | | | | |
| z tego | | | | 9 | 1 | | 1 | | | | 1 | | | | | | |
| z tego | | | | 2 955 | 39 | 27 | 12 | | 1 | 3 | 3 | 3 | 2 | | | | |
| z tego | | | | 176 | 9 | 7 | 2 | | | | 1 | 1 | | | | | |
| z tego | | | | 5 949 | 407 | 265 | 142 | | 21 | 11 | 53 | 40 | 16 | | 1 | | |
| Kp | | | | 207 840 | 130 | 80 | 50 | | 3 | 4 | 27 | 10 | 2 | | 4 | | |
| Ko – ogółem (w. 27 = 28+29) | | | | 984 575 | 95 | 45 | 50 | | 19 | 2 | 21 | 5 | 3 | | | | |
| z tego | | | | 574 567 | 59 | 38 | 31 | | 10 | 1 | 8 | 1 | 1 | | | | |
| z tego | | | | 410 008 | 36 | 7 | 29 | | 9 | 1 | 13 | 4 | 2 | | | | |
| W. | | | | 495 344 | 50 752 | 33 960 | 16 504 | | 1 767 | 1 252 | 5 884 | 4 958 | 1 876 | 128 | 639 | 268 | |
| Kop. | | | | 19 344 | 10 | 9 | 1 | | | 1 | | | | | | | |

1) Liczba w wierszu ogółem powinna być zgodna z liczbą wykazaną w dz. 1.1. w 27 kol. 3

Other typical court data that are in interest of criminologist are information of convicted persons by type of crime, type of penalty imposed, age, gender, etc., like those from Polish National Criminal Register. But it is also important to emphasize that data in this register are not collected for criminologist but again for state management purpose, for example to prevent certain convicts from taking specific positions and that there are defined regulation what is in such register and what is not (eg. cases of convicts with mental illness or which died before sentence).

Since the Polish political transformation in 1989, the statistical reporting system of the Ministry of Justice has expanded enormously. There are 28 different statistical reports prepared quarterly. The basic statistical report in civil cases, which initially had only one page, currently has 40 pages with data and 12 pages of explanations and is prepared four times a year instead one time a year. Despite the huge expenditure on computerization in recent years, the process of collecting statistical information is still very labor-intensive – it takes about 150.000 hours to prepare only main types of these reports. This mean that nearly 100 person from about 33 thousand clerks in all Polish courts work only on preparing statistics, not doing anything else. At the same time, there are serious doubts if the collected data is effectively used to diagnose the problems of the judiciary and formulate rational reforms⁵. For example to this day, there was not a single attempt to prepare a summary of all comparable data from subsequent years. Only comparison were done for 2 consecutive years.

Institute of Justice Research in 2018

And here appears Economic Analysis of Justice Unit in Polish Institute of Justice that received the order from Ministry of Justice to forecast number of incoming cases in Polish courts in the following years. It is not a purely criminological work, it situates rather in the analysis of justice system area but form me as criminologist it is interesting to look for criminology even in such non-criminological topics. First and natural step in such analysis is of course making time trends base and prepare statistical analysis and forecasting. What was our surprise when we found out that Ministry of Justice never even made the slightest attempt to create such database with time trends of numbers of court cases in particular categories. After 8 month of work we know why nobody tried it. There were thousands of changes in particular reports and statistical categories, way of counting, names, hundreds of changes in the law affecting flow of cases, etc. It can be of course interesting problem for the management science what Ministry want to know, (eg. with what kind of cases courts have to deal with) but can't count it, not for criminology. But for me it was interesting if any changes in courts case flow can say something about society, crime or criminal policy.

There are typical criminal policy data such as number conviction or number of convicted on different sanctions and measures. Take, for example, number of person convicted on unsuspended and suspended imprisonment in Poland.

⁵ K. Joński, *Efektywność sądownictwa powszechnego – podstawowe problemy*, Warszawa 2016. https://iws.gov.pl/wp-content/uploads/2018/08/IWS_Jo%C5%84ski-K._Efektywno%C5%9B%C4%87-s%C4%85downictwa-powszechnego1.pdf, p. 47.

Table 1. Number of person convicted on unsuspended and suspended imprisonment in Poland (2001-2017)

| Year | Convicted | Unsuspended imprisonment | Conditionally suspended imprisonment |
|------|-----------|--------------------------|--------------------------------------|
| 2001 | 343 471 | 46 239 | 194 454 |
| 2002 | 378 473 | 44 233 | 216 334 |
| 2003 | 447 513 | 44 545 | 243 486 |
| 2004 | 514 717 | 48 571 | 276 034 |
| 2005 | 526 870 | 46 952 | 300 600 |
| 2006 | 487 119 | 45 977 | 282 971 |
| 2007 | 467 159 | 45 648 | 278 352 |
| 2008 | 424 496 | 39 586 | 250 602 |
| 2009 | 425 176 | 41 553 | 245 885 |
| 2010 | 430 776 | 40 995 | 245 780 |
| 2011 | 435 295 | 44 309 | 241 545 |
| 2012 | 416 592 | 44 005 | 223 958 |
| 2013 | 368 272 | 41 937 | 194 034 |
| 2014 | 318 926 | 40 121 | 173 787 |
| 2015 | 290 018 | 40 420 | 140 510 |
| 2016 | 280 586 | 45 672 | 72 657 |
| 2017 | 264 374 | 50 076 | 57 857 |

We see first rising and then falling trend in number of person convicted (compatible with general crime drop), very similar trend in conditionally suspended imprisonment and rather stable and rational number of prison sentences. There are of course other important changes in polish criminal policy such as rise of community service and fines but what is very characteristic to Polish criminal policy is dealing with changes in crime and number of person brought before criminal court by suspended sanctions. Most of standard analysis of criminological statistics stops here, but more detailed justice statics of different kinds of cases can show us what happens next with these suspended penalties.

Table 2. Execution of conditionally suspended imprisonment in Poland (2006-2017)

| Year | Convicted unsuspended imprisonment | Convicted conditionally suspended imprisonment | Execution of conditionally suspended imprisonment |
|------|------------------------------------|--|---|
| 2006 | 45 977 | 282 971 | 101 299 |
| 2007 | 45 648 | 278 352 | 118 469 |
| 2008 | 39 586 | 250 602 | 114 435 |

| | | | |
|------|--------|---------|---------|
| 2009 | 41 553 | 245 885 | 120 177 |
| 2010 | 40 995 | 245 780 | 118 605 |
| 2011 | 44 309 | 241 545 | 116 491 |
| 2012 | 44 005 | 223 958 | 118 816 |
| 2013 | 41 937 | 194 034 | 114 245 |
| 2014 | 40 121 | 173 787 | 97 986 |
| 2015 | 40 420 | 140 510 | 86 363 |
| 2016 | 45 672 | 72 657 | 73 467 |
| 2017 | 50 076 | 57 857 | 52 998 |

And most of convicted on that penalty (because of re-conviction) end up in prison and often with much longer sentences than in the case of unsuspended imprisonment. What is very interesting is that most of Polish prisoners are not those who received unsuspended prison sentence but those who received suspended sanction⁶.

There are of course other interesting examples of changes in justice system, like numbers of hearings of a child witness, or even number of cases concerning civil enforcement orders.

Summary Research results

Currently in Poland there is a great discussion on the reform of the judiciary forced by the ruling party. It is mainly a dispute about values – like democracy, the rule of law and who should be and become judges... Courts efficiency data are almost absent in this discussion but everyone tell that their solutions will improve the efficiency, speed up the process and reduce the backlogs. In the last three years after the last political election and in the course of ongoing reform nearly all efficiency indicators of polish justice system are constantly falling. Paradoxically, for me this is a confirmation of the reliability of this data and that it can be effectively used in criminological analysis.

Bibliography:

- K. Joński, *Efektywność sądownictwa powszechnego – podstawowe problemy*, Warszawa 2016. https://iws.gov.pl/wp-content/uploads/2018/08/IWS_Jo%C5%84ski-K._Efektywno%C5%9B%C4%87-s%C4%85downictwa-powszechnego1.pdf (access 05.11.2018 r.)
- I. Loader, R. Sparks, *Public Criminology?*, Routledge 2010.
- K. Mycka, T. Kozłowski, *Paradoksy polskiej polityki karnej, czyli jak zapełniamy więzienia nadużywając środków probacji*, Probacja 2013 v. II.
- P. Ostaszewski, *Kryminologia publiczna*, (w:) *Wybrane nowe kierunki współczesnej kryminologii*, E. Drzazga, M. Grzyb (red.). Warszawa 2018 (in printing).

⁶ See also: K. Mycka, T. Kozłowski, *Paradoksy polskiej polityki karnej, czyli jak zapełniamy więzienia nadużywając środków probacji*, Probacja 2013 v. II.

ABSTRACT

Statystyki sądowe w służbie publicznej. Efektywność sądów i kryminologia publiczna

How criminological are statistics of justice? How useful are courts efficiency data? How the public and public administration uses abuses this data? Paper is focused on the problems of collecting, processing and presenting statistical data on justice system for the purposes of the system itself, as well as for criminology. It considers five issues: public criminology and public statistics, so called standard criminological statistics, such as recorded crime, suspect, convicted, penalties, penal measures, prisoners etc., Polish Ministry of Justice statistics (if they are criminological or not or which of them could be interesting for criminologists) and results of current research of Economic Analysis of Justice Unit in Polish Institute of Justice. It was interesting how official statistics concerning courts efficiency are used and maybe abused in public debates, in criminology, criminal policy, and public media.

Słowa kluczowe: kryminologia publiczna, statystyki kryminologiczne, statystyki sądowe

Key words: public criminology, criminological statistics, court statistics