



Human Rights
Monitoring Institute

COMMUNICATING WITH VICTIMS OF CRIME

A HANDBOOK
FOR OFFICERS

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More than 40 000 people in Lithuania every year are acknowledged as victims. Victims of violence, deceit, theft, loss of relatives, health, property, dignity, serenity and much else.

All of them have rights and duties, defined by the Criminal Code of the Republic of Lithuania, but can everything really fit into several paragraphs of the law? Is it possible to define the human pain, fright, uncertainty, anger, despair and loss with legal words? Could several lines of a legal act return them their self-esteem, trust in other people, institutions and the state? Probably not. The power and purpose of the law is slightly different.

Support from other people – their glance, communication tone, attentiveness, ability not only to ask proper questions, but really listen – can help a victim better than anything else. Although victims usually receive help from their relatives and friends, another crucial factor to help them get back on their feet, feel safe and find balance in their shaken belief in justice, is the communication of the people implementing their direct duties that they have turned to for help.

Thus, the victim must be important not only as a source of significant data, necessary for the pre-trial investigation, and a formal participant of the process, but also as a person that was affected by special circumstances, who also needs help.

Therefore, everyone communicating with the victim from the first minutes to the final word of the court leave the victim with the experience that they will remember. And not only the victim. After all, these people are often surrounded by a large circle of those, who don't get an official status of a victim even if they have to deal with the same painful event and the experience of communicating with law enforcement that someone close to them must encounter. Therefore, I would like to thank the entire group of the honourable authors of this publication, whose knowledge, insights, as well as specific and practical tips from life experience will help officers better understand the experience, expectations of someone, who became a victim.

I sincerely wish that our changing attitudes to victims and skills, improved with this publication, will help them contribute in creating a sustainable belief in justice for Lithuanian people.

Evaldas Pašilis,
Prosecutor General of the Republic of Lithuania

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I. THE PSYCHOLOGICAL IMPACT OF A CRIME ON VICTIMS

When talking about communication with victims of crime*, officers say that at times this is a real challenge. Not infrequently victims behave strangely: they seem to be inadequately calm or even cheerful. They can talk about their experience in an indifferent way – as if they are reading an uninteresting text or retelling a film they have seen. Then it is difficult to believe that they have been traumatised. Or they can unexpectedly attack officers who want to help them. This causes negative reactions on the part of officers and an unfavourable or even hostile relationship. Sometimes it seems that crime victims are thoroughly retelling things that are unrelated to the crime and, when asked about the crime, they become silent, not saying a word. Others speak inconsistently; their thoughts are “jumping” from one theme to another, making it difficult to understand the sequence of events. Some of them contradict themselves, thus making officers doubtful about the accuracy of their testimonies. Some even refuse to give testimony and sympathise with the abusers while defending them.

In order to better understand victims and choose the most appropriate ways of communication, it is important to know how victims may react to a traumatic experience they have suffered – a crime. It is also important to be aware that a person facing an intense threat does not decide consciously how to behave. The person’s behaviour is rather a very quick and unconscious “choice” (Figure 1). When, after having suffered a crime, a victim communicates with officers, their behaviour is very significant and it can determine whether or not the victim will suffer negative long-term reactions to violence. Having suffered a crime, victims are particularly vulnerable; therefore, during this vulnerable period, officers perform a difficult and responsible role – they can relieve the traumatic experience or considerably intensify it.

A traumatic experience can lead to intense stress, resulting in spontaneous unintentional changes in the human body, psyche and behaviour. It is believed that an experience or environment is traumatic when it seriously violates an individual’s fundamental beliefs and expectations related to security, physical integrity, trust and law.¹ Examples of such experience include threats of abuse, physical violence, sexual abuse, etc., as well as the observation of coercion and suffering. Trauma usually has a negative, sometimes lifelong, impact on the person who has experienced it.

Victims can deal with a psychological trauma in two stages:

* In this handbook the concepts “victim” and “victim of crime” are used synonymously to indicate an individual who has suffered a crime and may also refer to individuals who have not yet been officially recognised as victims.

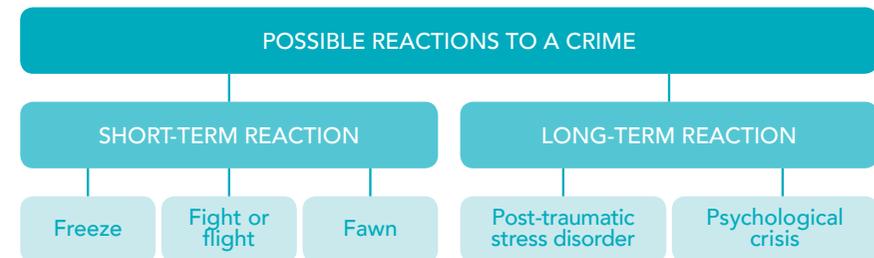
¹ Barlow, D. H., *Clinical handbook of psychological disorders: a step-by-step treatment*, UK: The Guilford Press, 2002.

1. Direct (or short-term) reaction

2. Long-term reaction

Understanding the impact of psychological trauma is essential in order to gain deeper insight into the condition and behaviour of victims and increases the ability to provide the necessary support to the victim.

Figure 1. Possible reactions to a crime as a traumatic experience



SHORT-TERM REACTION

Having seen or faced a dangerous situation, a person undergoes many physiological reactions within hundredths of a second, which change the physical and mental functioning of the person. By their nature, these changes are evolutionarily evolved tools that help the individual to quickly escape from the situation or to acquire the necessary strength to fight or to avoid it. The most common response is one of the three reactions: freeze-fight-flight.

A person facing an intense threat does not decide consciously how to behave. The person’s behaviour is rather a very quick and unconscious “choice”. The reaction of the body to a threat is an evolutionarily very valuable feature. The information about a threatening situation bypasses the cerebral cortex, which is responsible for the conscious analysis of the incident and possible choices, and enters the brain parts that evolutionarily developed much earlier. As a result, a physiological and emotional reaction induced by the triggering stimulus may be faster than the cortex of the brain is able to detect and evaluate the signal. In other words, the body will be ready to respond earlier than the person will consciously perceive the threat.²

A specific human response to a threat depends on an instant assessment of the situation and the inclination of the person to behave in a certain way.

² Wilson, Ch., Lonsway, K. A, Archambault, J. *Understanding the neurobiology of trauma and interviewing victims*, End Violence Against Women International, 2016, <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=842>; LeDoux, J. E. *The emotional brain: the mysterious underpinnings of emotional life*, London: Phoenix, 1999.

Typically, individuals who, in the face of threat, opt for active resistance, struggle or attempt to escape from the situation, or feel that they cannot move and do not resist the aggression of another person, later cannot explain the reason of their behaviour. In the face of threat, as a matter of fact, our particular response programme, which determines physical and mental changes as well as our behaviour, is automatically triggered. This does not mean that we completely lose conscious control over our actions, but it is greatly diminished. In some cases, when a person experiences emotional shock, conscious control over actions may be completely gone.

Fight or flight reaction

The fight or flight reaction may be metaphorically compared to the engine's turbo mode, which instantaneously gives the engine extra power. In the fight or flight reaction, the body suddenly gets more power and endurance to fight a stronger opponent or to escape from a faster assailant. This reaction to a threat can lead to an irrational or excessive response. For example, a woman facing physical violence, scared of an approaching abuser, grabs a knife and strikes him several times. The list of such events may be continued endlessly. For all of them, a strong reaction is typical when the conscious decision is replaced by an automatic "fight or flight" impulse amplified by an explosive charge of energy and the result is not always what we would do consciously when being able to evaluate the circumstances.

A condition of strong stress is characterised by the fact that a person unconsciously chooses the simplest and most primitive behaviour and, only later, after calming down, the person observes that it was possible to behave completely differently (e.g. a woman who had experienced violence from her spouse, had been locked in a flat on the second floor and had been left alone without the keys, later, told that, after her spouse had gone, she had escaped from the flat through the balcony, thus risking her health and life. It was only after the woman had found herself in a safe environment that she recalled she had had a hidden spare key, which she could have used).

Freeze reaction

The freeze reaction is not exactly the same as stiffness (tonal immobility) or separation from experience (dissociation), which is described further.³

3 Wilson, Ch., Lonsway, K.A, Archambault, J. *Understanding the neurobiology of trauma and interviewing victims*, End Violence Against Women International, 2016, <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=842>; Moskowitz, A. "Scared stiff: catatonia as an evolutionary-based fear response", *Psychological Review*, 2004, 111 (4), pp. 984-1002. Heidt, J. M., Markx, B. P., Forsyth, J. P. "Tonic immobility and childhood sexual abuse: a preliminary report evaluating the sequela of rape-induced paralysis", *Behavioral Research and Therapy*, 2005, 43(9), pp. 1157-71.

The freeze reaction often appears before the fight or flight reaction as our body's readiness to act. This reaction (like the fight or flight reaction) is also typical of animals. Its purpose is to remain unnoticed (if the animal does not move, it is "invisible", because the predator often reacts to the movement and then attacks its victim; unfortunately, it is not always applicable to people). Also, this reaction allows our brain to assess the threat within parts of a second and choose a way for further action. If our senses indicate that the danger has passed, we relax and resume the activity that we were engaged before; otherwise, we usually fight or run.

Stiffness and dissociation are survival reflexes that occur when the threat is so high (more precisely, our brain assess that the given threat is serious and insuperable) that there is no hope of defeating it and there are no possibilities of escaping or avoiding it. Moreover, the person may think that any resistance will not help but only worsen the situation. These reactions are common among people who have suffered repeat physical and sexual domestic violence, as their experiences usually indicate that whatever they do, they will still be unable to escape the abuser.

In the event of stiffness (tonal immobility), the body refuses to obey and thus it deprives the person of any opportunity to resist. In the face of a threat, the person feels that he/she suddenly cannot move or speak ("I could not move even my finger", "I could not even scream, because it was like a clenched throat"). The victims who have experienced tonal immobility often describe it as temporary paralysis.

In a high-risk situation, individuals may also experience dissociation, i.e. it may seem to them that they have separated from the ongoing situation and their bodies. They stop feeling the effect of strong stimuli or pain. The person later says: "It was like I was off", "I did not feel anything", "Everything went through as hazy, as it was not me". Sometimes the person may faint or lose memory.

Stiffness and dissociation can help victims to survive in situations of persistent physical or sexual abuse, because the painful experience or psychological trauma would be too intense for the person to be able to survive. The mental and physical anaesthesia that occurs in the event of stiffness is likely to protect the person in a desperate situation.

There is evidence suggesting that most women who have formerly been subject to sexual abuse become affected by stiffness in the event of a repeat threat to suffer this violence: as many as 52 per cent of women who suffered sexual abuse in their childhood or sexual aggression,

were affected by stiffness while facing this traumatic experience later.⁴ In the face of repeat abuse, this reaction becomes increasingly more frequent, as the actual circumstances of the family life and subjective factors prevent from actively resisting or escaping the abuser.

The stiffness reaction creates an unfavourable environment for overcoming psychological crisis, which can be experienced later. Victims tend to blame themselves: “Why did I not resist? I could have done this!” Psychologically, this is a much more complicated situation than the one in which the person resists, fights or attempts to escape, because then it is easier for him/her to find an inner excuse – “I did the best I could”. In the event of stiffness, later it is considerably more difficult for victims to explain their behaviour to themselves or others.

A person may experience emotional disarray or strong feelings of guilt and shame, especially where other people or the officers investigating the abuse raise the question of whether the victim herself provoked the attacker by having not resisted or objected. Such a reaction by other people is a common cause of the traumatic effects of the criminal procedure (secondary victimisation). For example, the questions “Don’t you think that your behaviour and clothes could provoke the suspect into sexual intimacy?”, “Why didn’t you seek help immediately after the incident?” and so on, when addressed by the officer to a victim of sexual crime, can extremely traumatise the victim, induce her to refuse to give a written statement to the police or refuse to take part in the proceedings, since such questions are very likely to increase self-accusation by the victim and inculcate the idea of “having been guilty herself”.

Fawn reaction

The fawn reaction may occur as a direct response to a threat. It may also result from previous recurrent traumatic experiences that have already harmed the personality in a destructive way. It has been noticed that some people who have traumatising relationships for a long time without the possibility of escaping them paradoxically respond to a threat.⁵ Instead of escaping or struggling with the threat, they try to fawn, toady and adapt to the aggressor’s requirements. According to an external observer or assessor, such a reaction is completely

incomprehensible. For example, when a victim of persistent sexual abuse in the family begins to defend or seek justification for the abuser at the court hearing, both the abuser and judge are confused.

However, the meaning of the said reaction and its psychological function becomes understandable knowing the life story of the victim. Such behaviour may be typical of addicted individuals who have experienced a permanent traumatic effect (often from childhood) associated with sexual abuse or the frustrating, severe or otherwise harmful behaviours of their parents and so on. A person with such experience often gets married to or chooses a partner who is also an aggressive person, thereby as if reproducing the parental family script. In any case, when the victim constantly suffers domestic violence and cannot resist effectively or dare to escape from the traumatic environment, he/she tries to psychologically adapt to it by reforming his/her values, emotions and the significance of events. The victim seems to be bypassing freeze-fight-flight reactions, as they are seen by him/her as ineffective, and the victim subconsciously chooses the fawn reaction while aiming to gain favour and thus avoid traumatic effects. This desire to gain favour transforms into the paradoxically experienced attractiveness of the abuser.

Understanding the fawn reaction makes it possible for the persons who assist victims of long-term abuse to see what a complex and multi-layered phenomenon they have encountered. In such cases, prompting the victim to break the relationship with the abuser immediately and for good rarely helps. Breaking abusive relationships is a step-by-step process. It is through the participation of the representatives of various services (psychologists, social workers and legal specialists), including personal conversations, discussions, emotional support and recounting stories about other people who were able to get out of similar damaging relationships, that the victim’s world perception gradually changes and the hope for a different life appears.

After a traumatic event, the fawn reaction causes the victim to experience severe internal conflict and confusion, since it is difficult to identify reasonable grounds for the absence of resistance and, particularly, for the attempt to adapt to the aggressor. The victim behaves like this unconsciously while being under the effect of psychological defence mechanisms – this reaction is like turning off the information received about the severity of the situation and, therefore, the person is more likely to find himself/herself in dangerous circumstances. As a result, he/she is more likely to be subject to the risk of repeatedly becoming a victim of crime (repeat victimisation).

4 Fusé, T., Forsyth, J. P., Marx, B., Gallup, G. G., Weaver, S. “Factor structure of the tonic immobility scale in female sexual assault survivors: an exploratory and confirmatory factor analysis”, *Journal of Anxiety Disorders*, 2007, 21, pp. 265-283.

5 Luxenberg, T., Joseph, S., Kolk, V., Bessel, A. “Complex trauma and disorders of extremes Stress (DESNOS) diagnosis, part one: assessment”, *Directions in Psychiatry*, 2001, 21, http://www.traumacenter.org/products/pdf_files/DESNOS.pdf. Herman, J. L. “Complex PTSD: A syndrome in survivors of prolonged and repeated trauma”, *Journal of Traumatic Stress*, 1992, 5(3), pp. 377-391.

If a victim of crime reacts in accordance with the fawn model, the assumptions by others that “the victim just pretends to be a victim” because “he/she chose to cooperate with the abuser” (in a similar way as in the case of the freeze reaction) lead to even greater internal pain and are the common cause of traumatic effects experienced after a crime. Officers and the court should take into account the possible deep causes of such a reaction, investigate the facts of the crime more carefully and in no way directly or indirectly accuse the victim. It is particularly important to provide assistance for the victim during the pre-trial investigation: to ensure physical and psychological security and apply special protection measures. The fawn reaction is conditioned and intensified by the feeling of inevitable threat. It is generally maintained by the abuser by using threats, resorting to repeat violence or demonstrating aggressive behaviour and engaging in manipulations (offering excuses, making vows that “this will not happen again” and so on). Therefore, while being close to the abuse, the victim feels caught up and unable to escape. Once the victim is secured from permanent terror and manipulations, he/she is able to better evaluate the situation and make more rational decisions (e.g. to give accurate testimony, rather than side with the abuser and seek reconciliation with him).

The impact of reaction to trauma on perception and memory

The human response to stress has a significant impact on perceptual processes and memory, which are crucial in explaining the circumstances of a crime during pre-trial and judicial investigations. Unfortunately, in the case of traumatic events, testimonies are often inaccurate, even when people say they are confident in the accuracy of their memories. The causes of these errors are most often associated with the psychological effects of stress on attention, cognitive processes and memory.

Selective attention. Our senses and the brain cooperate in helping us to focus on the information that matters most to us at that time. When the level of stress is low, the mind can easily apportion the attention between the environmental events, our feelings or thoughts. However, when the stress level increases and complex tasks are performed, the brain automatically limits the field of our attention and blocks the information that is not important at that time.⁶

⁶ McCarley, J. S. and others. *Conversation disrupts visual scanning of traffic scenes*, Paper presented at the Ninth Vision in Vehicles Conference, Brisbane, Australia, 2001.
Strayer, D., Drews, F., Johnston, W. “Cell phone-induced failures of visual attention during simulated driving”, *Journal of Experimental Psychology: Applied Sciences*, 2003, 9(1), pp. 23-32.

In experiencing great stress, the attention of the person is focused on one object, often the one posing the greatest threat, so that the person does not notice other circumstances. For example, a victim may not remember the attacker’s face but can describe in detail the weapon he held, because it was this object that caused the main danger at that time. The perception of an incident related to the major threat is fragmentary. We often hear: “I was so scared that I even do not remember how and which way I ran home. But I do remember exactly what kind of an earring he had”. Therefore, the fact that the person cannot tell certain essential details does not show the unreliability of the testimony or the attempt to conceal the circumstances.

Memory disorders. Strong arousal experienced by victims disturbs their memory. After the incident, they may reproduce the details that they focused on but cannot remember the ones they did not concentrate on (e.g. they cannot describe the attacker’s appearance), or they poorly reproduce secondary or less important (in their perception of the incident) details, such as the location, other people in the room, the duration of the incident or their own actions. Over time, memories come back. Studies show that about 30 per cent of the information is reproduced within 24 hours after the traumatic experience, 50 per cent within 48 hours and 75–100 per cent within 72–100 hours after the incident.⁷ Although pre-trial officers frequently attempt to interview the victim at the earliest opportunity, it is essential in each case to assess the condition of the victim and start an interview only after the victim has at least to some degree calmed down. If, the victim provides very little information right after the traumatic experience, before concluding the interview it is worth encouraging him/her to address the officers once he/she recalls additional facts and details.

False memories. Memory does not work as an image recording and restoring device. Memory is an active process, during which a meaningful image is constructed from fragments of the memorised information. The more gaps due to stress and selective attention appear in memory, the greater amount of memories is unconsciously created by the victim.⁸ This is one of the circumstances determining the inadmissibility in interviews of questions that suggest the answer – such questions can result in the emergence of erroneous memories or distort the true ones.

⁷ Reisberg, D., *The science of perception and memory: a pragmatic guide for the justice system*, New York: Oxford University Press, 2014;

Grossman, D. and Siddle, B. K., “Critical incident amnesia: The psychological basis and the implications of memory loss during extreme survival stress situations”, *The Official Journal of the International Association of Law Enforcement Firearms Instructors*, 2004, p. 31.

⁸ Hobson, J. A., *The dreaming brain*, New York: Basic Books, 1988.

The human nature is characterised by the desire to understand the world and explain the actions not only to others, but also to oneself. When a person cannot do this due to lack of information but there is still the necessity to explain the events (for example, during the pre-trial or judicial investigation), the subconscious is trying to fill the memory gaps on the basis of previous experience and the available memories of the situation. These quite clearly and meticulously described but false memories often represent spontaneously created events or circumstances, which did not take place in reality or constitute the combination of the derived memories of several different events. It is very important to understand that these discrepancies are not lies and that they are not intended to mislead. Since these memories are not deliberately created, the victims themselves do not know that such memories are false, and they can be convinced of their own righteousness. Studies show that the extent to which a person relies on his/her ability to accurately reproduce information is unrelated to its accuracy.⁹ Understanding how false memories are created can enable officers who conduct interviews to find out the reasons leading to inaccurate or incorrect information or testimony (e.g. whether the victim communicated with other persons who could tell the victim their own version of the incident).

Memories are sensitive to information received after the traumatic experience. The impact of new information on the initial reproduction of the incident in order to create a meaningful memory is called “memory pollution”. When information gathered during the incident (e.g. the attack) is connected with new information learned later (e.g. from TV news), a consistent and coherent memory may be created. It soon becomes difficult to tell which facts and when took place. The new information may not only help to remember the details but also create a completely erroneous memory. Even when questioned by the pre-trial officer, prosecutor, judge, or a family member, a victim may include in the testimony information learned at the time of questioning or may create additional information in order to fill the gaps. Therefore, it is particularly important for the officers to understand that they may also negatively influence the quality of testimony and thus need to carefully select questions they ask the victim. Psychological studies show that later it is hardly possible to distinguish between a real memory and imagination.¹⁰

⁹ Myers, D. G., *Psichologija [Psychology]*, Kaunas: Polygraphy and Informatics, 2008.

¹⁰ Loftus, E. F., “Memory faults and fixes”, *Issues in Science and Technology*, 2002, 18(4), pp. 41–50

LONG-TERM REACTION

The above described immediate freeze-fight-flight reactions to a traumatic event weaken or cease after a few hours and usually disappear within 2–3 days. However, the symptoms of trauma may persist, leading to longer-term adverse effects. The duration of these symptoms is very individual and, unlike the direct reaction to stress, they may have a variety of different scenarios. Sometimes traumatic events seem to be stuck and, instead of fading in their effects within a few days or weeks, they come back in bright memories of the negative experience, increasing irritability and other symptoms. An experience of a crime can result in post-traumatic stress, a psychological crisis, personality or adaptation problems, other disruptions, or physical problems associated with persistently experienced intense stress.

Post-traumatic stress disorder

Post-traumatic stress disorder is a reaction to a traumatic event that disrupts the ability of the person to adapt to changes in life and the experienced trauma and may impair the social life or skills of the person. This disorder may occur when a person faces a risk of death, a deadly threat, a serious injury or sexual abuse, or threats of injury or sexual abuse. Post-traumatic stress disorder can be caused not only by direct involvement in traumatic events, but also by their observation, also when traumatic events occur to a close relative or friend. Studies show that post-traumatic stress disorder develops in 21 per cent of cases after severe traumatic events.¹¹ The disorder occurs after the “hidden” (latent) period, the duration of which can range from a few weeks to several months. For a small proportion of people, this disorder may last for many years and become chronic or even lead to permanent changes in the personality.

Signs of post-traumatic stress disorder:¹²

- ◆ **Recurrent experience of the traumatic event in memories**, especially when the details reminding the person of the traumatic event are faced or the experience of the event re-emerges in dreams or nightmares.

¹¹ Strang, H., Sherman, L., Angel, C., Woods, D., Bennett, S. and Newbury-Birch, D., “Victim evaluations of face to face restorative justice conferences: A quasi-experimental analysis”, *Journal of Social Issues*, 2007(62), pp. 281–307.

¹² Grossman, D. and Siddle, B. K., “Critical incident amnesia: The psychological basis and the implications of memory loss during extreme survival stress situations”, *The Official Journal of International Association of Law Enforcement Firearms Instructors*, 2004, p. 31.

- ◆ **Increased irritability and impulsiveness** or stronger psychological and physiological reactions: irritability, outbursts of anger, difficulty to concentrate, insomnia, etc. Strong reactions are often observed where the person faces people, things or circumstances that remind him/her of the traumatic event. For example, a sound similar to that heard during the crime or the demonstration of tangible evidence during the investigation may result in a very strong reaction similar to that experienced in the course of the crime and may become an additional traumatic experience.
- ◆ **Avoidance of trauma-related situations.** Naturally, as a result of the emerging negative emotions, victims try to avoid things reminding them of the trauma: actions, situations, places, people, things, trauma-related thoughts and feelings. Victims not only avoid talking about the incident, but often object if other people do it in their presence. They tend to refuse to give testimony or visit the scene of the incident, to communicate with the media, or to participate in procedural actions in which the suspect has the right to take part.
- ◆ **Negative changes in thinking and mood.** Victims may hardly remember the essential trauma-related circumstances; they may have persistent negative thoughts about the world ("people are very dangerous and unpredictable") and themselves ("I am worthless/bad", etc.) or level unreasonable accusations at themselves and others because of the experienced crime. Recurrent negative trauma-related feelings are fear, anger, guilt or shame. These negative feelings may be accompanied by decreased interest in previously engaging activities, retreat, separation from people and the inability to experience positive emotions. The person may become irritable, aggressive or, on the contrary, be prone to self-harm or risky behaviour.

The risk of experiencing post-traumatic stress disorder depends, among other things, on the support the person receives immediately after the traumatic event. As the victim most often encounters police officers immediately after the crime and later the officers of the pre-trial investigation and those considering the case, it is highly dependent on their behaviour whether the trauma will have long-term consequences or will naturally decrease over time in its effects.

In order to decrease the harmful effects of the traumatic event, it is crucial to ensure a safe and supporting environment in the family or through the efforts of specialised NGOs, as this enables the person to feel more

secure and recover from the traumatic event. During this period, special psychological or psychotherapeutic assistance is required. Therefore, in the event of the suspected post-traumatic stress disorder, it is necessary to recommend professional assistance for the victim.

Psychological crisis

A psychological crisis results from the disturbed balance of the individual's inner world, values and beliefs. An experienced or observed traumatic event significantly affects the person, causing difficult experiences and internal changes associated with self-assessment and the assessment of other people and the environment.

Each person creates an image of the inner and outer world, which is based on recognised values and human interaction rules. A person also creates the boundaries of his/her personality, which subjectively distinguish what is "mine" from what is "not mine" in terms of property, what is personal space, what is intimate and what is public. This subjective world, consisting of the subjectively stable rules and the respected personal boundaries and freedoms, creates a private zone of comfort, because it is familiar and customary, and we know how to feel and behave within it, and how we will be treated there. When we encounter experiences that slightly disturb our balance, we can easily adapt to the changed situation, slightly adjusting our existing global assessments and easily managing short-term emotional experiences, i.e. we restore our internal balance and adjust our behaviour.

However, some traumatic events, such as experienced or observed physical or sexual violence, a real threat of abuse and constant humiliation, can fundamentally damage internal balance and cause a psychological crisis. The person suddenly faces a completely different world, in which the laws of force, coercion, deception and disregard for human life are in force. Such a crisis is not necessarily caused exclusively by dramatic events. Even a robbery or theft from the apartment destroys the inhabitant's subjective limits and confidence that his/her personal space and property indisputably belong to him/her. Officers who deal with various crimes on everyday basis may find it difficult to understand the reactions of victims. Therefore, there is a risk of the improper treatment of victims who are suffering a crisis (since it may seem that the case concerns "a mere theft" or that "everything is fine – after all, you have remained alive").

"A psychological crisis is a reaction of a healthy person to a difficult and emotionally significant life situation, which requires new ways of

adaptation and coping mechanisms, as the available ones become insufficient. In a crisis, a person experiences the state of a high mental discomfort, characterised by such feelings as despair, helplessness, fear, tension, anxiety, depressed mood and confusion".¹³

Coping with a psychological crisis is not identical with an eventually weakening reaction to a traumatic event or severe stress. On the contrary, it requires active mental work from the person, during which the existing beliefs, attitudes and values are adjusted, as well as some professional assistance (from psychologists or psychiatrists). However, it is equally important that, immediately after the crime or while communicating with officers, the person receives support enabling him/her to accept the traumatic experience and cope with the crisis. The officers may help to maintain the victim's self-esteem, his/her positive relationship with other people and a realistic perception of the world.

What is necessary to know about the reactions of victims to a crime:

Crime is a traumatic event that results in great stress accompanied by changes in the physiological, behavioural, emotional and cognitive processes.

Person usually reacts to a traumatic event by one of the three freeze-fight-flight evolutionary reactions or by a psychologically more complex fawn reaction. The choice of one of these reactions is not fully conscious and, after a traumatic event, victims cannot explain why they behaved in one way or another.

In response to a crime, a person may take inadequate physical retaliation against the aggressor and use all the available means. As the stress reaction adds extra power, the person can cause to another one a significant or even fatal injury.

In the event of stiffness, the fact that the victim failed to resist may not be used as an argument that the victim indirectly supported or accepted the crime. Such a reaction is frequent in sexual offences and especially when the person has previously experienced repeat sexual abuse.

The direct reaction to a crime may later arouse astonishment or feelings of sadness, anger, guilt and shame in the victim; the person may condemn himself/herself for not acting differently, despising himself/

herself for surrender, submission, indecision, fawning, etc.

The stress experience has a tremendous impact on memorising information and information retrieval. Sometimes the person may not at all remember the information about what happened before, during or after the crime.

Due to memory distortions (phenomena when the subconscious endeavours to fill memory gaps and integrate new information into it), victims unknowingly rewrite their memories and cannot later distinguish between true memories and the ones supplemented later. These phenomena may also be affected by the investigation process, during which new information is provided, or the person is actively asked to recall details that he/she did not mention when freely telling about the traumatic event. Therefore, the officers should pay particular attention to the wordings of questions asked during interviews.

13 Polukordienė, O. K., *Psichologinės krizės ir jų įveikimas [Psychological crises and overcoming them]*, Vilnius, 2003, http://www.su.lt/bylos/fakultetai/socialines_groves_ir_negales_studiju/SPPkat/psichologins%20krizis%20ir%20%20veikimas.pdf.

II. COMMUNICATING WITH VICTIMS OF CRIME

A person who has suffered a crime first faces the police, pre-trial investigation officers and prosecutors directing the investigation and, later, judges and court staff. The period during which the crime is investigated may help the person to recover from the trauma or, on the contrary, it may cause secondary victimisation and long-term negative psychological consequences. Even a repeated question, without any explanation that questions may be asked more than once or why the question is repeated, can cause stress to the victim and give rise to the perception that his/her testimony is not trusted by the officer. Therefore, professional communicating by pre-trial investigation officers is a crucial precondition for avoiding further negative and harmful consequences related to the experienced crime.

MAIN ELEMENTS OF COMMUNICATION WITH VICTIMS

After the traumatic event, the self-perception of the victim is disturbed and his/her confidence and the sense of security are lost. Therefore, the primary task is to restore the person's trust in officers and other people. This is the basis for further support. For this reason, it is recommended to follow the principles that are based on the patterns of positive psychological impact and the needs of the victim (Figure 2).¹⁴

Figure 2. Main elements of communication with victims



Show respect

¹⁴ Mukasey, M. B., Sedgwick, J. L. and Gillis, J. W., *First response to victims of crime: a guidebook for law enforcement officers*, U.S. Department of Justice, 2008, <https://ojp.gov/ovc/publications/infores/pdf/FirstResponseGuidebook.pdf>; Chomentauskas, G., Dereškevičiūtė, E. and Murauskienė, D., *Smurtas artimoje aplinkoje: atpažinimas, pagalba, prevencija [Domestic violence: identification, providing help, prevention]*, Vilnius: Policijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos, Žmogaus studijų centras, 2017; Chomentauskas, G., Dereškevičiūtė, E. and Murauskienė, D., *Savanorio vadovas: kaip teikti paramą nukentėjusiesiems ir liudytojams [A volunteer's handbook: how to provide assistance to victims and witnesses]*, Vilnius: Nacionalinė teismų administracija, Žmogaus studijų centras, 2016; Chomentauskas, G., Dereškevičiūtė, E. and Murauskienė, D., *Psichologinė parama aukoms ir liudytojams bei jų apsauga teismo procese [Psychological support to victims and witnesses in judicial proceedings]*, Vilnius: Nacionalinė teismų administracija, Žmogaus studijų centras, 2015, <http://www.teismai.lt/data/public/uploads/2015/03/psichologine-programa.pdf>.

A person who is disturbed or threatened may choose the simplest and most defensive ways of response. Meanwhile, when victims feel respected and supported by others, they gradually begin to better understand themselves and the environment, acquire more confidence, social courage and the courage to look at the developments of their inner world and become able to make informed choices.¹⁵ This is especially needed after a crime, which often results in a psychological crisis. Although officers are unable to directly help victims in this process, they may create a favourable environment to help them to cope with a psychological crisis by maintaining a respectful relationship with them and showing attentiveness to and the acceptance of their experiences, feelings and attitudes, without evaluating, criticising, being astonished or mocking.

Key recommendations:

- ◆ Treat all victims with equal respect regardless of their race, nationality, religion, gender and sexual orientation, social status or cultural and other differences:
 - ◇ Listen without interrupting.
 - ◇ Ask whether you are speaking intelligibly. When necessary, i.e. when you see that you have not been understood or heard, simply repeat the question or information without commenting that you are “repeating”, without asking to “listen carefully” and so on.
 - ◇ Name the strengths exhibited by the victim during or after the crime. For example:

It is a good thing that you did not hesitate to call the police.

You quickly took in the situation!

Thank you for the detailed information.

However, avoid saying things that can have a detrimental effect on the accuracy of the information (testimony) (see *The impact of reaction to trauma on perception and memory*).

- ◆ Speak in a language that the victim understands or find an interpreter.
- ◆ Listen carefully and show that you hear: when listening, from time to time nod your head or say “yes, I see” and so on.

¹⁵ Rogers, C., *Apie tapimą asmeniu [On becoming a person]*, Vilnius: Via Recta, 2005.

- ◆ As far as possible, take into account the wishes and needs of the victim (e.g. it is sometimes difficult for the victim to speak in the same premises where the crime was committed; the victim needs to contact anybody urgently or inform the employer on the absence from work).
- ◆ Collect feedback (e.g. find out whether you are speaking intelligibly, whether the wordings of questions and the provided information are clear) in order you could accordingly adjust your communicating.

Ensure safety

A crime may cause helplessness, intense anxiety, fear and other feelings. Irrespective of the nature of a crime experienced by victims, ensuring psychological and physical safety should be a priority. Officers may tangibly increase the safety of victims by a number of means. The very presence of an officer next to the victim provides huge emotional support and increases the sense of physical safety.

Key recommendations:

- ◆ **Start interaction before saying the first words.** This is extremely important for a person who has suffered a crime; since the victim may be disturbed, agitated and so on. Essentially, interaction should start with a mutual agreement to begin communication. This usually happens as follows: first, the officer attracts the victim's attention by welcome words, approach and look into the eyes. It is important to ensure that this "intrusion" into the space of another person is not unexpected, intense or potentially frightening. Therefore, the officer should control the tune and intensity of the voice: speak calmly, without rushing, and start interaction at the right distance to the victim. Psychologists usually divide personal space into four zones:¹⁶
 - ◇ The intimate zone: intimate conversation, hugging (up to 45 cm);
 - ◇ The personal zone: communication with close friends (from 45 cm to 1.2 m);
 - ◇ The social zone: communication with acquaintances (from 1.2 to 3 m);

- ◇ The public zone: interaction with strangers (from 3 to 12 m).

It is not necessary to know precisely the boundaries of these zones, especially since they differ from person to person. Nevertheless, it is important to remember that entering the personal zone too quickly may cause the person to retreat and act defensively or aggressively. None of these reactions are desirable. Therefore, the officer should make eye contact at a distance of approximately 3 meters, then say welcome words and move slowly towards the victim after the receipt of a non-verbal or verbal response. When it is evident from the behaviour of the victim that he/she feels uncomfortable (e.g. the person begins to retreat), it is necessary to stop immediately and introduce yourself while explaining your role and goals and ask whether the victim agrees to continue communication (see below).

- ◆ **Introduce yourself at the beginning of an oral conversation** – say your name, surname and position:

Hello (pause, make eye contact and allow the victim to respond, or continue your text if there is no response). I am [Name, Surname], a police investigator.

- ◆ **Briefly explain your role and responsibilities:**

I am here to record your testimony. May I come in?

My responsibility is to take care of your safety.

My responsibility is to examine the location of the crime and record testimony from you and witnesses.

The manner of speaking by the officer should be not too loud and his/her face expression should be attentive and benevolent. Compassion and excessively sweet tone should be avoided. Behaviour should be confident, but not arrogant. The officer should act like a person who cares about the psychological well-being of the victim (not just about the receipt of testimony) and has the necessary knowledge and skills for this, in other words, who is an attentive professional.

- ◆ **Keep soft eye contact and stay at the same level during the conversation:** if the victim is sitting, sit down after asking for permission; or vice versa, if you are sitting, you

16 Vasiliauskaitė, Z., Lekavičienė, R., Antinienė, D. and Almonaitienė, J. S., *Bendravimo psichologija šiuolaikiškai [Modern communication psychology]*, Vilnius: Alma Littera, 2010.

should ask the victim to sit down; choose an open body posture, i.e. do not cross your hands.

You can reaffirm your concern with the words:

You are safe now.

I am here to take care of your safety.

*The suspect has been apprehended and taken to custody.
You are safe now.*

- ◆ **First of all, take care of the physical safety (physical health) of the victim:** ask how the victim feels, whether he/she is comfortable or anything is hurting, or whether he/she is injured and so on. If necessary, call medical staff.
- ◆ **Ask simple questions (especially at the beginning of the conversation) that allow the victim to feel that his/her opinion is important and that he/she can make decisions and control the situation.** For example:

May I come in and ask you a few questions?

Is this place convenient for you to talk?

Would you like anything to drink (do you have any other needs/ do you need to use the toilet)?

How can I address you?

Would you like to talk to me or to my colleague? (this question may be important in those cases when there are two officers of different gender and the nature of the crime, e.g. sexual violence, may be associated with distrust or discomfort when communicating with the officer of the gender different from that of the victim).
- ◆ **Before starting the interview, find out whether the victim would like to ask or say anything or whether there are any other matters of concern to him/her** (e.g. the victim may be worried whether he/she will have the possibility of getting acquainted with the interview protocol; what he/she should say if he/she is not able to remember something; or maybe the victim needs to take some medicine that should be taken at a precise time – right during the interview; and so on).
- ◆ **Involve victims in making all decisions related to them.** Let them decide for themselves. Even if their decisions are

not the best ones in your view, do not try to impose your opinion – rather explain the possible consequences of one or another alternative. For example, ensure that all interventions (such as medical or expert) are conducted with the consent of the victim, based on the sufficient information provided to him/her (explain why the medical examination is important, who will do it, how long it will take, whether the victim may object to certain actions, and so on).

- ◆ **Offer the opportunity to make use of the available resources** (transport, medical assistance, hygiene articles, telephone, etc.).
- ◆ **Take care of how safety will be ensured during your absence:** suggest the victim to call a family member or another person he/she can trust or, after receiving the consent of the victim, inform his/her relatives. Give the victim information about the non-governmental organisations and crisis centres providing assistance (leave a leaflet if available or write down their contacts), or other assistance that the victim may receive. Explain how the crime investigation will continue and what the victim will be supposed to do.
- ◆ **Leave contacts for further communication and encourage the victim to use them** in your absence in the event that he/she has any questions or later remembers some details of the crime. Emphasise that all the information, even information that may seem insignificant for the victim, can be particularly important for the investigation.
- ◆ The end of the conversation is a kind of the general summary of the interaction and it can lay grounds for enhancing trust. Therefore, **when saying goodbye, express your gratitude** and say something personally pleasing if possible:

Thank you for the detailed information. Your testimony is very valuable. Goodbye.

Thank you for your help, Ms [Name, Surname].
- ◆ **Ensure confidentiality.** It is essential that officers keep the information they receive during their work confidential – never pass it on to journalists or other persons who are not entitled to know it without the consent of the victim.

Allow to speak out and to express emotions related to the traumatic event

After a traumatic event, the victim usually has a conscious or unconscious need to vent the accumulated emotions and talk about what happened. In order to communicate effectively, it is necessary to understand the victim's condition, its causes (see *The psychological impact of a crime on victims*), the experienced emotions and behaviour, which are not always adequate or favourable with respect to officers.

Sometimes the communication is a real challenge. For example, it is typical of persons who have experienced a traumatic event to be disturbed and have difficulties with orienting themselves in the environment. They may act inadequately or weirdly – e.g. to laugh or show no emotions. They may be intoxicated, or in poor physical and hygiene condition, or scared and avoid any attempt to be spoken to or be helped otherwise. They may feel helpless, unable to move, or be very sad, or cry. They may be unable to concentrate and may ask to leave them alone.

In some cases, the victim may be angry with the officers or people who are trying to help him/her; this often leads to negative reactions by the latter or to an unfavourable or even hostile relationship. Victims often feel shame and its causes may be different. They may feel ashamed because they were treated improperly during the crime, or they acted in a way they would never have acted voluntarily. They may be ashamed to tell at least in some detail what actions were done and so on. The feeling of shame may also be related to the condition that the person is in at the time of the communication – due to appearance and emotions if this condition does not meet the usual requirements applied by victims to themselves (they are dirty, wearing torn clothes and so on). The feeling of shame may be caused by the prediction that relatives, friends, colleagues, etc. will become aware about the “shameful” event. The feeling of guilt may arise out of the victim's self-accusations of being insufficiently careful or being submissive or even giving a pretext for the perpetrator's actions.

Key recommendations:

- ◆ **First, try to maintain your own emotional balance and an attentive and respectful relationship with the victim.** Emotions are “contagious”, i.e. our condition may naturally affect another person (and vice versa). By maintaining your steady breathing, gestures and quiet voice, you can show that you

are calm and make an indirect impact on the condition of another person, helping him/her to calm down.¹⁷ Although it is not simple, officers should always take care of their own emotional health (this may be achieved by keeping the work and rest times balanced, engaging in pleasant activities, healthy lifestyle, interaction with friends and relatives, physical activity (sports, walks), relaxation and meditation practice, and maintaining a positive and realistic attitude towards yourself and various situations in life). Therefore, during the conversation with the victim, it is advisable to observe the changes in your own feelings, understand their causes and be able to control your emotions and “not to get infected” by the emotions and reactions of the victim.

- ◆ **Allow or encourage the victim to speak out:** “tell me what happened”. Listen without interrupting. Show that you are listening by an attentive face expression, soft eye contact, nodding, etc.

- ◆ **When the victim ends up talking, show empathy and understanding:**

I am sorry that you had to suffer such a horror.

I regret that this happened to you.

You feel like every person would feel in such a situation.

Ask how the victim feels (people often say: “when I talked out, I was eased”; “thank you for listening to me” and so on).

- ◆ **Victims should hear your assurance that the trauma (no matter how severe it is) is already in the past.** They should know that they are in no way responsible for what happened, that they were acting in the best way they could choose at that time, that disasters may happen irrespective of our wishes and so on. By acting so, keep an unconditionally respectful and positive relationship, allowing the victim to speak out or express feelings without interruption. However, it is important that officers maintain a balance between the aims of collecting objective information and supporting the victim.
- ◆ **When the victim is crying or asking to leave him/her alone, keep a close but non-intrusive contact, let him/her calm down and make sure he/she feels safe:** just

¹⁷ Goleman, D., *Emocinis intelektas [Emotional intelligence]*, Vilnius: Presvika, 2003.

remain quiet, let him/her cry and offer some water or a handkerchief. Since the sadness is due to the painful experience, which is already in the past, if you succeed in concentrating the victim's attention on the present and the future, it will already be a small victory. Try to bring the person back to reality and the current situation:

The person who attacked you has been detained.

Everything is over. You are safe now.

Your help is very important for us. Could you answer a few questions?

Sometimes the reaction of sadness is very strong, and the person seems to be caught in his/her painful experiences and is relentlessly crying covering his/her face with palms. First, what you can do is to make the victim pay attention to you; sometimes you need to touch him/her or take his/her hand for that purpose (however, be very attentive to the reaction of the victim to your touch – some victims may not like this; in that case, simply say you are sorry and move aside). Later ask the person to look at you and say things that might be important to him/her. It is important what you say, but it is much more important that the person may switch from his/her world of experiences to the conversation with you. If he/she calms down after some time, you have done a good job. However, sometimes this can be difficult to achieve. If the victim is crying incessantly, it may be necessary to involve relatives or professionals (if possible) – representatives of non-governmental organisations, social workers or psychologists.

- ◆ **The anger of the victim should be understood as a reaction of fear and helplessness caused by the traumatic event**, which is directed in this case to the wrong subject (the officer). It is crucial that the officer, understanding the cause of the reaction, maintains a warm and affectionate contact and, by providing non-intrusive help, gradually changes the relationship of the victim to a more favourable one. Just listen to the victim without interrupting. When the victim stops, say that you understand his/her reaction. Reaffirm that you are here to provide help; say that you understand that the questions that you are asking may be unpleasant, but also explain that the answers (testimony)

provided by the victim are very important not only for the investigation, but primarily for the protection of his/her interests.

- ◆ **When the victim expresses self-blame and feels shame, help him/her restore self-esteem and confidence.** For example, say: *What happened to you is not your fault* or the like.

Provide information

It is often the first time that victims have faced a crime and they have never before participated in pre-trial investigation or court proceedings. As a result, anxiety over a new and unfamiliar situation can contribute to the stress associated with the experienced crime. Therefore, the provision of adequate information is a reassuring and enabling factor for victims (on information important for victims, see *Provision of information to victims of crime*).

Key recommendations:

- ◆ Clearly and intelligibly inform what will happen next and what the victim will be supposed to do (in which procedural actions the victim will need to participate).
- ◆ Provide information on the rights of the victim, the non-governmental organisations providing assistance and other available support that the person may receive (leave a leaflet if available).
- ◆ Ensure that all interventions (such as medical or expert) are conducted with the consent of the victim, based on the sufficient information provided to the victim (why the medical examination is important, who will perform it, how long it will take, whether the victim may refuse to be examined and so on).
- ◆ Inform the victim that it is a natural reaction after a traumatic event that the person may experience some concentration disturbance, memory impairment, sadness or an outbreak of anger. In certain cases, as a reaction, the person may have the exacerbation of chronic diseases. If the person is affected by such reactions, advice to seek medical or psychological aid.
- ◆ Encourage the victim to ask questions that are important to him/her and answer them.

PRINCIPLES FOR CONDUCTING INTERVIEWS

Law enforcement representatives, especially during a pre-trial investigation, use various questioning techniques, which are mostly focused on obtaining confession from the suspect (e.g. the controversial REID interrogation technique). However, similar interview strategies are completely unsuitable for interviewing victims, since they may result in unnecessary negative experiences, secondary victimisation, a refusal to testify or the provision of incomplete information.

Remembering is an active process. Therefore, it is important to enable victims to convey their individual experience by creating a favourable environment (ensuring respect and safety), listening carefully and asking the right questions.¹⁸ Some basic principles and questioning rules that ensure a sustainable impact on victims and the accuracy of their testimony are provided below.

1. Avoid harm. The main purpose of interviews in this context is not solely to collect information significant for the investigation, but also to avoid harm or the aggravation of the traumatised person's condition. Such a change in the purpose of an interview is not easily perceived in the law enforcement system, where officers are still convinced that it is most important to collect facts and punish the perpetrator, while the victim remains a "service provider" in this process. The application of this principle requires that the officer would clearly understand the victim's condition and the effect of the experienced trauma and make a conscious decision to act in a way that helps the victim to feel safer (on the effects of trauma, see *The psychological impact of a crime on victims*).

2. Explain the reason for questioning. The aim of an interview is to obtain objective information and to avoid traumatic effects. Therefore, in order to reassure the victim, explain the purpose of the interview before starting it.

For example: *I want to ask you some questions about the incident (crime). I understand that certain questions may be very personal or uncomfortable for you. However, they are important to clarify the circumstances of what happened. If in some cases you doubt about the answer or you do not know it, please tell me.*

Inform the victim that certain questions can repeat, but that this does not mean that you do not trust the answers or information provided by the victim. Explain that you want to make sure that you have heard

¹⁸ Fisher R. P. and Geiselman R. E., *Memory enhancing techniques for investigative interviewing: The cognitive interview*, Springfield, IL: Charles C. Thomas, 1992.

and understood everything correctly. This should be done immediately before starting the interview.

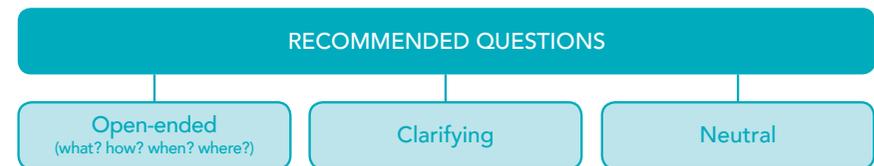
3. Ask the right questions. It is recommended that an interview of a victim in its content and style should be more similar to an interview rather than questioning or interrogation. Conversations with victims not infrequently show that they feel after the interview as if they were treated like criminals. Such an impression is due to the angry or tight voice of the officer, the manner of asking questions or despising intonation, etc.

It is important to remember that, due to the reaction to the traumatic event, the victim may not remember even the circumstances that seemed to be very vivid. Pressure in inducing the victim to remember is completely inappropriate and such behaviour may result in false memories and testimonies. Victims should be reassured that failure to remember or inaccurate memories of the traumatic event are not deemed to be false testimony and they should be asked to talk about the circumstances that they remember well. The main principle in questioning victims is to maintain an emphatic relationship and enable them to the fullest possible extent to manage their own story about the circumstances of the traumatic event.

Recommended questions

Recommended questions are open-ended, clarifying and neutral (Figure 3).¹⁹

Figure 3. Recommended questions



Open-ended questions are questions that encourage a person to speak freely and provide detailed answers (not just "yes" or "no"). They should be asked at the beginning of an interview. About 75 per cent of all questions during an interview should be open-ended.

Initially, ask an open-ended question (e.g. "How everything happened?") or simply motivate a victim to tell things he/she remembers about the traumatic event in a form that is acceptable to him/her:

¹⁹ Chomentauskas, G. (ed.), *Praktinės psichologijos pagrindai [Fundamentals of practical psychology]*, Vilnius: Žmogaus studijų centras, 1996; Dereškevičiūtė E. and Chomentauskas, G., *Praktinis vadovas valstybės tarnautojų atrankos komisijoms [Practical guide for civil servants selection committees]*, Vilnius: Valstybės tarnybos departamentas, Žmogaus studijų centras 2012.

- ◆ *Tell me everything you remember about the incident, even if it may seem insignificant to you.*
- ◆ *Please describe how everything happened.*
- ◆ *Please explain to me the circumstances of what happened.*

If it is difficult for a person to express the memories in words, you may encourage him/her to use non-verbal means of expression – drawing or showing. In addition, it should be encouraged to rely not only on hearing and sight, but also other sensory information (smell, touch, etc.). When a victim speaks, it is not recommended to interrupt by asking clarifying questions or otherwise rush to fill in the pause.

It is advisable to ask other questions only when the person has completed his/her story and has stopped speaking. In order to clarify one or another aspect of the traumatic event in more detail, continue to ask open-ended questions for additional information. They can start with the following interrogative words:

- ◆ *What (You have mentioned that he started threatening you. What specifically did he say?)*
- ◆ *How (How everything went on afterwards?)*
- ◆ *What kind of, what (What was his reaction?)*
- ◆ *When (When did you decide to call for help?)*

Clarifying questions are questions that help to further clarify, complement or refine responses to questions already asked. For example:

- ◆ *You have said that the perpetrator did not allow you to leave the room. What did he do specifically?*
- ◆ *Explain what you mean by saying that the perpetrator became uncontrolled.*
- ◆ *What specifically did you say?*

Open-ended and clarifying questions are not opposite to each other. By naming them differently, the only purpose is to emphasise that responses to the asked questions are further clarified by providing clarifying questions. The difference between open-ended and clarifying questions may be imagined as a funnel: we first want to collect as much information as possible and then we narrow it and examine it in more detail. If an interview is narrowed to clarifying questions too soon, the officer may go into details, overlooking the circumstances important for the victim and the understanding of the traumatic event.

Neutral questions are questions that help to find out the response of a victim without revealing what kind of answer the interviewer anticipates. Examples of neutral questions:

- ◆ *What was the purpose of your meeting with [Name Surname]?*
- ◆ *What happened after he had refused to leave?*

Unsuitable questions

Unsuitable questions include referential questions (suggesting a response) and evaluative questions (Figure 4).

Figure 4. Unsuitable questions



Referential questions (suggesting a response) are the opposite of neutral questions. Referential questions directly or indirectly prompt the response that the interviewer wants to hear. They are intended to influence and often start with the words “don’t you think” or “do you agree”. Some examples are given below:

- ◆ *Don’t you think that your behaviour and clothes could provoke the suspect to seek sexual intimacy? (The interviewer induces the victim to look for such his/her behaviour that can be treated as a provocation of sexual abuse.)*
- ◆ *If I understand correctly, you became involved in the dispute to the extent that both sides began to disregard the measures? (The interviewer prompts the victim to seek and acknowledge part of his/her fault in the episode of physical violence).*
- ◆ *Don’t you think that your fear is unreasonable? (The officer encourages the victim to doubt the rationale and adequacy of his/her emotional response, perhaps even to feel miserable or “coward”.)*

Referrals may not only take the form of a question. For example, by describing the sequence of events in detail and then asking the victim

to give his/her opinion, the interviewer encourages the victim to agree with all the information, although it may only be partially correct.

For example: *When you came to visit Name Surname, at first, you had champagne, kissed, started to cuddle and after a while it was impossible to stop. Do I understand you correctly?* (Everything may have been similar to this, except that the girl did not want and resisted a sexual intercourse, while the question implies that it was sought by the girl herself.)

Referential questions can make a particularly strong impact on vulnerable people, who, due to their age, their mental development or their emotional condition experienced during the criminal proceedings, (a) do not accurately perceive such questions and the interviewer's aspirations behind these questions; and (b) tend to obey the authority or figures representing power and, therefore, are inclined to act as indirectly suggested by the interviewer. In answering referential questions in affirmative, they provide an inaccurate and unfavourable view of the traumatic event.

Evaluative questions. In this case, a question is formulated in such a way that its part consists of an evaluation (or implied evaluation) of the victim, his/her personality, morals, motives of the behaviour, or his/her way of life, etc. in an unfavourable light.

For example: *How could you, having higher education and such life experience, so easily believe the promises?* (the interviewer expresses his/her evaluation of what he/she believes is the inability by the victim to use the obtained knowledge and experience, i.e. naivety and negligence on the part of the victim).

Questions to be used with caution

There are questions that should be used with caution, since they can limit the opportunity for the person to provide information, or they can imply an accusation directed against the victim or be unduly confusing (Figure 5).

Figure 5. Questions to be used with caution



Closed-ended questions are questions that, contrary to open-ended questions, limit the answer of the interviewed person. Closed-ended questions usually start with the words "did you/ did he/ did she", "were you", "was he/she" ("did he speak Lithuanian?"). Closed-ended questions are answered shortly: "yes" or "no". Closed-ended questions are not appropriate for starting an interview, since the interviewed person, on the contrary, should be encouraged to speak openly and provide comprehensive answers. In addition, asking such questions may only result in obtaining information that reflects the version available in the mind of the interviewer, while leaving out other significant circumstances. For example, when the interviewer asks "have you both ever met after that?" any phone calls, correspondence, etc. remain outside the scope of the question. Questions of this kind are recommended only in cases where a very precise answer is required – facts and information ("Did you say that the suspects had demanded € 100,000 from you?").

"Why" questions are usually asked when it comes to finding out the reasons for certain actions. However, it is advisable to avoid them, because they are often perceived as a direct or indirect accusation; therefore, in answering such a question, the person is inclined to self-justification or defence or to a socially desirable response. It is recommended to replace "why" questions with "How did it happen that...", "What happened that...", or "Which circumstances influenced..." For example, the question "Why didn't you ask for help right after the incident?" should be replaced with the question "What had you been doing before you asked for help?" Likewise, the question "Why did you hit him?" should be changed to "Tell us what happened so that you had to hit him".

Double questions are two or more questions asked simultaneously (sometimes in one sentence). For example:

- ◆ *Was the person tall or of medium height?*
- ◆ *Why were you interested in an ad for a job abroad? Did you expect you would work at a bar?*

It is recommended to avoid such questions. It is often difficult for victims, especially immediately after the trauma, to focus their attention due to emotional factors and their perception may not be accurate enough. Therefore, some questions, even if they are not referential or evaluative, may confuse them. Furthermore, it is not clear which one of the questions requires answering and, even if an answer is provided, it may be difficult to understand which one of the questions has been answered.

Thus, when interviewing victims, it is necessary to carefully assess the characteristics and principles of communication, paying attention to the emotional background and the types and wordings of the questions asked. By their content and form, interviews should avoid harming victims and should aim to provide them with assistance. It is advisable to start an interview with open-ended questions, which allow the person to freely express thoughts, and gradually move on to clarifying questions. Questions should be neutral and victims should not infer from them what kind of response is expected. The officer should not provide referential questions (suggesting the response) and evaluative questions. Likewise, closed-ended questions, "why" questions and double questions should be avoided as far as possible.

III. PROVISION OF INFORMATION TO VICTIMS OF CRIME

Due to the experienced crime, victims often feel deeply affected, humiliated and frightened. At the same time and often for the first time, they become part of and participate in criminal proceedings. Not knowing what, how and when is going to happen next causes additional stress and may evoke the feeling of helplessness. The victim may be hesitant to ask officers questions or may not know how and whom to ask. Therefore, during the very first contact with the victim, it is crucial to provide concise and clear information on the further course of action and the rights of the victim.

The right to understand and to be understood is one of the key needs of victims in criminal proceedings. Information provided in a simple and easy to understand manner helps victims to regain self-confidence and trust in the people around them. Furthermore, the understanding of one's own role in criminal proceedings may encourage the victim to cooperate more actively with the officers investigating the crime and disclose the details of the traumatic event, which may be unpleasant to remember.

The victim must be provided with information as soon as he/she is capable of accepting this information. For example, a person who has suffered a rather serious physical injury may not be able to comprehend information at the site of the crime or during the first contact with the law enforcement officers.

It is also essential to provide information in an uncomplicated and understandable manner. Most victims are unfamiliar with the terminology used in criminal proceedings and may find these unfamiliar terms unintelligible and unclear, e.g. the person may not be aware of the difference between a ruling, order and judgment or between a pre-trial investigation judge and court. Therefore, when information is provided to victims, it is better to avoid the excessive use of professional terminology and provide explanations once it is used.

The right to understand and to be understood also includes the right of the victim to be accompanied during the first contact with a law enforcement authority where, due to the physical or mental harm suffered as a result of the crime, the victim requires assistance in receiving and providing information.²⁰ The victim may be accompanied by a person of his/her choice, e.g. the passerby who found the robbed elderly victim on the street.²¹ It should be noted that, being related

²⁰ Directive 2012/29/EU of the European Parliament and of Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 25 October 2012, Article 3, <https://www.e-tar.lt/portal/lt/legalAct/TAR.717DD0E6FE37/nijWdCPUk>.

²¹ DG Justice Guidance Document related to the transposition and implementation of Directive 2012/29/EU, p. 12.

to the right to understand and to be understood, this right to be accompanied during the first contact with a law enforcement authority is separate from the right to the participation of an accompanying person in criminal proceedings.

As early as during the first contact with law enforcement officers, the person has the right (irrespective of whether or not he/she has been officially declared a victim) **to be provided with the following information. This information may be provided orally or by handing the person the relevant material** – the letter of victims' rights, available booklets or other distributable material.

Normally, at least the following information should be provided orally:

◆ **How to make a statement on the crime (if this has not been done yet) and why this is important**

- ◇ If it is likely that such a crime has been committed in respect of which a pre-trial investigation is commenced only if the victim has filed a complaint or his/her statutory representative has made a statement (e.g. in the event of the infliction of physical pain, sexual crimes without qualifying characteristics, threat to kill), explain that an investigation cannot be initiated in the absence of a complaint.

◆ **Information about the process**

- ◇ Explain to the victim who will be responsible for the further investigation (which police headquarters or the prosecutor's office will be in charge of the case) and write down the telephone number whereby the victim could contact the responsible officer and learn about the further course of the investigation.
- ◇ Explain to the victim the procedural actions in which the victim may need to participate in the near future: whether he/she will be invited to testify about the circumstances related to the incident or will need to undergo a medical examination, etc.
- ◇ Explain to the victim his/her right to be accompanied by a person of his/her choice throughout the criminal proceedings.

◆ **Information about interpretation services**

- ◇ In case of doubts whether the victim can understand and speak the official language, inform him/her about the

right to have free assistance of an interpreter and that in the proceedings the victim can use his/her native language or another language he/she can understand.

The following information should also be provided orally or by handing the person the relevant material:

◆ **Information about legal advice and legal aid**

- ◇ Explain how and under what conditions the victim can access legal advice and legal aid.

◆ **Information about victim support services**

- ◇ Provide the victim with the relevant information about the victim support services, specialist support services and other practical assistance (e.g. shelters, crises centres or emotional assistance lines) available in the location of the victim's place of residence; encourage the victim to contact them or help the victim to do so if necessary.

◆ **Information on the measures of protection against retaliation, intimidation or other criminal influence**

- ◇ If certain measures of protection may be potentially relevant in a particular situation, e. g. a possibility to grant the victim anonymity, to issue a restraining or protection order, inform the victim about such measures and how to apply for them.

◆ **Information about the right to learn about the apprehension and/or release of the suspect.** The victim may be notified of the suspect's apprehension, release or escape from the place of detention by post, email or telephone.

◆ **Information on the available restorative justice services.**

◆ **Information on compensation for damages and expenses**

- ◇ Inform victims of crimes of their right to compensation for damages, i. e. how and under what conditions they can access compensation. For example, if there is a scheme according to which damages that are not compensated by the perpetrator can be claimed from the state, explain how to submit an application.
- ◇ When informing the victim about the most immediate procedural actions, note that the victim can be compensated for his/her expenses of travelling to interviews,

also for the expenses in relation to other procedural actions, his/her lost work remuneration and, if necessary, the overnight stay costs.

◆ **Information important to minor victims**

- ◇ Inform the minor victim or his/her representative about the additional rights of importance to them, e. g. the right to be interviewed in premises specifically adapted for interviewing children.
- ◇ While providing information to minors, take account of their maturity – in this case, it is particularly important to provide information in a simple and accessible language.

Information to be provided in the later stages of criminal proceedings:

- ◆ Information about the right to access the pre-trial material: to whom the application is to be submitted and in which cases access to the case material may be refused.
- ◆ Information about the right to submit evidence.
- ◆ Information about the decision to suspend, terminate, renew or end the pre-trial investigation and the motives underlying the decision.
- ◆ Information about the possibility for making complaints against the actions or decisions of the pre-trial investigation officer, prosecutor or judge: the deadlines and the procedure for filing a complaint against specific actions or decisions.

Principles for providing information:

- ◆ Assess which information is relevant to the victim at the particular moment and in the immediate future. Specific information about the further course of the proceedings and the details of information to be provided will depend on the nature of the crime and the ability of the victim to perceive the information.
- ◆ Do your best to speak in simple accessible language and avoid complex wording or legal terminology. Observe whether the victim understands what is being said. Where the conduct of the victim implies that some specific information is not clear to him/her, ask if everything is clear and explain where the victim can obtain more detailed information.

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- ❖ Explain the most important matters orally and hand the victim the written material. Ask the victim whether he/she would like you to comment and explain orally his/her rights.
 - ❖ As far as is practicable, take into account the individual needs of the victim related to his/her age, hearing or vision impairment, level of literacy, etc. For example, it may be necessary to repeat some information and to put down in writing the most important issues.
 - ❖ Where the victim is a minor yet mature enough to understand the information, communicate not only with the victim's representative, but also directly with the minor. It is particularly important for minors approximately above the age of 12 to feel that they are independent. Therefore, providing information to them directly and communicating with them is essential in order to ensure the relationship based on trust.
 - ❖ The provision of information must be a continuous process, i.e. the victim must be provided with the information relevant to the specific time, so that the victim could properly understand his/her role in the proceedings and the available rights.
 - ❖ Explain to the victim what information related to the case is available and ask what information would be important for him/her.

IV. COMMUNICATING WITH ESPECIALLY VULNERABLE VICTIMS

MINOR VICTIMS

Minor victims (persons who are under the age of 18), generally referred to as children, are important participants of legal proceedings. In the event of a violent crime a child may be the only victim or the only witness. Therefore, communication between an officer and a child is a very important factor and may play a decisive role in helping the child to further open out and participate in legal proceedings. If compared to adults, children are much more sensitive and more vulnerable participants of proceedings. Juveniles and minor children differ in their stage of development; nevertheless, both groups require special protection. They are to a large extent dependent on their family members and other people close to them, and usually they do not have any experience of participating in legal proceedings. In addition, the situation often becomes even more complicated when they suffer violence from close family members.

Effects of traumatic events. Children, just as adults, may experience a post-traumatic stress disorder or other psychological consequences that are described above (see *The psychological impact of a crime on victims*). Children may also demonstrate specific effects:

- ◆ The response to a significant anxiety may trigger a regress to an earlier stage of development (the child starts behaving as a younger child)
- ◆ Accelerated development (when the child starts behaving as an older individual)
- ◆ Learning difficulties
- ◆ Urinating/defecating disorders
- ◆ Sexual behaviour inadequate to the age (in cases of sexual violence).

When organising investigation, specific attention must be paid to the child's condition. In the presence of strongly expressed symptoms of a post-traumatic stress disorder or depression the child may not be able to describe the crime in detail.

Characteristics of crime disclosure. Many juveniles and minor children suffer from violent crimes committed by their family members or close persons. Children find it most difficult to disclose crimes that are committed in the family or at home. A large part of victims of sexual abuse start talking about the crimes they were subject to only being adults. Children refrain from talking about their experience because

they worry about several very important matters: they are afraid to reveal the secret, because the very fact of violence is secret; they think that nobody will believe them or the threats of the perpetrator will be realised; they do not know what to expect after the crime is disclosed; they feel guilty; they do not know what words to use when talking about the incident.²² The official's response to the child's disclosure and attempt to tell him/her what happened is crucial for the course of the further investigation and the child's safety. It is important that the official seriously and with respect listens to the child, calms him/her down, and promises to make every effort to protect and assist the child. Watch the child's behaviour and his/her reaction. It is extremely important that the child feels safe while talking to the officer.

The impact of victim's family members and other close people on his/her cooperation with the law enforcement. The child's condition and ability to participate in the investigation to a very large extent depend on the attitude and the general condition of his/her family members. It is much more difficult for children to open out and cooperate with the law enforcement when they are not trusted or supported by their family members. Children also find it difficult to open out where their parents or foster parents are very anxious and grossly worried regarding the initiated investigation. Normally, all family members of children who suffered violence feel confused and worried about the child's well-being and health. They also experience the feeling of guilt and are not familiar with the relevant proceedings. In this situation, family members as well as the child who suffered violence need support and clear information.

Still, it is most difficult for children to disclose the crimes committed by persons who are important to them. Behaviour of the perpetrator while committing the crime and after the start of the investigation is also important. A child victim will find it more difficult to open out when he/she has received promises to be awarded by attention, gifts or has been threatened. Often minor victims renounce their testimonies about the committed crimes in fear of threats that start or even get more intense in the course of the investigation. For this reason, it is important to ensure that when the investigation starts the suspect has no possibilities to exert influence on the child.

Characteristics of child development. In order to help minor victims to participate in the investigation more efficiently, it is important to understand characteristics of their development. Below is an account of age groups according to a child's cognitive functioning characteristics.

22 Furniss, T. *Vadovėlis įvairių sričių specialistams apie vaikų seksualinį išnaudojimą* [A Guidebook for specialists about sexual abuse of children], Vilnius: Vaikų teisių informacijos centras, 2002, p. 25-27.

- ◆ **Up to 3 years.** Children of this age group are particularly vulnerable and unable to participate in regular legal proceedings because of their young age. If the investigation needs to clarify what children of this age know about the circumstances of the crime, it is highly recommended arranging a psychological assessment. Children of this age are highly dependent on their family members and other adults. It is not recommended leaving a child of this age alone even for a short time (e.g. closed in a separate room while talking to his/her parents, etc.).
- ◆ **4 to 6 years.** Normally, children of this age group can participate in short conversations and talk about the essential facts or circumstances. Such children perceive the environment only from their own viewpoint. Their vocabulary is limited and very specific; their attention is fragmented, and their ability to focus the attention is short-term only. They quickly get tired and start getting bored. Their main activity is games, and they like to be busy. Therefore, it is important to ensure that the children are busy and have something to do if they have to wait. Their family is especially important to them, so they can find it especially stressful to be separated from it. The recommended duration of the interview is 30 min, but never longer than one hour. The level of development of children belonging to this age group is very different, thus it is important to take into account the cognitive abilities and reactions of each child.
- ◆ **7 to 11 years.** Children of this age group are able to focus their attention for a longer period of time. Their vocabulary is more developed. Children of this age can perceive the world from the viewpoint of other people and anticipate some reasons. Regulations and order are especially important to them. They find important not only their parents but also other authoritative persons (police officers, social workers). An acknowledgment of the child's importance, ensuring his/her safety and clear rules are factors that motivate the child to cooperate.
- ◆ **12 to 17 years.** The ability to remember things and the vocabulary of teenagers of this age group are very close to those of adults. It is especially important to teenagers that they are treated seriously and with respect. It is important for them to feel independent and equal to adults. Teenagers

are especially sensitive to criticism; therefore, when communicating with them, it is recommended to refrain from any critique. Teenagers find crucial to be part of their peer group. It is natural for them to be interested in sex, thus any questions related to their sexual experiences should be asked with the utmost delicacy without causing any shame or guilt about their sexual experience. Since they care a lot about justice, they may feel very motivated to tell the officer about the crime.

Understanding of legal proceedings. Usually children do not have any experience of participating in legal proceedings. However, some of them may have some experience of that – they might have suffered violence, become witnesses or maybe suspects. In any case investigation course, proceedings and officers are different. New people and things, especially those less known cause significant anxiety to children. High level of anxiety has a negative effect on teenagers' cognitive functions (ability to focus attention and restore information). Therefore, it is very important to provide young victims with as much information as possible about the proceedings they will have to participate in (where and when the interview will take place, what they will need to do, etc.). This will significantly increase the efficiency of their participation in the investigation.

Key recommendations for communicating with children

Children can be important participants of the proceedings and reliable witnesses irrespective of their age, level of development, disability or special needs. Your respectful approach and treatment will have a healing effect and will facilitate the investigation. Communicating with an attentive officer can be a positive experience in the child's life.

- ◆ **Ensure the child's safety.** Take care over the relevant protection measures (e.g. an obligation to the perpetrator to reside separately from the victim) that will protect the child from secondary victimisation and any encounter with the perpetrator. Inform the victim or his/her representative on these measures. This will increase the feeling of psychological safety and will help the child to recover from the experienced trauma.
- ◆ **When meeting a child greet him and introduce yourself using simple words.** From the very beginning of the communication watch how the child feels like and how he/she reacts.

- ◆ **Make sure that the minor and especially a young child is not left alone at the place of the crime**, as this may scare him/her badly.
- ◆ **Make sure that the child has something to do to keep himself/herself busy when he/she has to wait:** he/she can draw, colour, play puzzle games, read a magazine, etc.
- ◆ **Talk to the child in clear terms**, in an understandable manner and taking into account his/her level of development. Avoid complex legal terms. Make sure that you have been properly understood, e.g. ask if the child has questions, ask him/her to tell you how he/she understands what is going to happen, etc. Children do not always dare to ask or tell you that there is something they do not understand. Therefore, from the very beginning it is important to make sure that the child understands you. It will help a child victim to decrease his/her anxiety.
- ◆ **Do your best to remain calm, receptive to the child's condition and reactions:** fear, cry, etc. Calm the child down with your words or your presence. You may say that you understand that it is difficult for the child to cope with his/her feelings. Do not forbid the child to cry or be scared.
- ◆ **Respect the child's physical space** – a child who has suffered violence may be sensitive to touching.
- ◆ Most often children are hurt by their family members – people that are dear to them. Therefore, children in those situations may experience a lot of contradictory feelings. Remain objective. Do not criticise people close to the child in his/her presence. You may tell the child that adults are not allowed to behave that way, however, **refrain from condemning or criticising the person close to the child in his/her presence**. This might increase the child's anxiety and urge him/her to withdraw and not tell what happened.
- ◆ While communicating with a child victim, **try to avoid behaving officially and formally**. Behave naturally. The child in this situation will be less tense and will find it easier to cooperate with you.
- ◆ **Ensure that the child has to participate in as few interviews and other proceedings as possible**. Have in mind that every time the child has to tell you about the crime is

a kind of an interview to him/her (even though formally it is not an interview). Every time the child has to tell you about the crime is a repeated experience of the child's trauma. Furthermore, each new request to recall the incident again may seem very confusing to the child (the child might start thinking that he/she has done or said something wrong), and may decrease the child's motivation to cooperate. Besides, the data collected in the first properly arranged interview is usually most accurate. If the child has to be interviewed repeatedly, explain to the child that lawyers have some questions and they want to clarify some things. Reassure the child that he/she has to go to the interview again not because he/she did or said something wrong during the first interview.

- ◆ **Provide the child with information about the forthcoming interview and other proceedings using words easy understandable for the child** – for what aim, when, how and where they will be taking place. Make sure that the complete information is also made available to the child's representatives. Something that seems obvious to you may be quite confusing to them (e.g. who will be allowed to see the record of the interview).
- ◆ **In the course of the investigation inform the child and his/her representative what is going to happen further**, what proceedings are ahead, how long the investigation will last, etc. This information is particularly important to the victim as it gives clarity and reassurance. Clarity helps to overcome the consequences of any psychological trauma.
- ◆ **Provide the child or his/her family members with information about the possibilities to receive psychological assistance**. Even though victims or their family members say that everything is fine and they will manage the situation themselves, they may have difficulties some time later. Cooperate with the Child's Rights Protection Division that will help ensure the necessary assistance.
- ◆ **Do not promise anything you will not be able to fulfil**, e.g. that "your father won't be angry if you tell me what you have suffered" or "you will never be asked to talk about the incident again".
- ◆ **Do not rush to interview the child about the crime as long as it is not necessary**. In case you have arrived at the place

of the incident and have to learn about it from the child, ask him/her only the essential matters that are most important for initiating the investigation (who did and what). Ask about details only if it is inevitable. In case you inquire the child down to the smallest detail, he/she may find it difficult to testify in detail at the interview. Whatever you have learned, record in detail in the report using the child's wording.

◆ **In case you talk to the child about the crime:**

- ◇ Find a quiet place for your conversation.
- ◇ Listen to the child and believe him/her. This will encourage the child to open out. Usually children tell the truth. In case you have some doubts as to what the child says, do not rush to express them, but rather dispel them with well-thought-out questions. Let the child himself/herself tell you as much as he/she can. Later on relying on this information, you will be able to ask some additional and explanatory questions.
- ◇ Show the child that you consider it important and you are highly interested in what the child says – nod your head, say “mhm”, and look at the child (but not too persistently).
- ◇ Do not rush, and do not put any pressure upon the child to answer. Adjust yourself to his/her pace, as the child may need more time to reply.
- ◇ Speak calmly and clearly, using simple words easy understandable for the child.
- ◇ Ask as many open questions as possible and avoid notional questions (questions which predict answers). Notional questions may confuse and mislead the child.
- ◇ Listen. Interrupt the child only when it is absolutely necessary.
- ◇ Do not comment or evaluate the child's answers.
- ◇ Do not ask the child whether he/she thinks that the perpetrator has to be punished and in what way.
- ◇ Appreciate the child's efforts without praising him/her for specific answers.
- ◇ Do not promise any award to the child.

Arranging and conducting interviews of children

Surveys have shown that children of different ages are fairly reliable witnesses. However, because of their features of development and cognitive abilities they are at the same time more sensitive witnesses. Disclosure and reliability of the testimonies given by children under 18 depend on how the child's interview is organised and conducted. It is important to prepare for an interview of the child in advance.

Key aspects to be considered while planning interviews with children

Information about the child. Collect as much information as possible about the characteristics of the child's development, his/her special needs (e.g. speech, visual disorders) and the general condition. This information will be helpful in selecting the time for the interview and the questions for the child.

Information about the child's family. Collect the information about the reaction of the child's family members and other people close to him/her to the committed crime, also about the living conditions of the family and changes that may occur because of the disclosure of the crime. This will help select the strategy and the questions for the interview. For example, in case the financial situation of the family will become worse if the perpetrator is sentenced, or there is information that the child's family has a negative viewpoint about the participation of the child in the proceedings, or that the family members do not believe the child – during the interview more questions should be asked on what family members talk about. If people close to the child have a negative attitude towards the investigation, the child will need additional assistance, e.g. help of the psychologist. Information about people close to the child can also be important when establishing the conflict of interests between the child and his/her statutory representative.

Place for the interview. The most appropriate location for interviewing a child is a specially equipped interview room. This makes sure that the child victim will not encounter the suspect, the child will communicate with only one official and the conversation will be video/audio recorded. The child will feel safer and will be able to efficiently help the investigation. It is not advisable to question children in a place where the crime was committed.

Interview time. The best time to organise a child's interview is within the hours of his/her peak activity, before the child gets tired, i.e. in the first half of the day.

The presence of a psychologist. It is important that interviews of children are conducted by well-prepared specialists. Consider a possibility of participation of a court psychologist or a psychologist from other institutions but having required competence in the interview. When a psychologist participates in an interview, a person who conducts the interview formulates questions and the psychologist asks the child the questions in terms understandable to the child.

The participation of the child's statutory representative. If the victim is a child, his/her representative has a right to take part in the interview. However, in cases where participation of the child's representative contradicts the child's interests, the child's representative is not allowed to take part in the interview (the principle of the priority on the child's interests has to be followed).

Protection against encounter with the suspect. It is important to ensure that having arrived to the interview the child does not encounter the suspect, as this can scare him/her and make him/her refrain from testifying.

Summoning to the interview. Inform the child and/or his/her representative about the scheduled interview as much in advance as possible. This will help the child become accommodated to the news about the forthcoming participation in the interview and make him/her feel more confident.

Introduction of the child or his/her representative to the scheduled interview. Allot some time for the conversation with the child's representative, or otherwise ensure that some other specialist will help the child or his/her representative to become properly prepared for the interview. It is important for a child in advance to know when and where the interview will take place, who the interviewer will be, what the overall procedure of the interview will be, whether the child will have to encounter the suspect. The answers to these questions help diminish the child's anxiety and increase the effectiveness of his/her participation.

Interview strategy. Consider the important questions you will ask the child in advance. Discuss the questions with the specialists invited to attend the interview.

Number of interviews. It is highly recommended that the number of interviews where the child has to participate in, is as few as possible (one interview is the best case). It is important to avoid repeated interviews because of two reasons. First, to seek protection of the child from secondary victimisation; second, it is known that a child victim

who is questioned repeatedly can change the testimony, because after some time some information is forgotten; a child may think that the first time he/she told you about the incident "not in the right way".²³ In order to avoid repeated interviews, it is recommended to arrange an interview only after having collected information about the crime from other sources (e.g. to question the child only after having made allegations to the suspect, having received information from the Child's Rights Protection Division, medical specialists, etc.).²⁴ In case it is necessary to question a child victim repeatedly, it has to be done by the same person (accordingly, an officer or a specialist, e.g. a psychologist).

Key recommendations for conducting interviews

Below is an account of necessary stages of the interview and recommendations which help ensure reliability and success of the interview. These recommendations are based on the internationally widely used protocol of The National Institute of Child Health and Development²⁵ and adapted methodics "Ten step investigative interview" by prof. Th. D. Lyon.²⁶ These interview methodics are widely used all over the world. Their efficiency and reliability have been confirmed by numerous studies conducted in different countries of the world.

Rules and agreements. This section of an interview is necessary not only to make the child understand his/her duties at the interview, but also to ensure the reliability of the answers. Make an agreement with the child that he/she:

- ❖ will tell the truth at the interview;
- ❖ will respond "I don't know" if he/she does not know the answer to the question;
- ❖ will say "I don't understand" if he/she does not understand what you are saying;
- ❖ will say "you are wrong" and will correct you if he/she notices that you have understood incorrectly.

Usually children or teenagers tend to think that they are not allowed to contradict adults and, in particular, officers, that they need to meet their expectations, and that adults always know better. The above

23 Mačiūnė, I. „Teisinių vaikų apklausų praktika Lietuvoje: baudžiamųjų bylų tyrimas“ [Interviewing children in Lithuania: a research of criminal cases], *Vaikai teisiniame procese: situacijos apžvalga ir rekomendacijos specialistams*, Vilnius: Paramos vaikams centras, 2013, p. 79.

24 *Ibid*, p. 79-81.

25 The National Institute of Child Health and Development, NICHD protocol, 2014, <http://nichdprotocol.com/>.

26 Lyon, Th. D., *Ten Step Investigative Interview*, 2005, <https://works.bepress.com/thomaslyon/5/download/>.

mentioned permission to say “I don’t know”, “I don’t understand”, or “you are wrong” will help ensure reliability and accuracy of the testimony.

Establishing a contact, and a narrative exercise. Talk to the child about things that he/she likes, and some quite important recent events (e.g. a birthday or some other celebration). This will not only help you establish a contact, but also will enable to understand whether the child is prepared to talk to you. Also, at the beginning of the interview explain to the child that you maybe repeat some questions – it means that you want to make it sure, and it does not mean that the child has said something wrong.

Free narrative. Encourage the child to tell you what happened in free form and in his/her own words. For example, *Tell me why you came here today.* Take time to listen to the child’s narrative. Encourage the child to tell you as much as possible, saying *Tell me more* or *What happened then?* The information received in the course of this part is most reliable.

Specifying questions. Ask any specifying questions only after you have listened to the free narrative of the child. The child will in all cases answer the questions clearly and consistently, provided the questions are asked in a clear and consistent manner.

Completion of the interview. Thank the child for his/her efforts and inform him/her about the further course in the proceedings.

Summary

The level of maturity, which influences the communication peculiarities of a specific child is determined individually. However, there are general development tendencies. Children aged from 7 to 11 are already able to formulate their opinions on issues that they find important, while youth of 12 years and older are often capable of critical evaluation and making decisions that are important to them.

Information about procedural actions and their course should be provided not only to the child’s statutory representative, but also directly to the child, formulating the situation in understandable concepts. For example, before questioning, a child should be explained why it is necessary, who will talk to him and the course of the entire questioning procedure. Make sure that you were correctly understood – inquire if the child has any questions and ask him to use his words to explain what will happen now from his own perspective.

As you communicate with the child, avoid official and formal tone, act naturally and be friendly. At the same time respect the child’s physical space and do not touch him/her if not necessary, since this may frighten or discomfort him.

Children mostly depend on their families, thus make sure to collect as much information as possible about the child’s family and friends, their attitude towards the crime and the child’s participation in the process. If the family’s attitude towards the child’s witnessing is negative or full of distrust, the child may be reluctant to talk about what happened with an officer. Data on the child’s family and friends helps determine the need for additional support for the child, as well as the conflicts of interest between the child and his statutory representative.

During the course of the investigation inform the child and his/her representative of what will happen next, the procedures that you need to undergo, the length of the investigation, etc.

VICTIMS WHO HAVE DISABILITIES

Disability is a serious factor due to which a victim may be more vulnerable. Quite often, perpetrators of crimes against the disabled are people close to the victim, such as relatives, friends, carers, or neighbours.²⁷ Such crimes are often caused by the imbalance of power between the victim and the perpetrator, as well as the disabled being more vulnerable in general.²⁸

Crimes against the disabled may be committed in private or public areas, including healthcare institutions (such as hospitals, care homes, etc.). Close ties between the victim and the perpetrator can mislead people surrounding them and law enforcement officers. As such, it is very important to properly respond to a report of a crime, taking into account the testimony of a victim and provide him/her with any required protection and assistance.

Victims who have psychosocial disability

People with psychosocial disabilities are persons who suffer from social or financial hardship due to their mental health conditions. For example, it may be difficult for them to work and thus earn an income, maintain close relationships with other people, or fully participate in social life.²⁹

Prosecutors or investigating officers cannot and do not have to determine whether any given victim of crime has a psychosocial disability, since:

- ◆ A psychosocial disability is an invisible disability.
- ◆ Even if a person behaves eccentrically, illogically, emotionally, unusually or incomprehensibly, this does not necessarily mean that he/she has mental health problems.
- ◆ There are many possible mental health problems and their symptoms which may manifest differently for different people due to their personal characteristics, individual circumstances or experiences.

Even people with no history of mental health problems can experience severe anxiety, panic, fear, horror, anger, hatred and other intense

emotions, or thinking, memory, or orientation problems, as a result of the trauma associated with becoming a victim of crime. This is known as **distress**. If stress is a natural psychological response to challenges, distress is harmful stress that may disrupt a person's usual mental capacity to deal with the situation. Symptoms of distress, such as psychosis, panic attacks or hallucinations, may be caused by mental health problems, but may also stem from other factors, such as drugs or traumatic events.

An investigating officer or prosecutor may notice signs of distress based on how the victim is acting:

- ◇ They are severely disturbed or distracted;
- ◇ They cannot speak or think logically and consistently;
- ◇ They exhibit inappropriate reactions to the situation at hand – for example, they start laughing when talking about the violence they have suffered;
- ◇ They appear to be too excited, exalted or aggressive;
- ◇ They seem drowsy, withdrawn, or are avoiding contact;
- ◇ They are restless, anxious or nervous;
- ◇ They are constantly repeating the same words or actions;
- ◇ They are unable to process outside information;
- ◇ They are clearly responding to something that other people cannot see or hear.

If you notice these symptoms in someone, it is important to ask about their personal experiences and needs. For example:

- ◆ *It looks like you're not feeling well. Could you tell me what's happening?*
- ◆ *It looks like you're experiencing strong emotions. What would help you feel better?*
- ◆ *You look lost and confused. Do you have any major concerns or problems? Can I help you somehow?*
- ◆ *Would you like to tell me how you are feeling right now?*

People in distress usually know best what may help them and what may disturb them. However, sometimes victims of crime cannot say what could be done to help them and what is making the current situation worse.

²⁷ OSCE Office for Democratic Institutions and Human Rights, "Hate Crime against People with Disabilities," 2016, <http://www.osce.org/odihr/hate-crime-against-people-with-disabilities?download=true>.

²⁸ Eglė Šumskienė, "Disability "Hate Crime: The Overlooked Consequence of the Deinstitutionalization of Care" *Socialinė teorija, empirija, politika ir praktika*, Nr. 15, 2017.

²⁹ The term "persons with a psychosocial disability" covers not only people with "mental disabilities" (as determined by the authorities dealing with disability and incapacity), but also those who have been diagnosed with mental disorders or have mental health problems that prevent them from participating fully in social life.

When asking victims about their mental health, give them the choice not to reveal this. They may be reluctant to share this information due to social prejudices against people with mental health problems. People will not feel obliged to lie about their mental health condition if you say: *I need to ask you about any mental health conditions you currently have. If you want to tell me about it, say "yes". If you don't, simply say "I will not comment"*. People are more likely to provide information about their mental health problems when they feel safe and are sure that they will not suffer condemnation or discrimination for doing so.

In case people cannot or do not want to talk about their mental health or personal experiences, you may ask them for consent to speak with their family, guardians, health care professionals or social workers. Consent should be noted down in the protocol of the proceedings. However, when talking to others about the victim, be critical of the information they provide. Family members' or specialists' views on the person, the latter's ability to participate in legal proceedings or give reliable testimony, may be biased in favour of their own interests. For example, if they are unwilling to spend time and resources on providing aid, they could say that the victim does not need any assistance.

In any case, try to establish trust between yourself and the person who potentially has a psychosocial disability.

Key recommendations for communicating with persons who have psychosocial disabilities

- ◆ Speak in a calm voice.
- ◆ Avoid professional jargon – use simple words and speak in short sentences.
- ◆ Maintain natural eye contact; if you feel that the victim is avoiding it, do not force it.
- ◆ Give them as much time as they need to answer questions. If necessary, repeat the question.
- ◆ Explain what is happening now, what the purpose of your conversation is, what actions are planned in the future and how the victim is expected to be involved.
- ◆ During the interview (especially when talking about the crime), ask one question at a time, following a logical sequence: *What happened first? What happened then? or What was the last thing you remember?*

- ◆ If another officer will be taking over in subsequent procedural steps, accompany the victim, be present all through their first meeting.
- ◆ If a family member, a relative, a social worker or some other professional is present, do not automatically assume that the victim is incapable of making independent decisions or providing reliable information. Accept the facts or information told you by the victim.
- ◆ Accept that the victim is in distress and do not focus on diagnoses; instead, try to understand the individual person as much as possible.

The following external circumstances typically negatively affect a distressed person's well-being, ability to give testimony and otherwise cooperate with law enforcement officers:

- ◇ noise
- ◇ interruptions
- ◇ being in an unfamiliar environment
- ◇ being in the presence of too many people or conversations
- ◇ bright lights, loud sounds, etc.
- ◇ getting too much complex information in a short timeframe
- ◇ being requested to do something that requires concentration: read, write or speak (especially for a long time)
- ◇ time pressure, or asking them to hurry up
- ◇ length of proceedings, such as interviews, court hearings
- ◇ unknown or incomprehensible rules and procedures
- ◇ use of technological devices during interviews (may cause suspicion)
- ◇ changing officers in the proceedings
- ◇ being interrogated
- ◇ feeling that others do not understand, trust or believe them
- ◇ feeling that they have lost control and are unable to make personal decisions (for example, to take a break or to have a drink, if necessary)
- ◇ sudden unexpected changes

- ◇ anxiety that their history of mental health problems will be revealed.

Keep these circumstances in mind throughout the entirety of the legal proceedings, making sure that they do not affect the victim.

What should officers do after assessing that a victim may need assistance from mental health care professionals?

- ◆ It is possible to offer such assistance after asking the victims about their experiences and whether they think they need help. Individuals who are constantly in distress may have professionals providing continuous care, and the victims can contact them.
- ◆ You may help them decide what the most helpful course of action would be and help them contact or visit the professional in question.
- ◆ If victims do not have any professional's contact details, you may help them contact a mental health centre assigned to their place of residence. These centres usually operate during usual working hours. When there is a grave situation outside normal working hours, such as late at night or during the weekend, you may seek assistance at a psychiatric hospital.
- ◆ It is stereotypical to assume that in such situations you can only resort to emergency medical services, but this is often not what the person really needs. In any case, an ambulance should only be called as a last resort, when the person is extremely disturbed, it is impossible to have contact with him/her, or there is a risk of suicide.
- ◆ If victims pose a risk to themselves or others, it is possible to have them hospitalized without their consent. In Lithuania, without a court order, people can only be admitted to a psychiatric institution for treatment for a maximum of two days. After this period, you need a court order to keep them there.³⁰ However, you should never abuse this possibility and in all cases help the person contact a mental health centre or professionals who have already been providing assistance to them.

Distress may interfere with the ability to give reliable testimony or otherwise participate in criminal proceedings; however, the ability to

³⁰ Law of the Republic of Lithuania on Mental Health Care, 6 June 1995, No. I-924, Official Gazette, 28/6/1995, No. 53-1290, Articles 27 and 28.

provide reliable information is not always incompatible with distress. For example, victims may be consistent in the information they give, even though they are in extreme emotional turmoil (are not able to respond immediately, say things unrelated to the question, are crying, pacing around the room, etc.) On the other side, someone who seems totally calm, could be speaking incoherently, or the information provided by him/her does not correspond to reality.

In both cases mentioned above, it is likely that the person is experiencing distress. Thus, it is important to assess the victim's ability to provide information regardless of his/her mental state at the given moment. You must determine whether the person understands the questions and answers them, whether his/her testimony is reasonable and consistent. For example, you can start talking to him/her about a neutral topic and thus check the person's ability to take part in a conversation.

Since mental health is not a static factor, the condition of people in distress may change. Sometimes they do not suffer any mental health difficulties, but at other times they may be in an extremely poor condition. Thus, in cases of severe distress when victims are unable to think clearly, are incoherent or exhibit extreme emotions, it is recommended to consider the time of the testimony postponing it and giving victims time to calm down, or providing them with proper psychological or psychiatric assistance. This could take one day or a longer time.

Summary

People can experience various mental health issues or their symptoms despite the fact if they have a diagnosed mental illness or not. Ask the victim how they feel and what could help them calm down and feel better. Avoid making diagnosis of your own.

People can experience very intensive emotions, disturbed thinking, memory or orientation. All that signifies the state of distress. Distress is a form of common stress, which exceeds the person's ability to accept the situation. The state of distress may differ. Sometimes people don't experience any mental difficulties and sometimes their condition might be especially bad. Therefore, a person who is not able to give testimony one day, may be able to do that the next day.

A state of distress does not automatically mean that a person experiencing it cannot provide reliable information. Therefore, in each individual case assess the person's ability to provide information: whether

the victim understands the questions and gives answers, if their testimony is likely and consistent.

Try to notice, which external factors improve or worsen the victim's condition. Assess, if these factors (noise, unusual environment, etc.) influence the ability to remember and provide focused and reliable information, confirm it, express one's will and the ability to communicate at a specific time. If you can, eliminate the person disturbing factors.

Talk about the victim who has a psychosocial disability with his family or health and social care experts only with the victim's consent. However, you must also weigh and assess the objectivity of the information, provided by third parties.

If you see that the person may need professional medical help – ask what specialists he or she communicates with and help to contact them.

If the person is especially confused or aggressive, it is impossible to find a contact and there is a noticeable risk of suicide – call for emergency medical assistance.

Victims who have intellectual disability

An intellectual disability is defined as a mental ability deviating from the "norm". Such disabilities cause problems with behaviour, emotions and ability to adapt to society. Intellectual disabilities manifest as inherent, irreversible impairment of cognitive activity, impaired mental and emotional development, and, frequently, as certain physical disabilities, such as partial paralysis, epilepsy, visual/hearing impairments.

In Lithuania intellectual disabilities come in three levels:³¹

- ◆ mild (IQ 50-69)
- ◆ moderate (IQ 35-49)
- ◆ severe and very severe (IQ 20-34 and lower).

When communicating with people who have an intellectual disability, it is recommended not to focus on their medical diagnosis, but rather pay specific attention to their individual needs in each case, including the style, methods and opportunities for communication. It is important to avoid any stereotypes about them, show respect and believe

31 Description of the Procedure for the Determination of the Groups of Schoolchildren with Special Educational Needs and the Classification of their Special Educational Needs into Levels approved by Order No. V-1265/V-685/A1-317 of the Minister of Education and Science of the Republic of Lithuania, the Minister of Health of the Republic of Lithuania and the Minister of Social Security and Labour of the Republic of Lithuania, dated 13 July 2011: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.404013/CssQJBQlJU>.

that every person is able to communicate and cooperate in spite of health disorders.

Many people who have intellectual disabilities can work, study, live and manage their household affairs independently or with assistance and participate in social life. The main characteristic is an impaired ability to think in the abstract, self-reflect and control impulses. People who have this disability are often highly susceptible to other persons' influence. They can often be easily manipulated or convinced and may need others help in making various daily life decisions.

Individuals who have intellectual disabilities are able to engage in most activities requiring practical skills, but are usually limited to low-skilled or unskilled jobs. As such, in many cases their socio-economic standing is low. Because of their unconditional trust in others, they are more vulnerable and may fall victim to various crimes, such as theft, physical violence or human trafficking. Both men and women may become victims of sexual exploitation, pornography, paedophilia, and bullying.

Despite their difficulties, people who have intellectual disabilities have the same fundamental human rights as people without disabilities or health conditions.³²

People sometimes feel uncomfortable when talking to individuals who have intellectual disabilities. This mostly happens when someone has never communicated with people having similar impairments before. In such cases, it is important to remember that all of us are different, individual and unique, however, these differences should not prevent us from communicating and mutual respect.

Key recommendations for communicating with victims who have intellectual disabilities³³

- ◆ If it is necessary to determine someone's identity, it is possible to ask them if they have a card with their name, surname, date of birth and their telephone number in the inner pocket of their jacket or coat.
- ◆ Explain the purpose of your meeting and that you aim to help them, and therefore want to know what has happened.

32 UN Convention on the Rights of Persons with Disabilities, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

33 Mencap, *Your Guide to Communicating with People with a Learning Disability*, 2008, https://www.mencap.org.uk/sites/default/files/2016-12/Communicating%20with%20people_updated%20%281%29.pdf; National Ambulance Mental Health Group NHS, *Communicating with People with Learning Disabilities: Information for Staff*, 2014.

- ◆ People who have more severe intellectual disabilities may need assistance from someone close or known to them in order to help them make decisions and support them in communicating with others (especially strangers).
- ◆ Communicate with the victims first, not just their statutory representatives. Communicating only with the statutory representative denies the person's right of to be heard. It is recommended to conduct interviews assisted by trained professionals, such as psychologists.
- ◆ Be yourself, show respect and be attentive.
- ◆ Avoid being patronising and do not talk to adults as though they were children. Before starting a longer conversation, ask if the victim needs assistance from someone who knows him/her well.
- ◆ Let the victims speak. Let them feel that you trust and believe them.
- ◆ Speak using simple words. Do not use figurative phrases.
- ◆ Use short sentences and avoid long questions.
- ◆ Ask open questions. For example:
 - What happened?*
 - And what else happened after that?*
 - Where did this happen?*
 - Who else was there?*
 - How do you feel about it?*
 - What do you feel now?*
 - How can I help you?*
 - What did you see there?*
 - What did those people want?*
 - Who would you like to tell about this event?*
 - What can I do for you?*
 - Where would you like to go now?*
- ◆ After asking a question, wait for the person to reply. Do not hurry him/her into replying more quickly. Do not immediately repeat the question several times. You may need to paraphrase it, but do not hurry, do so only when you are certain that the victim has not understood the question.
- ◆ Speak at a pace that the person finds comfortable. For example, if you notice that the victim has started to worry,

is looking around, or shows signs of panic (e.g. his/her breathing intensifies, etc.), you might be talking too fast and need to slow down.

- ◆ Do not suddenly change the topic.
- ◆ Take regular breaks, especially if you notice that the person is unable to focus on the discussion, tries to change the topic or otherwise escape from the current situation.
- ◆ If the person is holding something in his/her hand (a picture, a book, a toy, a string, a piece of paper, etc.), do not ask him/her to put this item away. Such things may help concentrate and stay calm in difficult situations.
- ◆ If the person avoids eye contact because it makes him/her feel uncomfortable, respect his/her wishes and do not attempt to force eye contact in any way.
- ◆ Respect the victim's personal space and avoid physical contact, especially if he/she does not initiate it and/or try to avoid it. If physical contact is required, warn him/her verbally first, explaining why it is necessary and make sure that the person does not object.³⁴

Using alternative forms of communication

Just because someone finds it difficult to express themselves in words does not mean that they cannot communicate at all. People who have intellectual disabilities and speech impairments can express themselves in other ways, such as through their actions, facial expressions, gestures, or posture. When you are communicating, you may need to resort to other forms of communication and invoke communication aids, such as pictograms, pictures, photographs, drawings, body language, facial expressions, sign language or gestures.

Officers may print out standard pictograms or images depicting the most common situations or characters encountered in their line of work. These may include answers to the most frequent substantive questions. For example, when asking "How many people attacked you?" the officer could show two (or more) pictures, one with a single silhouette and another with multiple silhouettes (signifying a group of people), and ask the victim to point to his/her answer. Another example would be asking "Was it a man or a woman?" once again letting

³⁴ National Ambulance Mental Health Group NHS, *Communicating with People with learning disabilities: information for staff*, 2014.

the victim choose from the relevant pictures or symbols.

Of course, the above examples are very simple. However, depending on the person's abilities and needs, these methods could be applied to more complex interviews.

Providing written information

People who have intellectual disabilities may find it difficult to read, write, or count. In some cases, they may be completely illiterate. It is advisable to provide written information in larger font size, using short, simple sentences and avoiding technical jargon. Ideally, the text should be in an easy-to-read format,³⁵ complying with international standards and best practices.³⁶ All written information, even when presented in an easy-to-read format, should be explained orally. If necessary, paraphrase sentences and ask victims to reflect what they have been told back to you in order to see if they really understood everything.

Summary

While communicating with people who have intellectual disabilities, it is necessary to consider the needs, communication style, methods and possibilities of each individual case.

People with greater intellectual disabilities may need the support of someone close, who knows them very well, both in making decisions and communicating with other people, especially strangers. However, communication should primarily take place with the victim, not only with his or her statutory representative.

Communicating with a victim who has intellectual disability requires attentiveness, which allows to notice changes in behaviour, unease, fatigue, etc. Your communication should be calm, in short sentences, giving enough time to understand information and give a response. If the victim finds it difficult to express his/her thoughts in words, you may use alternative means of communication – pictograms, photos, drawings, body language, facial expressions and gestures.

³⁵ Department of Health, *Making written information easier to understand for people with learning disabilities*, 2010, <http://webarchive.nationalarchives.gov.uk/20130703133435/http://odi.dwp.gov.uk/docs/iod/easy-read-guidance.pdf>.

³⁶ Mencap, *Your guide to communicating with people with a learning disability*, 2008, https://www.mencap.org.uk/sites/default/files/2016-12/Communicating%20with%20people_updated%20%281%29.pdf.

VICTIMS OF TRAFFICKING IN HUMAN BEINGS

Victims of trafficking in human beings are people against whom the crime of trafficking in human beings has been committed. They should be considered victims whether they desire or not victim status and irrespective of when such status is granted.

Trafficking in human beings has three key elements:

- ◆ *The action* that has been performed. This refers to the purchase, sale or any other transfer of human beings, as well as recruiting, transporting or holding them captive, etc.
- ◆ *Methods* employed to affect the victim's will. This may be physical abuse, threats, blackmail, fraud or taking advantage of the person's social, psychological, physical and/or financial vulnerability.
- ◆ *The aim* of the action performed. This covers slavery or similar conditions, provision of sexual services, prostitution, labour, begging, commission of crimes, organ harvesting, forced marriage, surrogacy and others.

Law enforcement officers may encounter victims of trafficking in human beings who have been exploited in various ways. The victims share one common feature – **vulnerability**. This refers to the situation where an individual lacks any other acceptable alternatives and must eventually accept the trafficker's conditions. Vulnerability results from one or more of the following circumstances:

- ◇ poor financial situation
- ◇ being an infant or a minor
- ◇ young age (according to the Law on Youth Policy Framework, anyone under the age of 29 is a young person)
- ◇ mental and/or behavioural disorders
- ◇ poor education
- ◇ lack of social skills
- ◇ addiction (e.g. drugs or alcohol)
- ◇ unlawful residence in the country, etc.

Characteristics of victims of trafficking in human beings. Victims of trafficking in human beings are often disturbed and distrustful, expecting to be tricked. They feel extremely uncertain, which prevents them from forming a view corresponding to reality.

Laura, 19: “I did not want to tell anybody about what I had to go through in Birmingham. Our landlord would always claim that if I complained, we would be detained, because we allegedly violated some migration laws. I hate him, but what if he is right?”

Jurij, 45: “As soon as we arrived in Lithuania, they immediately took away our passports, and, before we even started working, we were told to sign that we left the job ourselves. I did not understand what they were saying to me, but I was scared I would anger them, so I signed everything. I knew that if some police officers came to check on us, I needed to lie convincingly and not to cause any suspicions.”

The first people to communicate with victims are often police officers. As such, they have a very important task: they must build a trusting relationship to help victims speak up, express their emotions and receive the key information. In order to determine the best course of action, it is important to understand how victims of trafficking in human beings may react and what the causes of such reactions are.

- ◇ **Intense emotion or absence thereof.** At times, victims of trafficking in human beings display extreme emotions, but sometimes such emotions appear to be absent, as though the victims had cut themselves off from reality with a thick wall. Most often this is a consequence of a long-term trauma.
- ◇ **Hostile attitude towards officers.** Victims of trafficking in human beings may not be inclined to cooperate with law enforcement, or feel grateful to the officers who rescued them from exploitation. Quite often officers are faced with unanticipated anger which actually masks the victim’s feelings of hopelessness and fear. In these circumstances, it is important to avoid responding in kind and engaging in a “fight”. The overwhelming negative emotions of victims, their anger and grief, are often aimed not at the officers, but at exploiters, perpetrators or services that previously failed to help them. It is unfortunate that these emotions are shown to the person who is not responsible for them.
- ◇ **Repeating the learned response and being suspicious of law enforcement.** Traffickers in human beings go to great lengths to prepare victims for future meetings with law enforcement or social services. They force victims to stick to false responses, threatening them with abuse or revealing discrediting information. In order to create psychological pressure, perpetrators tell stories of corrupt

policemen and prosecutors, often showing evidence of such “collaboration”.

- ◇ **Feelings of shame and guilt.** Victims of trafficking in human beings (especially men) quite often feel a profound sense of shame. They may feel embarrassed about what has happened (for example, that they handed over their personal documents, were terrorised or beaten, experienced sexual abuse, were forced to abuse others, commit crimes, etc.) Feelings of shame are also caused by thinking about the possible reaction of their family, friends or neighbours to their “shameful” situation. Another feeling related to shame is guilt. Even though victims don’t openly admit it, they often blame themselves for attracting the attention of traffickers and exploiters, failing to avoid the situation or consenting to the demands and conditions of the perpetrators.

Darius, 26: “Nobody may ever understand why I will blame myself until the end of days for trusting those friends of my neighbours who offered a good job in England. What a fool I was! How would I look into the eyes of my children and my wife? What would I tell them? Daddy left to build houses and became a shoplifter! Nobody would believe me and there is nothing more to talk about.”

Law enforcement officers must be aware of and understand what victims are feeling and why they react as they do. Without being annoying and without exerting any pressure, officers should maintain a sufficiently close contact with the victim, demonstrating understanding and respect. This encourages victims to open up and cooperate.

Key recommendations for communicating with victims of trafficking in human beings

- ◆ Maintain a close contact with the victim, but don’t be annoying.
- ◆ Allow the victim to calm down.
- ◆ Ensure that the victim feels safe.
- ◆ Demonstrate that you are ready to provide any necessary aid by yourself or ensure that such assistance is available from healthcare professionals, psychologists, social workers or representatives from NGOs.
- ◆ Consciously refrain from blaming the victim. No actions, character traits or lifestyle choices, let alone the appearance

or clothes of victims, can ever justify the actions of criminals. Avoid resorting to stereotypes about “women or girls of loose behaviour who enjoy prostitution”, about “some teenagers having thieves’ genes”, or “lazy migrants”.

- ◆ When victims blame themselves, sincerely reassure them that they acted in the best manner possible in the given situation, and they fell victim to the crime because of unfortunate circumstances rather than their “silly” actions.
- ◆ Do not show anger, irritation, fear, confusion, disgust; the reverse is also true – do not show exaggerated compassion, familiarity or bravado.
- ◆ During the interview, do not treat the victim like a suspect.
- ◆ Try not to do any more harm – for example, refrain from insisting that victims of prostitution reveal the demands and sexual practices of their clients.
- ◆ Refrain from personal assessments like “I believe/I don’t believe that” or “realistic/unrealistic” – this may cause the victim to become withdrawn.
- ◆ Never hint at “smart plans to make money” or “maybe you are trying to take revenge” as this may lead to secondary victimisation.

Remember – you are communicating with someone who believes that the world is hostile and only wants to harm him/her further!

To encourage victims to cooperate, it is necessary to ensure that their key needs are met:

- ◆ **Confidentiality.** Perpetrators often manipulate victims by threatening to reveal sensitive (and often false) information about them. As such, officers must commit to strict confidentiality and never disclose any information about the person affected, or the circumstances of the incident to any third parties. Information about the victim may only be given to support organisations with the former’s consent (or the consent of a statutory representative in case of a minor).
- ◆ **Recovering the feeling of control.** Whatever form the exploitation takes, one distinguishing feature of crimes of trafficking in human beings is the tendency to objectify victims, depriving them of any capacity to deal with the

situation and turning them into voiceless tools. Therefore, it is important to involve victims in making decisions of some kind, for example, regarding anonymity or contacting organisations providing specialised assistance. Being able to get information on how the situation is developing, what steps are planned next, and where they can receive assistance, also helps victims recover the feeling of control over their lives. It is highly recommended to give victims a clear and concise explanation about the course of pre-trial investigation, as well as the importance of collecting evidence and the necessity of attending interviews. It is particularly important to explain how the victim should behave if the suspects or their accomplices attempt to influence or affect cooperation between the victim and officers.

- ◆ **Specialised assistance.** Part of cooperation which is very important to victims is referral to specialised organisations for help. This assistance gives victims access to various resources, such as social care, healthcare, information, legal aid or spiritual guidance. Before the interview, it is highly recommended to contact an organisation providing assistance to victims of trafficking in human beings and ask them to send a representative to offer direct help to the victim.
- ◆ **Protection from criminal influence.** Suspects or their accomplices may attempt to exert influence on cooperation between victims and law enforcement authorities. Sometimes they manage to threaten or otherwise influence victims to such a degree that the latter start changing their testimony, “forgetting” important details or hiding from officers or specialised organisations helping them. It is therefore very important to maintain a close relationship with the victim, so that when he/she is approached to change the testimony, the victim knows that he/she can trust the officer in charge of the case and that he/she will never be left alone. Regrettably, so far perpetrators have nearly always been successful in getting victims to change their testimony. This is especially evident in cases of minors, where traffickers gang up to frighten young and vulnerable individuals or their family members. Attempts to influence do not only come in the form of threats; they can also be proposals that the victim “cannot refuse”, such as substantial

sums of money. As such, it is important to consider granting anonymity to victims and protecting them from criminal influence.

When communicating with victims of trafficking in human beings it is important to take into consideration their family members and people close to them. These people may also be experiencing a wide variety of emotions. They may blame or condemn the victim, feel guilt for failing to protect him/her, fear “shame from the neighbours and co-workers”, desperately want the investigators uncover the perpetrators as soon as possible, or be supportive and show solidarity with the victim’s experiences.

It is recommended that officers cooperate with the victim’s closest people, especially if the victim will have to return to them after exploitation. After legal proceedings, this will be the victim’s only social support network.

The importance of the role that officers play in helping victims of trafficking in human beings recover confidence in themselves and other people around them is seen in the testimony of victims themselves.

Angelè, 32: “When Oleg first brought me to that brothel in Spain I was still very young. I was in love with him and would have followed him to the ends of the world. I was crying so bitterly after he sold me to that Spaniard with a scar! I thought I would die of pain, but I survived; then many of our girls were serving customers in Spanish resorts. Some were free and others, just like me, were kept in captivity by force; every morning we were brought together to house and locked. Later I got used to it, but I started drinking, and my first thought in the morning used to be “where is my bottle?”

Some half a year later I was released and Oleg found me himself, then he was kissing my hands and legs, apologising. I then went to Belgium and Italy twice; it was all the same, I did not want to live anyway, nothing interested me anymore. In Italy, one client beat me severely, tore off half of my hair, broke my nose; after that I was undergoing an extensive treatment.

When I returned to Vilnius, that cop found me. I thought he was a cop, but he was different. He was trying to persuade me to testify against Oleg. In short, this is a long story. I did not even want to hear about it, I knew how such matters end, thank God I wasn’t born yesterday. Nevertheless, he was persistent and did not leave me alone, but instead took me to get treatment and found that organisation; he used to say, Angele, you need to live. Can you imagine that? Clients would

pee on me, but he was saying, you are young and have to live. I have not seen him after the court hearing, he may have retired... Anyway, I was lucky that he found me then....”

Summary

Victims of trafficking in human beings are often characterised by intensive emotions or lack thereof, negative attitude towards officers, distrust in the legal system, as well as feelings of shame and self-blame. These psychological reactions are caused by abuse, violence and threats that they have experienced. Therefore, do not let yourself be provoked by the victims’ behaviour and do not take their emotions personally. Unobtrusive, respectful and non-judgemental communication will help to create a relation based on trust, which would encourage the person to cooperate.

The victims’ trust in the law enforcement officers is inseparable from the necessity to ensure the most important of these victims’ needs – to return the sense that they are safe and in control. The victims must be guaranteed that information about them will be kept confidential and that they will be properly informed on the entire procedure. It is also necessary to involve them into the decision-making, help them to get specialised help and protect them from criminal influence. Since victims of trafficking in human beings are especially sensitive to the risk of criminal influence, it is crucial to discuss in detail how they should behave in case the suspects or their accomplices try to influence them.

Due to the trauma experienced, victims of trafficking in human beings are often reluctant to seek help themselves. Therefore, before the interview it is recommended to contact the nearest organisation, providing support for victims of trafficking in human beings and invite their representative to come and meet the victim to discuss the possibilities of help. Personal contact in communicating with a person who has experienced something similar may be an important factor in making the decision to accept the offered support.

VICTIMS OF SEX CRIMES

Sex crimes include rape, sexual assault, coercing someone to have intercourse, sexual abuse, involving another into prostitution and others. Most often, sex crimes involve acts for personal sexual satisfaction that take advantage of the criminal's physical, intellectual or psychological superiority over the victim.

Sex crimes cause significant trauma to victims. At the same time, however, it is likely that no other category of crimes provokes such distrust of the victims' testimony, or has offences which are so difficult to detect.

Characteristics of sex crime victims. Both men and women can fall victim to sex crimes, but women tend to be targeted more. The circumstances of each crime are unique, but victims tend to respond to abuse in a broadly similar fashion. Their reactions are usually classified as physical or emotional.

- ◆ **Physical.** Victims of sex crimes most often complain of the following: headaches, back and stomach aches, excessive sweating, or palpitations.
- ◆ **Emotional:**
 - ◇ **Shock.** This is the initial reaction. Most often, victims of sex crimes can show inadequate behaviour and may be disoriented. They may deny having suffered sexual abuse and, as such, appear calm and behave as though nothing had happened.
 - ◇ **Shame.** When victims admit to themselves that they have been raped, etc., they may consequently feel shame. Many feel that they are worthless and only deserve condemnation. In particular, women who were seeking love, warmth and friendship experience a profound sense of loss, shame and guilt after being sexually abused.
 - ◇ **Fear.** Sex crime victims are most of the time alert – they expect something bad to happen to them at any given moment, distrusting themselves and others around them. Victims feel an increased need to be with other people, fearing that they may be sexually abused again. Fear and anxiety are felt especially keenly in the first week after the abuse, gradually decreasing with time.

Sex crime victims are often plagued with fears, especially in relation to places that are similar to the

crime scene (for example, they may be afraid of closed spaces or public toilets). They may also experience fear when confronted with actions or items that remind them of the crime scene. Victims may be afraid to go to bed or get into a car, or fear smells, sounds and images that remind them of the abuse.

- ◇ **Feeling helpless.** Victims may find it difficult to concentrate or remember things, which makes them less productive, less inclined to do anything and narrows their field of interests. These changes also lead to the sense of helplessness and low self – esteem.
- ◇ **Obsessiveness.** More and more, victims may begin to experience persistent, involuntary thoughts about the encounter, which makes them more irritable and sensitive to outside stimuli.
- ◇ **Anxiety and anger.** Victims become more anxious, which often manifests in fits of rage, sleep disorders, nightmares or even suicide attempts. Most victims direct their anger (which is normally aimed to cope with pain, loss, helplessness, shame) at themselves rather than the source, namely, the perpetrator.

The anger often leads to self-destructive behaviour, such as depression, losing one's will to live, self-harm (cutting or stabbing oneself), abuse of drugs or alcohol. Some victims deal with the pain by turning their anger outwards, becoming aggressive and prone to delinquent behaviour.

- ◇ **Self-neglect.** Sexually abused women often feel that they're "different" from others, fearing that if they accept their emotional problems and seek help from a psychologist, they will only confirm that they are abnormal.

Furthermore, victims of sex crimes often believe that their body is ugly, disgusting and/or "fat", which may lead to eating disorders. For example, girls sometimes subconsciously try to maintain a "childish" appearance by refusing to eat, vomiting anything they have consumed or obsessively exercising. This happens because they associate their body with the sexual abuse.

Why do victims of sex crimes keep silent and refuse to cooperate with law enforcement?

Victims of sex crimes often hide their abuse for a long time. They primarily do so due to feelings of insecurity, shame and guilt.

Due to perpetrators' threats at the time of the crime, victims often fear that telling anybody about their experiences would lead to them getting killed or hurt, or cause suffering for their family. Some victims can keep the abuse secret for a long time, convinced that nobody would believe them and that they would have no protection against the criminals.

Victims of sex crimes may also try to keep the abuse secret because they don't trust the law enforcement authorities. Some fear that they will get blamed or even punished. Nearly all victims of sex crimes dread gossip or bullying. Those who have been abused at the hands of same-sex perpetrators are especially prone to feeling confused and embarrassed.

Victims abused in closed or semi-closed environments, such as detention institutions, migrant centres, child/adult treatment or care institutions, or being in the army feel especially vulnerable and insecure. Most of these institutions lack reliable procedures regulating quick and direct report of the abuse to law enforcement officers.

People who are abused by the clergy may also have difficulties opening up due to shame and fear. Even when victims find the courage to speak up, they often face condemnation (or even persecution) within their own community, family members and friends.

Mistaken perception of who is culpable for the abuse

Sexually abused young women often feel responsible for what happened to them or guilty at not being able to stop the abuse. They often blame themselves, thinking:

- ◆ "It was my fault – I should not have gone there"
- ◆ "I should have anticipated the possibility of this happening"
- ◆ "I trusted those people, I was blind"
- ◆ "I probably deserve this"
- ◆ "I could've fought back from the beginning"
- ◆ "I could've stopped it somehow"
- ◆ "I should have acted sooner and stopped this"
- ◆ "This wouldn't have happened if I didn't dress so sexy".

This feeling of guilt may also arise in part due to the perpetrator's efforts to transfer responsibility to the victim. The abusers try to shrug off responsibility by manipulating or psychologically pressuring victims: bribing them with gifts, pretending to be the "good guys", trying to justify their actions, blaming sexy behaviour or appearance, playing on women's need for warmth and affection, trying to evoke sympathy, using intimidation, or taking advantage of inexperienced younger girls' lack of knowledge. It takes much time and effort to get victims to forgive themselves and stop feeling shame or guilt.

Key recommendations for communicating with victims of sex crimes

Communication with victims of sex crimes should follow the same principles as communication with victims of trafficking in human beings (see: "[Recommendations for communication with victims of trafficking in human beings](#)"). It is important to meet the basic needs of the sexually abused and prevent secondary victimisation.

Ensure the victim's safety:

- ◆ Take care of the victim's immediate medical needs.
- ◆ Tell them that you have experience with such crimes and their victims, so you know what they are going through. For example, say *I understand how hard and unpleasant it is for you to talk about what has happened, but these things do happen and the most important thing now is to help you and to bring the perpetrator to justice.*
- ◆ Offer to call a family member or someone else that the victim trusts.
- ◆ Before you start the interview, try to calm them down and make them feel safe (beyond the reach of perpetrators or their accomplices).
- ◆ Discuss all possible measures to protect the victim against revenge, intimidation or other criminal means.
- ◆ Help the victim contact an organisation providing assistance to victims of sex crimes.
- ◆ Ensure confidentiality.

Help them recover control and inform them:

- ◆ Ask whether the victim would like some water and whether he/she can speak.

- ◆ Give them all required information on their rights, future steps in the proceedings, what proceedings they will be invited to participate in.
- ◆ Involve victims in all decisions pertaining to them.
- ◆ Ensure that all interventions (e.g. by medics or experts) are carried out with the informed consent of the victim.

Be respectful:

- ◆ Prepare your questions in advance and watch what you say to avoid inadvertently blaming the victim. Do not ask any “why” questions (“Why did you go to that apartment?”) or any questions that suggest culpability on the part of the victim (“Don’t you think that your behaviour expressed a desire for sex?”).
- ◆ Refrain from personal judgments.
- ◆ When talking about the crime, do not show shame, discomfort or disgust. It is important that victims of sex crimes see the officer as someone who is able to professionally deal with their experiences.

Communicating with minor victims of sexual abuse

- ◆ Try to stay calm and take children’s words seriously. It means a lot to children to have adults react this way, since it confirms that their experiences are important. Demonstrating composure prompts children to share their experiences.
- ◆ Have confidence in them. This is a key principle of communication with victims of sex crimes, since they are extremely sensitive to any lack of trust or being biased.
- ◆ Show that you understand them. By being attentive and empathic, police officers can easily show that they understand what the child is saying and how difficult it is for him/her to speak about it.
- ◆ Calm the child down and reassure him/her by saying:
 - I believe you*
 - I am so sorry that this happened to you.*
 - That’s good you told me about it.*
 - This is not your fault.*
 - You are not alone, this happens to other children too.*

- ◆ Do not let the victim keep the abuse a secret. Children should not be given the option of keeping their abuse a secret. Tell them that “you shouldn’t keep secrets when somebody treats you badly”. However, you must also respect the child’s right to confidentiality.
- ◆ Be patient when answering their questions and try to quell their worries.
- ◆ Consider the relationship between the child and the perpetrator. Each case is different, and sometimes children do not hate or are angry with their wrongdoer. On the contrary, they may want to protect a family member who is important to them.
- ◆ Do not make promises you cannot keep (such as “Your mother won’t be upset”).

Summary

Sexual crimes are deeply traumatising for the victims. Therefore, victims of such crimes often experience various health disorders and long-term emotional reactions (fear, anxiety attacks, anger, shame, self-disgust, etc.). It is crucial to stay calm and be patient while dealing with these emotions.

Let the person talk about what happened, do not interrupt or rush him/her. Ask questions only after the victim has finished his/her story. Do not show shame, discomfort or disgust while talking with the victim about the crime. Victims of sex crimes need to see that they are talking to an officer, who can professionally handle their experience.

Since victims of sex crimes particularly often experience strong feelings of shame and self-blame, you should avoid questions or statements that could signify accusation while communicating with them. It is important to keep to the notion that no circumstances can justify sexual violence.

VICTIMS OF DOMESTIC VIOLENCE

Violence refers to any intentional physical, mental, sexual, economic or other effect exerted on a person by an act or omission as a result of which the person suffers physical, pecuniary or psychological damage. Domestic violence is to be identified in cases when the victim of violence is a person who the perpetrator is currently or was previously linked with by marriage, partnership, or other close relations, also when violence targets a person who a common household is shared with.

Crimes related to domestic violence account for a significant part of all recorded crimes in Lithuania.³⁷ The number of reports on domestic violence is rising, which testifies to an increasing understanding of the issue and growing intolerance towards violence. However, the actual scale of the problem remains latent. Some victims of violence prefer not to seek help in the hope that the situation will not reoccur.

The majority of recorded cases of domestic violence in Lithuania concern causing physical pain or mild health impairment as well as death threats or terrorising.³⁸ However, domestic violence may also be related to such crimes as murder, severe health impairment, sex crimes or crimes against property.

Children make up a significant proportion of victims of domestic violence. According to the Lithuanian *Law on protection against domestic violence*, both children who suffer domestic violence and those who become witnesses to domestic violence as well as those children who reside in the environment exposed to violence are considered victims of domestic violence.³⁹ However, this broadened concept is not applied in criminal process where only persons who suffered violence directly are considered victims.

The perpetrator and the victim of violence may be individuals of different or the same gender. According to official statistics on registered crimes, an absolute majority (around 90 percent) of domestic violence perpetrators in Lithuania are men while women are mostly victims. Below is an account of specifics of domestic violence which

37 For example in 2017, crimes related to domestic violence accounted for 17 percent of all recorded crimes (data of the Department of Informatics and Communication), <https://www.ird.lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiui-tyrimu-statistika-1?year=2017&period=1-12&group=162>, <https://www.ird.lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiui-tyrimu-statistika-1>.

38 Department of Informatics and Communication, Data on the crimes registered at pre-trial investigation institutions and the persons suspected (accused) of having committed crimes related to domestic violence (Form SMUR-TAS-ITJ), https://www.ird.lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiui-tyrimu-statistika-1/view_item_datasource?id=6783&datasource=19096.

39 *Law on protection against domestic violence*, 26 May 2011, No. XI-1425 (with subsequent amendments), Article 2(5).

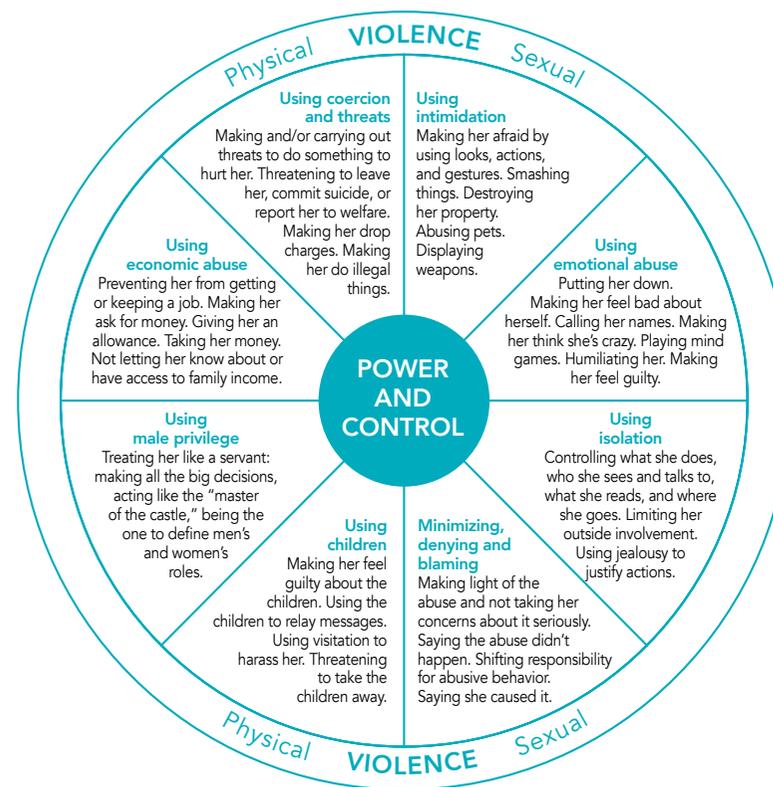
is especially characteristic of relationship between intimate partners; however these recommendations are also relevant for communicating with other victims who suffered domestic violence.

Domestic violence can be systematic or situational.

Situational violence refers to occasional acts of domestic violence which are usually related to mental disabilities, alcohol or drug abuse, etc.

Systematic violence is continuing violent behaviour when threats, physical or sexual violence and other forms of abuse are used to establish and maintain power and control over an intimate partner (Figure 6).

Figure 6. Power and Control Wheel⁴⁰



The majority of registered cases of physical domestic violence are only the tip of the iceberg and indicate systematic violence closely related to other forms of violent behaviour. Systematic domestic

40 <https://www.theduluthmodel.org/wheels/>

violence encompasses various violent acts not all of which entail criminal liability; however, the entirety of these acts may indicate that a particular episode of violence is not occasional but represents consistent violence against the victim. For this reason, it is very important to identify systematic violence in order to prevent further actions of violence.

Communication with victims of systematic domestic violence is a significant challenge to law enforcement officers because the perpetrator and the victim are often linked emotionally and financially. They may have common children, mutual friends or acquaintances, etc. Furthermore, a typical feature of violent relationships is that violence intensifies gradually, with violent episodes interchanging with “normal” periods (which at the beginning of violent relationship may involve remorse, as well as signs of affection and kindness towards the victim). As a result, differently from a person who has suffered violence by a stranger, a victim of domestic violence experiences contradictory feelings with respect to his/her perpetrator. Anger and determination to end violent relations interchange with self-blame, rationalisation and hope that the violence will not reoccur. In more advanced stages of violent relationship the victim may experience constant fear and helplessness. Importantly, female victims in most cases have well-grounded fears that their contact with law enforcement authorities will cause even more intensive violence in the future.

Dovilė (the name has been changed): “I knew how it would happen – the police would arrive and take him for a conversation for a couple of hours at the most, and then he would return even more furious.”⁴¹

Similarly to victims of sexual abuse or trafficking in human beings, victims of domestic violence often suffer a profound feeling of shame.

Ieva (the name has been changed): “I have never applied to anywhere or complained because I was so ashamed. Perhaps every woman, who has gone through this, experiences such feelings. First of all, nothing like that had ever happened in my family (smiles). And I thought, how I could say to my family, my friends and acquaintances that somebody was beating me...”⁴²

From the psychological viewpoint, victims of domestic abuse may exhibit Stockholm syndrome or learned helplessness (victim) syndrome that prevent them from leaving the perpetrator or applying for help,

41 Extract from an interview conducted in 2017 by the Human Rights Monitoring Institute.

42 Adutavičiūtė, M. and others, *Nusikaltimų aukų teisių direktyva: naujas požiūris į artimųjų smurto aukas [The victims' rights directive: a new approach towards the victims of domestic violence]*, Vilnius, Human Rights Monitoring Institute, 2014, p. 26, https://www.hrmi.lt/uploaded/Apzvalgos/Tyrimas_auku-teisiu-direkt_1.pdf.

or in some cases even cause hostility towards persons seeking to help the victim.

Stockholm syndrome is a form of psychological adjustment to a violent situation when the victim, facing a situation viewed as hopeless or unavoidable, develops a feeling of attachment towards the perpetrator.⁴³ This syndrome is related to the “fawn” reaction to a traumatic event (for more information see *The psychological impact of a crime on victims* → *Fawn reaction*).

Learned helplessness (victim) syndrome: the victim of violence gets accustomed to the violence, avoids applying for help and does not appreciate or accept the assistance being offered, in the belief that it is not possible to change anything. Such learned helplessness is especially typical to women whose attempts to terminate violent relationships were unsuccessful and who did not receive any appropriate assistance.

In addition to the factors related to personal psychology, there may be **other circumstances** in view of which the victims do not dare to end their relations with the perpetrator, for example:

- ◆ Financial dependence, absence of an alternative source of income or housing
- ◆ Views and opinions of other people (family, friends, the public): blaming the victim, or viewing the divorce as a failure of the woman
- ◆ Fear to lose children
- ◆ Social isolation: broken relationships with family and friends, lack of information about available help
- ◆ Fear of retaliation: recent studies have suggested that attempts on the part of the victim to end the relationship with the abuser often intensify the violence. Divorced women or those living alone apply to the police regarding the violence of their former spouses more often than married females.⁴⁴

43 The name of Stockholm syndrome is associated with a bank robbery in Stockholm in 1973, when four bank employees were taken as hostages and spent with the robber five days and a half. The released hostages revealed that they were viewing the police as their enemies, and experienced emotional attachment towards their kidnapper. After the incident one of the former hostages developed a close relationship with the kidnapper (<http://medical-dictionary.thefreedictionary.com/Stockholm+syndrome>).

44 Matusa, A. and others, *Metodinės rekomendacijos policijos pareigūnams, kovojantiems su smurtu artimoje aplinkoje ir smurtu lyties pagrindu [Methodological recommendations for police officers combating domestic violence and gender-based violence]*, Vilnius, 2016, p. 14.

Key recommendations for communicating with victims of domestic violence

- ◆ In case the police are called not by the victim, tell the victim that you have received a call, but do not specify who has called the police.
- ◆ When interviewing the victim about the circumstances of the incident (when and why the conflict arose, etc.), avoid any assumptions about who is guilty of the problems in the family. Clearly demonstrate your point of view that no circumstances can justify violent behaviour in order to solve the problems.
- ◆ During the interview clarify whether the incident was an occasional episode or represents consistent domestic violence. For this aim, ask questions relating to Power and Control Wheel (Figure 6). For example, ask questions in order to find out whether the perpetrator intimidates, humiliates, tries to isolate the victim.
- ◆ In case the abused person is unable to clearly describe what has happened, you may ask whether the victim has suffered any physical, sexual or psychic violence. In case the victim replies that such incidents happen, ask the victim to be more specific (“When did it happen?”, “How did it happen?” etc.). You may considerably help the victim clearly understand the situation by presenting the forms of violent behaviour.⁴⁵
- ◆ Find out whether the children live together with the victim. This may be evident from some details, such as children’s shoes in the lobby, or toys.
- ◆ Even if you arrive at the place not for the first time, do not display any irritation, and never blame the victim for any absence of changes. Reassure the victim that the decision to repeatedly contact for help was a right thing to do. Ask the victim what assistance is required.

Rūta (the name has been changed): “My first encounter with the police was, well, I don’t know, maybe she was a police investigator, the woman was understanding and somehow she was supportive to me; so, she did not react or say like ‘What are you doing here?’ That was supportive. <...> The

second time the investigation was different. I was feeling guilty that I had applied at all. Yes, there was a different investigator, she made me feel like I was a fool myself, who had provoked the situation. Especially after my first conversations with the investigator, when I left the building, I wanted to scream and cry and run, and I felt like I would not do anything again...”.⁴⁶

- ◆ Encourage the victim of violence to appeal again in case he/she suffers a physical, sexual, psychological or other form of violence.
- ◆ If you have an impression that the victim is embarrassed to speak, reassure him/her that there is nothing shameful and that many people encounter similar problems. Reassure the victim that it was a right decision to apply for help.
- ◆ Remain patient, even if the victim is justifying the perpetrator, speaking inconsistently, or exaggerating. It is often difficult to talk to victims of violence because they are going through a crisis, whereas the perpetrator may appear calm and friendly.

Vaiva (the name has been changed): “Police talked to him, he told them several jokes, they came up to me and said, ‘That husband of yours is a really nice guy, but he is just having a difficult time now’ <...> And as soon as they arrived, they asked, ‘What’s the matter? What are you arguing about?’ And that phrase – what are you arguing about – and that look on their faces, as if saying – you, some hysterical woman. They practically thought that it was me, that woman, who failed to please her husband, and he was just going through rough time. And I should just bear it.”⁴⁷

- ◆ Communicate with minors (children) at the incident place only if absolutely necessary, if you need to learn the required data in order to detain the suspect, to prevent a crime, or protect the evidence. A statutory representative of the minor may be present when communicating with the minor (child), provided he/she is not the perpetrator concerned.⁴⁸

⁴⁵ *Metodinės rekomendacijos policijos pareigūnams, sprendžiantiems konfliktų šeimoje atvejus [Methodological recommendations to police officers resolving domestic conflict situations].* Police Department under the Ministry of the Interior, Vilnius, 2008, p. 34.

⁴⁶ Aduvavičiūtė, M. and others, *Nusikaltimų aukų teisių direktyva: naujas požiūris į artimųjų smurto aukas [The victims’ rights directive: a new approach towards the victims of domestic violence]*, Vilnius, Human Rights Monitoring Institute, 2014, p. 16.

⁴⁷ Extract from an interview conducted in 2017 by the Human Rights Monitoring Institute.

⁴⁸ *Description of the procedure of responding by police officers to reports on domestic violence incidents.* Approved by Order No. 5-V-84 of 31 January 2012 of the Commissar General of the Lithuanian Police, Item 5.1.2.

Informing victims of domestic violence and ensuring their safety:

- ◆ In all cases separate the victim from the suspected perpetrator in order to protect the victim from influence, threats or any other effects.

Dovilė (the name has been changed): "I was immediately separated from my former partner, I was in one room, he was in another one, so that I could talk normally. Had my partner been sitting in the same room, I would have been even more scared."⁴⁹

- ◆ Inform the victim of violence that he/she will be contacted by representatives of a specialised assistance centre, who will help the person to receive psychological, legal and other assistance.
- ◆ Hand over the victim a telephone number of the psychological assistance organisation and other written information about assistance organisations.
- ◆ In case the person suspected of violence is arrested, explain to the victim that the perpetrator may be arrested for up to 48 hours and subsequently will most probably be obliged to live separately.
- ◆ In case the person suspected of violence is not arrested and the data is not sufficient to initiate a pre-trial investigation, inform the victim that he/she has a right to submit a written request to the police for temporary protection (e.g. an obligation to the perpetrator to move from the place of residence, and/or an obligation not to approach the victim of violence, not to communicate, not to seek contact with the victim).⁵⁰
- ◆ In case the person suspected of violence flees and the victim of violence is scared that as soon as the perpetrator comes back, the violence will reoccur, help the victim to contact the crisis centre or shelter providing overnight accommodation. In addition, inform the victim that as soon as the perpetrator returns, he/she may be obliged to live separately.

⁴⁹ Extract from an interview conducted in 2017 by the Human Rights Monitoring Institute.

⁵⁰ According to Lithuanian Law on protection from domestic violence, 26 May 2011, No. XI-1425 (with subsequent amendments), Article 5.

- ◆ Ask the victim if there is any person (e.g. a friend, mother) who the victim of violence trusts, who he/she maintains regular contacts with, and who will be able to report to the police in case something wrong happens. Contact the person and encourage him/her to call the police in case the violence reoccurs.

Recent studies suggest that women who have suffered violence most appreciate the following assistance provided by the police:⁵¹

- ◆ Provision of information about the possibilities to receive assistance, tips on the possibilities to protect oneself against violence and referring the victim to the specialised assistance organisations.
- ◆ Provision of tangible help, for example, by initiating an eviction of the perpetrator, or transporting the victim to a crisis centre.
- ◆ Detention of the perpetrator, initiation of the investigation.
- ◆ Believing the woman and validating that what has happened to her is a crime.

Summary

Domestic violence can be situational (usually related to alcohol or drug abuse, mental disabilities) or systematic. Systematic violence is the most dangerous form of domestic violence. In case of systematic violence physical violence and other forms of abuse are used to establish perpetrator's power and control over the victim (usually an intimate partner). In order to recognise systematic violence, ask questions, which enable to determine, if the victim is threatened, humiliated, isolated, etc.

While communicating with a person who has experienced domestic violence it is especially important to reaffirm that violence is intolerable. A clear position which shows that violence is unacceptable, and showing the victim that he/she is trusted, are crucial elements of communication and support.

Persons who experienced domestic violence are in a great need of support and reassurance of safety, because they experience not only the stress, caused by the crime itself, but also doubts if it is appropriate

⁵¹ Who will help me? Domestic Violence Survivors Speak Out About Law Enforcement Responses, <http://www.thehotline.org/wp-content/uploads/sites/3/2015/09/NDVH-2015-Law-Enforcement-Survey-Report.pdf>

to testify against their family member and what will happen, when the abuser is released.

Victims of domestic violence often experience strong feelings of shame, self-blame and can show inadequate behaviour due to a long-term trauma and stress. Thus, avoid any phrases or reactions, which could cause an additional trauma when you communicate with the victims. Stay calm, while they show intensive emotions and do not take their anger personally.

Inform the victims that they will be contacted by staff of a specialised support centre, who will help to receive the necessary legal, psychological and practical support.

If a person suspected of violence is taken to the police, explain to the victim of violence that the abuser can be detained for up to 48 hours and later will probably be obliged to live separately. If a person suspected of violence is not detained and there is a lack of data to start a pre-trial investigation, inform the victim of a possibility to apply temporary means of protection against violence (an obligation for the abuser to temporarily move out from his/her place of residence and/or an obligation for the abuser to refrain from closer contact or communicating with the victim of violence).

Terminating a violent relationship in case of systematic violence is a complicated process, which often requires expert help in different fields. Thus, it is important to respond to repetitive reports of violence as seriously as the first one and refrain from comments that would imply accusation of the victim.

VICTIMS OF HATE CRIMES

Hate crimes infringe on personal qualities that make up the core of one's personality and identity⁵² that the person normally cannot change. Victims of such crimes are often at great risk of secondary and repeat victimisation, intimidation or revenge. As such, hate crime victims are considered to be rather vulnerable, and special care is needed when assessing their needs.⁵³

Proper treatment at the hands of law enforcement officers may significantly improve the victim's emotional and psychological well-being, helping them fully participate in criminal proceedings. Likewise, it is also important to understand the specifics of hate crimes, and therefore the main features of these crimes are covered below.

The concept of hate crimes

What are hate crimes?

Hate crimes are defined as crimes motivated by hatred (bias) towards a particular group or members of said group due to their age, gender, sexual orientation, disability, race, nationality, language, descent, social status, religion, beliefs or opinions. Therefore, nearly any crime against a person, society or property may be seen as a hate crime, insofar as it is motivated by prejudice and advances negative perceptions of the group concerned or its members.

Hate crimes are ordinarily divided into two categories:⁵⁴

- ◆ **Hate speech** (incitement to hatred, contempt, marginalization and psychological abuse) against the groups of people characterised by certain features. These crimes are most often committed using language (i.e. verbal or written statements) or words using various symbols (signs as well as others) with an inflammatory or discriminatory meaning.
- ◆ **Other hate crimes**, which cover physical rather than verbal attacks, such as physical abuse or crimes against the

⁵² Švaraitė, I., *Kriminologas: neapykantos nusikaltimai nusitaiko į asmens tapatybę* [Criminologist: hate crimes target the person's identity], 7/6/2017, <http://manoteises.lt/straipsnis/kriminologas-neapykantos-nusikaltimai-nusitaiko-asmens-tapatybe/>.

⁵³ The same requirement is found in Article 22(3) of the EU Victims' Directive (Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA).

⁵⁴ Prosecutor's General Office of the Republic of Lithuania, *Methodological recommendations concerning pre-trial investigation of criminal offences committed with racist, xenophobic, homophobic or other discriminatory intentions*, 2009, <http://www.prokuraturos.lt/data/public/uploads/2015/12/met-rek-del-neapykantos-2009-12-23.pdf>.

property of such groups or their members, manifesting as vandalism or other attacks.

Characteristics of hate crimes

Hate crimes are most often committed in public areas (such as in stores, on the street or in public transportation) and online (in the comment sections of web portals, such as social networks and news sites, on various websites, forums and the like). As said before, crimes of this type may differ in nature. Hate crime victims may suffer harm during both physical (assault, shoving, knocking down, etc.) and verbal (insults, mockery, humiliation, etc.) attacks. It is important to understand that both physical and verbal expressions of hate are capable of causing a shock or psychological trauma.

Hate crimes rarely target any specific person. Usually such crimes send an explicitly hostile message to the groups that victims actually or allegedly belong to (such as the LGBT* community⁵⁵ or minority religious communities), in effect stating that such groups are not welcome in society.⁵⁶

Victims to hate crimes may also not belong to the social group in question, but are associated with it in the mind of the perpetrator – in other words, they are included in the group **by association**. For example, if one of the partners belongs to a national or religious minority, the other can be included in the same community by association. Individuals may also be included in a group due to friendship or other close ties with specific organisations.⁵⁷

As such, even after it is established that the victim did not belong to a vulnerable group, officers should not automatically rule out hatred as a motive. Furthermore, victims are not required to provide evidence on, for example, their religious views, in order to report a hate crime.⁵⁸

In hate crime cases it is important to properly consider the full circumstances of the incident, including **the location** (e.g. whether the incident took place next to a house of prayer, a store run by a foreigner, a gay club, etc.), **the nature of the crime** (e.g. if personal belongings were destroyed using anti-Semitic symbols), **the perpetrator** (e.g. if

⁵⁵ LGBT* refers to lesbian, gay, bisexual and transgender persons. This abbreviation covers both individuals with different sexual orientations/sexual identities and their communities.

⁵⁶ Normantaitė, K., *Atsakas į neapykantos nusikaltimus: situacijos Lietuvoje apžvalga [Responding to hate crimes: a review of Lithuanian experience]*, Vilnius, Human Rights Monitoring Institute, 2017.

⁵⁷ Ouald Chaib., S., *Škorjanec v Croatia: victims of racist hate-crime “by association” protected by ECHR*, June 13, 2017, <https://strasbourgobservers.com/2017/06/13/skorjanec-v-croatia-victims-of-racist-hate-crime-by-association-protected-by-echr/>

⁵⁸ College of Policing Limited, *Hate Crime Operational Guidance*, 2014, p. 5, http://www.report-it.org.uk/files/hate_crime_operational_guidance.pdf.

they're a member of an extremist group) and others. This information may be instrumental in identifying a hate crime, irrespective of whether the victim belongs to a vulnerable group or is identified as such by the perpetrator.

Who are victims of hate crimes?

Hate crimes can be committed against a group of people or member(s) of that group on the grounds of their:⁵⁹

- ◆ age
- ◆ gender
- ◆ sexual orientation
- ◆ disability
- ◆ race
- ◆ nationality
- ◆ language
- ◆ origin
- ◆ social position
- ◆ religion, belief
- ◆ views

Statistical data from the relevant public authorities in Lithuania⁶⁰ shows that the most frequently victims are targeted because of their nationality or sexual orientation.⁶¹

A significant number of hate crimes, however, are never reported, and are thus not reflected in the data. It is of utmost importance that law enforcement officers promptly and properly respond to attacks against members of vulnerable groups or against groups in vulnerable situations, by properly identifying the motive, registering the crime and launching an investigation.

How hate crimes are different from other crimes?

Almost any crime can be seen as a hate crime. To determine whether the crime in question is, in fact, a hate crime, it is important to identify its motive.

Hate-motivated crimes target characteristics that are usually beyond the victim's control, such as race, sexual orientation or disability. This aspect of hate crimes is what causes victims such great anxiety, fear and psychological harm. Perpetrators “convey a particularly

⁵⁹ *Criminal Code of the Republic of Lithuania*, 26 September 2000, No. VIII-1968 (with later amendments), <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/d7ee8c30147a11e7b6c9f69dc4ecf19f>.

⁶⁰ The data is available on the website of the Department of Informatics and Communication under the Ministry of the Interior, <https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-paslaugos/ataskaitos-1>.

⁶¹ Aggregate data from 2014–2017 shows that incitement to hatred on the basis of nationality accounts for 45% of all reported hate crimes, while crimes based on sexual orientation account for a further 34%, https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-paslaugos/ataskaitos-1/nusikalstamumo-iri-ikiteisminiui-tyrimu-statistika-1/view_item_datasource?id=7358&datasource=25599.

humiliating message: namely, that the victim is not an individual with his/her own personality, but just a faceless member of a single-characteristic group."⁶²

A significant portion of hate crime victims perceive violence or harassment associated with hate-motivated crimes as an attack against the core of their identity, which is not necessarily the case for victims of other crimes.⁶³ Furthermore, hate crimes harm not only the individuals concerned, but also society as a whole, since they cause dissension and impede sustainable social development.

Why are victims sometimes reluctant to report hate crimes?

Reluctance to report a crime to the authorities may be caused by several important factors:

- ◇ disappointment with the legal system
- ◇ belief that the motive for hate will be ignored⁶⁴
- ◇ fear that law enforcement officers will not provide the necessary protection to which the victim is entitled under the law⁶⁵
- ◇ fear of further trauma, contempt, intolerance and discrimination at the hands of the officers themselves
- ◇ doubt whether law enforcement institutions will treat them without prejudice and/or animosity
- ◇ fear of disclosing one's identity to others, especially where the victim is a member of the LGBT* community
- ◇ where refugees, migrants and asylum seekers are concerned, fear of jeopardizing legal status or any asylum procedures underway; quite often, these people do not have proper identity documents, which further deters them from reporting hate crimes.⁶⁶

Victims' views are heavily affected by their own experiences with law enforcement officers, as well as the experiences of other members of

⁶² EU Agency for Fundamental Rights, Hate crime in the European Union, 2012, <http://fra.europa.eu/en/publication/2012/hate-crime-european-union>.

⁶³ Bilewicz M. and others, *Pagalba nukentėjusiems nuo homofobinių, bifobinių ir transfobinių neapykantos nusikaltimų. Praktinis vadovas [Toolkit on the needs of victims homophobic, biphobic and transphobic crimes]*, Lithuanian gay league, 2016, p. 20, http://hatenomore.net/publ/05-National-toolkit_lt-ok.pdf.

⁶⁴ *Ibid*, p. 24.

⁶⁵ The European Commission against Racism and Intolerance, Report on Lithuania, Fifth monitoring cycle, 18 March 2016, <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/LTU-CbC-V-2016-020-LIT.pdf>.

⁶⁶ EU Agency for Fundamental Rights, Key migration issues: one year on from initial reporting, 2016, <http://fra.europa.eu/en/publication/2016/key-migration-issues-one-year-initial-reporting>.

the community.⁶⁷ As such, the initial response, the tone of communication and relevant actions taken by officers are very important not only in the short term, when trying to address the immediate needs of a victim, but also in the long run, to establish trust and confidence.

Key recommendations for communicating with hate crime victims

- ◆ Stay calm and professional, assess the situation objectively. Avoid any assumptions or stereotypes about the behaviour, culture, religion or way of life of victims.
- ◆ If necessary, get an interpreter, and help the victim understand that an interpreter will arrive and help to communicate.
- ◆ Ask the victim how he/she would like to be addressed as. This is especially important if the victim's appearance does not conform to the gender indicated in their identity documents.
- ◆ Take into consideration any cultural differences and specific needs, for example, whether the victim would like to communicate with an officer of the same gender. That may be relevant to establishing a safe environment for testimony.
- ◆ In case you don't know how to best proceed in specific case due to being unfamiliar with the traditions of a particular religion or culture, openly but cautiously admit the fact and ask the victim how you can best help them.⁶⁸
- ◆ Do not ask victims whether they think a hate crime has been committed or voice your own conclusions on the matter. Instead, explain that an assessment will be carried out at a later stage of the investigation.⁶⁹
- ◆ Do not ask the victim to prove that they actually belong to any particular vulnerable group;
- ◆ Acknowledge the seriousness of the incident and the harm suffered by the victim, even if they have not suffered any physical injuries.

⁶⁷ Relevant studies have shown that as much as 77.8% of all surveyed hate crime victims who had been in contact with pre-trial investigation officers thought that they were not treated in a respectful, sensitive, tailored, professional and non-discriminatory manner (Human Rights Monitoring Institute, *Protection of hate crime victims' rights: the case of Lithuania*, 2013, <https://hrmi.lt/uploaded/Apzvalgos/Hate%20Crimes%20Victims%20Rights%20Study%20EN%202013.pdf>).

⁶⁸ College of Policing Limited, *Hate Crime Operational Guidance*, 2014, <http://www.college.police.uk/What-we-do/Support/Equality/Documents/Hate-Crime-Operational-Guidance.pdf>.

⁶⁹ International Association of Chiefs of Police, *Responding to hate crimes: a police officer's guide to investigation and prevention*, <http://www.theiacp.org/ViewResult?SearchID=123>.

- ◆ Do not criticise the victim's behaviour, do not ask any "why" questions (e.g., why they were in a particular area, why they were wearing apparel identifying their nationality or religion, or why they were openly showing affection to their same-sex partner when they knew that society is largely hostile to such displays, etc.).
- ◆ Explain the intended course of the investigation or at least the immediate steps to the victim.
- ◆ Ensure confidentiality of the victim.⁷⁰ This is especially relevant when individuals decide not to disclose their sexual orientation to others (for instance, they have not "come out" to their family, friends, colleagues, etc.), which means that any such disclosure in the course of the criminal proceedings may have a significant impact on their life. Police personnel that are involved in the investigation must not disclose information regarding the victim's or witness's sexual orientation or gender identity to their family or friends without their express permission.
- ◆ If it is possible, provide victims with information about organisations providing emotional, psychological and legal support and assistance to victims.

As with other crimes, falling victim to a hate crime can cause different emotions/feelings to people. The intensity of any emotional experience largely depends on personal qualities, existing social connections, previous experiences in dealing with law enforcement, and other factors. In all cases it is important to consider that victims of hate crimes may be more vulnerable due to certain personal qualities or their situation (for example, if they have not disclosed their disability or sexual orientation to others, or find themselves in a different cultural environment).

Summary

Hate crimes are defined as crimes motivated by hatred (bias) towards a particular group of people or members of said group due to their age, gender, sexual orientation, disability, race, nationality, language, descent, social status, religion, beliefs or opinions.

Hate-motivated crimes target characteristics that a person is usually unable to change. Victims of such crimes are often at great risk

of secondary and repeat victimisation, intimidation or revenge. Thus, victims of hate crimes are considered to be rather vulnerable, and special care is needed when assessing their needs.

While communicating with victims of hate crimes it is important to avoid any negative assumptions or stereotypes about their behaviour, culture, religion or way of life. At the same time it is advisable to consider cultural or other differences that could determine the special protection needs of the victim.

A hate incident (verbal or physical) may cause a significant emotional harm, stress and experiences that are not necessarily common to people who have experienced other types of crime. Therefore, the harm caused by a hate crime should be taken particularly seriously.

⁷⁰ College of Policing Limited, *Hate Crime Operational Guidance*, 2014, http://www.report-it.org.uk/files/hate_crime_operational_guidance.pdf.

V. ANNEX. PROTECTION
OF VICTIMS FROM
THREATS ARISING
AFTER A CRIME.
LITHUANIAN
MODEL

Victims of crimes may face different threats (Figure 7):

- ◆ A threat of **secondary victimisation**, i.e. additional traumatising consequences of the crime due to, for example, the inappropriate behaviour of officers, the contact with the suspect, unwanted media attention, the hostility of the family members, etc.
- ◆ A threat of **repeat victimisation**, i.e. falling victims to identical crimes or suffering from the same or related perpetrators.
- ◆ A threat of **intimidation and retaliation** for cooperation with law enforcement authorities.

Individuals who face repeat or secondary victimisation, intimidation or retaliation are prone to emotional and psychological experiences and long-term negative consequences for their health. They are also less likely to trust and cooperate with the law enforcement system, to testify or otherwise participate in criminal proceedings.

Law enforcement officers should treat victims in a respectful, professional and non-discriminatory manner and use protection measures (discussed below) provided for by law in order to avoid the above-mentioned threats or reduce their risks.

Figure 7. Threats faced by victims



PROTECTION OF VICTIMS FROM INTIMIDATION, RETALIATION AND REPEAT VICTIMISATION

Anonymity. One of the measures to protect victims from intimidation and retaliation is total or partial anonymity. This measure can be applied only in cases where the perpetrator will not be able to identify the victim from his/her testimony or other circumstances. Therefore, for example, in the case of domestic violence, anonymity may not be applied. Requesting anonymity is one of the rights of a victim.

An investigator or a prosecutor may apply anonymity if the following conditions are satisfied:⁷¹

- 1) There is evidence of a real threat to the life, health, freedom, property or other important interests of the victim, his/her family members or close relatives (i.e. there is a real threat of such crimes as murder, health impairment, rape, destruction of property, etc.);
- 2) The testimony of the victim is important in the criminal proceedings;
- 3) The victim is involved in the proceedings concerning a grave, serious or less serious crime.

The reality of a threat must be determined according to circumstances such as the type of the crime and its dangerousness, the relationship between the victim and the suspects, the aggressiveness of the suspects and other parties involved in the case, etc. The prosecutor or investigator, having determined that there are grounds for applying anonymity, should discuss with the victim the possibility of applying this measure and allow him/her to decide whether to submit a request to this end. The possibility of applying anonymity should always be discussed with individuals who suffered from crimes committed by organised groups. It is important to involve the victim into the decision-making process, allowing him/her to decide, since the application of this measure is the victim's right and not an obligation.

Measures of protection against criminal influence. If in a case concerning serious crime (e.g. burglary, extortion) there is verified evidence of real danger to the life, health or property of the victim because of his/her cooperation with law enforcement authorities, the following measures of protection against criminal influence may be applied at the victim's request:

- ◆ Physical protection of the person and his/her property
- ◆ Temporary transfer of the person to a safe place
- ◆ Establishment of a special regime regarding the provision of personal data by state and corporate registers and information systems
- ◆ Change of the person's place of residence, work or studies

71 Code of Criminal Procedure, 14 March 2002, No. IX-785, Articles 198–204, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.111555/OTzspIvXy>; Order of the Prosecutor General On the approval of the Recommendations on the anonymity and partial anonymity of the victim or the witness and the approval of the procedural clearance of this decision, 3 June 2014, No. I-114 <https://www.e-tar.lt/portal/legalAct.html?documentId=5a42e4c0ebdd11e3bb22becb572235f5>.

- ◆ Change of the person's identity and biographical data
- ◆ Plastic surgery to change the person's appearance
- ◆ Issuance to the person of firearms or other special means
- ◆ Financial aid.

The application of these measures is regulated by the *Law on the protection from criminal influence of the participants of criminal proceedings and criminal intelligence and the officers of justice and law enforcement institutions*⁷² and the *Regulations on protection from criminal influence*.⁷³ These measures impose significant constraints and may lead to considerable changes in the life of the person; therefore, they can be applied only with the consent of the victim.

Remand measures. Remand measures aim to prevent new crimes and ensure the smooth investigation and legal proceedings of a case. Therefore, these measures also help to protect the victim from repeat victimisation, intimidation and retaliation. For example, a prosecutor may apply to the court asking to oblige the suspect to live separately from the victim and/or not to approach the victim closer than at a specified distance.⁷⁴ If there is evidence suggesting that the suspect may interfere with the proceedings in an attempt to influence the victim, the suspect may be apprehended.⁷⁵

Temporary protection measures. The *Law on protection against domestic violence*⁷⁶ provides for temporary protection measures to ensure the protection of a person who has experienced violence:

- ◆ Obligation for the abuser to temporarily move out of the place of residence (if he/she resides together with the victim);
- ◆ Obligation for the abuser not to approach the victim, not to communicate and not to seek any contact with the victim.

These measures are applied in cases where there is not yet enough evidence to start a pre-trial investigation and the circumstances of the alleged violent incident need to be further clarified. The decision to impose these

⁷² *Law of the Republic of Lithuania on the Protection from criminal influence of the participants of criminal proceedings and criminal intelligence and the officers of justice and law enforcement institutions*, 13 February 1996, No. I-1202 (with later amendments), <https://www.e-tar.lt/portal/lt/legalAct/TAR.717DD0E6FE37/nijWdCPuk>.

⁷³ Order of the Lithuanian Police Commissioner General, the Director of the Prison Department under the Ministry of Justice of the Republic of Lithuania and the Prosecutor General of the Republic of Lithuania *On the approval of the regulations on protection from criminal influence*, 18 September 2008, No. 5-V-532/V-237/I-123, <https://www.e-tar.lt/portal/lt/legalAct/TAR.D39F1C607D10/ZHleKLoYdw>.

⁷⁴ *Code of Criminal Procedure*, Article 120.

⁷⁵ *Code of Criminal Procedure*, Articles 122–123.

⁷⁶ *Law on protection against domestic violence*, 26 May 2011, No. XI-1425 (with later amendments), Article 5, <https://www.e-tar.lt/portal/lt/legalAct/TAR.E14E65020CCC/NdXkmxULzQ>.

measures is adopted by a court upon application by a police officer. A police officer who has performed an assessment of the risk factors and identified the risk of domestic violence or who has received a request by the victim for the application of these measures must contact the court immediately, not later than within 24 hours after the receipt of the initial report of violence. Temporary protection measures are applied until the decision to start a pre-trial investigation is taken. When a pre-trial investigation starts, the application of analogous remand measures should be considered.

PROTECTION OF VICTIMS FROM SECONDARY VICTIMISATION CAUSED BY CRIMINAL PROCEEDINGS

Secondary victimisation may be caused by various circumstances. The colleagues of the victim may become aware of the crime, the details of the incident may be discussed in the media, or the victim may receive negative comments or evaluations. One of the most serious threats of secondary victimisation may be posed when the victim participates in the criminal proceedings. For many victims, regardless of their personal qualities, criminal procedure itself is a stressful experience. The necessity once again to live through the experienced violence, a lack of information, uncertainty, careless and disrespectful communication by officers, questioning the victim's experience and accusing the victim of the crime that he/she has experienced are the most common factors that contribute to increased stress levels and determine the secondary victimisation of the person. This may provoke a deeper psychological crisis or lead to depression.

In order to reduce the risk of secondary victimisation, proceedings should be planned in accordance with the following guidelines:

- ◆ **The time of the interview.** The victim should be interviewed as soon as possible, but urgency should not be an objective in itself. If you see that additional data need to be collected before the interview, contact the victim and inform him/her about the reasons why you cannot perform the interview earlier and indicate when you intend to interview him/her. You can explain that the later time for the interview is important in order to avoid repeated interviews. This will allow the victim not to think that the experienced crime and his/her testimony are not important.

- ◆ **The number of interviews.** Prepare a plan for the interview in advance, anticipate what circumstances need to be clarified and follow the rule to minimise the number of interviews. In the cases of crimes of domestic violence or sexual crimes, a victim should not normally be interviewed more than once. If the suspect is known, it is suggested to interview the victim after the suspicions have been raised because this can help to reduce the number of interviews.⁷⁷ However, there are cases where, due to severe stress, it is difficult for a victim to focus on specific details, the memories return gradually, or the victim wants interviews to be shorter and more frequent. Therefore, in each case, it is important to take into account individual circumstances and the opinion of the victim.
- ◆ **Information provided prior to the interview.** Prior to the interview, inform the victim in advance that he/she may be accompanied by an authorised representative (usually a lawyer) and another adult person of choice whom the victim trusts, such as a friend, colleague or family member.
- ◆ **The necessity of medical examinations.** Victims should not be subject to unnecessary medical examinations; only where strictly necessary, they can be examined by medical specialists. Explain to the victim that these procedural steps are necessary for the purposes of the criminal investigation and involve him/her in the decision-making process.
- ◆ **Attention to the needs of the victim.** Carry out an assessment of the specific protection needs of the victim as discussed below and choose, within your competence, special protection measures or initiate their application.

Assessment of the specific protection needs of victims

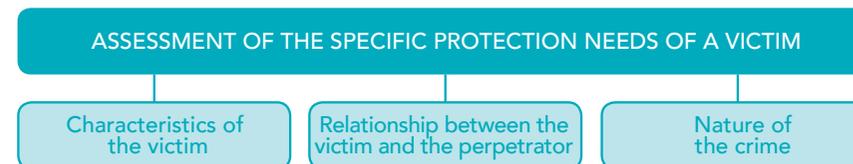
Objective of the assessment

The legislation regulating criminal proceedings provides for special protection measures. They are intended to protect victims from the

⁷⁷ For example, during the research carried out by the Public Institution Children Support Centre, it was identified that, in cases where suspicions were raised before the interview of a child, the children participated in 1.4 of interviews on average and, where suspicions were raised after the first interview of a child, the average number of interviews increased to 2.16 (*Children in legal proceedings: review of the situation and recommendations for specialists*, Vilnius, 2013, pp. 79–80).

negative impact of criminal procedure (secondary victimisation caused by criminal proceedings). These measures include, for example, an interview conducted by an officer of the same gender, an interview by a pre-trial judge, an interview carried out no more than once, etc. (see *Application of special protection measures*).

Figure 8. Assessment of the specific protection needs of a victim



In order to select and apply the special protection measures most suitable for the victim, the assessment of the specific protection needs of a victim is carried out (Figure 8). If the circumstances reveal the likelihood of the suspect trying to exert psychological pressure on the victim of a sexual or violent crime and to disturb his/her emotional balance, consideration should be given to the possibility of applying a special protection measure – an interview by a pre-trial judge without the presence of the suspect, thus creating the precondition for not calling the victim to the court hearing and thus avoiding victim's repeated direct contact with the perpetrator.

The specific protection needs of a victim are assessed taking into account such factors that may lead to the particular vulnerability of the victim, i.e. the greater risk of secondary or repeat victimisation, intimidation or retaliation:

- ◆ **Characteristics of the victim.** Particular vulnerability may be caused due to personal characteristics such as age (a minor or an elderly person), health, psychological condition, social status, etc. Individuals belonging to a minority group of society in terms of their sexual orientation, language, race, religion and other characteristics are usually more vulnerable than others.⁷⁸
- ◆ **Nature of the crime.** Victims of sexual crimes, serious violent crimes, human trafficking, domestic violence, hate crimes, organised crimes and terrorism are considered particularly vulnerable.

⁷⁸ Chomentauskas, G., Dereškevičiūtė, E. and Murauskienė, D., *Psichologinė parama aukoms ir liudytojams bei jų apsauga teismo procese [Psychological support to victims and witnesses and their protection during judicial proceedings]*, 2015, p. 41.

- ◆ **Relationship between the victim and the perpetrator and other circumstances of the crime.** Victims may be particularly vulnerable if they have suffered a crime committed by a family member or a person with whom they have had the relationship of official subordination.

The circumstances identified during the assessment of specific protection needs enable the investigator and/or prosecutor to draw up a “map” of threats posed to the victim. The collected data may be important not only in choosing measures to prevent the traumatic impact of criminal procedure. They can also be relevant in deciding on the need to apply anonymity, the measures of protection against criminal influence or remand measures (see *Repeat victimisation and victim protection*).

Process of the assessment of specific protection needs of a victim

The assessment of the specific protection needs of victims is regulated by *the Recommendations on the assessment of the specific protection needs of victims*, approved by the Prosecutor General of the Republic of Lithuania.⁷⁹ The assessment is carried out by completing *the Form for the assessment of the specific protection needs of a victim* (further referred to as the Needs assessment form) or *the Form for the assessment of the specific protection needs of a minor victim* (for the assessment of the specific protection needs of minor victims, see *Characteristics of the assessment of the specific protection needs of minor victims*).

The assessment of specific protection needs of a victim is carried out in accordance with the following guidelines:

- ◆ **Time of the assessment.** The assessment of specific protection needs should be carried out as early as possible, during the first interview of the victim at the latest.⁸⁰ The data that requires no further clarification should be filled in the needs assessment form during the first contact with the victim. When it is obvious that the crime caused physical, material or non-material damage to the person, the assessment of specific protection needs may be carried out regardless of whether the person has officially been declared a victim.⁸¹

⁷⁹ Order of the Prosecutor General On the approval of the Recommendations on the assessment of the specific protection needs of victims, 29 February 2016, No. I-63, <https://www.e-tar.lt/portal/lt/legalAct/86bc22f0dfa611e58a92afc65dd68e97>.

⁸⁰ Recommendations, Item 3.

⁸¹ Recommendations, Item 2.3.

- ◆ **Providing information to the victim.** Before completing the needs assessment form, explain to the victim the purpose of this action. For example: *It is important for us to identify what measures we need to take to protect you as much as possible from the negative experience of participating in criminal proceedings. Therefore, I would like to clarify some of the circumstances.*
- ◆ **Questioning.** Complete the needs assessment form by talking to the victim rather than asking questions in the form of a questionnaire. Do not ask unnecessary or recurring questions that may be answered based on the available factual or other information. The need to talk about the traumatic experience many times and remember its details can cause additional stress, fear or even psychological trauma to the victim.
- ◆ **Professional and respectful communication.** It is extremely important that, during the assessment of the specific protection needs of victims, the behaviour of law enforcement officers is professional, respectful and non-violent. Avoid stereotyped assumptions, including in relation to the “lifestyle” of a particular group of people, and refrain from any comments on this topic. If your colleagues do not act properly (express irony or use humiliating gestures or actions), discipline them.
- ◆ **Professional assistance.** If you do not have enough data to make a comprehensive assessment of the specific protection needs of the victim, ask a psychologist or another person with special knowledge or skills to help you.
- ◆ **Reassessment.** Upon the receipt of new data that may result in a different assessment of specific protection needs, or at the request of the victim or his/her representative in accordance with law, the prosecutor must arrange or perform an additional assessment of needs, or the reassessment of needs in the case of a substantial change in the relevant circumstances.⁸² The need for an additional or repeated assessment of specific protection needs and the application of other protection measures may also be determined by circumstances such as attempts by perpetrators or related persons to contact the victim, the receipt of information about the investigation by the media contrary to the will of the victim, the violation of the remand measure by the suspect, etc.

⁸² Recommendations, Items 14–15.

- ❖ **Assignment of special protection measures.** After the assessment and the summing-up of its results, inform the victim about the existing special protection measures and the procedure for assigning them. Ask the victim what measures would be relevant for him/her and consider the opinion expressed when choosing specific measures.
- ❖ **Assignment of other protection measures.** The assessment of specific protection needs may reveal circumstances necessitating the application of not only special protection measures, but also full or partial anonymity or the measures of protection against criminal influence. In such cases, follow the rules governing the assignment of these measures (see *Protection of victims from intimidation, retaliation and repeat victimisation*).
- ❖ **Storage of needs assessment results.** The data obtained from the assessment of the specific protection needs of a victim must be kept separately from the case. Access to this data is prohibited for the suspect, the accused person or his/her lawyer.⁸³

Completion of the Form for the assessment of the specific protection needs of a victim

As previously mentioned, the assessment of specific protection needs is carried out by completing *the form for the assessment of the specific protection needs of a victim*. This form consists of three main segments (Figure 9).

Figure 9. Form for the assessment of the specific protection needs of a victim

| FORM FOR THE ASSESSMENT OF THE SPECIFIC PROTECTION NEEDS OF A VICTIM | | |
|--|--------------------|-------------------------|
| Data on the crime | Data on the victim | Data on the perpetrator |

⁸³ Code of Criminal Procedure, Article 1861.

Data on the crime

◆ Nature of the crime

| Nature of the crime | Grave and serious crimes of a violent or sexual nature related to domestic violence | Less serious and minor crimes of a violent or sexual nature | Crimes of other nature |
|---------------------|---|---|------------------------|
|---------------------|---|---|------------------------|

The first column is marked in cases of a grave or serious violent crime (e.g. murder, serious health disruption, robbery with the use of a weapon, extortion of property by using physical violence, terror act), or a grave or serious crime of a sexual nature (e.g. rape, sexual assault committed by a group of people, involvement in prostitution by force) or a crime related to domestic violence (e.g. mild health disruption, infliction of physical pain or minor health disruption, property destruction committed through the use of psychological violence, etc.).

The second column is for cases of crimes of a violent or sexual nature that do not fall into the category of grave or serious crimes (e.g. mild health disruption, infliction of physical pain or minor health disruption, robbery, forced sexual intercourse, profiting from another person's prostitution).

The third column is marked when a committed crime does not involve any use of violence and is not of a sexual nature (e.g. theft).

◆ Subjects (objects) against which the crime was directed

| Crime was directed against | Victim | Family members | Property |
|----------------------------|--------|----------------|----------|
|----------------------------|--------|----------------|----------|

In this section, account is taken of all subjects (objects) against which the crime was directed. For example, in the case of domestic violence, property, such as a mobile phone, may be destroyed in order to affect the victim – to isolate her from the social environment or intimidate her (psychological violence). In such cases, two columns should be marked, i.e. by indicating that the crime was directed against both the victim and property.

◆ Influence

| | | | |
|------------------|-------------------|-----------------|----------------|
| Influence | Physical violence | Mental violence | Not applicable |
|------------------|-------------------|-----------------|----------------|

The assessment of influence is based on the actions taken by the perpetrator. When assessing specific protection needs, physical violence is supposed to cover the inflicted injury, beating, other infliction of physical pain, as well as sexual abuse. Mental violence is a deliberate influence on the psyche of the victim, including threats, bullying, intimidation, the cruel treatment of the pets of the victim, the destruction of the property owned by the victim, etc.

◆ Damage suffered

| | | | |
|------------------------|----------|-------|----------|
| Damage suffered | Physical | Moral | Material |
|------------------------|----------|-------|----------|

Physical damage covers various consequences of physical impact for the body and health of the person, including minor consequences.

Moral (non-material) damage refers to emotional experiences, physical pain, inconveniences, emotional depression, the feeling of humiliation, the deterioration of reputation, reduced possibilities of communication, etc. Physical violence always causes psychological trauma; therefore, in cases of physical violence, the column "moral damage" must also be marked. Non-material damage is caused by violence in respect of children, or pets, when it is aimed at affecting the victim. Damage of this type can also be caused by property losses due to the committed crime, especially if the items emotionally significant to the victim were abducted or destroyed (e.g. family relics, a collection accumulated within a long period). When completing these columns, the feelings of the victim should be taken into account.

Property damage includes both the loss of property and the lost income.

◆ External injuries

| | | | |
|--------------------------|--------------------|--------------|------|
| External injuries | Significant injury | Minor injury | None |
|--------------------------|--------------------|--------------|------|

The extent of health disruption is determined by medical specialists in accordance with *the Rules for determining the degree of health impairment*.⁸⁴ Therefore, officers carrying out the assessment of the specific protection needs of victims assess the severity of injuries only preliminarily.

Data on the victim

◆ Health

| | | | |
|---|--------------------------|------------------------|-------------------|
| Health (obvious signs or established facts) | Physical health disorder | Mental health disorder | No data available |
|---|--------------------------|------------------------|-------------------|

In assessing the health status of a victim, consideration should be given both to the obvious signs and information provided by the victim, as well as to other data in the case (e.g. a conclusion by medical specialists). As information about the health and, especially, mental disorders of the person is particularly sensitive and the person may be reluctant to disclose it, the officer should explain that this information is needed in order to better guarantee the rights of the victim and facilitate his/her participation in the proceedings. However, if the victim does not wish to reveal this information – respect his/her decision.

◆ Social environment

| | | | |
|--|---------------------------------------|-------------------|----------|
| Social environment (marital status, financial situation, employment relationships, etc.) | Negative (anti-social way of life) | No data available | Positive |
|--|---------------------------------------|-------------------|----------|

The social vulnerability of victims is one of important circumstances that can lead to a negative impact of criminal proceedings. Persons experiencing social exclusion due to long-term unemployment, poverty, homelessness or addiction are at risk of neglect and carelessness. Their ability to participate effectively in the proceedings may also be limited by a lack of financial resources.

Note: The term "anti-social way of life" used in the needs assessment form is derogatory and should not be used for describing people who are socially excluded. Their difficult social situation may be caused by various circumstances, including disability, difficulty in finding a job,

⁸⁴ Order of the Minister of Health, the Minister of Justice and the Minister of Social Security and Labour *On the approval of the rules for determining the degree of health impairment*, 23 May 2003, No. V-298/158/A1-86.

the loss of the breadwinner, etc. For example, a woman who has experienced violence and lives poorly with several children, or an elderly person with intellectual disabilities, can experience social exclusion.

◆ Other significant data

| | | | |
|---|--|--|----------------------------------|
| Other significant data (nationality, citizenship, membership of a religious, ethnic or another group) | Determined influence on the crime | Undetermined influence on the crime | No influence on the crime |
|---|--|--|----------------------------------|

This section is relevant in cases where a crime is committed due to hatred. In assessing this circumstance, main attention should be paid to the assessment of the incident given by the victim. If the person believes that he/she has suffered due to his/her nationality, citizenship, religion, membership of an ethnic or another group (e.g. due to his/her language, origin, sexual orientation or transsexuality), it should be indicated that being part of a particular group had influence on the crime. The fact whether the crime was indeed driven by hatred will be determined in the later stages of the pre-trial investigation.

◆ Relationship with the perpetrator

| | | | |
|--|--------------------------------------|--|----------------------------------|
| Relationship with the perpetrator | Familiar with the perpetrator | Unfamiliar with the perpetrator | Unidentified relationship |
|--|--------------------------------------|--|----------------------------------|

Where a victim and the perpetrator are familiar with each other, there is a greater likelihood that the perpetrator will try to influence the victim. The perpetrator “known by sight” (e.g. a person living in the neighbourhood, although not communicating with the victim) may know the victim’s place of residence and family members and have the possibility of intimidation or retaliation. Therefore, each specific situation should be taken into account and, in the cases mentioned above, the person and the perpetrator should be considered “familiar”.

◆ Dependence on the perpetrator

| | | | |
|--------------------------------------|----------------------------|--|-------------|
| Dependence on the perpetrator | Material dependence | Other dependence (official, emotional) | None |
|--------------------------------------|----------------------------|--|-------------|

It is important that different forms of dependence may overlap. For example, victims of domestic violence are often linked with the

perpetrator by the relationship of both material and emotional dependence. In such cases, both columns are marked. Support and security are particularly important for victims, since they not only suffer from stress caused by the crime but also have doubts whether it is appropriate to testify against a family member and what will happen after he/she is released.

◆ Behaviour during the assessment

| | | | |
|--|--|----------------------------|-------------------------|
| Behaviour during the assessment | Obvious post-traumatic condition (high anxiety, incoherent speech, disorientation, etc.) | Obvious worry, fear | No obvious signs |
|--|--|----------------------------|-------------------------|

The way a victim behaves during the assessment of his/her specific protection needs depends to a large extent on whether the assessment is carried out immediately after the crime or more than twenty-four hours after the crime. After a certain time period, or due to the effects of medications (e.g. sedative medicines), the initial apparent post-traumatic condition and the obvious signs of anxiety or fear may decrease. Therefore, if necessary, it is important to ask the victim about his/her emotional condition.

◆ Role of the victim in the proceedings

| | | | |
|--|---|---|--|
| Role of the victim in the proceedings | Specifically indicates the perpetrator | Partially identifies the perpetrator | Does not identify the perpetrator |
|--|---|---|--|

The fact that a victim can specifically identify the perpetrator determines the importance of this testimony in the criminal proceedings and increases the risk of adverse effects on the victim. It is considered that a victim specifically indicated the perpetrator if, according to the testimony given by the victim, it is possible to identify a specific person – his/her name, surname or place of residence. Testimony partly identifies the perpetrator when a victim can describe the appearance of the perpetrator.

◆ Criminal influence

| | | | |
|---------------------------|--------------|---------------|---------------------|
| Criminal influence | Known | Likely | Undetermined |
|---------------------------|--------------|---------------|---------------------|

Criminal influence is deemed to be unlawful acts that cause real danger to the life, health, property, business or other legitimate interests of the victim. These acts are aimed at preventing the victim from performing the duties specified in the Code of Criminal Procedure or at bringing retaliation for the obligation fulfilled by him/her.⁸⁵ Thus, criminal influence is aimed at intimidating the victim so that he/she refuses to cooperate with law enforcement, or it is aimed at retaliating for the testimony given. Criminal influence is known if the fact of such influence has already been recorded (this may be one of the reasons for an additional assessment or reassessment of the specific protection needs of the victim). Whether this impact is likely should be assessed by taking into account such circumstances as the relationship of the victim with the suspect, the importance of his/her testimony, the aggressiveness of the suspect or persons related to him/her, as well as the fears of the victim.

◆ Other influencing factors

| | | | |
|---------------------------|-------------------------------|--------------|---------------------------|
| Other influencing factors | Hostility from family members | Undetermined | Support by family members |
|---------------------------|-------------------------------|--------------|---------------------------|

The relationship of a victim with his/her family members to a large extent determines whether the person will feel their support during the criminal proceedings. In cases where a crime is committed by a close person, for example, a family member, it is essential to find out about the attitudes of other family members to the crime. It may appear that the victim is under pressure to reconcile and refrain from giving testimony, and so on.

Data on the perpetrator

◆ Suspect

| | | | |
|---------|------------|--------------------|--------------|
| Suspect | Identified | Features are known | Unidentified |
|---------|------------|--------------------|--------------|

These circumstances are important for planning pre-trial investigation and tactics for actions. From the point of view of the protection of the victim from negative influence, the fact that the suspect has been identified can lead to a greater threat to the victim. Such a person may try to intimidate the victim so that he/she does not give testimony about the circumstances of the crime. The probability that such

⁸⁵ In accordance with Item 2.4 of the *Regulations on protection from criminal influence*, approved by the order of the Prosecutor General of 31 December 2012, <http://www.prokuraturos.lt/data/public/uploads/2015/12/apsaugos-nu-nusikalst-poveikio-2012-12-31.pdf>.

actions will be taken by an unidentified suspect is lower, since contact with the victim would entail additional risks.

◆ Perpetrator

| | | | |
|---|-------|-------------|--------------|
| Perpetrator (to be filled in if the perpetrator is identified) | Group | Sole person | Undetermined |
|---|-------|-------------|--------------|

The fact that a crime was committed by a group of persons indicates not only the severity of the crime, but also a greater threat to the victim to experience criminal influence. *The Recommendations on the anonymity and partial anonymity of victims or witnesses and the procedural formalities of such decisions* provide that the very existence of a criminal group that engages in violent crime can be considered a real threat to the security of the victim.⁸⁶

◆ Characteristics of the perpetrator

| | | | |
|--|----------------------|--------------|--------------------------|
| Characteristics of the perpetrator (to be filled in if the perpetrator is identified) | Previously convicted | Undetermined | Previously not convicted |
|--|----------------------|--------------|--------------------------|

The personality of the perpetrator is a very important factor that allows assessing the risk of influence on the victim and the likelihood that the victim may experience intimidation, bullying or provocative responses during the conduct of proceedings and the trial.

Assessment of the data

When responses are entered in the designed fields, the total score is counted. Each answer YES in the first column is assigned a score of 2 and each answer YES in the second column is assigned a score of 1.

High risk to experience negative impact is determined when the total score is 21 or more.

Average risk is determined when the total score is from 11 to 20.

Low risk is determined when the total score is below 10.

The appropriate assessment of the specific protection needs of a victim may provide important information on the circumstances revealing a real threat of criminal influence to the victim and, accordingly, on

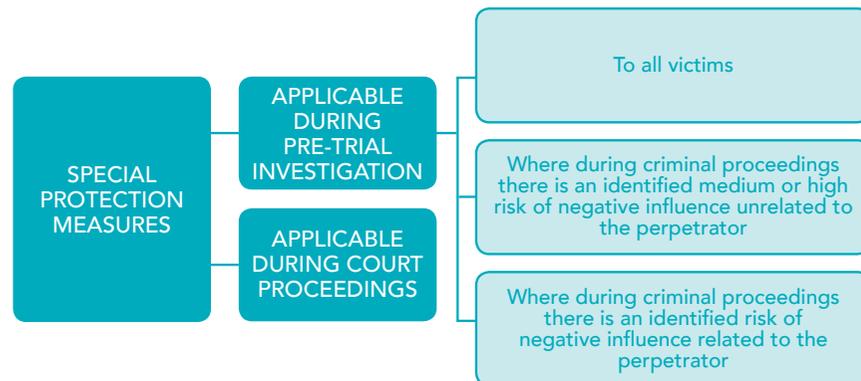
⁸⁶ *Recommendations on the anonymity and partial anonymity of victims or witnesses and the procedural formalities of such decisions*, 3 June 2014, No. I-114, Item 14.4.

the need to decide regarding anonymity or initiate the application of the appropriate remand measures or measures of protection against criminal influence.

Application of special protection measures

Taking into account the results of the assessment of specific protection needs, the applicable special protection measures should be selected (Figure 9). Either a single measure or several measures may be selected.

Figure 10. Special protection measures



The Recommendations on the assessment of the specific protection needs of victims are indicative; therefore, each situation needs to be considered individually and special protection measures should be applied taking into account the circumstances determining the level of the identified risk. For example, such cases are possible where, after summing up the results and finding a low risk of the negative influence of criminal proceedings or other negative influence, the subjective characteristics (e.g. a severe post-traumatic condition) of the person or his/her relationship with the perpetrator will determine the need to apply the special protection measures relevant to a particular situation.

Measures applicable to all victims during pre-trial investigation

Participation of the accompanying person.⁸⁷ All victims, not only those who are considered to be more vulnerable (e.g. victims of

specific crimes, minors or persons with disabilities) have the right to the participation of the accompanying person.^{88,89,90} The purpose of the participation of the accompanying person in the proceedings together with the victim is to provide the victim with psychological support to enable him/her to feel more secure. At the same time, it facilitates the situation of law enforcement officers, as they can concentrate on procedural actions, while emotional support is provided by the accompanying person.

The role of the accompanying person is different from that of the authorised representative (usually a lawyer), whose function is to provide legal assistance to the victim. Accordingly, the right to be accompanied does not depend on whether the victim has an authorised representative and whether the latter participates in the specific actions. The accompanying person may be any adult person whom the victim trusts: a family member, a friend, a representative of a non-governmental organisation operating in a particular field (e.g. providing assistance to victims of domestic violence or victims of human trafficking, or protecting the rights of LGBT persons), etc.

A refusal to allow the participation of the accompanying person chosen by the victim in the criminal proceedings or in separate stages of the proceedings is possible only by the decision of the investigator or prosecutor or by the decision of the pre-trial judge or court if such participation is contrary to the interests of the victim or hinders the investigation or consideration of the case.⁹¹

An obvious case contrary to the interests of the victim would be the participation of a potential perpetrator or a family member supporting him/her in cases of domestic violence. A similar situation may arise where the accompanying person has an interest in the outcome of the case because he/she has links with the suspect and there is a reason to believe that he/she may seek to help the suspect. Interference with the investigation or consideration of the case may be related to a situation in which the accompanying person, during a particular procedural action, influences or attempts to influence the victim and this affects his/her testimony. A refusal to allow the participation of the accompanying person in the proceedings may also be based on the need to ensure

⁸⁸ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Article 20.

⁸⁹ Code of Criminal Procedure, Article 561.

⁹⁰ DG Justice Guidance Document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, p. 42.

⁹¹ Code of Criminal Procedure, Article 561.

⁸⁷ Recommendations, Item 16.2.

the confidentiality of pre-trial investigation data. In all cases, a procedural refusal to allow the participation of a particular accompanying person must be a reasoned one, i.e. it must be based on specific data.

In case an accompanying person chosen by the victim is not allowed to participate in the proceedings, the victim should be allowed to choose another accompanying person.

Notification of the arrest of the suspect.⁹² This measure is compulsory, unless a victim expressly refuses to receive this information or his/her place of residence is unknown, or such a notification would harm the suspect.⁹³ For example, the suspect could face a threat if the victim's family members publicly (e.g. in the media or in the cyberspace) express an intention to deal with him/her. In cases where the place of residence of the victim is unknown, consideration should be given to the possibility of informing him/her by telephone or e-mail, or sending a message to the contact address indicated by him/her.

Notification of the release of the suspect to freedom or the escape of the suspect from prison.⁹⁴ Upon the apprehension of the suspect, the prosecutor or investigator must determine whether the victim wants to receive any information about the release or escape of the suspect. This information must be provided if the victim so requests.⁹⁵

Protection against publicity. It is important to take all possible measures to ensure that information on the conduct of the pre-trial investigation and circumstances of the case, in particular regarding the victim's personality and behaviour, is not made public.

In all cases, the timing of procedural actions should be planned so that **a meeting of the victim with the suspect (for example, in the waiting room, the corridor) is avoided.**

Measures applicable where during criminal proceedings there is an identified medium or high risk of negative influence unrelated to the perpetrator

Typically, these measures must be coordinated. For example, a victim of sexual or domestic violence should be interviewed by a person of the same gender who specialises in cases of this category; during the pre-trial investigation such a victim should be interviewed only once.

⁹² Recommendations, Item 16.8.

⁹³ Code of Criminal Procedure, Article 128(4).

⁹⁴ Recommendations, Item 16.7.

⁹⁵ Code of Criminal Procedure, Article 128(4).

Interviews by an officer of the same gender.⁹⁶ Victims of sexual crimes, domestic violence, human trafficking, profiting from another person's prostitution and involvement in prostitution, as well as crimes related to discrimination or gender-based hatred (including gender identity), should be interviewed by an officer of the same gender if the victim so wishes.⁹⁷ In the case of transgender persons, the gender of the officer should be chosen according to the gender with which the victim identifies himself/herself (and which will not necessarily coincide with the gender specified in the personal documents).⁹⁸

A refusal to satisfy the request regarding an interview by an officer of the same gender can only be justified by a reasoned decision of the investigator provided that the course of the pre-trial investigation is not prejudiced.⁹⁹ In this respect, an important circumstance could be making a choice between an interview carried out by an officer of the same gender and an officer specialising in the given type of cases, where it is clear that the officer with the relevant experience may investigate the crime more effectively. In such a case, it should be explained to the victim that the particular officer is specialising in the given crimes, has a lot of experience and understands the situation of persons who have suffered such crimes.

In cases where an interview is conducted by an officer of the same gender, but the victim does not speak Lithuanian or has a speech, hearing or mental disability, the interpreter participating in the interview should also be of the same gender as the victim.¹⁰⁰

The gender of an officer conducting an interview and the gender of an interpreter can be important in communicating with individuals whose cultural background and traditions are focused on gender segregation. Consideration should be given to the possible cultural differences and the fact that an interview conducted by a person of the same gender can be a key factor in ensuring the confidence of the victim and allowing him/her to disclose the circumstances of the crime.

Interviews by a specialised officer.¹⁰¹ Such interviews are particularly relevant in cases of sexual crimes, domestic violence and human

⁹⁶ Recommendations, Item 16.3.

⁹⁷ Code of Criminal Procedure, Article 185(2).

⁹⁸ Bilewicz M. and others, *Pagalba nukentėjusiems nuo homofobinių, bifobinių ir transfobinių neapykantos nusikaltimų. Praktinis vadovas [Toolkit on the needs of victims homophobic, biphobic and transphobic crimes]*, Lithuanian gay league, 2016, p. 123, http://hatenomore.net/publ/05-National-toolkit_lt-ok.pdf.

⁹⁹ Code of Criminal Procedure, Article 185(2).

¹⁰⁰ DG Justice Guidance Document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, p. 13.

¹⁰¹ Recommendations, Item 16.4.

trafficking, also when a victim is a minor. An officer specialising in the area of specific crimes should tell the victim that he/she understands the nature of such crimes and the difficulties faced by the victims. Knowledge that the person conducting the interview is competent in the relevant crimes gives the victim more confidence and enables him/her to speak more openly about the sensitive and painful details of the traumatic event. However, personal qualities of the officer, his/her ability to establish and maintain the contact with the victim have a major role to play in communicating with vulnerable victims in all cases.

Repeat interviews conducted by the same officer.¹⁰² A repeat interview is applicable to protect the victim from stress caused by the need to tell about the same incident to different persons. Each officer has his/her own communication style; therefore, it is easier for the victim to know how to act, what to expect, and how to talk about the unpleasant experience.

Participation of specialists in interviews.¹⁰³ This measure is necessary where a victim has suffered serious trauma, as well as in communicating with victims having a psychosocial or intellectual disability. If a victim is a minor, a psychologist and a representative of the child rights protection institution should be invited to the interview in all cases.

Interviews conducted by using audio and video remote transmission means. This special protection measure is applicable where, after the assessment of all the circumstances, there is a risk that direct participation in an interview would injure or psychologically harm the victim.¹⁰⁴

Participation of statutory representatives.¹⁰⁵ Representatives of minors or persons with restricted legal capacity are allowed to participate in the proceedings unless this is contrary to the interests of the victim.¹⁰⁶ A family member or a close relative must also be allowed to participate in the proceedings in the interests of the person whose legal capacity is not restricted but who cannot properly exercise his/her procedural rights due to old age, disability, illness or other important reasons. However, it is necessary in all cases to assess whether there is no conflict of interests between the representative and the victim. If there is a conflict of interests, another person should be entitled to act as a representative.

¹⁰² Recommendations, Item 16.5.

¹⁰³ Recommendations, Item 16.18.

¹⁰⁴ Recommendations, Item 16.12.

¹⁰⁵ Recommendations, Item 16.10.

¹⁰⁶ Code of Criminal Procedure, Article 53.

Interviews conducted by the pre-trial judge.¹⁰⁷ Since the data collected during such interviews is considered to be evidence in the court proceedings, the prosecutor should apply for an interview conducted by the pre-trial judge where it is believed that in the course of the court proceedings it may be psychologically difficult for the victim to give complete testimony or he/she can exercise the right to refuse to give testimony (while the victim may give more detailed testimony to the pre-trial judge), or the testimony may be changed.¹⁰⁸ An interview conducted by the pre-trial judge is also relevant where there is evidence that the victim will not be available for the interview in the course of the court proceedings due to health or other issues (e.g. a foreigner who has suffered a hate crime will be absent).

Video and audio recording during interviews. This protection measure may be applied where there is no possibility of the prompt presence of the victim for an interview conducted by the pre-trial judge, as well as where there is the need to record the emotional condition or behaviour of the victim.¹⁰⁹ However, only an audio and video record of an interview conducted by the pre-trial judge has an independent probative value in court; therefore, in order to avoid calling the victim to the trial hearing, this measure does not replace an interview by the pre-trial investigation.

Measures applicable where during criminal proceedings there is an identified risk of negative influence related to the perpetrator

The assessment of the specific protection needs of a victim allows for the identification of circumstances indicating that meeting with the perpetrator will cause the victim emotional trauma (this may be due to the suffered sexual violence, the crime having severely degraded the dignity of the victim, the influence of the crime on the psyche of the victim, etc.). Based on the nature of the crime, the circumstances of the crime and the personal characteristics of the perpetrator, it can be determined whether the perpetrator will attempt to influence (intimidate or bully) the victim. In such cases, it is necessary to discuss the situation with the victim and, at his/her request, to seriously consider the use of measures to avoid contact with the perpetrator during the whole or part of the process.

Interviews conducted by the pre-trial judge in the absence of the suspect.¹¹⁰ This is the best measure to protect the victim from a

¹⁰⁷ Recommendations, Item 16.13.

¹⁰⁸ Code of Criminal Procedure, Article 184(1).

¹⁰⁹ Recommendations, Item 16.16.

¹¹⁰ Code of Criminal Procedure, Articles 185(1) and 186(4).

traumatic contact with the perpetrator. This special protection measure is recommended if the participation of the suspect would prevent the victim from providing complete testimony or would cause intimidation or emotional trauma. During such interviews, the rights of the suspect are ensured by enabling him/her to observe and hear the interview from another room and ask the victim questions through the pre-trial judge. If there is no technical possibility of creating the conditions for observing and hearing the interview from another room, an audio and video record made during the interview is immediately after the interview shown to the suspect and other participants of the proceedings who are entitled to ask the interviewed person questions through the pre-trial judge. Such an interview procedure should normally apply to minor victims.

Interviews in rooms adapted for the interviews of children.¹¹¹

Rooms adapted for the interviews of children are installed in such a way that a victim does not meet with the suspect, while other participants of the proceedings can observe the interview without being present in the room, and the room is equipped with audio and video recording equipment. This special protection measure should be applied to protect a victim from contact with the suspect. It is also valuable for creating a more private interview environment, as other participants of the proceedings can observe the interview without being in the same room.

Measures applicable during court proceeding

When a case is referred to a court, the most important thing is to protect the victim from unnecessary publicity and traumatic contact with the perpetrator.

Protection from publicity. In order to protect a victim from traumatic experience related to the public court hearing, including media attention, the court may issue an order for a closed hearing (i.e. only those who take part in the case are allowed to participate in the court hearings).

Usually, closed hearings are conducted in the following cases:¹¹²

- ◆ cases involving children;
- ◆ cases concerning sex crimes;
- ◆ cases where victims are subject to anonymity;

- ◆ cases where it is necessary to protect information about the private life of the parties to the proceedings;
- ◆ other cases where it is necessary to ensure specific protection needs of victims.

The prosecutor should assess the need for a closed hearing and submit a reasoned request to the court in cases of domestic violence, hate crimes (especially gender-based crimes, including crimes related to gender identity or sexual orientation). Closed court hearings are important where there is evidence that the public consideration of the case may cause damage to the victim. However in all cases, the prosecutor should take into account the opinion of the victim before submitting a position regarding a non-public hearing to the court (maybe, the victim prefers a public hearing).

Protection from the influence of the defendant or other participants of the proceedings.

- ◆ **Not calling the victim to the court hearing.** Where a victim was interviewed by the pre-trial judge, the court may decide not to call her/him to the court hearing. Minor victims are summoned to a hearing only in exceptional cases.
- ◆ **Participation in only part of the hearing.** The court may allow the victim to participate only in part of the hearing.
- ◆ **Hearing the victim's testimony by using remote transmission.** The court may hear the victim's testimony through remote transmission in order to avoid direct contact between the victim and the accused, or in order to ensure the efficiency of the proceedings (e.g. the victim may not need to go to a repeated court hearing in another town if an interview is arranged at the court of the victim's place of residence).
- ◆ **An interview without direct presence of the accused or other participants of the proceedings.** In this case, the victim's testimony is directly broadcast to other participants in the court hearing, and the questions are presented to the victim through the judge.
- ◆ **The use of technical means preventing the identification of the person being interviewed.** Victims subject to anonymity are interviewed during a closed hearing, using acoustic and visual barriers preventing the identification of the person being interviewed.

¹¹¹ Recommendations, Item 16.14.

¹¹² Code of Criminal Procedure, Article 9(3).

ASSESSMENT OF SPECIFIC PROTECTION NEEDS OF MINOR VICTIMS

It is generally acknowledged that, in any proceedings related to a child, key consideration must be given to the interests of the child.¹¹³ A child is a person below 18 years of age, i.e. a minor. The principle of the priority of the interests of the child is an important criterion guiding decision making regarding a minor victim in cases where the relevant legal regulation is insufficiently comprehensive or is vague.

The physical, mental and social maturity of minors of different age varies significantly, but most often minors are not able to defend themselves, they do not have material life experience and are heavily dependent on their parents or guardians, who may turn into abusers.¹¹⁴ For this reason, it is presumed that minor victims are to be assigned to the group of vulnerable victims, and they require specific protection against the traumatic effects of criminal proceedings.¹¹⁵

Like with respect to other victims, it is important to assess the specific protection needs of minors. This assessment is carried out using the *Form for the assessment of the specific protection needs of a minor victim*. Such assessment is instrumental in establishing cases where a minor faces a substantial threat of secondary or repeat victimisation, intimidation or retaliation, also in cases where, due to a disease, conflict of interests or other considerations, the representatives by law of a minor are not in a position to properly represent him/her and, therefore, it is necessary to appoint an authorised representative.

Necessity to hear a minor victim and take his/her opinion into account.

It is established that the right to be heard is one of the main needs of a child.¹¹⁶ According to the Convention on the Rights of the Child, each child who is capable of forming his/her own views must have the right to express those views freely in all matters affecting the child; the views of the child must be given due weight in accordance with the age and maturity of the child.¹¹⁷ Therefore, when taking any decision related to a minor victim, for example, regarding the appointment of a legal representative, it is important to take into account his/her opinion as far as possible.

¹¹³ This approach is enshrined in the *Convention on the rights of the child of the United Nations*. The Convention stipulates that, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (Article 3(1)).

¹¹⁴ Uscila, R., *Viktimologijos pagrindai [Basics of Victimology]*, Vilnius, 2005, p. 43.

¹¹⁵ *Victims' Rights Directive*, Article 22(4).

¹¹⁶ Murauskienė, D., *Parens patriae doktrinos raiška baudžiamajame procese, kuriame dalyvauja vaikai [The doctrine of parens patriae in criminal proceedings involving children]*, Doctoral thesis, Vilnius, 2017, p. 83.

¹¹⁷ *Convention on the Rights of the Child*, Article 12(1)

Completion of the form for the assessment of the specific protection needs of a minor victim

The *Form for the assessment of the specific protection needs of a minor victim* partly coincides with the *Form for the assessment of the specific protection needs of a victim*; therefore, when completing this form, it is recommended to refer to the provisions discussed above (see *Completion of the form for the assessment of the specific protection needs of a victim*). However, the *Form for the assessment of the specific protection needs of a minor victim* covers circumstances that are not included in the assessment of the needs of an adult victim.

◆ Type of the crime

| Type of the crime | Crimes against human health, liberty, the freedom and inviolability of sexual self-determination, children and family, or morality | Serious and grave crimes | Other type |
|-------------------|--|--------------------------|------------|
|-------------------|--|--------------------------|------------|

The first column is marked in all cases where a minor has suffered any crime against human health, liberty, the freedom and inviolability of sexual self-determination, or crime against children, family or morality (e.g. a minor or serious health disruption, the infliction of physical pain, human trafficking, rape, involvement in prostitution, sexual abuse of a minor, abduction of a minor, neglecting a child, abuse of the rights or obligations of parents, guardians, carers or other legitimate representatives of the child). Minors who have suffered such crimes are considered to be exposed to an enhanced risk to be adversely affected by criminal proceedings; therefore, it is necessary to ensure the participation of their authorised representative.¹¹⁸

The second column is marked where a minor has been a victim to a serious or grave crime not assigned to the category of crimes against human health, liberty, the freedom and inviolability of sexual self-determination, or crimes against children, family or morality.

The third column is marked in all other cases.

¹¹⁸ *Code of Criminal Procedure*, Article 55(4).

◆ Age group

| Age group | 0–10 years | 11–14 years | 15–18 years |
|-----------|------------|-------------|-------------|
|-----------|------------|-------------|-------------|

The cognitive abilities of a child vary depending on the age group; any trauma experienced at a young age has long-lasting consequences for the physical or mental health of the person. Victims of a particularly young age should be interviewed only in cases where there are no other ways to establish required specific circumstances. The age of a victim is not only an important indicator of vulnerability, but it also provides important information that needs to be taken into account in preparing for an interview.

◆ Social environment

| Social environment | Adverse (the child lives in an anti-social family, etc.) | No data | Positive (there is evident data that the child is taken care of properly) |
|--------------------|---|---------|--|
|--------------------|---|---------|--|

The first column is marked if the testimony of a minor or other available information (data recorded on the site of the incident, testimonies of witnesses, data from previous cases in which the person was declared to be a victim, etc.) gives grounds to suspect that the environment of the minor victim is adverse (e.g. family members abuse alcohol or drugs, the parents lack social skills to take care of their children, or they engage in violence). The investigator or prosecutor may also request the Child's Rights Protection Division to check the living conditions of the minor.¹¹⁹

The third column is marked in cases where there are no doubts that a child is being taken care of properly. Such cases are possible where a child provided with the appropriate material living conditions is subject to emotional abuse (bullying, intimidation or rejection). In the event of the suspicion that a child suffers an emotionally damaging environment, it is recommended to seek the assistance of a child psychologist, because this may help to reveal circumstances due to which the legal representative may not be able to properly represent the rights and interests of the child. In such cases, in view of any newly discovered data, it is necessary to conduct an additional assessment of the specific protection needs of the minor victim.

¹¹⁹ Recommendations on the cooperation of Children's Rights Protection Divisions and territorial Prosecutor's Offices for the purpose of the protection of children's rights, approved by the order (No. A1-138) of 18 March 2011 of the Minister of Social Security and Labour.

◆ Had previously suffered a crime

| Had previously suffered a crime | Had been abused by family members | Had been abused by people other than family members | Had not been abused / no data |
|---------------------------------|-----------------------------------|---|-------------------------------|
|---------------------------------|-----------------------------------|---|-------------------------------|

The fact that a minor had previously suffered crimes shows that he/she is particularly subject to a threat of repeat victimisation. Minors who had been abused by their family members are particularly vulnerable, because violence by family members or other illegal actions may significantly disturb the victim (minors may not even comprehend that they had been treated inappropriately), or cause the feeling of shame or guilt or the desire to protect their family. The data that a person had previously suffered a crime is important in deciding whether the parents, guardians or carers of the minor will be able to properly represent the interests of the victim as his/her representatives by law.

◆ Representation

| Representation | statutory representative is not in a position to ensure the rights and legitimate interests of the minor (suspected of crimes against the child, having been under the influence of alcohol, having a personal interest in the case, etc.). | Statutory representative is a public authority | statutory representative properly ensures the rights and legitimate interests of the minor |
|----------------|--|--|--|
|----------------|--|--|--|

The statutory representative of a minor victim plays an important role not only by assisting the minor to implement his/her procedural rights and defending his/her interests, but also by providing him/her emotional support.¹²⁰ Therefore, the proper representation of a minor is often a necessary precondition in seeking to avoid or mitigate the adverse impact of the criminal proceedings.

The circumstances indicating whether or not a legal representative may properly ensure the rights and legitimate interests of a minor are

¹²⁰ Murauskienė, D., *Parens patriae doktrinos raiška baudžiamajame procese, kuriame dalyvauja vaikai [The doctrine of parens patriae in criminal proceedings involving children]*, Doctoral thesis, Vilnius, 2017, p. 69–70.

closely related to other circumstances identified during the assessment of the specific protection needs of the minor victim.

The first column is marked where a minor is represented by his/her family members (parents, guardians or carers) and certain circumstances are identified leading to the conclusion that they are not willing or able to properly represent the rights and legitimate interests of the minor victim.

The parents, guardians or carers of a minor are considered unable to properly represent the minor where:¹²¹

- ❖ Suspicions concerning the crime have been raised against one of the representatives by law of the minor (e.g. one of the parents), while another statutory representative of the minor victim prioritises the interests of the suspect: defends the suspect, contradicts the testimony of the child, negates the crime, etc.;
- ❖ The statutory representative prioritises the interests of the suspect who is not a representative of the minor;
- ❖ Suspicions have been raised against the statutory representative of the child and there is no other representatives or he/she cannot represent the interests of the child (because he/she is deceased, left for permanent residence abroad or is under treatment);
- ❖ The family is included in the list of families at social risk and the investigators have doubts whether they are able to properly represent the victim;
- ❖ The actions or inactivity of the representatives by law interfere with the interests of the child (they are changing the testimonies, seeking to influence or undermine the testimony of the child, are absent from the interviews of the child, etc.);
- ❖ The child does not agree that his/her representatives by law would participate in the pre-trial investigation;
- ❖ The representatives by law have refused to participate in the proceedings;
- ❖ The representatives by law abuse alcohol/drugs and there are reasonable doubts whether they are able to properly represent the interests of the minor victim.

121 Tarvydienė, O., "Vaiko teisių apsaugos specialisto vaidmuo baudžiamajame procese [The role of children rights protection specialist in the criminal proceedings]", *Vaikai teisiniame procese: situacijos apžvalga ir rekomendacijos specialistams*, Vilnius, 2013, p. 46–47.

Once it becomes clear that the statutory representatives are not in a position to ensure the rights and legitimate interests of the minor, legal counsel should be appointed.

The second column is marked if a minor victim is represented by public authorities, for example, by the Children's Rights Protection Division (CRPD) of a children's care home or of the minor's place of residence.

The third column is marked where a minor victim is represented by a close relative who does not have any interests potentially interfering with the interests of the victim and properly takes care of the rights and interests of the child.

Protection of a minor victim against publicity

Minor victims must be protected against publicity. Like in all other cases, the rule on the non-disclosure of pre-trial investigation data applies, requiring that before the hearing of a case at a court, the pre-trial investigation data may be published only upon the permission of the prosecutor and to the extent held permissible. In addition, special rules concerning the confidentiality of information on minor victims are applied.

Data on minor victims may not be published in any circumstances.¹²² Data about a victim is considered to be information that enables either the direct (e.g. by using the name, surname or personal identification number) or indirect (e.g. by using the name of the small town or the name of the only school in the town, the initials of the victim pupil or his/her age, etc.) identification of the minor person.¹²³

The prohibition to disclose the data related to a minor victim does not mean that the prosecutor may not allow publishing any information about the pre-trial investigation involving minor victims.¹²⁴ However, the information made public may not contain any data enabling the direct or indirect identification of the minor. Anonymised data could be published provided such data does not make it possible to identify the person (e.g. "a 14-year-old resident of Vilnius").

When accessing and working with the material of pre-trial investigation, it is prohibited to make copies of the pre-trial investigation material where the data relates to minor victims.¹²⁵

122 *Code of Criminal Procedure*, Article 177(1).

123 Ažubalytė, R., Ancelis, P. and Burda, R., *Teisinės rekomendacijos ikiteisminio tyrimo pareigūnams, dirbantiems su nepilnamečiais [Legal recommendations for pre-trial investigators working with minor victims]*, Vilnius, 2005, p. 20.

124 *Ibid.*, p. 18.

125 *Code of Criminal Procedure*, Article 181(6).