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Examination of criminal responsibility in children aged 12-15

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Abstract

This study aimed to review the sociodemographic characteristics and assess the examination results of juveniles pushed to crime (JPC) who were aged 12-15 years for whom the judicial authorities requested an opinion on criminal liability. The reports and interview forms of 100 patients. The parents were separated in 24 JPC, and 65 had four or more siblings. The average family income level was minimum wage or below in 81 cases. A review of the types of charges indicated that 56 cases were referred for theft, 47 had previous criminal records, and 17 had individuals with a history of imprisonment in their close circle. Sixteen had a history of substance abuse. Ten of 46 JPC had borderline intellectual functioning based on intelligence quotient assessment. Fifty JPC presented more than 6 months after the date of the crime. As a result of the examinations, the number of children with and without the power of discernment was 44 and 44, respectively. No decision could be made on 12 JPC because of late referral and insufficient paperwork. The minimum income level should be increased to reduce the number of JPCs. In particular, children with individuals in their close circle with a history of imprisonment should be closely monitored and necessary measures should be taken against substance abuse. Given the rapid cognitive development of children in this age group, it is difficult to make decisions when the children are referred long after the actual event.

Keywords: Juvenile delinquency, the power of discernment, criminal liability, forensic medicine

Introduction

According to Paragraph 1, Article 31 of the Turkish Penal Code (TCK), children aged below 12 years at the time of the actual offense have no criminal liability. Whereas Paragraph 2 states that children aged 12-15 years should be subject to investigation concerning criminal liability and that the judge in charge of the proceeding should decide as regards thereof. The judge may consult with an expert in performing this duty to determine the criminal liability of the child and base her/his decision on the expert opinion [1]. Two conditions must coexist for the children in this age group to be deemed to have criminal liability. The children must be "aware of the legal significance and consequences of the offense" and must have "developed the faculties of autonomous action" In case the above conditions do not exist, the perpetrator's criminal liability should be deemed as non-existent [2].

According to the Ministry of Justice, the number of juveniles pushed into crime (JPC) decreased by 34% in 2020 compared with that in 2013. As of 2020, the rate of JPC involved in legal proceedings during the year was 5.3% of the total number of suspects. A review of the legal proceedings against JPC indicated that offenses against property (41.2%) ranked first, with theft on the top of the list [3]. These rates are suggestive of the fact that the number of JPCs is still significant in the justice system.

Individual, biological, social, and environmental risk factors were suggested concerning the occurrence of criminal tendency and violent behavior [4]. It was reported that a familial history of imprisonment, lower socioeconomic level, serious problems between the parents, poor living conditions, and substance abuse were the other risk factors that played a role in juvenile delinquency and association with criminal tendency and violence [5,6] Understanding the criminal tendency and the sociodemographic characteristics of juveniles is important to decrease the number of JPC.

This study aimed to review the sociodemographic characteristics and assess the examination results of JPCs who were aged 12–15 years and for whom the judicial authorities requested an opinion

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concerning criminal liability.

Materials and Methods

Reports and interview forms of the cases referred to the Forensic Medicine Department for investigation of criminal liability within the scope of TCK Article 31/2 between January 2018 and September 2021 were retrospectively reviewed. A total of 100 patients who were aged 12–15 years were included in the study. The required permission for performing the study was obtained from...University Ethics Committee for Non-Interventional Research (Date: 16.12.2021 No: 2021/13-13).

Sociodemographic Data Form

A structured data form, which was completed by the Forensic Medicine Department for each case, was employed in this study. The data form included information such as date of birth, sex, educational status, characteristics of the child's close circle, parents' employment status and criminal record, income levels, number of siblings, employment status of the JPC, and substance abuse status, and criminal records.

Statistical Analysis

The results were analyzed using IBM Statistical Package for the Social Sciences (SPSS) for Windows 22.0 software for descriptive statistical analyses. Descriptive statistics were expressed as the mean±standard deviation for continuous data and as frequency and percentages for categorical data.

Results

Ninety-five (95%) of the JPC were male. Those who turned 14 years constituted the majority of the cases (Figure 1).

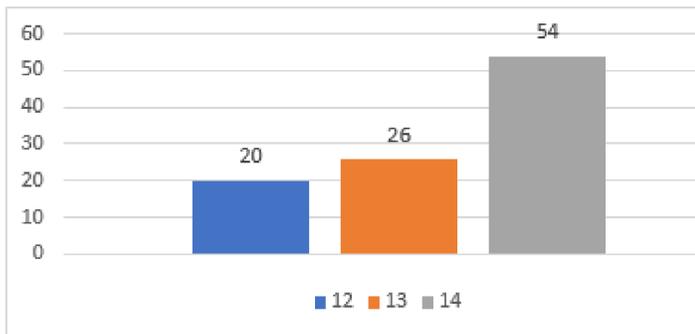


Figure 1. The ages of the JPC

Sixty-three JPCs lived in the city center, 74 stayed with their parents, 12 were illiterate, and 24 lived with separated parents. The number of JPC with an unemployed father and an unemployed mother was 14 and 85, respectively. The total number of JPCs with an average household income level at or below the minimum wage was 81. Additionally, 24 had a history of some form of employment (Table 1).

Seventeen JPCs had an individual in their close circle who had a history of imprisonment, and 47 and 16 JPCs had criminal records and a history of substance abuse, respectively (Table 2).

A review of the actual date of offense and date of referral indicated that 50 JPCs were referred more than 6 months after the offense (Figure 2).

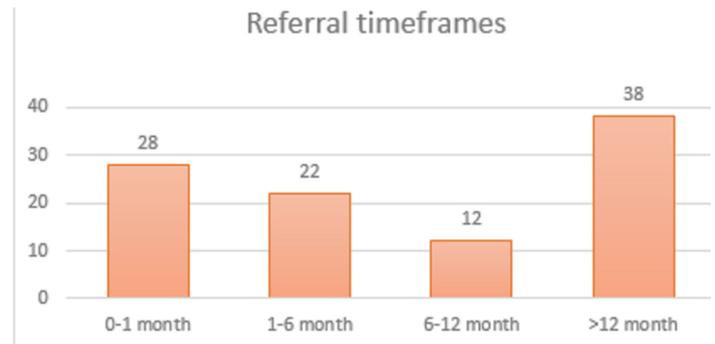


Figure 2. Referral timeframes after the date of offense

A review of the alleged crimes showed that theft ranked the first, with 56 cases (Figure 3).

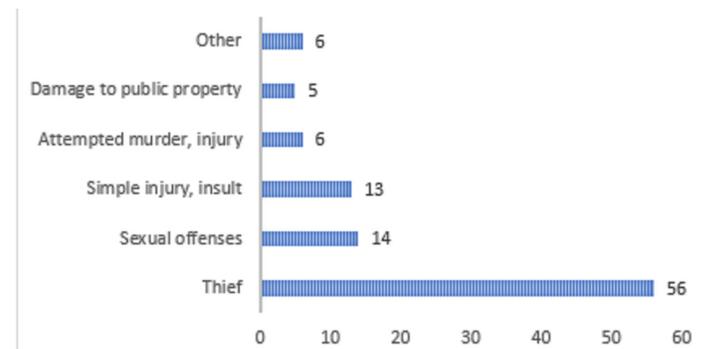


Figure 3. Distribution of the cases by the type of offense

Among 46 JPC with intelligence quotient (IQ) assessment, 69.5% had normal IQ and 17.3% had borderline intellectual functioning (Figure 4).

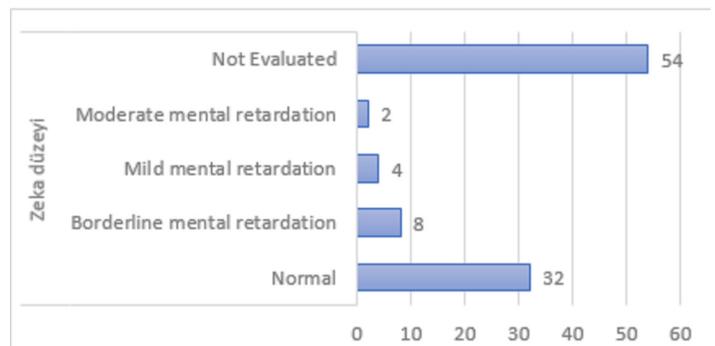


Figure 4. Mental state of the patients based on their IQ scores

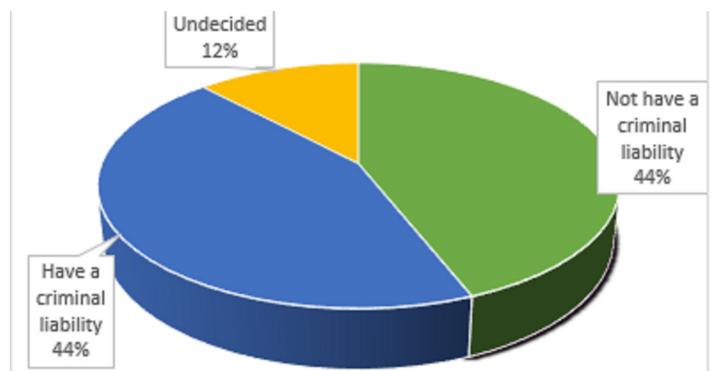


Figure 5. Criminal liability of the JPC

As a result of the forensic psychiatric examinations of the cases, 44 JPC were considered to have criminal liability, whereas 44 JPC were deemed not to have criminal liability according to TCK Article 31. No decision could be made in 12 JPC because of the late referral date (Figure 5).

Table 1. Sociodemographic data of the JPC

Sociodemographic Data	N (%)	
Location	City	63
	Town	24
	Village	12
	Foreign national	1
Education (last completed class)	Illiterate	12
	4. class	2
	5	4
	6	14
	7	13
	8 ve above	55
Living environment	Family	74
	Close relative	4
	Government agency	2
	Imprisonment	15
	Other	5
Are parents separated?	No	76
	Yes	24
Father employment status	Not employed	14
	Employed	82
	Deceased	4
Mother employment status	Not employed	79
	Employed	8
	Deceased	2
	Unknown	11
Number of siblings	1	2
	2	18
	3	15
	4 ve above	65
Family income level	Below the minimum wage	48
	Minimum wage	33
	Above the minimum wage	19
Child's work history	Present	24
	Absent	76

Table 2. History of crime and substance abuse of the JPC

	N	
Parents staying in prison	Present	17
	Unknown	21
	Absent	62
Criminal records	Present	47
	Absent	52
	Unknown	1
History of substance abuse	Present	16
	Absent	84

Discussion

The provision of appropriate legal mechanisms to assess children's development from innocence to complete criminal liability is considered one of the challenging areas of the criminal legal system [7]. To implement preventive measures, it is of great importance to understand the reasons for criminal tendency in JPC. While several

biological, environmental, and social factors have been suggested concerning the occurrence of violent and criminal behaviors, the focus has been on the society and the social environment of JPC [8]. In the present study, 95% of the JPC were boys. A relevant study suggested that men were more prone to crime and violence and thus more involved in judicial events [9].

A review of the literature indicated that lower educational and socioeconomic levels, a higher number of siblings and frequent moves, and lack of regular employment of the parents are important risk factors for JPC [10]. In the present study, the illiteracy rate in JPC (12%) was much higher than that of the general population. In particular, in 65% of the JPCs, the children had four or more siblings. The increased number of children in families with lower income levels is associated with a decreased opportunity to meet each child's educational requirements and needs. Children in such environments are at higher risk of being abused than other children [11]. The rehabilitation of children and their close circles should be considered as a measure to reduce the incidence of child abuse.

Relevant studies reported that the most frequent cause of judicial investigation was offenses against property, with theft on the top of the list, followed by sexual abuse [12-14]. The results of the present study were consistent with those reported in the literature for both offenses. Unemployment and poverty due to migration, irregular urbanization, and industrialization were suggested to be associated with an increased incidence of offenses against property and juvenile delinquency [15]. The fact that our region has not yet achieved economic development and the inadequate job opportunities have a serious adverse impact on the means of living of the affected families. Naturally, this is also reflected in the children. Only a fifth of the cases had a family income above the minimum wage. The foregoing affected the causes and nature of the offense.

Among JPC aged up to 14 years (54%), 45% did not even receive secondary school education and mostly stayed with their parents. Studies on JPC reported that most children were within the age of 14 years [12,15]. In this early period of transition to adolescence, children also experience difficulty in faculties of autonomous action, which is a criterion for legal assessment. In particular, the decrease in the level of education constitutes an important reason for committing the offense. School-age children who do not continue their education are more likely to perpetrate offenses and be exposed to crime [16]. Studies reported that JPCs mostly stayed with their parents [15-17]. It is not sufficient only that the family stays together, but adequate parent-child relations based on mutual love, respect, trust, and solidarity are required so that the child can grow up as a healthy individual and become fully socialized [19]. The available data suggests that the inclusion of the child in the family environment does not prevent criminal behavior. Measures intended for tackling crime should include the child and the family as a whole.

A study reported that a higher number of siblings in the family was one of the factors of juvenile delinquency [19]. In the present study, a large proportion (65%) of the JPC had four or more siblings. A large number of siblings increases the economic burden of the family, disrupting education. This is consistent with the results of other studies. Children from families with three or more siblings constituted 68% of the cases in a study by Kurtuluş et

al. and 92.8% of the cases in a study by Kandil et al. [17,20]. A large number of children in such families may also be associated with low education levels. Family education should also cover pregnancy control.

Parental and personal history of criminal involvement is considered an important risk factor for JPC [21]. In the present study, parental criminal history was noted in 17% of JCP, and 47% had a history criminal record. It was observed that the criminal behavior learned in the family would exponentially develop into a behavioral pattern. Therefore, the protective and supportive programs intended for the JPC should be developed to cover the entire family.

Moreover, 16% of the JPC had a history of substance abuse. A substance abuse rate of 28% was reported by Işık et al. in a university hospital setting [22]. Substance abuse has been an important factor that pushes children to crime. Money is required to obtain addictive substances, which urges children to perpetrate offenses, including theft.

Criminal liability is determined for a specific crime perpetrated by a child on a certain date. There are several controversies associated with physicians and judicial procedures in the assessment of criminal liability in children. Referring children for examination long after the date of the offense and lack of any assessment during that period may lead to irreparable consequences. A substantial number of JPCs were referred for examination more than 1 year after the actual offense. Given the rapid cognitive development of children between the ages of 12 and 15 years, the foregoing timeframe is considered very long.

IQ assessment was conducted on 46 JPCs, and 17.3% of them had borderline intellectual functioning. The fact that not all JPCs received a standardized intelligence test is among the limitations of our study. Işık et al. reported that 93.1% of cases had normal intellectual functioning [22]. In a study by Aydin et al., 18.8% of 85 cases were diagnosed with mental retardation and were referred for an investigation of criminal liability [23].

The present study considered a criminal liability in 44% of the JPC, and a decision could not be made in 12% of the cases. A similar study conducted in Diyarbakir considered no criminal liability in 31.8% of the cases [24], and the rate was 58.1% in a study by Nasiroglu et al. [25] It is the responsibility of the judicial authorities to decide whether the child is right or wrong and whether their acts constitute a crime and to take measures to protect the child [15]. Referring long after the date of actual offense, lack of social assessment reports and the absence of family members or individuals legally obliged to care for the child complicates the decision-making process.

Conclusion

In conclusion, lower socioeconomic levels, a high number of siblings, and similar criminal history were suggested as the major risk factors in JPC. Staying with parents does not protect the children against crime. The minimum income level should be increased in the society and children with an individual in their close circle with a history of imprisonment should be rehabilitated together with the family. Given the rapid cognitive development of children in this age group, it is difficult to make decisions when the

children are referred long after the actual event.

Conflict of interests

The authors declare that there is no conflict of interest in the study.

Financial Disclosure

The authors declare that they have received no financial support for the study.

Ethical approval

Ethical approval was received from the Scientific Research and Publication Ethical Committee of the Institute of Medical Sciences, Firat University (Decision number 2021/13-13).

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