RESOCJALIZACJA POLSKA
28/2024
POLISH JOURNAL
OF SOCIAL REHABILITATION
ISSN 2081-3767 | e-ISSN 2392-2656
RESEARCH REPORTS
DOI 10.15290/pjsr.2024.28.08

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# Educational Influence on Offenders of Misdemeanors Implemented Through Discretionary Forms of Professional Activity by Uniformed Service Officers

**Abstract:** Polish legislation permits the use of educational measures against offenders by officers of the uniformed services within the framework of the tasks specified by law. The article presents the potential of the uniformed services in this regard, pointing out the opportunities and threats arising from the specifics of their work, from the existing legislation, and from the point of view of social expectations. Modern institutions with police powers are increasingly providing services that require knowledge of pedagogy, psychology and sociology, which should be measurably reflected in the effectiveness of crime prevention carried out in direct social interactions.
**Keywords:** police, uniformed services, educational influence.

## Introduction

Police officers and members of other uniformed services are expected to address a full spectrum of social issues, not merely legal violations (Sučić and Karlović, 2017, p. 12). Both in public perception and academic discourse, the role of uniformed services is increasingly framed in terms of an educational function, understood as an extension of crime prevention. Security-focused scholars argue

that, beyond their statutory and traditionally assigned duties, the police are increasingly providing a range of social services accessible to local communities around the clock. This includes engagement with the homeless, support for individuals struggling with addiction, and intervention in family disputes before they escalate into criminal acts (Brogden and Nijhar, 2005, pp. 28–29). Community-oriented police are capable of holistically diagnosing and solving seemingly minor problems, the escalation of which is most often due to a failure to act at the level of diagnosis and the original symptoms. The COPS (Community-Oriented Policing) model may serve as a framework for optimizing the functioning of the police and other uniformed services within specific communities. This model emphasizes problem-solving and community engagement through proactive strategies (Chappel, 2008, p. 37). The concept of community-oriented policing has emerged as a modern alternative to traditional police strategies grounded in repressive measures. A closer relationship with citizens, focused on resolving concrete problems and conflicts, should be built on a foundation of a cooperative and respectful approach to the public (Dreher, 1996, p. 175). It is even open to debate how innovative this approach truly is, given that as early as the fifteenth century, the term 'policey' did not refer to an institution but rather to the proper communal ordering of people and things within the state (Hassemer, 2002, pp. 31–32). The police monopoly on coercive power appeared only later and developed gradually. While the principles and mechanisms of the Community Policing strategy have been extensively documented in academic literature, there remains a research deficit concerning other uniformed services beyond the police. This pertains to the educational influence of most Polish uniformed services on offenders of misdemeanors, as governed by current legal regulations. The Police, Border Guard, Municipal and Commune Guards, Road Transport Inspectorate, and the Forest, Hunting, and Fisheries Guards all possess underestimated educational potential that may be harnessed for probationary and resocialization efforts.

## Legal Grounds for Penal and Non-Penal Responses by Law Enforcement Services to Misdemeanors

Law enforcement officials frequently face the dilemma of whether to punish or apply educational measures in relation to a citizen who has committed a misdemeanor. This issue concerns officers and guards of state bodies and institutions that possess the authority of a public prosecutor and may therefore act repressively or, alternatively, refrain from imposing a fine or from submitting a motion to the court for issuing a ruling on guilt and punishment. (Act of 24 August 2001 – Code of Procedure in Misdemeanor Cases, Journal of Laws 2001, No. 106, item 1148).

According to the legislator's intent, the Police serve as the public prosecutor in all misdemeanor cases, and pursuant to Article 17 § 4 and Article 95 § 4 and 5 of the Code of Procedure in Misdemeanor Cases, the Council of Ministers is granted statutory authority to designate, by way of regulation, other state, local government, or social institutions that may be given the powers of a public prosecutor in misdemeanor cases, as well as to define the scope of misdemeanors for which a fine may be imposed by way of a penalty ticket. In this way, in addition to the Police, other uniformed formations have received legal grounds for applying both repressive and non-penal measures within strictly defined categories of misdemeanors (Journal of Laws of 2022, item 1124).

In the present study, uniformed services are understood as formations that, under statute, are granted the power to use direct coercive measures and which, during standard service duties, operate in uniform and are authorized to issue fines by way of a penalty ticket (Act of 24 May 2013 on Measures of Direct Coercion and Firearms, Journal of Laws of 2013, item 628). This refers to state formations operating under an administrative law employment relationship: Border Guard officers (Regulation of the Minister of the Interior of 18 April 2014 on misdemeanors for which Border Guard officers are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2014, item 539, as amended; Regulation of the Minister of the Interior and Administration of 16 February 2023 amending the Regulation on misdemeanors for which Border Guard officers are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2023, item 319) and soldiers of the Military Police (Regulation of the Minister of National Defense of 21 February 2016 on the specification of misdemeanors for which Military Police soldiers are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2017, item 746). This also applies to representatives of institutions employing staff on the basis of a labor relationship: guards of municipal and township guards (Regulation of the Minister of the Interior and Administration of 17 November 2003 on misdemeanors for which municipal guards are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2003, No. 208, item 2026), Forest Guard officers, State Forest Service employees, and State Hunting Guard officers (Regulation of the Minister of the Environment of 8 October 2019 on the scope of misdemeanors for which authorized employees of the State Forests National Forest Holding and officers of the State Hunting Guard are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2019, item 2090), officers of the State Fisheries Guard (Act of 18 April 1985 on Inland Fisheries, Journal of Laws of 2022, item 883), Park Guard officers in national parks (Regulation of the Prime Minister of 25 April 2005 on granting officers of the Park Guard in national parks and other national park employees entitled to the powers of Park Guard officers the authority to impose fines by way of a penalty ticket, Journal of Laws of 2005, No. 74, item 648), inspectors of the Road Transport Inspection (Regulation of the Minister of Infrastructure of

23 November 2022 on misdemeanors for which inspectors of the Road Transport Inspection and employees of the Chief Road Transport Inspectorate are authorized to impose fines by way of a penalty ticket, Journal of Laws of 2022, item 2467), officers of the railway security guard (Regulation of the Minister of Infrastructure of 31 March 2003 on the specification of misdemeanors for which railway security officers are authorized to impose fines by way of a penalty ticket and the rules and procedure for issuing authorizations, Journal of Laws of 2003, No. 62, item 564), and officers of the Customs and Fiscal Service (Regulation of the Prime Minister of 14 March 2017 on granting officers of the Customs and Fiscal Service the authority to impose fines by way of a penalty ticket, Journal of Laws of 2017, item 589).

The imposition of penalties and the application of punitive measures provided for in the Misdemeanor Code lies exclusively within the competence of the courts. However, where penalty ticket proceedings may be conducted, the Police and the aforementioned institutions may apply penal measures against misdemeanor offenders in the form of penalty ticket, as well as non-penal legal measures through educational influence. Educational measures occupy a distinct place in the Misdemeanor Code, addressed in a separate Chapter III, which contains a single provision. Article 41 of the Misdemeanor Code states: In relation to the perpetrator of an act, it is permissible to limit the response to the application of an instruction, a warning, a caution, or other educational measures (Act of 20 May 1971—Misdemeanor Code, Journal of Laws 1971, No. 12, item 114, as amended). This provision establishes the principle that it is unnecessary to engage state authorities when educational measures provide a sufficient response to a misdemeanor. In such cases, the objectives that would otherwise be achieved through penal measures—such as a fine imposed by penalty ticket procedure or through a court judgment—may instead be fulfilled through non-penal means, both with regard to the offender and to society (Lis-Walewska, 2022, p. 7). Two opposing principles intersect in misdemeanor proceedings: the principle of legality and the principle of opportunity. The former implies an obligation to prosecute, while the latter confers the discretion to do so. Misdemeanor law is more closely aligned with the latter, giving rise to the recognized principle of non-penal measures, which are considered the preferred response to misdemeanors (Bojarski, Radecki, 2011, pp. 328–329). According to Grzegorczyk (2010, p. 157), the principle of opportunity does not entail the abandonment of prosecution, but rather allows for the application of non-penal measures following the mandatory initial response of the authorized body to the punishable act. Closely tied to the preference for non-penal measures is the principle of purposiveness in punishment, which is characteristic of misdemeanor proceedings. This principle essentially involves assessing whether it is reasonable to impose a penalty in cases where a milder response would be sufficient (Tunia, 2020, pp. 335–354).

## Discretionary Power of Uniformed Services

In everyday usage, the term "discretionary" refers to a situation in which "[…] something is left to someone's free judgment, free assessment; it is not fully defined and is not restricted by any regulations" (Wojciechowski, 2004, p. 57). According to the Polish dictionary definition, discretionary power is "the power of a state authority that has the right to make decisions in specific matters in a manner not strictly constrained by legal provisions."[1] This concept thus refers to various manifestations of decision-making autonomy among entities applying the law. In the context of uniformed services authorized to issue legal responses to misdemeanors, a narrower understanding of "discretion" is adopted—defined here as any manifestation of decision-making autonomy within the bounds of applicable service regulations. This autonomy, however, is subject to limitations, as discretionary power is a right coupled with the obligation to use it lawfully (both procedurally and substantively) and reasonably. The actual scope of discretionary competence is determined by two factors: legal provisions and the attitudes of those entrusted with this authority (Duniewska, 2016, pp. 97–107).

An analysis of misdemeanor law suggests that, in areas involving decisions on whether to impose penalties or apply educational measures, the legal framework provides a degree of flexibility for guards and officers responsible for legal responses to misdemeanors. Polish scholars have argued that "the most distinctive feature of the police is their possession of a considerable degree of discretionary power, reinforced by the ability to apply coercive measures […]. A police officer may therefore choose the time, the person, and the method of repression, demonstrating classic prosecutorial opportunism within a legalist legal system, delivering 'justice without trial'" (Czapska and Wójcikiewicz, 1999, pp. 16–17).

By analogy with police practice, discretionary power is also present in the activities of other uniformed services authorized to prosecute misdemeanor offenders. While judicial discretion is widely acknowledged as referring to a judge's freedom of judgment, the presence of such discretion is less obvious in the context of uniformed service competences. This is due to the fact that none of these services holds adjudicative authority. In the case of courts ruling on misdemeanor cases, the principle of discretion is reflected in Article 33 § 1 of the Misdemeanor Code: "The adjudicating authority shall impose a penalty at its own discretion […] taking into account the objectives of the penalty in terms of its social impact, as well as the preventive and educational goals it is intended to achieve with respect to the punished person" (Act of 20 May 1971—Misdemeanor Code, Journal of Laws 1971, No. 12, item 114, as amended). This provision does not

[1] https://sjp.pwn.pl

require the court to impose a penalty, but merely identifies the overarching aim of adjudication as social impact, in the form of general prevention and educational influence (individual prevention). It must be emphasized, however, that adjudicative proceedings are preceded by preliminary proceedings conducted by authorized services. These services analyze the nature of the offense, assess the surrounding circumstances, and carry out a case-specific diagnosis, considering the demographic and personal characteristics of the offender. The court addresses cases where, by law (e.g. refusal to accept a penalty ticket) or due to an officer's assessment of the act's nature, adjudication falls within the court's jurisdiction. Thus, the decision to apply a non-repressive measure or to submit a motion for punishment is made unilaterally by the uniformed service officer, exercising discretionary power. It is therefore reasonable to claim that courts adjudicate in cases where an initial "selection" of offenses and offenders has already occurred—amounting to a partial delegation of judicial authority to uniformed service personnel. This fact is reflected in statistical data published by the Department of Strategy and European Funds of the Ministry of Justice, which shows that between 2012 and 2022, courts did not apply educational measures at all, while in earlier years such measures were used only several dozen times across Poland. Nonetheless, it may be assumed that the preventive and educational aims toward misdemeanor offenders were achieved through the imposition of reprimands and social influence measures. The number of reprimands adjudicated in subsequent years was as follows: 2020—8,744; 2021—14,690; 2022—11,584, representing between 3.1% and 4.8% of all penalties imposed for misdemeanors in Poland. Although separate statistics for social influence measures are not maintained, it can be inferred that they are included in the Ministry of Justice's category "no penalty imposed." The number of such cases was: 2020—1,474; 2021—1,884; 2022—1,779, which accounted for: 0.50%, 0.57%, and 0.52% of all rulings in misdemeanor cases, respectively.[2] Thus, courts make only incidental use of the option to apply educational or social influence measures. Similarly, the use of reprimands—relative to other penalties imposed for misdemeanors—is symbolic. The main burden of discretionary selection of cases and offenders, in terms of repressive or non-repressive response, rests with uniformed service officers.

## Educational Influence

Misdemeanor law is based on the assumption that committing a misdemeanor does not necessarily require the offender to be punished through judicial or summary proceedings. Punishment is considered a last resort, applied only when

[2] Ministry of Justice, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/ [accessed: 4.04.2024].

necessary. For a penalty to serve an educational function, it should be fair, proportionate to the offense, individualized, and capable of being scaled (Ściborek, 2014, p. 148).

One such penalty, rarely imposed by courts, is the reprimand, which is largely symbolic in nature. A reprimand does not entail physical or material hardship, and only minor psychological discomfort, serving primarily as an expression of condemnation or disapproval of the offender's act (Kosonoga-Zygmunt, 2017, pp. 92–109). In the case of a reprimand, the educational function is of primary importance. Its core purpose is to correct the behavior of individuals who commit misdemeanors. It is a sanction with warning and preventive value (Hryniewicz-Lach, 2015, p. 223). Kurzępa (2008, p. 158) similarly argues that the reprimand is mainly symbolic and exerts influence on the offender's moral awareness. According to Bojarski (2012, p. 111), this form of punishment clearly has an educational character and may be applied to perpetrators of minor misdemeanors, as it is symbolic in nature and can be meaningful to those who are receptive to socially accepted values. S. Czechowicz also highlights the educational aim of the reprimand, noting that "the issuance and verbalization of a reprimand towards the accused may prompt reflection […]. Such a penalty may carry significant weight for an offender who, owing to well-developed social attitudes, understands that by committing a misdemeanor they have violated the legal order. The court proceedings themselves, followed by the imposition of the reprimand, constitute sufficient stigmatization" (Czechowicz, 2020, pp. 51–64). Konieczny adopts a similar view, emphasizing the reprimand's symbolic character and arguing that its primary aim is to influence the moral attitudes of offenders, though this may be effective only in cases where the misdemeanor is perceived as a shameful incident in an otherwise irreproachable lifestyle (Iwański, Konieczny et al., 2008, p. 59).

In the cited interpretations of the reprimand, the dominant approach is axiological-normative, referring to the offender's attitudes, morality, and value system, which the sanction seeks to correct. Accordingly, the reprimand may be effectively applied to individuals who have internalized socially acceptable attitudes and for whom the punished act is episodic in nature. The dictionary definition of "reprimand" refers to an official rebuke for inappropriate behavior. The only punitive element should be the offender's subjectively experienced psychological discomfort, which encourages a shift towards socially accepted attitudes. This blurs the distinction between the reprimand and the educational measures listed by the legislator—namely: caution, verbal warning, and formal warning.

Krajewski notes that the catalog of educational measures includes forms whose distinctions may be unclear. It seems that caution, verbal warning, and formal warning. appear to be near-synonyms, with no major differences between them in form or in their effects (Krajewski, 2013, pp. 163–191). Social influence measures are non-penal instruments designed to re-educate the offender by influencing their psychology. They may be applied by the court in cases where

punishment is waived, thus effectively serving as a substitute for penal sanctions. Social influence measures express educational influence on perpetrators of minor misdemeanors in situations that do not warrant repression. In addition to their educational role, they also prevent the unnecessary use of repressive measures (Grudecki, 2018, pp. 163–191). The reprimand, social influence measures, and educational measures are all instruments within misdemeanor law, subordinate to the overarching aim of educating offenders whose conduct, although blameworthy, is of relatively low social harm. Education is the central subject of pedagogy as an academic discipline, which should oblige officers applying such legal instruments to possess at least basic knowledge in the field of educational sciences.

In a narrow sense, education can be defined as a dynamic and complex system of social, instrumental, direct, and indirect interactions that induce changes in the personality of the individual subject to those influences (Gurycka, 1979, p. 55). Only the definition of education relevant to uniformed officers' activities toward adult misdemeanor offenders is cited here, excluding those referring strictly to child education and the classical educator–pupil relationship. Educational activity of officers towards offenders is fundamentally situated within the subdiscipline of pedagogy known as andragogy, which focuses on the education and development of adults. By definition, educational influence is intentional, goal-oriented, and occurs through a complex process of interaction. Therefore, an officer undertaking educational influence should aim to shape in the offender such psychological dispositions as are socially expected and approved. The decision to refrain from punishing the offender requires a shift in the officer's mindset—from the role of law enforcer to that of educator. This shift is also reflected in the tools used, replacing repressive measures with those preferred in pedagogical practice. M. Kordaczuk-Wąs argues that today's police officers are expected to demonstrate qualities, skills, and behaviors that were not previously considered part of the profession (Kordaczuk-Wąs, 2017, p. 259). The "pedagogization" of the Polish police is a fact. According to I. Klonowska, the police officer assumes the role of a street educator, fulfilling the duties of a streetworker (Klonowska, 2018, pp. 226–227). Police officers' pedagogical activity, the systematization of educational methodology, and research into officers' pedagogical awareness are increasingly present in the academic work of Polish researchers. An open research question remains the extent to which police officers themselves identify with the educational mission of their service, and whether their professional training at various stages adequately prepares them for this function.

## The Discretion of Educational Influence and its Limitations

From the perspective of the public, recognizing an officer's right to discretionary decision-making implies granting them full autonomy in assessing the nature

of conduct defined by the legislator as punishable. Beyond the substantive legal dimension, this autonomy also includes the assessment of personality characteristics and a prognosis of future behavior. In doing so, society accepts a subjective, evaluative interpretation of the act, placing trust in the officer's personal traits, professional competence, ethical stance, and interpersonal skills to guide them in selecting an appropriate response to the misdemeanor. Public acceptance of discretionary actions is largely contingent on the social authority of the institution and its representatives.

The police officer, as a figure operating within the sphere of social control, becomes the bearer of personalized authority. Institutional authority is composed of the collective authority of its personnel. The authority of a police officer is perceived both as a component of social order and system legitimacy and as an expression of not only professional competence but also communication skills (Stawnicka, 2013, p. 30). In hierarchical structures such as uniformed services, operational standards are defined by legal frameworks (service regulations) and superiors. However, the quality of interpersonal contact and communication with the citizen is the responsibility of the individual officer—this is the domain of unrestrained discretionary power. From the officer's standpoint, discretionary educational influence is exercised in direct interaction: officer–offender. The officer may apply a single educational method—persuasion—aimed at altering beliefs or correcting the attitudes of the individual within a specific scope.

Properly conducted interpersonal communication—using suitably expressive verbal and non-verbal techniques—may serve as an initial form of "psychological coercion" exerted on the perpetrator of the punishable act (Kochańczyk, 2019, p. 61). The offender, in turn, may adopt any attitude toward the officer, the committed act, and the intervention undertaken. Within a temporally limited interaction, the officer is compelled to:

— assess the nature of the punishable act according to the scale of social harm;
— conduct a preliminary personality assessment based on the nature of the act, data from the National Police Information System, cues from direct interaction, and any biographical knowledge from previous encounters;
— make a prognostic decision and choose an appropriate legal measure;
— if an educational measure is selected, engage in a persuasive dialog considering the offender's age, health status, intellectual potential, and emotional sensitivity.

In making a decision to apply educational measures under Article 41 of the Misdemeanor Code, the officer is obliged to follow Guideline No. 3 of the Chief of Police of 13 July 2020 on certain police procedures related to the detection of misdemeanors and the prosecution of offenders, Official Police Gazette 2020.37 KGP. This document specifies the circumstances that justify the use of educational measures, namely:

1) restoration of previous state;
2) compensation for the damage caused;
3) apology to the victim;
4) assurance from the offender that they will refrain from committing a similar prohibited act in the future;
5) fulfillment of a neglected duty.

The guideline states clearly that applying an educational measure does not preclude either submitting a motion for punishment to the court or issuing a fine by way of a penalty ticket. In the case of the Police, the discretionary margin available to the officer is precisely defined in internal normative acts. In other uniformed services, no equivalent guidelines or procedures have been developed for applying educational measures. This is illustrated by the findings of the Supreme Audit Office (NIK) regarding the conduct of penalty ticket procedures and the use of cautions by municipal guard officers. These findings indicate that only four of the audited units (one-third) had implemented procedures to minimize the risk of arbitrariness or excessive discretion in the conduct of officers. The remaining units concluded that such measures were unnecessary. In four of the twelve municipal guard units, no training was conducted on correctly identifying the circumstances of the offense or the behavior of the offender that would justify or exclude the use of a caution or other educational measure. Although these topics were covered during basic training, some officers had completed that training as early as the 1990s (Najwyższa Izba Kontroli Delegatura w Kielcach [Supreme Audit Office, Kielce Branch]. Informacja o wynikach kontroli. Prowadzenie postępowań mandatowych i stosowanie pouczeń przez funkcjonariuszy straży miejskich oraz egzekwowanie grzywien nałożonych przez nich w drodze mandatu karnego [Information on audit results. The imposition of fines and the use of cautions by municipal police officers, as well as the enforcement of fines issued by way of a penalty ticket] [2022]).

Other uniformed services previously mentioned, apart from the provisions of the Misdemeanor Code and statutes regulating their professional conduct, lack precise guidelines concerning the methods of applying educational influence measures to offenders. Officers rely primarily on their own experience, beliefs, or intuition that a caution or another form of educational influence will produce the desired result. All formations, by virtue of their discretionary powers, possess the potential to exert educational influence on offenders. The non-repressive, regulatory capacity to influence the attitudes of offenders depends on the extent to which they have internalized generally applicable social norms and on the presumption of their willingness to accept educational reasoning.

Intervening officers face numerous obstacles that reduce interaction with the offender to a single, incidental episode with educational potential. Educational influence, as understood in educational theory, entails significantly more than this. A one-off contact between an officer and an offender constitutes, from the

perspective of educational sciences, an event with educational potential. To speak of an educational process (educational influence) between the educator and the person being educated, a sequence of successive educational events and the emergence of mutual influences and relations must occur—together forming the so-called educational relationship (Kalinowski, 2007, pp. 234–235). In the case of the Polish Police, only community support officers—through continuous reconnaissance of their assigned area and personal engagement—have the opportunity to establish a relationship of an educational nature with individuals who pose ongoing problems. Representatives of other services typically come into contact with individuals on a one-off basis during interventions.

## Conclusion

Episodes with educational potential constitute a significant element of the work of uniformed services in Poland. The legal incorporation of pedagogical aspects into professional frameworks opens a field of scientific inquiry into the nature and quality of interactions between uniformed service officers and individuals who violate the law. In general, sociological interactionist theories posit that the process of socialization is realized continuously through direct and mutual relations between individuals. The simplest social formation is a dyadic structure. Thus, uniformed service officers participate in this permanent phenomenon and, by exercising discretionary power, may influence the attitudes of offenders, thereby exerting a preventive effect. Examining the interactions involved in the application of educational influence measures by uniformed services appears essential for understanding the functioning of formations vested with policing powers.

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