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Dariusz Brakoniecki

# **Grassroots active citizenship as an element of non-government forms of security protection of local community. Administrative and legal issues**

**Oddolna działalność obywatelska jako element pozapaństwowych  
form ochrony bezpieczeństwa społeczności lokalnej. Zagadnienia  
administracyjnoprawne**

## **I. Introduction**

Nowadays, in many countries around the world, there are tendencies for self-organization of citizens within the state, undertaking various activities for groups and individuals - activities that do not interfere with the interests of the state. These actions also apply to the sphere of security and public order, because it should be remembered that the nation will never be able to provide its citizens with total security and there is always a field for citizens to take action in this regard. Currently, this field is widening in many countries, and this is closely related to the democratization of states that have existed in the modern world since the end of the 18th century. From the birth of the constitutional state at the end of the 18th century until the collapse of the communist system in Eastern and Central Europe we can observe an increase in the number of democratic

states<sup>1</sup>. Also, noticeable is a clear aim towards democracy of civil society<sup>2</sup>. Civil society is a society that is characterized by the existence of autonomous (ie, not controlled by the state or another center) organizations and institutions. These include political parties, trade unions as well as industrial enterprises, social movements, liberal professions, autonomous universities, independent churches and public service foundations<sup>3</sup>. Civil society is an open society, that is, in which the individual gains the right to make personal decisions. In civil societies, or in societies aspiring to this type of society, the state continues to provide both external and internal security, while leaving the citizen a certain freedom in undertaking other activities - including to improve one's own security<sup>4</sup>.

The sense of danger and growing disproportion of affluence in society makes that measures to ensure security, undertaken by the state, are becoming insufficient to ensure a high standard of security expected by citizens. This state means that citizens undertake activities on their own, aimed at minimizing the risk of exposing their own goods. Handy protective Equipment, such as stun guns or manual gas throwers, but also various types of self-defense and martial arts courses are popular. To protect the property homeowners often use: alarms and monitoring as well as various types of specialist locks and anti-burglary doors and also defense dogs.

The level of cooperation on the line of society - state institutions responsible for security can be a measure of democracy prevailing in a given society and a feature characteristic of civil society. The profits from joining the security business can be found on both sides. The police, prosecutors' offices, courts, and other inspections and guards are not able to operate effectively without social support, and people who influence the work of institutions responsible for security are identified with the activities of these institutions. In fact, the relations between society and entities responsible for security, provide an opportunity for effective crime control in the local community<sup>5</sup>.

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<sup>1</sup> W. Lamentowicz, *Państwo współczesne*, Warszawa 1996, pp. 119-126 for: G. Gozdór, *Prywatyzacja Bezpieczeństwa – bujda, abstrakcja czy sposób na poprawę stanu bezpieczeństwa i porządku publicznego?* (Conference on Human Safety - the educational challenge of the beginning of the 21st century, Trzcianka-Smolarnia, 24-25 June 2004), pp. 166-167.

<sup>2</sup> See: W. Osiatyński, *Odrodzenie społeczeństwa obywatelskiego*, „Wiedza i Życie” nr 9/1996.

<sup>3</sup> R. Dahrendorf, *Uwaga do definicji społeczeństwa obywatelskiego* [in:] A. Błaszczyk (ed.), *Ewolucja państwa, wybór tekstów*, Warszawa 1998, p. 442.

<sup>4</sup> G. Gozdór, *Prywatyzacja Bezpieczeństwa – bujda, abstrakcja...* p. 167.

<sup>5</sup> A. Urban, *Bezpieczeństwo społeczności lokalnych*, Warszawa 2011, p. 102.



## II. Permissions common for citizens

The basic instruments to fight against local crime, in which the legislator equips citizens is the institution of a state of higher necessity, necessary defense, civic detention.

The state of a higher necessity is specified in art. 26 of the Penal Code<sup>6</sup>, according to which; everybody who acts in order to repel the immediate danger threatening any good protected by law if the danger can not be avoided otherwise, and the sacrificed good presents a value lower than saved good, does not commit a crime. Crime is also not committed if a person, saving the aforementioned good protected by law, sacrifices a good that does not present a value which is obviously higher than the saved good. If the boundaries of the state of higher necessity are exceeded, the court may apply extraordinary mitigation of the punishment and even refrain from imposing it. An extraordinary mitigation of punishment does not apply if the perpetrator sacrifices a good that he or she has special duty to protect even with exposure to personal danger.

A self-defense was regulated in art. 25 of the Penal Code, which states that a person does not commit a crime, when he or she repels a direct, unlawful attack in self-defense for any good protected by law. If the boundary of the self-defense has been exceeded, especially when the perpetrator has used the method of defense disproportionate to the danger of the assassination, the court may apply extraordinary mitigation of a penalty, and even refrain from imposing it. A person who exceeds the limits of defense necessary under the influence of fear or agitation justified by the circumstances of the attack is not punishable. A person who, in the self-defense, repels the attack on any other people's good protected by law, protecting security or public order, enjoys legal protection provided for public officials.

In turn, civic arrest is regulated by art. 243 of the Code of Criminal Procedure<sup>7</sup>, which states that everyone has the right to put a person in the act of committing a crime or in a pursuit undertaken immediately after committing a crime if there is a fear of concealing him or his identity can not be determined. The person who got caught, should be immediately handed over to the Police.

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<sup>6</sup> Journal of Laws of 2018, item 1600.

<sup>7</sup> Journal of Laws of 2018, item 1987.

### III. Forms of activity

The most popular global forms of social activity in the dimension of protection of security and order in the local area are undoubtedly neighbor's vigilance groups, civic patrols, sheriffs, municipal guards and guards.

Neighborhood vigilance groups are popular especially in the USA and Canada as well as in some Western European countries. These are privately organized neighborhood initiatives. They consist in calling neighborly meetings, during which the police explains the goals of their creation. Inherently, the group consists of residents from 20 to 40 houses. The group is managed by a coordinator - one of the residents who is a police partner. Groups are supported and partly financed by local governments and private entrepreneurs (United Kingdom). To their general objectives include: reducing crime, strengthening the sense of community in the neighborhood, reducing fear of crime, improving living conditions in a specific neighborhood, improving contacts between residents and the police. However, the basic goal is always adapted to local needs. As part of the activities of such groups, both the police and other specialists inform residents about local crime-related problems and provide them with information materials on crime prevention. Members of neighborhood vigilance groups observe the streets, guard the roads leading to the school, help disabled neighbors in shopping. So far, there is no scientifically justified data on the effectiveness of neighborhood vigilance groups, but certainly members of such groups have more awareness about the risks of crime and ways to prevent it. In various projects, it is stated that the functioning of these groups contributes to the reduction of crime<sup>8</sup>.

Civic patrols are another form of social participation. They can be part of the activities of neighborhood vigilance groups as well as constitute a separate initiative. The first such patrols began to operate in the US from the 1940s. Members of such groups are specially trained, they do not carry weapons, but only can defend using rubber truncheons or gas. They work for free, if necessary, when the local police deem it essential to maintain order<sup>9</sup>. In Poland, civil patrols began operations in 2001 and 2002 in the Śląskie, Dolnośląskie, Świętokrzyskie and Warmińsko-mazurskie. The growing interest in the activity of civil patrols caused the elaboration of a draft law on vigilantes by the Ministry of the Interior, but this initiative has not been implemented<sup>10</sup>. The effectiveness

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<sup>8</sup> A. Urban, *Bezpieczeństwo społeczności...* pp. 104-105.

<sup>9</sup> J. Czapska, J. Wójcikiewicz, *Policja w społeczeństwie*, Kraków 1999, pp. 240-245.

<sup>10</sup> A. Urban, *Bezpieczeństwo społeczności...* pp. 111-112.

of civil patrols is illustrated by the example of the village of Sychowo in the province warmińsko-mazurskie, where out of 304 crimes in 2001, the number of crimes has dropped to 78 in 2006, which is a decrease in crime by about 75%<sup>11</sup>. The effectiveness of this type of initiatives also confirms the activities of organizations such as Guardian Angels, who guarded such places as stations, metro stations, underground railway stations in cities of the US, Canada and Western Europe contributed to a significant reduction in crime in areas where they performed their patrols.

An example of a highly patrolled and cooperating police is the municipal police in the Netherlands. It operates in 120 places and employs over 2 thousand people. The idea of creating all guards was common, but the individual guards were oriented to local needs and possibilities. All guards were merged in 1992 into one formation called Stadwacht Nederland. Currently, the guard is financed from state funds, and its guards are mainly unemployed. Uniformed guards patrol shopping centers, residential districts as well as industrial and leisure areas. The guards' activities are directed by the police, and if necessary, they can contact the police on the radio. The guards do not have any additional powers in the field of legitimacy or the use of coercive measures against people, and act in the field of civic rights. To their tasks include paying attention to all sources of danger. They report on any threats and crises in public places to relevant institutions. In addition, they provide information and mediate in solving conflicts between people<sup>12</sup>. Evaluation of the implementation of these projects in the Netherlands indicates that in places of security guards increased the sense of security of residents, and the number of crimes such as pocket theft, damage to property, breaking into apartments during the day, and acts of vandalism decreased<sup>13</sup>.

The experience of the Dutch guards was used in Belgium, in the framework of services known as: Parking – Watchers - Projekte. Students and unemployed people who are equipped with mobile phones and bicycles are employed to guard parking. The main goal of this project was to prevent the thefts of bikes and cars. In situations requiring police intervention, they inform the nearest police station by phone, but they are active in less dangerous situations. Their power lies in their constant presence in endangered places, as well as in high

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<sup>11</sup> Data from the BA thesis by K. Rutkowski, *Impact of local initiatives on the safety of residents on the example of the town of Sychowo*, written under the direction of A. Urbana, Warsaw 2007, attachment No. 2.

<sup>12</sup> A. Urban, *Bezpieczeństwo społeczności...* pp. 106-107.

<sup>13</sup> S. Babl, J. Bässmann, *Kriminaprävention in Deutschland und Europa, Ausgewählte Dokumente aus dem Infopool Prävention*, Wiesbaden 1998, for: J. Czapska, J. Wójcikiewicz, *Policja w społeczeństwie*, Kraków 1999, pp. 241-242.

mobility. Experiences related to the functioning of guards in Belgium are assessed positively. In many places where the project was implemented, the number of car damage and thefts decreased. However, the places where parking guards perform their duties according to citizens' opinions improved their image<sup>14</sup>.

A slightly different character, although very formalized; has the Bavarian citizen's guards, which was experimentally introduced by the law for a period of 3 years (1994-1996) in three Bavarian cities. The members of this guard are carefully selected by the police who control them. They are not armed or uniformed, they have only decorations on civilian clothing to recognize them. In addition, they have official IDs which they must each time display on request. The main purpose of actions of these guards is to strengthen the sense of security by the presence of guards in dangerous places and to support the police in maintaining safety and public order. The police set up place of patrol for the guards. Most often they are big housing estates, car parks, are of the public transport stops, residential houses and enterprises. The guards may interfere with the rights of other people only to the extent specified in the Act. In particular, they may: ask questions witnesses, detain people and ask for identification in the case of protection against danger. The creation of this guard met with wide social acceptance but did not contribute to the crime scene due to the small amount of guards and the fact that they work only after 15, 20 hours per month<sup>15</sup>.

A form of ensuring security in local communities is also a sheriff's service. This office is known in England, where it draws its origins, but also in Scotland and the USA where the sheriffs are still performing their duties. They are chosen by the local community to ensure the safety of them. A person applying for this position does not have to be a police officer or a city guard, he does not need to have any special rights or training. It's enough to get the residents' trust. this person has the right to uniform and armor. sheriff. He enjoys the same legal protection as other public officials. In the event of a sudden threat to the local community, the sheriff has the right to appoint his deputies. Deputies of the sheriff - ordinary citizens - for the time of the threat they have the sheriffs' rights, and after the danger, the threats become again „ordinary” citizens<sup>16</sup>.

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<sup>14</sup> Tamże., p. 242.

<sup>15</sup> Tamże., pp. 242-244.

<sup>16</sup> A. Urban, *Bezpieczeństwo społeczności...* p. 109.

## IV. Community policing

Community policing as a model of police operation is a confirmation of the thesis about the significant impact of the local community on the level of crime control and the effectiveness of crime prevention. The presented concept expands the collection of police goals for proactive activity and regular meetings with the local community as well as interactions with the community during daily patrols<sup>17</sup>. The forerunner of such action was Józef Piłsudski, being the head of the state - on January 9, 1919, he established the Municipal Police - a local, self-government police formation<sup>18</sup>. After regaining independence and establish the Municipal Police, the idea of a policeman acting for the local community was moved away very quickly in favor of the centralized police model. This was due to the fact that Polish society after 1918 expressed a willingness to civic activity in the local government, but society even more felt the need for a strong nation. Therefore, in the adopted formula of the operation of police services in Poland (State Police), the formal impact of the local government and other social organizations on matters of public order and security has been minimized<sup>19</sup>.

The beginnings of the community policing philosophy date back to the 1960s and 1970s in the USA, when the US police were heavily criticized by the society for its low efficiency, corruption and brutality. Therefore, police actions were directed at regaining social trust by connecting it with local communities. That's how community policing was born<sup>20</sup>. Community policing is a policy, and at the same time a strategy aimed at achieving effective crime control, reducing the sense of crime risk, improving the quality of life, improving work and increasing police authority by using social resources to change the conditions underpinning criminal activities<sup>21</sup>. The main features of the community policing strategy are: (1) consultations, systematic research on determining the needs of residents and their expectations in relation to the police; (2) adaptation, understood as a change in the manner of commanding forces and means in such a way that in small police units it is possible to make decisions to meet the needs of local communities; (3) mobilization, involvement of non-police people and

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<sup>17</sup> A. Wiśniewski, *O pewnym modelu policji*, [in:] J. Fiebig, M. Róg, A. Tyburska (eds.), *Bezpieczeństwo to wspólna sprawa*, Szczytno 2002 for: A. Urban, *Bezpieczeństwo społeczności lokalnych*, Warszawa 2011, p. 120.

<sup>18</sup> A. Urban, *Bezpieczeństwo społeczności...*p. 109.

<sup>19</sup> A. Misiuk, *Policja a społeczeństwo*, Szczytno 1997, p. 43.

<sup>20</sup> A. Urban, *Bezpieczeństwo społeczności...*p. 109.

<sup>21</sup> R. Friedmann, *Community Policing*, New York 1992, for: A. Urban, *Bezpieczeństwo społeczności lokalnych*, Warszawa 2011, p. 123.

institutions in solving problems related to ensuring security; (4) solving and eliminating problems that cause crime and fear of becoming a victim of crime, and consequently focusing on stopping crime<sup>22</sup>.

In Cielecki's opinion the realization of the community policing philosophy brings with it a number of advantages noticeable especially in three areas:

1. Profits from the side of Police:
  - fuller use of social resources intended to reduce crime and fear of crime;
  - improvement of diagnosis in local environments;
  - raising the authority of the police in society.
2. Profits from the side of the public:
  - improving the work of the Police;
  - increasing the reliability and responsibility of working in the police;
  - participation in decisions regarding the direction of work in the police.
3. Profits from the side of public and Police:
  - crime is the result of the impact of many social factors on which the police has small influence;
  - in order to effectively control crime, should be focus on social factors that cause unlawful behavior;
  - proactive activities should complement or replace reactive activities;
  - the decentralization of power is the condition for actions aimed at society;
  - activities aimed at preventing crime should be extended to include problems of quality of life and a sense of threat;
  - the fundamental role in conducting social and criminal policy is to base it on citizens' rights and freedoms<sup>23</sup>.

Community policing constitutive features create a certain algorithm of behavior that comes down to the question of problems important for the local community, the proper use of police forces, and the acquisition of non-police partners who will join the activities and solve the criminal problem<sup>24</sup>.

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<sup>22</sup> A. Urban, *Bezpieczeństwo społeczności...* pp. 125-126.

<sup>23</sup> T. Cielecki, *Prewencja kryminalna. Studium z profilaktyki kryminologicznej*, Opole 2004, pp. 55-56.

<sup>24</sup> A. Urban, *Bezpieczeństwo społeczności...* p. 127.

## Summary

The cooperation of citizens with all entities responsible for ensuring public safety and order nowadays seems to be an action which in the coming years should bring the greatest hopes for a significant improvement of security in local communities<sup>25</sup>. The involvement of governmental and self-governmental bodies through legal regulations and the promotion of appropriate civic attitudes is essential to the success of such activities. The media should play an important part in this activity, which to a large extent shapes the attitudes of young people. It seems to be extremely important, as it seems to me, to improve the image of the Police, Municipal Guards and other authorities responsible for public safety and order, as well as to see the need for cooperation with citizens for local security and order. It should be remembered that the final success requires planned and long-term action.

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<sup>25</sup> Tamże., p. 101.

## Summary

Guarantees in the area of security and public order protection, beginning with original forms of statehood to modern times, belong to the basic tasks of the nation. In the early 19th century, the perception of security protection in this way start to change towards the commercializing of these activities. Systemic and economic changes and withdrawal from the centrally planned economy for economic capitalism, as well as the implementation of the subsidiarity principle in a wide range, gave Poland the dynamics of privatization of security. Elements of privatizing security idea can also be found in the papal encyclicals - *Quadragesimo Anno* Pius XI and *Rerum Novarum* Leo XIII. The article discusses the phenomenon of privatization of security on the example of grassroots civic initiatives.

It determines its place in the security and public order system and indicates future trends in this respect.

**KEY WORDS:** public safety, public order, public administration tasks, privatization of security, civic initiatives, community policing.

## Streszczenie

Gwarancje w zakresie ochrony bezpieczeństwa i porządku publicznego, począwszy od pierwotnych form państwowości do czasów nam współczesnych, należą do podstawowych zadań państwa. Postrzeganie ochrony bezpieczeństwa w tym kształcie, z początkiem XIX w., zaczęło ulegać pewnym przekształceniom zmierzającym w kierunku komercjalizacji tych działań. Dynamikę oraz wektor prywatyzacji bezpieczeństwa w Polsce nadały zmiany ustrojowo-gospodarcze oraz odstąpienie od gospodarki centralnie planowanej na rzecz kapitalizmu gospodarczego, a także urzeczywistnienie w szerokim zakresie zasady subsydiarności. Elementów idei prywatyzacji bezpieczeństwa doszukać się można także w encyklikach papieskich – *Quadragesimo anno* Piusa XI oraz *Rerum novarum* Leona XIII.

Artykuł stanowi omówienie zjawiska prywatyzacji bezpieczeństwa na przykładzie oddolnych inicjatyw obywatelskich. Określa ich miejsce w systemie bezpieczeństwa i porządku publicznego oraz ustalenie tendencji przyszłościowych w tym zakresie.

**SŁOWA KLUCZOWE:** bezpieczeństwo publiczne, porządek publiczny, zadania administracji publicznej, prywatyzacja bezpieczeństwa, inicjatywy obywatelskie, community policing.

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